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GOEWERMENTSKENNISGEWING.

DEPARTEMENT VAN JUSTISIE.

No. R. 48] [12 Januarie 1965

REËLS WAARBY DIE VERRIGTINGS VAN DIE VERSKILLENDE PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA GEREËL WORD.

Die reëls in die Bylae vervat, waarby die verrigtings van die provinsiale en plaaslike afdelings van die Hooggeregshof van Suid-Afrika gereël word, word kragtens paragraaf (*a*) van subartikel (2) van artikel *drie-en-veertig* van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959), met ingang van 15 Januarie 1965 deur die Hoofregter na oorlegpleging met die regters-president van die onderskeie afdelings van die Hooggeregshof van Suid-Afrika met die goedkeuring van die Staatspresident uitgevaardig.

BYLAE.

INHOUDSOPGAWE.

GOVERNMENT NOTICE.

DEPARTMENT OF JUSTICE.

No. R. 48] [12th January 1965

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE SUPREME COURT OF SOUTH AFRICA.

The Chief Justice after consultation with the judges president of the several divisions of the Supreme Court of South Africa has, in terms of paragraph (*a*) of subsection (2) of section *forty-three* of the Supreme Court Act, 1959 (Act No. 59 of 1959), with the approval of the State President made, with effect from the 15th January, 1965, the rules contained in the Annexure regulating the conduct of the proceedings of the provincial and local divisions of the Supreme Court of South Africa.

ANNEXURE.

INDEX.

REËL

VORMS—EERSTE BYLAE.

VORMS—TWEEDE BYLAE.

REËL 1.

WOORDBEPALING.

In hierdie reëls en aangehegte vorms, tensy uit die samehang anders blyk, beteken—

„advokaat" ook 'n persoon in artikel *een* van die Natalse Advokate en Prokureurs Behoud van Regte Wet, 1939 (Wet No. 27 van 1939) bedoel;

RULE

FORMS—FIRST SCHEDULE.

FORMS—SECOND SCHEDULE.

RULE 1.

DEFINITIONS.

In these rules and attached forms, unless the context otherwise indicates—

"Act" shall mean the Supreme Court Act, 1959 (Act No. 59 of 1959);

"action" shall mean a proceeding commenced by summons or by writ in terms of rule 9;

„aflewer" die betekening van afskrifte aan alle partye en die indiening van die oorspronklike by die griffier;

„aksie" 'n verrigting wat met 'n dagvaarding of met 'n lasbrief ingevolge reël 9 begin is;

„balju" ook 'n addisionele balju, 'n adjunk-balju en 'n assistent van 'n adjunk-balju;

„gekombineerde dagvaarding" 'n dagvaarding met 'n opgawe van feite daaraan geheg soos bedoel in subreël (2) van reël 17;

„griffier" ook 'n assistent-griffier;

„hof", met betrekking tot siviele aangeleenthede, 'n hof saamgestel ingevolge artikel *dertien* van die Wet;

„hofdag" enige dag wat nie 'n Saterdag, Sondag of openbare vakansiedag is nie, en by die berekening van 'n tydperk van dae by dié reëls voorgeskryf of in 'n hofbevel bepaal, word slegs hofdae ingesluit;

„party" of 'n uitdruklike verwysing na 'n eiser of ander gedingvoerder, ook sy prokureur met of sonder 'n advokaat, soos die samehang mag vereis;

„prokureur" 'n prokureur wat in die betrokke afdeling toegelaat en ingeskryf is, en geregtig is om as sodanig aldaar te praktiseer;

„regter" 'n regter wat elders as in die ope hof sit;

„regter-president" ook, totdat 'n regter-president vir daardie afdeling aangestel is, die senior regter van die Plaaslike Afdeling Griekwaland-Wes;

„Republiek" ook die gebied Suidwes-Afrika;

„siviele dagvaarding" 'n siviele dagvaarding soos in die Wet omskryf;

„Wet" die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959).

REËL 2.

SITTINGS VAN DIE HOF EN VAKANSIES.

(1) Die termyne en sittings van die hof van elke provinsiale en plaaslike afdeling soos deur die regter-president ingevolge artikel *drie-en-veertig* van die Wet voorgeskryf, word in die *Staatskoerant* aangekondig en 'n afskrif daarvan word op die openbare kennisgewingbord by die kantoor van die griffier aangebring.

(2) As die eerste dag van 'n voorgeskrewe siviele termyn of strafsitting nie 'n hofdag is nie, begin die termyn of sitting op die eersvolgende hofdag en, as die laaste dag nie 'n hofdag is nie, eindig die termyn of sitting op die voorafgaande hofdag.

(3) Die tydperke tussen genoemde termyne is vakansie en die gewone werksaamhede van die hof word dan opgeskort, onderworpe aan subreël (4), maar minstens een regter bly beskikbaar vir werksaamhede *en* op dae deur die regter-president bepaal.

(4) Te alle tye sit dié regters op dié dae vir afhandeling van dié werksaamhede wat die regter-president bepaal.

(5) As 'n voorsittende regter dit geleë ag, kan die hof op enige plek of op ander tye sit as dié wat voorgeskryf is ingevolge hierdie reëls of reëls uitgevaardig kragtens paragraaf (*b*) van subartikel (2) van artikel *drie-en-veertig* van die Wet, en die hof kan te eniger tyd gedurende 'n vakansie sit.

REËL 3.

KANTOORURE VAN GRIFFIER.

Behalwe op Saterdae, Sondae en openbare vakansiedae, is die griffier se kantoor van 9 vm. tot 1.00 nm. en van 2 nm. tot 4 nm. oop: Met dien verstande dat na 3 nm. geen prosesstukke uitgereik of ingedien mag word nie behalwe 'n kennisgewing van voorneme om te verdedig. In buitengewone omstandighede kan, en indien daartoe deur 'n regter gelas, moet die griffier te eniger tyd prosesstukke uitreik en dokumente ontvang.

"advocate" shall include a person referred to in section *one* of the Natal Advocates and Attorneys Preservation of Rights Act, 1939 (Act No. 27 of 1939);

"attorney" shall mean an attorney admitted, enrolled and entitled to practise as such in the division concerned;

"civil summons" shall mean a civil summons as defined in the Act;

"combined summons" shall mean a summons with a statement of claim annexed thereto in terms of subrule (2) of rule 17;

"court" in relation to civil matters shall mean a court constituted in terms of section *thirteen* of the Act;

"court day" shall mean any day other than a Saturday, Sunday or Public Holiday, and only court days shall be included in the computation of any time expressed in days prescribed by these rules or fixed by any order of court;

"deliver" shall mean serve copies on all parties and file the original with the registrar;

"judge" shall mean a judge sitting otherwise than in open court;

"judge-president" shall, until the appointment of a judge-president to that Division, include the senior judge of the Griqualand West Local Division;

"party" or any reference to a plaintiff or other litigant in terms, shall include his attorney with or without an advocate, as the context may require;

"registrar" shall include assistant registrar;

"Republic" shall include the territory of South West Africa;

"sheriff" shall include an additional sheriff, a deputy sheriff, and an assistant to a deputy sheriff.

RULE 2.

SITTINGS OF THE COURT AND VACATIONS.

(1) Notice of the terms and sessions of the court of every provincial or local division prescribed by the Judge-President in terms of section *forty-three* of the Act shall be published in the *Government Gazette* and a copy thereof shall be affixed to the public notice board at the office of the registrar.

(2) If the day prescribed for the commencement of a civil term or a criminal session is not a court day, the term or session shall commence on the next succeeding court day and, if the day prescribed for the end of a term or session is not a court day, the term or session shall end on the court day preceding.

(3) The periods between the said terms shall be period vacation, during which, subject to the provisions of subrule (4), the ordinary business of the court shall be suspended, but at least one judge shall be available on such days to perform such duties as the Judge-President shall direct.

(4) During and out of term such judges shall sit on such days for the discharge of such business as the Judge-President may direct.

(5) If it appears convenient to the presiding judge, the court may sit at any place or at a time other than a time prescribed in terms of these rules or rules made under paragraph (*b*) of sub-section (2) of section *forty-three* of the Act and may sit at any time during vacation.

RULE 3.

REGISTRAR'S OFFICE HOURS

Except on Saturdays, Sundays and Public Holidays, the offices of the registrar shall be open from 9 a.m. to 1.00 p.m. and from 2 p.m. to 4 p.m., save that, for the purpose of issuing any process or filing any document, other than a notice of intention to defend, the offices shall be open from 9 a.m. to 1.00 p.m., and from 2 p.m. to 3 p.m. The registrar may in exceptional circumstances issue process and accept documents at any time, and shall do so when directed by a judge.

REËL 4.

BETEKENING.

(1) (*a*) Prosesstukke van die hof en dokumente in aansoeke word op een van die volgende maniere deur die balju beteken:

(i) deur 'n afskrif daarvan aan die betrokke persoon persoonlik te oorhandig: Met dien verstande dat as hy minderjarig of andersins handelingsonbevoeg is, betekening aan die voog, kurator of dergelike belangewaarnemer van die handelingsonbevoegde persoon moet geskied;

(ii) deur by die woon- of besigheidsplek van die betrokke persoon of van sy voog, kurator of ander belangewaarnemer 'n afskrif daarvan by iemand te laat wat ten tye van die aflewering skynbaar in beheer van die perseel is en nie jonger as sestien jaar voorkom nie. As 'n gebou wat nie 'n hotel, losieshuis, hostel of soortgelyke woonplek is nie, deur meer as een persoon of gesin bewoon word, beteken „woon- of besigheidsplek", vir die doel van hierdie paragraaf, dié gedeelte van die gebou wat deur die persoon aan wie betekening moet geskied, bewoon word;

(iii) deur by die werkplek van die betrokke persoon of van sy voog, kurator of ander belangewaarnemer, 'n afskrif daarvan aan iemand af te lewer wat nie jonger as sestien jaar voorkom nie en skynbaar in 'n gesagsposisie teenoor hom staan;

(iv) deur in die geval waar die betrokke persoon 'n *domicilium citandi* gekies het, 'n afskrif daarvan by die *domicilium* af te lewer of te laat;

(v) deur in die geval van 'n maatskappy of ander regspersoon by die geregistreerde kantoor of vernaamste besigheidsplek binne die hof se regsgebied 'n afskrif aan 'n verantwoordelike werknemer daarvan af te gee, of as daar nie so 'n werknemer is wat bereid is om die betekening te aanvaar nie, 'n afskrif aan die hoofdeur van so 'n kantoor of besigheidsplek te heg, of deur 'n ander metode te volg wat regtens geoorloof is;

(vi) deur 'n afskrif daarvan aan enige verteenwoordiger af te gee wat behoorlik skriftelik gemagtig is om betekening namens die betrokke persoon te aanvaar;

(vii) deur in die geval van 'n vennootskap, firma of vrywillige vereniging te beteken onderskeidelik aan 'n vennoot, die eienaar of die voorsitter of sekretaris van die bestuur of ander beherende liggaam daarvan, op een van die maniere in hierdie reël beskryf;

(viii) deur in die geval van 'n plaaslike bestuur te beteken aan die stadsklerk, assistentstadsklerk of burgemeester, en in die geval van 'n statutêre liggaam aan die sekretaris of 'n dergelike amptenaar, of aan 'n lid van die bestuur, of deur 'n ander metode te volg wat regtens geoorloof is; of

(ix) deur in 'n geval waar twee of meer persone gesamentlik as trustees, likwidateurs, eksekuteurs, administrateurs, kurators of voogde aangespreek word, of op enige ander wyse as gesamentlike verteenwoordigers, aan elkeen van hulle te beteken op enige wyse in die reël uiteengesit.

(*b*) Betekening geskied so na as moontlik tussen die ure 7 vm. en 7 nm.

(*c*) Op 'n Sondag kan geen geldige betekening van 'n siviele dagvaarding, bevel of kennisgewing geskied nie, en kan geen prosesregtelike stap, behalwe die uitreiking of tenuitvoerlegging van 'n lasbrief tot arrestasie, gedoen word nie tensy die hof of 'n regter dit gelas het.

(*d*) Dit is die plig van die balju of ander persoon wat die prosesstukke of dokumente beteken, om die aard en inhoud daarvan aan die betrokke persoon te verduidelik en in sy relaas te meld dat hy dit gedoen het.

(2) As dit nie moontlik is om op enige van die voornoemde maniere te beteken nie, kan die hof op aansoek van die persoon wat die betekening verlang, 'n wyse van betekening voorskryf. As die verblyf van die persoon aan wie betekening moet geskied, onbekend is, maar dit is

RULE 4.

SERVICE.

(1) (*a*) Service of any process of the court, including any document in any application proceedings, on the person to be served shall be effected by the sheriff in one or other of the following manners:

(i) By delivering a copy thereof to the said person personally:
Provided that where such person is a minor or a person under legal disability, service shall be effected upon the guardian, tutor, curator or the like of such minor or person under disability;

(ii) by leaving a copy thereof at the place of residence or business of the said person, guardian, tutor, curator or the like with the person apparently in charge of the premises at the time of delivery, being a person apparently not less than sixteen years of age. For the purposes of this paragraph when a building, other than an hotel, boarding-house, hostel or similar residential building, is occupied by more than one person or family, "residence" or "place of business" means that portion of the building occupied by the person upon whom service is to be effected;

(iii) by delivering a copy thereof at the place of employment of the said person, guardian, tutor, curator or the like to some person apparently not less than sixteen years of age and apparently in authority over him;

(iv) if the person so to be served has chosen a *domicilium citandi*, by delivering or leaving a copy thereof at the *domicilium* so chosen;

(v) in the case of a corporation or company, by delivering a copy to a responsible employee thereof at its registered office or its principal place of business within the court's jurisdiction, or if there be no such employee willing to accept service, by affixing a copy to the main door of such office or place of business, or in any manner provided by law;

(vi) by delivering a copy thereof to any agent who is duly authorised in writing to accept service on behalf of the person upon whom service is to be effected;

(vii) where any partnership, firm or voluntary association is to be served, service shall be effected on a partner, the proprietor or on the chairman or secretary of the committee or other managing body of such association, as the case may be, in one of the manners set forth in this rule;

(viii) where a local authority or statutory body is to be served, service shall be effected by delivering a copy to the town clerk or assistant town clerk or mayor of such local authority or to the secretary or similar officer or member of the board or committee of such body, or in any manner provided by law; or

(ix) if two or more persons are sued in their joint capacity as trustees, liquidators, executors, administrators, curators or guardians, or in any other joint representative capacity, service shall be effected upon each of them in any manner set forth in this rule.

(*b*) Service shall be effected as near as possible between the hours of 7 a.m. and 7 p.m.

(*c*) No service of any civil summons, order or notice and no proceeding or act required in any civil action, except the issue or execution of a warrant of arrest, shall be validly effected on a Sunday unless the court or a judge otherwise directs.

(*d*) It shall be the duty of the sheriff or other person serving the process or documents to explain the nature and contents thereof to the person upon whom service is being effected and to state in his return that he has done so.

(2) If it is not possible to effect service in any manner aforesaid, the court may, upon the application of the person wishing to cause service to be effected, give directions in regard thereto. Where such directions are sought in regard to service upon a person known or believed

bekend of word vermoed dat hy in die Republiek is, geld die bepalinge van subreël (2) van reël 5 *mutatis mutandis*.

(3) In 'n vreemde land word 'n prosesstuk of dokument beteken—

(*a*) deur iemand wat volgens 'n sertifikaat van—

(i) die hoof van 'n Suid-Afrikaanse diplomatieke of konsulêre missie, iemand in die administratiewe of vakkundige afdeling van die Staatsdiens wat by 'n Suid-Afrikaanse diplomatieke, konsulêre of handelskantoor diens doen, 'n Suid-Afrikaanse buitelandse diensbeampte graad X of 'n Suid-Afrikaanse erekonsul-generaal, konsul, vise-konsul of handelskommissaris;

(ii) 'n diplomatieke of konsulêre beampte van 'n vreemde land wat die betekening van prosesstukke of dokumente namens die Republiek aldaar behartig;

(iii) 'n diplomatieke of konsulêre beampte van so 'n land wat in die Republiek of Suidwes-Afrika diens doen; of

(iv) 'n beampte wat teken as of namens die hoof van die departement wat met die regspleging in daardie land handel,

in daardie land regtens gemagtig is om prosesstukke of dokumente te beteken; of

(*b*) deur iemand in subparagraaf (i) of (ii) van paragraaf (*a*) genoem, indien hy in so 'n land regtens gemagtig is om sodanige prosesstuk of dokument te beteken of indien die reg van so 'n land nie sodanige betekening verbied nie en die owerhede van daardie land geen beswaar daarteen geopper het nie.

(4) In die Verenigde Koninkryk van Groot-Brittanje en Noord Ierland, Rhodesië, Basoetoland, die Betsjoeanaland-Protektoraat of Swaziland kan 'n prosesstuk of dokument, ondanks die bepalinge van subreël (3), ook beteken word deur 'n prokureur, notaris of ander regspraktisyn aldaar wat ingevolge die reg van daardie land gemagtig is om prosesstukke of dokumente te beteken.

(5) (*a*) 'n Prosesstuk of dokument wat in 'n vreemde land beteken moet word, gaan vergesel van 'n beëdigde vertaling daarvan in 'n amptelike taal van daardie land of deel van daardie land waarin die prosesstuk of dokument beteken moet word, en van 'n gesertifiseerde afskrif van die prosesstuk of dokument en sodanige vertaling.

(*b*) 'n Prosesstuk of dokument wat beteken moet word soos in subreël (3) bepaal, word aan die griffier afgelewer met inkomsteseëls ten bedrae van R4 daaraan geheg, en met soveel geld daarby as wat die griffier voldoende ag vir die koste van betekening: Met dien verstande dat inkomsteseëls nie vereis word waar betekening namens die Regering van die Republiek of die Administrasie van Suidwes-Afrika moet geskied nie.

(*c*) Die griffier stuur 'n prosesstuk of dokument wat ingevolge paragraaf (*b*) aan hom afgelewer is, na rojering van die inkomsteseëls aan die Sekretaris van Buitelandse Sake of na 'n bestemming deur die Sekretaris van Buitelandse Sake aangedui, saam met die in paragraaf (*a*) bedoelde vertaling, vir betekening in die betrokke vreemde land. Die griffier moet homself vergewis dat die prosesstuk of dokument 'n voldoende tydperk toelaat vir tydige betekening.

(6) Betekening word op een van die volgende maniere bewys:

(*a*) waar betekening deur die balju geskied het, deur sy relaas van betekening;

(*b*) waar betekening nie deur die balju of ingevolge subreël (4) geskied het nie, deur 'n beëdigde verklaring van die persoon wat beteken het, en waar betekening in amptelike hoedanigheid aanvaar word deur 'n prokureur of 'n lid van sy personeel, of deur iemand namens die Regering van die Republiek (insluitende die Suid-Afrikaanse Spoorweë en Hawens), die Administrasie van 'n provinsie of die gebied Suidwes-Afrika of deur 'n Minister, Administrateur, of 'n ander amptenaar van die Regering of so 'n Administrasie, deur die voorlegging van 'n getekende kwitansie daarvoor.

(7) Betekening van 'n prosesstuk of dokument in 'n vreemde land word bewys—

to be within the Republic, but whose whereabouts therein cannot be ascertained, the provisions of sub-rule (2) of rule 5 shall, *mutatis mutandis*, apply.

(3) Service of any process of the court or of any document in a foreign country shall be effected—

(*a*) by any person who is, according to a certificate of—

(i) the head of any South African diplomatic or consular mission, any person in the administrative or professional division of the public service serving at a South African diplomatic, consular or trade office, any South African foreign service officer grade X or any honorary South African consul-general, consul, vice-consul or trade commissioner;

(ii) any foreign diplomatic or consular officer attending to the service of process or documents on behalf of the Republic in such country;

(iii) any diplomatic or consular officer of such country serving in the Republic or in South West Africa; or

(iv) any official signing as or on behalf of the head of the department dealing with the administration of justice in that country,

authorized under the law of such country to serve such process or document; or

(*b*) by any person referred to in sub-paragraph (i) or (ii) of paragraph (*a*), if the law of such country permits him to service such process or document or if there is no law in such country prohibiting such service and the authorities of that country have not interposed any objection thereto.

(4) Service of any process of the court or of any document in the United Kingdom of Great Britain and Northern Ireland, Rhodesia, Basutoland, the Bechuanaland Protectorate or Swaziland may, notwithstanding the provisions of sub-rule (3), also be effected by an attorney, solicitor, notary public or other legal practitioner in the country concerned who is under the law of that country authorized to serve process of court or documents.

(5) (*a*) Any process of court or document to be served in a foreign country shall be accompanied by a sworn translation thereof into an official language of that country or part of that country in which the process or document is to be served, together with a certified copy of the process or document and such translation.

(*b*) Any process of court or document to be served as provided in sub-rule (3) shall be delivered to the registrar together with revenue stamps to the value of R4, fixed thereto, and such sum of money as the registrar considers sufficient for the costs of service: Provided that no revenue stamps shall be required where service is to be effected on behalf of the Government of the Republic or the Administration of South West Africa.

(*c*) Any process of court or document delivered to the registrar in terms of paragraph (*b*) shall, after defacement of the revenue stamps affixed thereto, be transmitted by him together with the translation referred to in paragraph (*a*), to the Secretary for Foreign Affairs or to a destination indicated by the Secretary for Foreign Affairs, for service in the foreign country concerned. The registrar shall satisfy himself that the process of court or document allows a sufficient period for service to be effected in good time.

(6) Service shall be proved in one of the following manners:

(*a*) Where service has been effected by the sheriff, by the return of service of such sheriff;

(*b*) where service has not been effected by the sheriff, nor in terms of sub-rule (4), by an affidavit of the person who effected service, or in the case of service on an attorney or a member of his staff, the Government of the Republic (including the South African Railways and Harbours), the Administration of any Province or of the territory of South West Africa or on any Minister, Administrator, or any other officer of such Government or Administration, in his capacity as such, by the production of a signed receipt therefor.

(7) Service of any process of court or document in a foreign country shall be proved—

(*a*) deur 'n sertifikaat van die persoon wat ingevolge paragraaf (*a*) van subreël (3) of subreël (4) beteken het, waarin hy homself identifiseer, vermeld dat hy deur die reg van daardie land gemagtig is om prosesstukke of dokumente te beteken en dat die prosesstuk of dokument beteken is ooreenkomstig die reg van daardie land, en die wyse en die datum waarop sodanige betekening geskied het, uiteensit: Met dien verstande dat die sertifikaat van iemand in subreël (4) bedoel behoorlik gewaarmerk moet word; of

(*b*) deur 'n sertifikaat van die persoon wat ingevolge paragraaf (*b*) van subreël (3) beteken het, waarin hy vermeld dat die prosesstuk of dokument deur hom beteken is, die wyse en datum waarop sodanige betekening geskied het en bevestig dat hy in die betrokke land regtens gemagtig is om prosesstukke of dokumente te beteken of dat die reg van so 'n land nie sodanige betekening verbied nie en dat die owerhede van daardie land nie enige beswaar daarteen geopper het nie.

(8) Dit is nie vir die balju nodig om die handtekening op die relaas van 'n adjunk-balju wat in die Republiek maar buite die regsgebied van die hof waar dit uitgereik is, 'n prosesstuk beteken het, te waarmerk nie.

(9) In elke geding waarin 'n Minister verweerder of respondent is, soos in artikel *twee* van die Wet op Staatsaanspreeklikheid, 1957 (Wet No. 20 van 1957) bedoel, kan die dagvaarding of kennisgewing waarby die geding ingestel word, aan die kantoor van die Staatsprokureur, Pretoria, beteken word.

(10) As die hof nie oortuig is dat die betekening effektief was nie, kan hy na goeddunke verdere stappe voorskryf.

(11) Wanneer 'n versoek om betekening aan iemand in die Republiek van 'n siviele prosesstuk of sitasie van 'n staat, gebied of hof buite die Republiek ontvang word en ingevolge subartikel (2) van artikel *drie-en-dertig* van die Wet aan die griffier van 'n provinsiale of plaaslike afdeling gestuur word, stuur die griffier aan die balju of adjunk-balju of aan iemand wat deur 'n regter van die betrokke afdeling aangestel is vir die betekening van sodanige prosesstuk of sitasie—

(*a*) twee afskrifte van die prosesstuk of sitasie; en

(*b*) twee afskrifte van 'n vertaling daarvan in Afrikaans of Engels, indien die oorspronklike in 'n ander taal is.

(12) Betekening geskied deur oorhandiging aan die persoon aan wie beteken moet word, van een afskrif van die prosesstuk of sitasie en een afskrif van die in hierdie reël bedoelde vertaling (as daar een is).

(13) Na betekening besorg die balju of adjunk-balju of die persoon wat vir die betekening van sodanige prosesstuk of sitasie aangestel is, aan die griffier van die betrokke afdeling een afskrif van die prosesstuk of sitasie tesame met—

(*a*) bewys van die betekening in die vorm van 'n beëdigde verklaring deur die betekenaar afgelê voor 'n landdros, vrederegter of kommissaris van ede, en bevestiging daarvan, as die betekenaar die balju of adjunk-balju, was, deur die sertifikaat en ampseël van sodanige balju, of as dit 'n persoon was deur 'n regter aangestel, deur die sertifikaat en ampseël van die griffier van die betrokke afdeling; en

(*b*) besonderhede van die koste van die betekening.

(14) Die besonderhede van die koste van betekening word aan die takseermeester van die betrokke afdeling voorgelê vir sertifisering van die juistheid daarvan.

(15) Wanneer 'n versoek om betekening van 'n siviele prosesstuk of sitasie, nagekom is, besorg die betrokke griffier aan die Sekretaris van Justisie—

(*a*) die versoek om betekening in sub-reël (11) bedoel;

(*b*) die bewys van betekening tesame met 'n sertifikaat soos in vorm 'J' van die Tweede Bylae bewoord, behoorlik geseël met die seël van die betrokke afdeling vir gebruik buite die jurisdiksie; en

(*a*) by a certificate of the person effecting service in terms of paragraph (*a*) of sub-rule (3) or sub-rule (4) in which he identifies himself, states that he is authorized under the law of that country to serve process of court or documents therein and that the process of court or document in question has been served as required by the law of that country and sets forth the manner and the date of such service: Provided that the certificate of a person referred to in sub-rule (4) shall be duly authenticated; or

(*b*) by a certificate of the person effecting service in terms of paragraph (*b*) of sub-rule (3) in which he states that the process of court or document in question has been served by him, setting forth the manner and date of such service and affirming that the law of the country concerned permits him to serve process of court or documents or that there is no law in such country prohibiting such service and that the authorities of that country have not interposed any objection thereto.

(8) Whenever any process has been served within the Republic by a deputy-sheriff outside the jurisdiction of the court from which it was issued, the signature of such deputy-sheriff upon the return of service shall not require authentification by the sheriff.

(9) In every proceeding in which a Minister is defendant or respondent as in section *two* of the State Liability Act, 1957 (Act No. 20 of 1957) provided, the summons or notice instituting such proceeding may be served at the office of the State Attorney, Pretoria.

(10) Whenever the court is not satisfied as to the effectiveness of the service, it may order such further steps to be taken as to it seems meet.

(11) Whenever a request for the service on a person in the Republic of any civil process or citation is received from a State, territory or court outside the Republic and is transmitted to the registrar of a provincial or local division in terms of sub-section (2) of section *thirty-three* of the Act, the registrar shall transmit to the sheriff or a deputy-sheriff or any person appointed by a judge of the division concerned for service of such process or citation—

(*a*) two copies of the process or citation to be served; and

(*b*) two copies of a translation in English or Afrikaans of such process or citation if the original is in any other language.

(12) Service shall be effected by delivering to the person to be served one copy of the process or citation to be served and one copy of the translation (if any) thereof in accordance with the provisions of this rule.

(13) After service has been effected the sheriff or the deputy-sheriff or the person appointed for the service of such process or citation shall return to the registrar of the division concerned one copy of the process or citation together with—

(*a*) proof of service, which shall be by affidavit made before a magistrate, justice of the peace or commission of oaths by the person by whom service has been effected and verified, in the case of service by the sheriff or a deputy-sheriff, by the certificate and seal of office of such sheriff or, in the case of service by a person appointed by a judge of the division concerned, by the certificate and seal of office of the registrar of the division concerned; and

(*b*) particulars of charges for the cost of effecting such service.

(14) The particulars of charges for the cost of effecting service shall be submitted to the taxing officer of the division concerned, who shall certify the correctness if such charges or other amount payable for the cost of effecting service.

(15) The registrar concerned shall, after effect has been given to any request for service of civil process or citation, return to the Secretary for Justice—

(*a*) the request for service referred to in sub-rule (11);

(*b*) the proof of service together with a certificate in accordance with form "J" of the Second Schedule duly sealed with the seal of the division concerned for use out of the jurisdiction; and

(*c*) die besonderhede van die koste van betekening en die bevestigende sertifikaat, of 'n afskrif daarvan.

REËL 5.

EDIKTALE SITASIE.

(1) Buite die Republiek mag 'n prosesstuk of dokument waarby 'n geding ingestel word, alleen met verlof van die hof beteken word.

(2) Verlof word deur die persoon wat dit verlang aangevra by aansoek, wat 'n saaklike uiteensetting van die aard en omvang van die eis moet bevat, die gronde waarop dit berus en waarop die hof jurisdiksie het om die eis te bereg, en die wyse van betekening wat die hof gevra word om te magtig. As dit nie persoonlike betekening is nie, moet in die aansoek die laas bekende verblyfplek van die betrokke persoon vermeld word en die navrae wat gedoen is om sy huidige verblyfplek te bepaal. Die hof kan na goeddunke die wyse van betekening voorskryf en die tyd bepaal waarbinne kennis van voorneme om te verdedig gegee moet word of enige ander stap gedoen moet word deur die persoon aan wie betekening moet geskied. Waar betekening deur publikasie beveel word, kan dit in 'n vorm so na moontlik bewoord soos Vorm 1 in die Eerste Bylae wees, goedgekeur en onderteken deur die griffier.

(3) As die betrokke dokument nie een is waarby 'n geding ingestel word nie, kan verlof vir betekening daarvan buite die Republiek, deur die persoon wat dit verlang, aangevra word ingevolge subreël (2), of terwyl die saak voor die hof dien, in watter geval geen dokumente ter stawing van die aansoek ingedien hoef te word nie, en mondelinge inligting van die balie af voldoende is, of inligting soos deur die hof vereis, en die hof kan dan na goeddunke 'n bevel gee.

REËL 6.

AANSOEKE.

(1) Behalwe waar 'n petisie by wet voorgeskryf is, geskied 'n aansoek by kennisgewing van mosie, gesteun deur n beëdigde verklaring wat die feite bevat waarop die aansoek berus.

(2) Wanneer prestasie van iemand geëis word of waar dit nodig of wenslik is om iemand kennis van 'n aansoek te gee, word die kennisgewing van mosie aan sowel die griffier as die betrokke persoon gerig; anders net aan die griffier.

(3) Elke petisie eindig met die vorm van bevel wat gevra word en word deur of namens die petisionaris onder eed bevestig.

(4) (*a*) Elke aansoek wat *ex parte* gedoen word (hetsy by wyse van petisie of by kennisgewing aan die griffier gesteun deur 'n beëdigde verklaring soos voormeld), word twee hofdae voor die dag waarop dit aangehoor moet word, by die griffier ingedien en ter rolle geplaas. As dit by kennisgewing aan die griffier geskied, moet die kennisgewing die vorm van die bevel wat aangevra word, bevat en die beëdigde verklaring waarop gesteun word noem, en die griffier moet daarin gevra word om die saak vir beregting ter rolle te plaas, so na moontlik soos Vorm 2 in die Eerste Bylae.

(*b*) Iemand wat 'n belang het wat geraak kan word deur die beslissing van 'n aansoek *ex parte*, kan kennis gee van 'n aansoek om verlof om te bestry, gesteun deur 'n beëdigde verklaring waarin hy die aard van sy belang en die gronde waarop hy verlang om aangehoor te word, uiteensit, waarop die griffier die aansoek ter rolle plaas vir beregting saam met eersgenoemde aansoek.

(*c*) Die hof kan by die verhoor die aansoeke onderskeidelik toestaan of afwys, of uitstel op sodanige voorwaardes betreffende die indiening van verdere beëdigde verklarings as wat hy goed dink.

(5) (*a*) Elke aansoek wat nie 'n *ex parte*-aansoek is nie, geskied by kennisgewing van mosie so na moontlik bewoord soos Vorm 2 (*a*) van die Eerste Bylae, en juiste afskrifte van die kennisgewing en alle aanhangsels daartoe

(*c*) the particulars of charges for the cost of effecting service and the certificate, or copy thereof, certifying the correctness of such charges.

RULE 5.

EDICTAL CITATION.

(1) Save by leave of the court no process or document whereby proceedings are instituted shall be served outside the Republic.

(2) Any person desiring to obtain such leave shall make application to the court setting forth concisely the nature and extent of his claim, the grounds upon which it is based and upon which the court has jurisdiction to entertain the claim and also the manner of service which the court is asked to authorize. If such manner be other than personal service, the application shall further set forth the last known whereabouts of the person to be served and the enquiries made to ascertain his present whereabouts. Upon such application the court may make such order as to the manner of service as to it seems meet and shall further order the time within which notice of intention to defend is to be given or any other step is to be taken by the person to be served. Where service by publication is ordered, it may be in a form as near as may be in accordance with Form 1 of the First Schedule, approved and signed by the registrar.

(3) Any person desiring to obtain leave to effect service outside the Republic of any document, other than one whereby proceedings are instituted, may either make application for such leave in terms of sub-rule (2) or request such leave at any hearing at which the court is dealing with the matter, in which latter event no papers need be filed in support of such request, and the court may act upon such information as may be given from the bar or given in such other manner as it may require, and may make such order as to it seems meet.

RULE 6.

APPLICATIONS.

(1) Save where proceedings by way of petition are prescribed by law, every application shall be brought on notice of motion supported by an affidavit as to the facts upon which the applicant relies for relief.

(2) When relief is claimed against any person, or where it is necessary or proper to give any person notice of such application, the notice of motion shall be addressed to both the registrar and such person, otherwise it shall be addressed to the registrar only.

(3) Every petition shall conclude with the form of order prayed and be verified upon oath by or on behalf of the petitioner.

(4) (*a*) Every application brought *ex parte* (whether by way of petition or upon notice to the registrar supported by an affidavit as aforesaid) shall be filed with the registrar and set down, on the court day but one preceding the day upon which it is to be heard. If brought upon notice to the registrar, such notice shall set forth the form of order sought, specify the affidavit filed in support thereof, request him to place the matter on the roll for hearing, and be as near as may be in accordance with Form 2 of the First Schedule.

(*b*) Any person having an interest which may be affected by a decision on an application being brought *ex parte*, may deliver notice of an application by him for leave to oppose, supported by an affidavit setting forth the nature of such interest and the ground upon which he desires to be heard, whereupon the registrar shall set such application down for hearing at the same time as the application first mentioned.

(*c*) At the hearing the court may grant or dismiss either of or both such applications as the case may require, or may adjourn the same upon such terms as to the filing of further affidavits by either applicant or otherwise as to it seems meet..

(5) (*a*) Every application other than one brought *ex parte* shall be brought on notice of motion as near as may be in accordance with Form 2 (*a*) of the First Schedule and true copies of the notice, and all annexures thereto, shall

word aan elke party aan wie kennis daarvan gegee moet word, beteken.

(*b*) In die kennisgewing noem die applikant 'n adres binne vyf myl van die kantoor van die griffier, waar hy kennisgewing en betekening van alle dokumente in die geding sal aanvaar, en gee hy minstens vyf dae tyd waarbinne die respondent na betekening skriftelik die applikant kennis moet gee of hy van voorneme is om die aansoek te bestry, en meld hy verder dat as kennis nie aldus gegee word nie, die aansoek op 'n bepaalde dag, minstens sewe dae na betekening van die kennisgewing aan die respondent, vir beregting ter rolle geplaas sal word.

(*c*) As die respondent nie binne die in die kennisgewing vasgestelde tyd kennis gee van sy voorneme om te bestry nie, kan die applikant die saak vir beregting ter rolle plaas deur die griffier voor middag op die tweede hofdag voor die dienende dag kennis van terrolleplasing te gee.

(*d*) Iemand wat die toestaan van 'n bevel in die kennisgewing van mosie aangevra, bestry—

(i) gee die applikant binne die tyd in die kennisgewing vermeld, skriftelik kennis dat hy van voorneme is om die aansoek te bestry, met vermelding van 'n adres binne vyf myl van die kantoor van die griffier, waar hy kennisgewing en betekening van alle dokumente sal aanvaar;

(ii) lewer binne veertien dae na betekening aan hom van die kennisgewing van mosie, sy antwoordende beëdigde verklaring af, as hy een het, tesame met enige desbetreffende dokumente; en

(iii) as hy net 'n regspunt wil opper, lewer hy 'n kennisgewing te dien effekte af binne die tyd bepaal in die voorafgaande subparagraaf, waarin die regspunt uiteengesit is.

(*e*) Die applikant kan binne sewe dae na betekening aan hom van die in subparagraaf (ii) van paragraaf (*d*) bedoelde beëdigde verklaring en dokumente 'n repliserende beëdigde verklaring aflewer. Die hof kan na goeddunke die indiening van verdere beëdigde verklarings toelaat.

(*f*) As geen antwoordende verklaring of kennisgewing van 'n regspunt binne die in subparagraaf (ii) van paragraaf (*d*) voorgeskrewe tyd afgelewer word nie, kan die applikant binne vier dae na die verstryking daarvan by die griffier 'n verhoordatum aanvra. As so 'n verklaring of kennisgewing wel afgelewer word, kan die applikant binne vier dae na die aflewering van sy repliserende beëdigde verklaring, of as hy nie een indien nie, binne vier dae na die verstryking van die in paragraaf (*e*) genoemde tydperk 'n datum aanvra. As hy nie binne die betrokke tyd 'n datum aanvra nie, kan die respondent dit onmiddellik doen. Skriftelike kennis van die toegewese datum word onverwyld deur die applikant of respondent, na gelang van die geval, aan die teenparty gegee.

(*g*) As 'n aansoek nie behoorlik op beëdigde verklaring beslis kan word nie, kan die hof die aansoek van die hand wys of na goeddunke 'n bevel gee om 'n regverdige en spoedige beslissing te verseker. In die besonder, maar sonder om die omvang van die voorgaande in te kort, kan hy beveel dat mondelinge getuienis aangehoor word ten einde 'n bepaalde feitegeskil te beslis en kan hy vir daardie doel 'n deponent beveel om persoonlik te verskyn of kan hy verlof gee dat hy of enigiemand anders gedagvaar word om te verskyn en ondervra en gekruisvra te word as 'n getuie, of hy kan die saak vir verhoor verwys met gepaste voorskrifte betreffende pleitstukke, die omskrywing van geskilpunte, of iets anders.

(6) Die hof kan na aanhoring van 'n aansoek, hetsy *ex parte* of andersins, 'n bevel weier (behalwe betreffende koste, as daar is) maar die applikant verlof gee om die aansoek op dieselfde stukke, aangevul met sodanige verdere beëdigde verklarings as wat nodig mag wees, te hernieu.

(7) (*a*) 'n Party tot enige aansoek kan 'n teenaansoek doen of kan enige party daarby voeg soos hy dit sou kon gedoen het as hy verweerder in 'n aksie was en die ander partye tot die aansoek partye tot so 'n aksie was. Reël 10 geld dan *mutatis mutandis*.

be served upon every party to whom notice thereof is to be given.

(*b*) In such notice the applicant shall appoint an address within five miles of the office of the registrar at which he will accept notice and service of all documents in such proceedings, and shall set forth a day, not less than five days after service thereof on the respondent, on or before which such respondent is required to notify the applicant in writing whether he intends to oppose such application, and shall further state that if no such notification is given the application will be set down for hearing on a stated day, not being less than seven days after service on the said respondent of the said notice.

(*c*) If the respondent does not, on or before the day mentioned for that purpose in such notice, notify the applicant of his intention to oppose, the applicant may place the matter on the roll for hearing by giving the registrar notice of set down before noon on the court day but one preceding the day upon which the same is to be heard.

(*d*) Any person opposing the grant of an order sought in the notice of motion shall:

(i) within the time stated in the said notice, give applicant notice in writing that he intends to oppose the application, and in such notice appoint an address within five miles of the office of the registrar at which he will accept notice and service of all documents;

(ii) within fourteen days of the service on him of the notice of motion, deliver his answering affidavit, if any, together with any relevant documents; and

(iii) if he intends to raise any question of law only he shall deliver notice of his intention to do so, within the time stated in the preceding subparagraph, setting forth such question.

(*e*) Within seven days of the service upon him of the affidavit and documents referred to in sub-paragraph (ii) of paragraph (*d*) of sub-rule (5) the applicant may deliver a replying affidavit. The court may in its discretion permit the filing of further affidavits.

(*f*) Where no answering affidavit, or notice in terms of sub-paragraph (ii) of paragraph (*d*), is delivered within the period referred to in sub-paragraph (ii) of paragraph (*d*) the applicant may within four days of the expiry thereof apply to the registrar to allocate a date for the hearing of the application. Where an answering affidavit or notice is delivered the applicant may apply for such allocation within four days of the delivery of his replying affidavit or, if no replying affidavit is delivered, within four days of the expiry of the period referred to in paragraph (*e*). If the applicant fails so to apply within the appropriate period aforesaid, the respondent may do so immediately upon the expiry thereof. Notice in writing of the date allocated by the registrar shall forthwith be given by applicant or respondent, as the case may be, to the opposite party.

(*g*) Where an application cannot properly be decided on affidavit the court may dismiss the application or make such order as to it seems meet with a view to ensuring a just and expeditious decision. In particular, but without affecting the generality of the aforegoing, it may direct that oral evidence be heard on specified issues with a view to resolving any dispute of fact and to that end may order any deponent to appear personally or grant leave for him or any other person to be subpoenaed to appear and be examined and cross-examined as a witness or it may refer the matter to trial with appropriate directions as to pleadings or definition of issues, or otherwise.

(6) The court, after hearing an application whether brought *ex parte* or otherwise, may make no order thereon (save as to costs if any) but grant leave to the applicant to renew the application on the same papers supplemented by such further affidavits as the case may require.

(7) (*a*) Any party to any application proceedings may bring a counter-application or may join any party to the same extent as would be competent if the party wishing to bring such counter-application or join such party were a defendant in an action and the other parties to the application were parties to such action. In the latter event rule 10 shall apply *mutatis mutandis*.

(*b*) Die tydperke ten opsigte van aansoeke voorgeskryf is *mutatis mutandis* van toepassing op teenaansoeke: Met dien verstande dat die hof indien goeie gronde aangevoer word, die beregting van die aansoek kan uitstel.

(8) Iemand teen wie 'n bevel *ex parte* toegestaan is, kan die keerdatum vervroeg met vier-en-twintig uur kennisgewing.

(9) 'n Afskrif van elke aansoek in verband met die boedel van 'n gestorwene of van iemand wat beweer word 'n verkwister te wees, of wat handelsonbevoegd is op geestelike of ander gronde, word, voor so 'n aansoek by die griffier ingedien word, aan die Weesheer vir oorweging en verslag voorgelê; en as iemand by die hof aanbeveel staan te word vir aanstelling as kurator van eiendom, word so 'n aanbeveling ook aan die Weesheer vir verslag voorgelê.

(10) Die bepalings van subreël (9) geld ook vir alle aansoeke om aanstelling van administrateurs en trustees ingevolge aktes of kontrakte betreffende trustfondse of vir die administrasie van trusts wat by testamentêre beskikking geskep is.

(11) Ondanks die voorgaande subreëls, kan interlokutoriese aansoeke en aansoeke wat betrekking het op hangende gedinge, geskied by kennisgewing, gesteun deur desbetreffende beëdigde verklarings, en ter rolle geplaas word vir 'n tyd deur die griffier toegewys of deur 'n regter vasgestel.

(12) (*a*) By dringende aansoeke kan die hof of 'n regter afsien van die vorms en betekening wat die reëls voorskryf en kan hy so 'n aangeleentheid afhandel waar en wanneer en soos hy goeddink, maar sover moontlik in ooreenstemming met die reëls.

(*b*) In elke beëdigde verklaring of petisie wat ter ondersteuning van 'n aansoek ingevolge paragraaf (*a*) van hierdie subreël ingedien word, moet die applikant uitdruklik die omstandighede vermeld wat volgens hom die aangeleentheid dringend maak en die redes waarom hy beweer dat hy nie mettertyd wesenlike verhaal by gewone beregting sal kry nie.

(13) By 'n aansoek ampshalwe teen 'n Minister of ander amptenaar of dienaar van die Staat is die onderskeie tydperke bepaal in paragraaf (*b*) van subreël (5), of vir die keerdatum van 'n bevel *nisi*, minstens veertien dae na die betekening van die kennisgewing van mosie of die bevel *nisi*, tensy die hof spesiaal 'n korter tydperk gemagtig het.

(14) Reëls 10, 11, 12 en 13 geld *mutatis mutandis* vir alle aansoeke.

(15) Die hof kan op aansoek beveel dat bewerings wat aanstootlik, kwelsugtig of irrelevant is uit 'n beëdigde verklaring geskrap word, met 'n gepaste bevel betreffende koste, insluitende koste tussen prokureur en kliënt. Die hof staan nie die aansoek toe nie tensy hy oortuig is dat die applikant in sy saak benadeel sal word as dit nie toegestaan word nie.

REËL 7.

PROKURASIE.

(1) Voordat dagvaarding in 'n aksie op instansie van die eiser se prokureur uitgereik word, moet die prokureur 'n prokurasie om te dagvaar by die griffier indien. Die prokurasie vermeld in die algemeen die aard van die aksie waarvan die instelling gemagtig word, die aard van die beoogde regshulp en die name van die party wat gedagvaar moet word.

(2) Die prokureur wat 'n kennisgewing van voorneme om te verdedig by die griffier indien, moet dit vergesel laat gaan van 'n prokurasie aan hom om te verdedig.

(3) (*a*) Die griffier plaas nie 'n siviele appèl op instansie van 'n prokureur ter rolle vir beregting nie tensy die prokureur 'n prokurasie ingedien het wat hom daartoe magtig. Die prokurasie word tesame met die aansoek om 'n verhoordatum ingedien.

(*b*) Enige ander prokureur wat 'n advokaat opdrag gee om in 'n siviele appèl namens enige ander party op te tree, dien voor die verhoor daarvan 'n prokurasie by die griffier in waarby die prokureur gemagtig word om dit te doen.

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

(8) Any person against whom an order is granted *ex parte* may anticipate the return day upon delivery of not less than twenty-four hours' notice.

(9) A copy of every application to court in connection with the estate of any person deceased, or alleged to be a prodigal, or under any legal disability, mental or otherwise, shall, before such application is filed with the registrar, be submitted to the Master for consideration and report; and if any person is to be suggested to the court for appointment as curator to property, such suggestion shall likewise be submitted to the Master for report.

(10) The provisions of sub-rule (9) shall further apply to all applications for the appointment of administrators and trustees under deeds or contracts relating to trust funds or to the administration of trusts set up by testamentary disposition.

(11) Notwithstanding the aforegoing sub-rules, interlocutory and other applications incidental to pending proceedings may be brought on notice supported by such affidavits as the case may require and set down at a time assigned by the registrar or as directed by a judge.

(12) (*a*) In urgent applications the court or a judge may dispense with the forms and service provided for in these rules and may dispose of such matter at such time and place and in such manner and in accordance with such procedure (which shall as far as practicable be in terms of these rules) as to it seems meet.

(*b*) In every affidavit or petition filed in support of any application under paragraph (*a*) of this sub-rule, the applicant shall set forth explicity the circumstances which he avers render the matter urgent and the reasons why he claims that he could not be afforded substantial redress at a hearing in due course.

(13) In any application against any Minister or other officer or servant of the State in his capacity as such, the respective periods referred to in paragraph (*b*) of sub-rule (5), or for the return of a rule *nisi*, shall be not less than fourteen days after the service of the notice of motion, or the rule *nisi*, as the case may be, unless the court shall have specially authorized a shorter period.

(14) Rules 10, 11, 12 and 13 shall *mutatis mutandis* apply to all applications.

(15) The court may on application order to be struck out from any affidavit any matter which is scandalous, vexatious or irrelevant, with an appropriate order as to costs, including costs as betwen attorney and client. The court shall not grant the application unless it is satisfied that the applicant will be prejudiced in his case if it be not granted.

RULE 7.

POWER OF ATTORNEY.

(1) Before summons is issued in any action at the instance of the plaintiff's attorney, the attorney shall file with the registrar a power of attorney to sue. Such power of attorney shall state generally the nature of the particular action authorized to be instituted, the nature of the relief to be claimed therein and the names of the party to be sued.

(2) When notice of intention to defend is filed with the registrar by an attorney the latter shall *pari passu* file a power of attorney authorizing him to defend.

(3) (*a*) The registrar shall not set down any civil appeal for hearing at the instance of an attorney unless such attorney files with the registrar a power of attorney authorizing him to set the appeal down. Such power of attorney shall be filed together with the application for a date of hearing.

(*b*) An attorney instructing an advocate to appear in a civil appeal on behalf of any other party shall, before the hearing thereof, file with the registrar a power of attorney authorizing such attorney so to act.

(4) Elke prokurasie wat deur 'n prokureur ingedien word, moet deur of namens die party wat dit gee, onderteken en origens volgens regsvoorskrifte verly wees: Met dien verstande dat waar 'n prokurasie namens die party wat dit gee, onderteken is, bewys van magtiging om namens so 'n party te teken aan die griffier gelewer moet word, wat dit dan op die prokurasie aanteken.

(5) (*a*) Dit is vir die volgende onnodig om 'n prokurasie in te dien: die staatsprokureur, 'n adjunk-staatsprokureur of 'n professionele assistent van so 'n staats- of adjunk-staatsprokureur, of 'n prokureur aan wie skriftelik of per telegram deur of namens die staatsprokureur of 'n adjunk-staatsprokureur opdrag gegee is, in aangeleenthede waarin die staatsprokureur of 'n adjunk- staatsprokureur amptelik optree vir of namens die Regering van die Republiek (insluitende die Suid-Afrikaanse Spoorweë en Hawens, die administrasie van 'n provinsie of van die gebied Suidwes-Afrika) of 'n Minister, 'n Administrateur of 'n ander amptenaar of werknemer van die Regering of administrasie.

(*b*) Die bepalinge van hierdie subreël geld *mutatis mutandis* vir die regeringsprokureur in Windhoek, Suidwes-Afrika.

REËL 8.

VOORLOPIGE VONNIS.

(1) Waar iemand regtens vir voorlopige vonnis gedagvaar kan word, geskied dit by wyse van 'n dagvaarding so na moontlik bewoord soos Vorm 3 in die Eerste Bylae, waarby hy opgeroep word om die geëiste bedrag te betaal of anders persoonlik of by monde van 'n advokaat te verskyn op 'n dag in die dagvaarding genoem, synde minstens sewe dae na die betekening daarvan, om sy aanspreeklikheid te erken of te ontken.

(2) So 'n dagvaarding word deur die griffier uitgereik en die bepalinge van subreëls (3) en (4) van reël 17 geld *mutatis mutandis*.

(3) Afskrifte van alle dokumente waarop die eis berus, word aan die dagvaarding geheg en tesame daarmee beteken.

(4) Die eiser plaas die saak vir verhoor ter rolle voor middag van die tweede hofdag voor die dag waarop dit verhoor sal word.

(5) Op die dag in die dagvaarding genoem kan die verweerder persoonlik of by monde van 'n advokaat verskyn om sy aanspreeklikheid te ontken of te erken, en hy kan laatstens voor middag van die tweede hof dag voor dié waarop hy opgeroep is om te verskyn, 'n beëdigde verklaring aflewer wat die gronde bevat waarop hy aanspreeklikheid betwis. In so 'n geval word die eiser 'n redelike geleentheid gegun om daarop te antwoord.

(6) As die verweerder by die verhoor sy aanspreeklikheid erken of as hy voorheen 'n erkenning van aanspreeklikheid by die griffier ingedien het wat deur hom onderteken is en geattesteer is deur 'n prokureur wat vir hom optree en nie vir die teenparty nie, of anders by beëdigde verklaring bevestig is, kan die hof finale vonnis teen hom gee.

(7) Die hof kan mondelinge getuienis betreffende die egtheid van die verweerder of sy gevolgmagtigde se handtekening op die dokument waarop die eis vir voorlopige vonnis berus, aanhoor.

(8) As die hof voorlopige vonnis weier, kan hy die verweerder beveel om binne 'n bepaalde tyd 'n pleit in te dien en kan hy na goeddunke 'n kostebevel gee. Daarna geld hierdie reëls betreffende pleitstukke en die verdere afhandeling van verhoorsake *mutatis mutandis*.

(9) Op aanvraag moet die eiser sekerheid *de restituendo* tot bevrediging van die griffier aan die verweerder verskaf, teen betaling van die vonnisskuld.

(10) Iemand teen wie voorlopige vonnis toegestaan is kan alleen tot die prinsipale saak oorgaan as hy die vonniskuld en getakseerde koste betaal het of as die eiser versuim om op aanvraag behoorlik sekerheid ingevolge subreël (9) te stel.

(4) Every power of attorney filed by an attorney shall be signed by or on behalf of the party giving it, and shall otherwise be duly executed according to law; provided that where a power of attorney is signed on behalf of the party giving it, proof of authority to sign on behalf of such party shall be produced to the registrar who shall note that fact on the said power.

(5) (*a*) No power of attorney shall be required to be filed by the State Attorney, any Deputy State Attorney or any professional assistant to such State or Deputy State Attorney or any attorney instructed in writing or by telegram by or on behalf of the State Attorney or a Deputy State Attorney in any matter in which the State Attorney or a Deputy State Attorney is acting in his capacity as such for or on behalf of the Government of the Republic including the South African Railways and Harbours, the Administration of any Province or of the territory of South West Africa or any Minister, Administrator or other officer or servant of the said Government or Administration.

(*b*) The provisions of this sub-rule shall apply *mutatis mutandis* to the Government Attorney at Windhoek, South West Africa.

RULE 8.

PROVISIONAL SENTENCE.

(1) Where by law any person may be summoned to answer a claim made for provisional sentence, proceedings shall be instituted by way of a summons as near as may be in accordance with Form 3 of the First Schedule, calling upon such person to pay the amount claimed or failing such payment to appear personally or by counsel upon a day named in such summons not being less than seven days after the service upon him of such summons, to admit or deny his liability.

(2) Such summons shall be issued by the registrar and the provisions of sub-rules (3) and (4) of rule 17 shall *mutatis mutandis* apply.

(3) Copies of all documents upon which the claim is founded shall be annexed to the summons and served with it.

(4) The plaintiff shall set down the case for hearing before noon on the court day but one preceding the day upon which it is to be heard.

(5) Upon the day named in the summons the defendant may appear personally or by an advocate to admit or deny his liability and may, not later than noon of the court day but one preceding the day upon which he is called upon to appear in court, deliver an affidavit setting forth the grounds upon which he disputes liability. In such event the plaintiff shall be afforded a reasonable opportunity of replying thereto.

(6) If at the hearing the defendant admits his liability or if he has previously filed with the registrar an admission of liability signed by himself and witnessed by an attorney acting for him and not acting for the opposite party, or, if not so witnessed, verified by affidavit, the court may give final judgment against him.

(7) The court may hear oral evidence as to the authenticity of the defendant's signature, or that of his agent, to the document upon which the claim for provisional sentence is founded.

(8) Should the court refuse provisional sentence it may order the defendant to file a plea within a stated time and may make such order as to the costs of the proceedings as to it may seem just. Thereafter the provisions of these rules as to pleading and the further conduct of trial actions shall *mutatis mutandis* apply.

(9) The plaintiff shall on demand furnish the defendant with security *de restituendo* to the satisfaction of the registrar, against payment of the amount due under the judgment.

(10) Any person against whom provisional sentence has been granted may enter into the principal case only if he shall have satisfied the amount of the judgment for provisional sentence and taxed costs, or if the plaintiff on demand fails to furnish due security in terms of sub-rule (9).

(11) 'n Verweerder wat tot die prinsipale saak mag en wil oorgaan, moet binne twee maande nadat voorlopige vonnis toegestaan is, 'n kennisgewing van sy voorneme aflewer, in welke geval die dagvaarding geag word 'n gekombineerde dagvaarding te wees, waarop hy binne sewe dae 'n pleit moet aflewer. By gebreke van sodanige kennisgewing of pleit word die voorlopige vonnis *ipso facto* 'n finale vonnis en verval die sekerheid wat deur die eiser gestel is.

REËL 9.

ARRES.

(1) Geen siviele prosesstuk waarkragtens iemand gearresteer of onder borgtog geplaas mag word ten einde hom te dwing om te verskyn en op 'n eis te antwoord en die uitspraak van die hof daarop af te wag, word teen iemand uitgereik as die waarde in geskil nie minstens R400 beloop nie, sonder inagneming van koste.

(2) In alle gevalle waar iemand gearresteer of onder borgtog geplaas mag word, geskied dit by wyse van 'n lasbrief tot arres, gerig aan die balju of sy adjunk en aan die bevelvoerder van die gevangenis, geteken soos in die geval van 'n dagvaarding, en so na moontlik bewoord soos Vorm 4 in die Eerste Bylae.

(3) Die lasbrief tot arres moet, wanneer dit by die griffier vir ondertekening afgegee word, vergesel gaan van 'n beëdigde verklaring van die eiser of sy gevolmagtigde.

(4) Die beëdigde verklaring moet 'n juiste beskrywing bevat van die persoon wat dit maak, met vermelding van sy woonplek en die bedrag aan die eiser verskuldig en waar die skuld ontstaan het, en in die geval van die onwettige terughouding van roerende goed, die waarde en 'n beskrywing daarvan: Met dien verstande dat as die eiser as eksekuteur of administrateur van 'n bestorwe boedel of as kurator van 'n insolvente boedel of in enige soortgelyke verteenwoordigende hoedanigheid dagvaar dit voldoende is om in so 'n beëdigde verklaring te sê dat die verweerder die som verskuldig is volgens die boeke of dokumente in besit van die deponent en dat die deponent opreg glo dat dit so is. Verder moet beweer word dat die eiser geen of onvoldoende sekuriteit vir sy eis het, met vermelding van die aard en omvang van die sekuriteit, as daar is, en dat minstens R400 heeltemal ongesekureer is, en as die eis een vir skadevergoeding is, dat die eiser skade van R400 of meer gely het.

(5) In alle gevalle moet in die beëdigde verklaring beweer word dat die deponent oortuig is dat die verweerder op vertrek uit die Republiek staan of voorbereidinge daarvoor tref, met volledige gronde vir sy oortuiging.

(6) Die lasbrief tot arres en die beëdigde verklaring word deur die griffier geliasseer en dit staan die verweerder of sy prokureur vry om te alle redelike tye en kosteloos insae daarin te hê en afskrifte daarvan te maak.

(7) As 'n som geld of 'n besondere saak geëis word, moet dit in die lasbrief tot arres vermeld word. Die koste van die uitreiking van so 'n lasbrief word deur die griffier daarop geëndosseer en die balju of sy adjunk gee, wanneer 'n arres daarkragtens plaasvind, aan die verweerder 'n afskrif daarvan tesame met afskrifte van die genoemde beëdigde verklaring en enige dokumente waarop die eis berus, welke afskrifte deur die eiser verskaf moet word: Met dien verstande dat waar 'n lasbrief tot arres telegrafies versend is, die oorspronklike lasbrief met die eerste pos gestuur word na die plek waar so iemand gearresteer of aangehou is, vergesel van 'n afskrif daarvan en van die beëdigde verklaring ingevolge subreëls (4) en (5). By ontvangs van die lasbrief op die plek waar so iemand gearresteer of aangehou is, word die bedoelde afskrifte onverwyld aan hom beteken.

(8) As die verweerder of enigeen namens hom by arres aan die balju of sy adjunk voldoende sekerheid stel by wyse van 'n borgakte of onderneming van die verweerder en van 'n ander persoon wat in die Republiek woon en voldoende middele hier het, dat die verweerder sal verskyn soos in die lasbrief bepaal en die vonnis van die hof daarop sal afwag, of as die verweerder aan die balju of sy adjunk die bedrag betaal of die saak oorhandig wat in die lasbrief genoem word tesame met die koste daarop

(11) A defendant entitled and wishing to enter into the principal case shall, within two months of the grant of provisional sentence, deliver notice of his intention to do so, in which event the summons shall be deemed to be a combined summons and he shall deliver a plea within seven days thereafter. Failing such notice or such plea the provisional sentence shall *ipso facto* become a final judgment and the security given by the plaintiff shall lapse.

RULE 9.

ARREST.

(1) No civil process whereby any person may be arrested or held to bail in order to compel his appearance to answer any claim and to abide the judgment of the court thereon shall be sued out against any person where the cause of action is not of the value of R400 or upwards, exclusive of any costs.

(2) In all cases where any person may be arrested or held to bail the process shall be by writ of arrest addressed to the sheriff or his deputy and to the officer commanding the prison and signed as is required in the case of a summons and shall, as near as may be, be in accordance with Form 4 of the First Schedule.

(3) The writ of arrest when handed to the registrar for signature shall be accompanied by an affidavit sworn by the plaintiff or his agent.

(4) The affidavit shall contain a true description of the person making the same, setting forth his place of residence, and a statement of the sum due to the plaintiff, and the cause of the claim and where incurred, or in the case of the unlawful detention of any movable property, the value and description thereof: Provided that if the plaintiff sues as executor or administrator of any deceased person, or as a trustee of an insolvent estate, or in any similar representative capacity, it shall be sufficient in any such affidavit to aver that the said defendant is indebted as stated, as appears by the books or documents in the possession of the deponent and as the deponent verily believes. The affidavit shall further contain an allegation that the plaintiff has no or insufficient security for his demand, specifying the nature and extent of the security, if any, and that a sum or value of R400 or upwards remains wholly unsecured; and if the said claim is one for damages, that the said plaintiff has sustained damage to an amount of R400 or upwards.

(5) In all cases the affidavit shall contain an allegation that the depondent believes that the defendant is about to depart, or is making preparations to depart, from the Republic and shall state fully the grounds for such belief.

(6) The writ of arrest and affidavit shall be filed by the registrar, and the defendant or his attorney shall be at liberty at all reasonable times and without charge to peruse and copy them.

(7) Where any sum of money or a specific thing is claimed, it shall be set forth in the writ of arrest. The costs of issuing any such writ shall be endorsed thereon by the registrar, and the sheriff or his deputy shall, upon an arrest made by virtue thereof, give to the defendant a copy of the same, together with copies of the affidavit aforesaid and any documents upon which the claim is founded, which copies shall be furnished by the plaintiff: Provided that where a warrant of arrest has been telegraphically transmitted the original warrant shall be sent by the first post to the place where such person has been arrested or detained and shall be accompanied by a copy thereof and a copy of the affidavit in terms of sub-rules (4) and (5). After the arrival of the warrant at the place where such person has been arrested or detained, a copy of the original warrant and affidavit shall forthwith be served upon him.

(8) If on arrest the defendant or anyone on his behalf gives to the sheriff or his deputy adequate security by bond or obligation of the said defendant and of another person residing and having sufficient means within the Republic that the defendant will appear according to the exigency of the said writ, and will abide the judgment of the court thereon, or if the said defendant pays or delivers to the sheriff or his deputy the sum of money or thing mentioned in the said writ, together with the costs

geëndosseer en 'n verdere bedrag van R4.20 vir koste van die tenuitvoerlegging van die lasbrief, ontslaan die balju of sy adjunk hom. Die bedoelde borgakte of onderneming word bewoord so na moontlik soos Vorm 5 in die Eerste Bylae: Met dien verstande dat die persoonlike borgakte van die verweerder sonder meer voldoende is as daarby ook die geëiste bedrag of saak gedeponeer word saam met koste soos voormeld, en die deposito as een van die voorwaardes in die borgakte genoem word.

(9) As die verweerder te eniger tyd na sy arres aan die eis in die lasbrief voldoen, en ook die koste daarop geëndosseer en die koste van tenuitvoerlegging betaal of as hy 'n borgakte ingevolge subreël (8) aangaan, is hy geregtig tot onmiddellike vrylating.

(10) Waar 'n borgakte deur of namens die verweerder gegee is ingevolge subreël (8), gaan die eiser met die aksie voort asof daar geen arres was nie en behalwe waar dagvaarding reeds uitgereik was, bly die lasbrief tot arres en die beëdigde verklaring van krag as 'n gekombineerde dagvaarding in die aksie.

(11) 'n Gearresteerde kan die datum van verskyning vervroeg en na kennisgewing aan die eiser en die griffier sy vrylating by die hof aanvra.

(12) 'n Balju of adjunk-balju wat van 'n gearresteerde 'n borgakte kragtens 'n lasbrief geneem het, dra dit so spoedig doenlik aan die eiser oor by wyse van 'n ondertekende endossement daaroop so na moontlik bewoord soos Vorm 6 in die Eerste Bylae.

(13) As die verweerder op die keerdatum of vervroegde keerdatum die eis erken, kan finale vonnis teen hom gegee word, waarop hy vrygelaat word.

(14) As die verweerder nie aan die eis voldoen of dit erken het nie en nie sekerheid soos voormeld gestel het nie, kan die eiser op die keerdatum of vervroegde keerdatum aansoek doen om bekragtiging van die arres, waarop die hof, tensy voldoende rede tot die teendeel aangevoer word, die arres bekragtig en beveel dat die verweerder na die gevangenis teruggestuur word, en verdere voorskrifte gee wat hy vir die spoedige afhandeling van die geding bevorderlik ag.

(15) Wanneer in so 'n geding vonnis teen die verweerder gegee is, is hy tot vrylating geregtig.

REËL 10.

VOEGING VAN PARTYE EN SKULDOORSAKE.

(1) Enige getal persone, elk van wie 'n eis het, hetsy gesamentlik, gesamentlik en afsonderlik, afsonderlik of in die alternatief, kan as eisers in een aksie optree teen dieselfde verweerder of verweerders teen wie een of meer van sodanige persone wat as eisers wil optree geregtig sou gewees het om 'n afsonderlike aksie in te stel, mits die vorderingsreg van diegene wat saam as eisers wil optree, afhang van die beslissing van wesenlik dieselfde regs- of feitevraag wat, as afsonderlike aksies ingestel sou word, in elke aksie sou ontstaan, en met dien verstande dat daar 'n toetrede kan wees met die voorwaarde dat dit alleen geld as die eis van enige ander eiser misluk.

(2) 'n Eiser kan verskillende skuldoorsake in dieselfde aksie saamvoeg.

(3) Verskeie verweerders kan in een aksie gedagvaar word hetsy gesamentlik, gesamentlik en afsonderlik, afsonderlik of in die alternatief, wanneer die geskilpunt wat tussen hulle of enige van hulle en die eiser of enige van die eisers bestaan, afhang van die beslissing van wesenlik dieselfde regs- of feitevraag wat, as die verweerders afsonderlik gedagvaar sou word, in elke afsonderlike aksie sou ontstaan.

(4) In 'n aksie waarin skuldoorsake of partye ingevolge hierdie reël saamgevoeg is, gee die hof aan die einde van die verhoor uitspraak ten gunste van die partye wat daartoe geregtig is, of verleen hy absolusie van die instansie en gee hy 'n kostebevel wat hy billik ag: Met dien verstande dat sonder om die diskresie van die hof in enige opsig te beperk—

(*a*) die hof kan beveel dat 'n eiser wat onsuksesvol was teenoor enige ander party, hetsy eiser of verweerder, aanspreeklik is vir koste wat deur sy toetrede tot die aksie as eiser veroorsaak is,

and charges endorsed thereon, and a further sum of R4.20 as costs for the execution of the writ, the sheriff or his deputy shall permit the defendant to go free of the said writ of arrest. The bond or obligation to be given to the sheriff or his deputy under this rule shall be as near as may be in accordance with Form 5 of the First Schedule: Provided that the personal bond of the defendant without a surety shall be sufficient for the purposes of this rule if accompanied by a deposit of the amount or thing claimed and costs as aforesaid, such deposit being referred to in the bond as one of the conditions thereof.

(9) If the defendant at any time after his arrest satisfies the claim contained in the writ, including the costs and charges endorsed thereon, and the costs of the execution of the writ or if he gives a bond or obligation in terms of sub-rule (8), he shall be entitled to immediate release.

(10) If a bond or obligation has been given by or on behalf of the defendant, in terms of sub-rule (8), the plaintiff shall proceed with his action as if there had been no arrest, and save in those cases where summons has already been issued, the writ of arrest and affidavit shall stand as a combined summons in the action.

(11) Any person arrested shall be entitled to anticipate the day of appearance and to apply to the court for his release, upon giving notice to the plaintiff and to the registrar.

(12) If the sheriff or his deputy takes from the party arrested any bond or obligation by virtue of any writ, he shall, as soon as practicable, assign to the plaintiff such bond or obligation, by an endorsement thereon under his hand, as near as may be in accordance with Form 6 of the First Schedule.

(13) If on the return or anticipated return day the defendant admits the plaintiff's claim, final judgment may be given against him, whereupon he shall be released.

(14) If the defendant has not satisfied or admitted the plaintiff's claim and has not given security as aforesaid, the plaintiff may, on the return or anticipated return day, apply for confirmation of the arrest, whereupon the court, unless sufficient cause to the contrary is shown, shall confirm such arrest and order the return of the defendant to prison, and shall make such further order as to it seems meet for the speedy termination of the proceedings.

(15) If in any such proceedings judgment is given against the defendant, he shall be entitled to his release.

RULE 10.

JOINDER OF PARTIES AND CAUSES OF ACTION.

(1) Any number of persons, each of whom has a claim, whether jointly, jointly and severally, separately or in the alternative, may join as plaintiffs in one action against the same defendant or defendants against whom any one or more of such persons proposing to join as plaintiffs would, if he brought a separate action, be entitled to bring such action, provided that the right to relief of the persons proposing to join as plaintiffs depends upon the determination of substantially the same question of law or fact which, if separate actions were instituted, would arise on each action, and provided that there may be a joinder conditionally upon the claim of any other plaintiff failing.

(2) A plaintiff may join several causes of action in the same action.

(3) Several defendants may be sued in one action either jointly, jointly and severally, separately or in the alternative, whenever the question arising between them or any of them and the plaintiff or any of the plaintiffs depends upon the determination of substantially the same question of law or fact which, if such defendants were sued separately, would arise in each separate action.

(4) In any action in which any causes of action or parties have been joined in accordance with this rule, the court at the conclusion of the trial shall give such judgment in favour of such of the parties as shall be entitled to relief, or grant absolution from the instance, and shall make such order as to costs as shall to it seem to be just, provided that without limiting the discretion of the court in any way—

(*a*) the court may order that any plaintiff who is unsuccessful shall be liable to any other party, whether plaintiff or defendant, for any costs occasioned by his joining in the action as plaintiff;

(*b*) as uitspraak ten gunste van 'n verweerder gegee word of as aan 'n verweerder absolusie van die instansie verleen is, die hof kan beveel dat—

(i) die eiser so 'n verweerder se koste betaal; of

(ii) die onsuksesvolle verweerders die koste van die suksesvolle verweerder gesamentlik en afsonderlik betaal, betaling deur een die ander vry te stel, en dat as een van die onsuksesvolle verweerders meer as sy *pro rata*-deel van die koste van die suksesvolle verweerder betaal, hy geregtig sal wees om van die ander onsuksesvolle verweerders hul *pro rata*-deel van die oorbetaling te verhaal, en die hof kan verder beveel dat as die suksesvolle verweerder nie al sy koste van die onsuksesvolle verweerders kan verhaal nie, hy die tekort van die eiser kan vorder.

(*c*) as uitspraak ten gunste van die eiser gegee word teen meer as een van die verweerders, die hof hulle kan beveel om die eiser se koste gesamentlik en afsonderlik te betaal, betaling deur een die ander vry te stel, en dat indien een van die onsuksesvolle verweerders meer as sy *pro rata*-deel van die eiser se koste betaal, hy geregtig sal wees om van die ander onsuksesvolle verweerders hul *pro rata*-deel van sodanige oorbetaling te verhaal.

(5) Waar daar 'n voeging van skuldoorsake of van partye was, kan die hof op aansoek van enige party te eniger tyd beveel dat afsonderlike verhore gehou word ten opsigte van sommige of al die skuldoorsake of sommige of al die partye; en die hof kan op so 'n aansoek na goeddunke 'n bevel gee.

REËL 11.

Konsolidasie van Aksies.

Waar afsonderlike aksies ingestel is en die hof meen dat hulle geriefshalwe gekonsolideer behoort te word, kan hy op aansoek van 'n party daartoe en na kennisgewing aan alle belanghebbende partye, konsolidasie beveel, waarna—

(*a*) die aksies as een voortgesit word;

(*b*) die bepalinge van reël 10 *mutatis mutandis* geld vir die aldus gekonsolideerde aksie; en

(*c*) die hof na goeddunke 'n bevel kan gee betreffende die verdere prosedure, en een uitspraak kan gee waarin al die geskille in die genoemde aksies afgehandel word.

REËL 12.

Toetrede van Persone as Eisers of Verweerders.

Iemand wat geregtig is om as eiser toe te tree of blootstaan aan voeging as verweerder in 'n aksie, kan na kennisgewing aan alle partye in enige stadium van die verrigtinge aansoek doen om verlof om as 'n eiser of 'n verweerder toe te tree. Die hof kan op so 'n aansoek na goeddunke 'n bevel gee, ook wat koste betref, en die verdere prosedure in die aksie voorskryf.

REËL 13.

Derdepartyprosedure.

(1) As 'n party tot 'n aksie daarop aanspraak maak—

(*a*) dat hy teenoor iemand anders wat nie 'n party is nie (hieronder 'n „derde party" genoem), ten opsigte van enige betaling waartoe hy in die aksie veroordeel kan word, geregtig is op 'n bydrae of vrywaring deur die derde party; of

(*b*) dat 'n vraag of geskilpunt in die aksie wesenlik dieselfde is as 'n vraag of geskilpunt wat ontstaan het of sal ontstaan tussen hom en die derde party, en beslis behoort te word nie alleen tussen partye tot die aksie nie maar ook tussen hulle of een of meer van hulle en die derde party,

(*b*) if judgment is given in favour of any defendant or if any defendant is absolved from the instance, the court may order:

(i) the plaintiff to pay such defendant's costs, or

(ii) the unsuccessful defendants to pay the costs of the successful defendant jointly and severally, the one paying the other to be absolved, and that if one of the unsuccessful defendants pays more than his *pro rata* share of the costs of the successful defendant, he shall be entitled to recover from the other unsuccessful defendants their *pro rata* share of such excess, and the court may further order that, if the successful defendant is unable to recover the whole or any part of his costs from the unsuccessful defendants, he shall be entitled to recover from the plaintiff such part of his costs as he cannot recover from the unsuccessful defendants;

(*c*) if judgment is given in favour of the plaintiff against more than one of the defendants, the court may order those defendants against whom it gives judgment to pay the plaintiff's costs jointly and severally, the one paying the other to be absolved, and that if one of the unsuccessful defendants pays more than his *pro rata* share of the costs of the plaintiff he shall be entitled to recover from the other unsuccessful defendants their *pro rata* share of such excess.

(5) Where there has been any joinder of causes of action or of parties, the court may on the application of any party at any time order that separate trials be held either in respect of some or all of the causes of action or some or all of the parties; and the court may on such application make such order as to it seems meet.

RULE 11.

Consolidation of Actions.

Where separate actions have been instituted and it appears to the court convenient to do so, it may upon the application of any party thereto and after notice to all interested parties, make an order consolidating such actions, whereupon—

(*a*) the said actions shall proceed as one action;

(*b*) the provisions of rule 10 shall *mutatis mutandis* apply with regard to the action so consolidated; and

(*c*) the court may make any order which to it seems meet with regard to the further procedure, and may give one judgment disposing of all matters in dispute in the said actions.

RULE 12.

Intervention of Persons as Plaintiffs or Defendants.

Any person entitled to join as a plaintiff or liable to be joined as a defendant in any action may, on notice to all parties, at any stage of the proceedings apply for leave to intervene as a plaintiff or a defendant. The court may upon such application make such order, including any order as to costs, and give such directions as to the further procedure in the action as to it may seem meet.

RULE 13.

Third Party Procedure.

(1) Where a party in any action claims—

(*a*) as against any other person not a party to the action (in this rule called a "third party") that such party is entitled, in respect of any relief claimed against him, to a contribution or indemnification from such third party, or

(*b*) any question or issue in the action is substantially the same as a question or issue which has arisen or will arise between such party and the third party, and should properly be determined not only as between any parties to the action but also as between such parties and the third party or between any of them,

kan hy 'n kennisgewing, hieronder 'n derdeparty-kennisgewing genoem, so na moontlik bewoord soos Vorm 7 in die Eerste Bylae, uitreik en dit moet deur die balju beteken word.

(2) In die kennisgewing word die aard en gronde van die aanspraak van die party wat dit uitreik, die vraag of geskilpunt wat beslis moet word, en die regsvordering uiteengesit. Vir die uiteensetting van die aanspraak en van die vraag of geskilpunt, geld die reëls betreffende pleitstukke en dagvaardings *mutatis mutandis*.

(3) Die party wat 'n derdeparty-kennisgewing uitreik, laat dit beteken tesame met afskrifte van alle pleitstukke in die aksie tot datum, voordat of wanneer hy sy eerste pleitstuk in die aksie aflewer.

(4) As die derde party die eis in die derdeparty-kennisgewing wil betwis, lewer hy 'n kennisgewing van voorneme om te verdedig af, soos op 'n dagvaarding. Onmiddellik na ontvangs van so 'n kennisgewing gee die party wat die derdeparty-kennisgewing uitgereik het, dienooreenkomstig kennis aan alle ander partye.

(5) Die derde party is, na betekening aan hom van 'n derdeparty-kennisgewing, 'n party tot die aksie en, as hy 'n kennisgewing van voorneme om te verdedig aflewer, word alle dokumente aan hom beteken en kennis aan hom gegee as 'n party.

(6) Die derde party kan pleit of eksipieer teen die derdeparty-kennisgewing asof hy 'n verweerder in die aksie is. Hy kan ook deur 'n pleit of ander behoorlike pleitstuk in te dien die aanspreeklikheid van die party wat die kennisgewing uitgereik het, betwis op enige grond, selfs al het daardie party dit nie geopper nie: Met dien verstande egter dat die derde party nie geregtig is om 'n teeneis teen iemand anders as die party wat die kennisgewing uitreik, in te stel nie, behalwe vir sover hy dit ingevolge reël 24 sou mag doen.

(7) Die reëls betreffende die indiening van verdere pleitstukke geld soos volg vir derde partye:

(*a*) vir sover die derde party se pleit betrekking het op die eis van die party wat die kennisgewing uitgereik het, word laasgenoemde beskou as die eiser en die derde party as die verweerder;

(*b*) vir sover die derde party se pleit op die eiser se eis betrekking het, word die derde party as 'n verweerder beskou en die eiser dien pleitstukke in soos deur die desbetreffende reëls bepaal.

(8) Waar 'n party tot 'n aksie teen enige ander party (hetsy hy 'n party geword het vanweë 'n teeneis of vanweë 'n derdeparty-kennisgewing of op enige ander wyse) 'n aanspraak het soos in subreël (1) bedoel, kan hy 'n derdeparty-kennisgewing uitreik en aan so 'n ander party beteken soos deur hierdie reël voorgeskryf. Behalwe dat geen verdere kennisgewing van voorneme om te verdedig nodig is nie, volg die betrokke partye dieselfde proses asof die derdeparty-kennisgewing ingevolge subreël (1) uitgereik was.

(9) 'n Party wat gevoeg is by wyse van 'n derdeparty-kennisgewing kan te eniger tyd by die hof aansoek doen om afsonderlike beregting van al of enige van die geskilpunte geskep deur die derdeparty-kennisgewing, en die hof kan daarop na goeddunke 'n bevel gee, insluitende 'n bevel tot die afsonderlike beregting van enige geskilpunt op voorwaarde dat sy beslissing van enige ander geskilpunt in die aksie tussen die eiser en die verweerder of tussen enige ander partye, op die aansoeker bindend sal wees.

REËL 14.

VERRIGTINGE DEUR EN TEEN VENNOOTSKAPPE, FIRMAS EN VERENIGINGE.

(1) In hierdie reël beteken—

„betrokke datum" die datum waarop die skuldoorsaak ontstaan het;

„eiser" en „verweerder" ook applikant en respondent;

„firma" 'n besigheid wat deur die alleeneienaar daarvan onder 'n ander naam as sy eie gedryf word;

„vereniging" enige vereniging van persone sonder regspersoonlikheid nie synde 'n vennootskap nie;

such party may issue a notice, hereinafter referred to as a third party notice, as near as may be in accordance with Form 7 of the First Schedule, which notice shall be served by the sheriff.

(2) Such notice shall state the nature and grounds of the claim of the party issuing the same, the question or issue to be determined, and any relief or remedy claimed. Insofar as the statement of the claim and the question or issue are concerned, the rules with regard to pleadings and to summonses shall *mutatis mutandis* apply.

(3) The third party notice shall be served before or concurrently with the delivery of the first pleading delivered by the party issuing it in the action in connection with which it is issued and shall be accompanied by a copy of all pleadings filed in the action up to the date of service.

(4) If the third party intends to contest the claim set out in the third party notice he shall deliver notice of intention to defend, as if to a summons. Immediately upon receipt of such notice, the party who issued the third party notice shall inform all other parties accordingly.

(5) The third party shall, after service upon him of a third party notice, be a party to the action and, if he delivers notice of intention to defend, shall be served with all documents and given notice of all matters as a party.

(6) The third party may plead or except to the third party notice as if he were a defendant to the action. He may also, by filing a plea or other proper pleading contest the liability of the party issuing the notice on any ground notwithstanding that such ground has not been raised in the action by such latter party: Provided however that the third party shall not be entitled to claim in reconvention against any person other than the party issuing the notice save to the extent that he would be entitled to do so in terms of rule 24.

(7) The rules with regard to the filing of further pleadings shall apply to third parties as follows:

(*a*) Insofar as the third party's plea relates to the claim of the party issuing the notice, the said party shall be regarded as the plaintiff and the third party as the defendant.

(*b*) Insofar as the third party's plea relates to the plaintiff's claim the third party shall be regarded as a defendant and the plaintiff shall file pleadings as provided by the said rules.

(8) Where a party to an action has against any other party (whether either such party became a party by virtue of any counter-claim by any person or by virtue of a third party notice or by any other means) a claim referred to in sub-rule (1), he may issue and serve on such other party a third party notice in accordance with the provisions of this rule. Save that no further notice of intention to defend shall be necessary, the same procedure shall apply as between the parties to such notice and they shall be subject to the same rights and duties as if such other party had been served with a third party notice in terms of sub-rule (1).

(9) Any party who has been joined as such by virtue of a third party notice may at any time make application to the court for the separation of the trial of all or any of the issues arising by virtue of such third party notice and the court may upon such application make such order as to it seems meet, including an order for the separate hearing and determination of any issue on condition that its decision on any other issue arising in the action either as between the plaintiff and the defendant or as between any other parties, shall be binding upon the applicant.

RULE 14.

PROCEEDINGS BY AND AGAINST PARTNERSHIPS, FIRMS AND ASSOCIATIONS.

(1) In this rule—

"Association" means any unincorporated body of persons, not being a partnership.

"Firm" means a business carried on by the sole proprietor thereof under a name other than his own.

"Plaintiff" and "Defendant" include applicant and respondent.

en word „dagvaar" en „gedagvaar" gebruik met betrekking tot aksies sowel as aansoeke.

(2) 'n Vennootskap, 'n firma of 'n vereniging kan in sy naam dagvaar of gedagvaar word.

(3) 'n Eiser wat 'n vennootskap dagvaar, hoef nie die name van die vennote te verstrek nie, en as hy dit doen, skep 'n fout of weglating of foutiewe insluiting nie 'n verweer vir die vennootskap nie.

(4) Die vorige subreël geld *mutatis mutandis* ook vir 'n eiser wat 'n firma dagvaar.

(5) (*a*) 'n Eiser wat 'n firma of 'n vennootskap dagvaar kan by enige siviele dagvaarding 'n kennisgewing insluit waarin die volle naam en woonadres van die eienaar of van elke vennoot, na gelang van die geval, soos op die betrokke datum aangevra word.

(*b*) Die verweerder moet binne sewe dae 'n skriftelike verklaring met die gevraagde inligting aflewer.

(*c*) Tesame daarmee moet hy aan die in paragraaf (*a*) bedoelde persone 'n kennisgewing laat beteken so na moontlik bewoord, *mutatis mutandis*, soos Vorm 8 in die Eerste Bylae, en 'n beëdigde verklaring dat hy dit gedoen het, aflewer.

(*d*) 'n Eiser wat 'n firma of 'n vennootskap dagvaar en in die dagvaarding of kennisgewing van mosie beweer dat iemand op die betrokke datum die eienaar of 'n vennoot was, moet so iemand dienooreenkomstig in kennis stel deur 'n kennisgewing so na moontlik bewoord, *mutatis mutandis*, soos Vorm 8 in die Eerste Bylae af te lewer.

(*e*) Iemand aan wie 'n kennisgewing ingevolge paragraaf (*c*) of (*d*) beteken is, word geag 'n party tot die verrigtinge te wees, met die regte en verpligtinge van 'n verweerder.

(*f*) Enige party tot die verrigtinge kan in die pleitstukke of beëdigde verklarings beweer dat so iemand op die betrokke datum die eienaar of 'n vennoot was of dat hy onder estoppel is om dit te ontken.

(*g*) As 'n party tot die verrigtinge die bedoelde status betwis, kan die hof by die verhoor dié geskilpunt *in limine* beslis.

(*h*) Tenuitvoerlegging van 'n vonnis teen 'n vennootskap geskied eerstens teen die bates daarvan en nadat hulle uitgewin is, teen die private bates van enigiemand wat bevind is 'n vennoot te wees, of wat bevind word onder estoppel te wees om sy status as sodanig te ontken, asof uitspraak teen hom gegee is.

(6) Die voorgaande subreël geld *mutatis mutandis* vir 'n verweerder wat deur 'n firma of 'n vennootskap gedagvaar word.

(7) As 'n vennootskap gedagvaar word en dit blyk dat dit sedert die betrokke datum ontbind is, gaan die verrigtinge nogtans voort teen die persone wat deur die eiser beweer of deur die vennootskap vermeld word vennote te wees, asof hulle afsonderlik gedagvaar is.

(8) Die voorgaande subreël geld *mutatis mutandis* waar dit blyk dat 'n firma opgehou het om te bestaan.

(9) (*a*) 'n Eiser wat 'n vereniging dagvaar kan by enige siviele dagvaarding 'n kennisgewing insluit waarin 'n gesertifiseerde afskrif van sy geldende konstitusie en 'n lys van die name en adresse van die ampsdraers en hul onderskeie ampte op die betrokke datum aangevra word.

(*b*) Aan so 'n kennisgewing moet binne sewe dae voldoen word.

(*c*) Paragrawe (*a*) en (*b*) geld *mutatis mutandis* vir 'n verweerder wat deur 'n vereniging gedagvaar word.

(10) Paragrawe (*d*) tot (*h*) van subreël (5) geld *mutatis mutandis* wanneer—

(*a*) 'n eiser beweer dat 'n lid, werknemer of agent van die verwerende vereniging regtens vir sy beweerde skuld aanspreeklik is;

(*b*) 'n verweerder beweer dat 'n lid, werknemer of agent van die eisende vereniging regtens vir die koste wat teen die vereniging toegeken mag word, aanspreeklik sal wees.

(11) Subreël (7) geld *mutatis mutandis* vir die voortsetting van die verrigtinge teen 'n lid, werknemer of agent in paragraaf (*a*) van subreël (10) bedoel.

(12) Subreël (6) van reël 21 geld *mutatis mutandis* vir die omstandighede in paragrawe (*a*) en (*b*) van subreël (5) en in subreël (9) hiervan bedoel.

"Relevent date" means the date of accrual of the cause of action.

"Sue" and "Sued" are used in relation to actions and applications.

(2) A partnership, a firm or an association may sue or be sued in its name.

(3) A plaintiff suing a partnership need not allege the names of the partners. If he does, any error of omission or inclusion shall not afford a defence to the partnership.

(4) The previous sub-rule shall apply *mutatis mutandis* to a plaintiff suing a firm.

(5) (*a*) A plaintiff suing a firm or a partnership may include in any civil summons a notice calling for particulars as to the full name and residential address of the proprietor or of each partner, as the case may be, as at the relevant date.

(*b*) The defendant shall within seven days deliver a written statement containing such information.

(*c*) Concurrently with the said statement the defendant shall serve upon the persons referred to in paragraph (*a*) a notice as near as may be, *mutatis mutandis*, in accordance with Form 8 of the First Schedule and deliver proof by affidavit of such service.

(*d*) A plaintiff suing a firm or a partnership and alleging in the summons or notice of motion that any person was at the relevant date the proprietor or a partner, shall notify such person accordingly by delivering a notice as near as may be, *mutatis mutandis*, in accordance with Form 8 of the First Schedule.

(*e*) Any person served with a notice in terms of paragraph (*c*) or (*d*) shall be deemed to be a party to the proceedings, with the rights and duties of a defendant.

(*f*) Any party to such proceedings may aver in the pleadings or affidavits that such person was at the relevant date the proprietor or a partner, or that he is estopped from denying such status.

(*g*) If any party to such proceedings disputes such status, the court may at the hearing decide that issue *in limine*.

(*h*) Execution in respect of a judgment against a partnership shall first be levied against the assets thereof, and, after such excussion, against the private assets of any person held to be, or held to be estopped from denying his status as, a partner, as if judgment had been entered against him.

(6) The preceding sub-rule shall apply *mutatis mutandis* to a defendant sued by a firm or a partnership.

(7) If a partnership is sued and it appears that since the relevant date it has been dissolved, the proceedings shall nevertheless continue against the persons alleged by the plaintiff or stated by the partnership to be partners, as if sued individually.

(8) The preceding sub-rule shall apply *mutatis mutandis* where it appears that a firm has been discontinued.

(9) (*a*) A plaintiff suing an association may include in any civil summons a notice calling for a certified copy of its current constitution and a list of the names and addresses of the office-bearers and their respective offices at the relevant date.

(*b*) Such notice shall be complied with within seven days.

(*c*) Paragraphs (*a*) and (*b*) shall apply *mutatis mutandis* to a defendant sued by an association.

(10) Paragraphs (*d*) to (*h*) of sub-rule (5) shall apply *mutatis mutandis* when—

(*a*) A plaintiff alleges that any member, servant or agent of the defendant association is liable in law for its alleged debt;

(*b*) a defendant alleges that any member, servant or agent of the plaintiff association will be responsible in law for the payment of any costs which may be awarded against the association.

(11) Sub-rule (7) shall apply *mutatis mutandis* in regard to the continuance of the proceedings against any member, servant or agent referred to in paragraph (*a*) of sub-rule (10).

(12) Sub-rule (6) of rule 21 shall apply *mutatis mutandis* in the circumstances set out in paragraphs (*a*) and (*b*) of sub-rule (5) and in sub-rule (9) hereof.

REËL 15.

VERANDERING VAN PARTYE.

(1) Geen verrigtinge word beëindig bloot vanweë die dood, huwelik of ander statusverandering van 'n party daartoe nie, tensy die oorsaak van die verrigtinge daardeur uitgewis word.

(2) Wanneer in omstandighede soos in subreël (1) bedoel, dit nodig word of gepas is om nog iemand as 'n party in te bring (hetsy bykomend tot of in die plek van die party op wie die verrigtinge betrekking het), kan enige party daartoe onverwyld by kennisgewing aan so iemand, aan elke ander party en aan die griffier, so iemand as 'n party byvoeg of in die plek stel en behoudens enige bevel kragtens subreël (4) hiervan, gaan die verrigtinge daarop voort ten opsigte van die persoon aldus bygevoeg of in die plek gestel, asof hy 'n aanvanklike party was, en alle stappe regsgeldig gedoen voor die byvoeging of indieplekstelling bly ten volle van krag: Met dien verstande dat na die aanvang van die verhoor van 'n bestrede saak so 'n kennisgewing alleen gegee kan word met verlof van die hof op voorwaardes betreffende uitstel of iets anders wat hy goeddink; en met dien verstande verder dat die kennisgewing wat beteken word aan iemand wat daardeur as 'n party gevoeg word, in aansoekverrigtinge vergesel moet gaan van afskrifte van alle kennisgewings, beëdigde verklarings en belangrike dokumente wat voorheen afgelewer is, en in verhoorsake van afskrifte van al die pleitstukke en soortgelyke dokumente wat reeds ingedien is, tensy so iemand deur 'n prokureur verteenwoordig word wat reeds in besit daarvan is.

(3) Wanneer 'n party te sterwe kom of onbevoeg word om as party op te tree, kan sy eksekuteur, kurator, trustee of dergelike verteenwoordiger by kennisgewing aan alle ander partye en aan die griffier te kenne gee dat hy verlang om in sy verteenwoordigende hoedanigheid in die plek van so 'n party gestel te word, en tensy die hof anders gelas, word hy daarna vir alle doeleindes geag aldus in die plek gestel te wees.

(4) Die hof kan op aansoek van 'n party, by kennisgewing afgelewer binne een-en-twintig dae na betekening van die kennisgewing in subreël (2) of (3) bedoel, 'n aldus verkreë byvoeging of indieplekstelling ter syde stel of wysig, of die aansoek afwys, of die byvoeging of indieplekstelling bekragtig met of sonder voorskrifte aangaande die aflewering van beëdigde verklarings of pleitstukke, of aangaande uitstel of verdaging of koste of iets anders.

REËL 16.

VERTEENWOORDIGING VAN PARTYE.

(1) 'n Party wat persoonlik 'n geding instel of verdedig, kan te eniger tyd 'n prokureur aanstel om namens hom op te tree, wat dan 'n volmag moet indien en kennis van sy naam en adres aan alle ander partye moet gee.

(2) 'n Party wat in enige verrigtinge deur 'n prokureur verteenwoordig word, kan te eniger tyd behoudens die bepalings van reël 40 so 'n prokureur se magtiging om namens hom op te tree opsê en daarna persoonlik optree of 'n ander prokureur aanstel, waarna hy onverwyld aan die griffier en aan alle ander partye kennis moet gee van die opsegging, en as hy 'n ander prokureur aangestel het, van laasgenoemde se naam en adres. Die ander prokureur moet onverwyld by die griffier 'n prokurasie indien waarby hy gemagtig word om in die saak op te tree. As hy nie 'n ander prokureur aanstel nie, moet die party in die kennisgewing van opsegging ook 'n adres aangee wat binne vyf myl van die hof is, vir die betekening aan hom van alle dokumente in die verrigtinge.

(3) By ontvangs van 'n kennisgewing ingevolge subreël (1) of (2) word die adres van die prokureur of van die party, na gelang van die geval, die adres vir die betekening aan hom van alle dokumente in die verrigtinge, maar 'n betekening behoorlik uitgevoer op 'n ander plek voor die ontvangs van so 'n kennisgewing is ondanks die verandering vir alle doeleindes geldig.

RULE 15.

CHANGE OF PARTIES.

(1) No proceedings shall terminate solely by reason of the death, marriage or other change of status of any party thereto unless the cause of such proceedings is thereby extinguished.

(2) Whenever by reason of an event referred to in subrule (1) it becomes necessary or proper to introduce a further person as a party in such proceedings (whether in addition to or in substitution for the party to whom such proceedings relate) any party thereto may forthwith by notice to such further person, to every other party and to the registrar, add or substitute such further person as a party thereto, and subject to any order made under subrule (4) hereof, such proceedings shall thereupon continue in respect of the person thus added or substituted as if he had been a party from the commencement thereof and all steps validly taken before such addition or substitution shall continue of full force and effect: Provided that save with the leave of the court granted on such terms (as to adjournment or otherwise) as to it may seem meet, no such notice shall be given after the commencement of the hearing of any opposed matter; and provided further that the copy of the notice served on any person joined thereby as a party to the proceedings shall (unless such party is represented by an attorney who is already in possession thereof), be accompanied in application proceedings by copies of all notices, affidavits and material documents previously delivered, and in trial matters by copies of all pleadings and like documents already filed of record.

(3) Whenever a party to any proceedings dies or ceases to be capable of acting as such, his executor, curator, trustee or similar legal representative, may by notice to all other parties and to the registrar intimate that he desires in his capacity as such thereby to be substituted for such party, and unless the court otherwise orders, he shall thereafter for all purposes be deemed to have been so substituted.

(4) The court may upon notice of application delivered by any party within twenty-one days of service of notice in terms of sub-rule (2) or (3), set aside or vary any addition or substitution of a party thus effected or may dismiss such application or confirm such addition or substitution, on such terms, if any, as to the delivery of any affidavits or pleadings, or as to postponement or adjournment, or as to costs or otherwise, as to it may seem meet.

RULE 16.

REPRESENTATION OF PARTIES.

(1) Any party bringing or defending any proceedings in person may at any time appoint an attorney to act on his behalf, who shall file a power of attorney and give notice of his name and address to all other parties to the proceedings.

(2) Any party represented by an attorney in any proceedings may at any time, subject to the provisions of rule 40, terminate such attorney's authority to act for him, and thereafter act in person or appoint another attorney to act for him therein, whereupon he shall forthwith give notice to the registrar and to all other parties of the termination of his former attorney's authority, and if he has appointed a further attorney so to act for him, of the latter's name and address. The further attorney so appointed shall forthwith file with the registrar a power of attorney authorising him so to act. If no further attorney is so acting, such person shall in the notice of the termination of his former attorney's authority, as aforesaid, also notify all other parties of an address within five miles of the court for the service on him of all documents in such proceedings.

(3) Upon receipt of a notice in terms of sub-rule (1) or (2) the address of the attorney or of the party, as the case may be, shall become the address of such party for the service upon him of all documents in such proceedings, but any service duly effected elsewhere before receipt of such notice shall notwithstanding such change, for all purposes be valid.

(4) 'n Prokureur wat in enige verrigtinge ophou om 'n party te verteenwoordig, moet onverwyld die griffier en alle partye skriftelik daarvan kennis gee. So 'n kennisgewing het dieselfde regsgevolge as een ingevolge subreël (2): Met dien verstande dat geen stukke meer aan so 'n party beteken hoef te word nie tensy hy self binne drie dae alle ander partye van 'n nuwe adres vir betekening kennis gegee het, of tensy die hof anders beveel.

REËL 17.

DAGVAARDING.

(1) Iedereen wat 'n eis teen iemand anders instel, kan deur die kantoor van die griffier 'n dagvaarding of 'n gekombineerde dagvaarding uitreik, so na moontlik bewoord soos Vorm 9 of Vorm 10 in die Eerste Bylae, gerig aan die balju, waarin hy gelas word om die verweerder onder andere mee te deel dat as hy die eis betwis en wil verdedig, hy—

(*a*) binne die daarin genoemde tyd kennis moet gee van sy voorneme om te verdedig; en

(*b*) as die dagvaarding 'n gekombineerde dagvaarding is, binne veertien dae daarna 'n pleit (met of sonder teeneis) 'n eksepsie of 'n aansoek om deurhaling moet aflewer.

(2) Behalwe waar die eis vir skuld is of 'n gelikwideerde eis is, moet aan die dagvaarding 'n verklaring geheg word wat die wesenlike feite bevat waarop die eiser ter stawing van sy eis steun en wat onder andere aan reëls 18 en 20 voldoen.

(3) Elke dagvaarding moet deur die eiser se prokureur onderteken wees en 'n prokureur se adres bevat wat binne vyf myl van die hofsetel af is, of as geen prokureur optree nie, moet dit deur die eiser onderteken wees en ook 'n adres binne vyf myl van die hofsetel af bevat, waar hy betekening van alle daaropvolgende dokumente in die geding sal aanvaar; daarna word dit deur die griffier onderteken en uitgereik, met opdrag aan die balju om deur die griffier aan die hof relaas te gee.

(4) Elke dagvaarding moet vermeld—

(*a*) die naam (met waar moontlik die voornaam of voorletters) waaronder die verweerder aan die eiser bekend is, sy woon- of besigheidsplek en, waar bekend, sy beroep en, indien hy as verteenwoordiger gedagvaar word, sy desbetreffende hoedanigheid, asook sy geslag en, in die geval van 'n vrouspersoon, haar huwelikstaat;

(*b*) die volle naam, geslag en beroep en die woon- of besigheidsplek van die eiser en, waar hy as verteenwoordiger dagvaar, sy desbetreffende hoedanigheid, en as die eiser 'n vrouspersoon is, ook haar huwelikstaat.

REËL 18.

PLEITSTUKKE IN DIE ALGEMEEN.

(1) 'n Gekombineerde dagvaarding en elke ander pleitstuk behalwe 'n dagvaarding word deur 'n advokaat en 'n prokureur onderteken of as 'n party persoonlik optree, deur homself.

(2) Die titel van die aksie, wat die name van die partye bevat, en die nommer daaraan deur die griffier toegeken, moet bo-aan elke pleitstuk verskyn: Met dien verstande dat waar die partye talryk is of die titel lank en 'n verkorting redelik moontlik is, dit verkort moet word.

(3) Elke pleitstuk word in paragrawe (insluitende subparagrawe) verdeel wat agtereenvolgens genommer word en wat elk, sover moontlik, 'n afsonderlike bewering bevat.

(4) Elke pleitstuk bevat 'n duidelike en bondige stelling van die wesenlike feite waarop die eis, verweer of antwoord, na gelang van die geval, berus, in voldoende besonderhede om die teenparty in staat te stel om daarop te antwoord.

(5) Wanneer 'n party in 'n pleitstuk 'n feitebewering in die vorige pleitstuk van die teenparty ontken, moet hy die wesenlike punt beantwoord en nie ontwyk nie.

(4) Where an attorney acting in any proceedings for a party ceases so to act, he shall forthwith notify the registrar and all parties in writing accordingly. Such notification shall be of the same force and effect as a notice under sub-rule (2): Provided that, unless the party for whom such attorney was acting himself within three days notifies all other parties to the proceedings of a new address for service, it shall not, save in so far as the court otherwise orders, be necessary to serve any documents upon him.

RULE 17.

SUMMONS

(1) Every person making a claim against any other person may, through the office of the registrar, sue out a summons or a combined summons as near as may be in accordance with Form 9 or Form 10 of the First Schedule addressed to the sheriff directing him to inform the defendant *inter alia* that, if he disputes the claim, and wishes to defend he shall,

(*a*) within the time stated therein, give notice of his intention to defend;

(*b*) thereafter, if the summons is a combined summons, within fourteen days after giving such notice, deliver, with or without a claim in reconvention, a plea, exception, or application to strike out.

(2) In every case where the claim is not for a debt or liquidated demand there shall be annexed to the summons a statement of the material facts relied upon by the plaintiff in support of his claim, which statement shall *inter alia* comply with rules 18 and 20.

(3) Every summons shall be signed by the attorney acting for the plaintiff and shall bear an attorney's address, within five miles of the seat of the court, or if no attorney is acting, it shall be signed by the plaintiff, who shall in addition append an address within five miles of the seat of the court at which he will accept service of all subsequent documents in the suit, and shall thereafter be signed and issued by the registrar and made returnable by the sheriff to the court through the registrar.

(4) Every summons shall set forth—

(*a*) the name (including where possible the first name or initials) by which the defendant is known to the plaintiff, his residence or place of business and, where known, his occupation and, if he is sued in any representative capacity, such capacity. The summons shall also state the defendant's sex and, if a female, her marital status;

(*b*) the full names, sex and occupation and the residence or place of business of the plaintiff, and where he sues in a representative capacity, such capacity. If the plaintiff is a female the summons shall state her marital status.

RULE 18.

RULES RELATING TO PLEADING GENERALLY.

(1) A combined summons, and every other pleading except a summons, shall be signed by an advocate and an attorney, or if a party sues or defends personally, by such party.

(2) The title of the action describing the parties thereto and the number assigned thereto by the registrar, shall appear at the head of each pleading, provided that where the parties are numerous or the title lengthy and abbreviation is reasonably possible, it shall be so abbreviated.

(3) Every pleading shall be divided into paragraphs (including sub-paragraphs) which shall be consecutively numbered and shall, as nearly as possible, each contain a distinct averment.

(4) Every pleading shall contain a clear and concise statement of the material facts upon which the pleader relies for his claim, defence or answer to any pleading, as the case may be, with sufficient particularity to enable the opposite party to reply thereto.

(5) When in any pleading a party denies an allegation of fact in the previous pleading of the opposite party, he shall not do so evasively but shall answer the point of substance.

(6) 'n Party wat in sy pleitstuk op 'n kontrak steun, moet meld of die kontrak skriftelik of mondeling was en wanneer, waar en deur wie dit gesluit is.

(7) Dit is nie nodig om in 'n pleitstuk die omstandighede te meld waarvan 'n beweerde stilswyende bepaling afgelei kan word nie.

(8) Waar 'n party wat vir herstel van huweliksregte, egskeiding of geregtelike skeiding dagvaar, skuldig is aan owerspel, moet hy die tyd en plek daarvan in sy dagvaarding meld en kondonasie daarvan aanvra.

(9) 'n Party tot 'n huweliksgeding wat op afgeleide verlating steun, moet besonderhede daarvan in sy pleitstuk gee.

(10) 'n Eiser wat vir skadevergoeding dagvaar, moet die skade so uiteensit dat die verweerder redelik in staat is om die *quantum* daarvan te skat: Met dien verstande dat 'n eiser wat vergoeding vir persoonlike beserings eis, die aard en gevolge van die ongeskiktheid wat na bewering die skade veroorsaak, moet aangee en sover doenlik afsonderlik moet meld hoeveel, indien iets, geëis word vir—

(*a*) mediese koste en hospitaal- en ander soortgelyke uitgawes;
(*b*) pyn en lyding; en
(*c*) ongeskiktheid ten opsigte van—

(i) verdienste (met vermelding van die verdienste tot datum verloor en die beraamde toekomstige verlies);
(ii) lewensgenietinge (met vermelding van besonderhede).

REËL 19.

KENNISGEWING VAN VOORNEME OM TE VERDEDIG.

(1) Behoudens die bepalinge van artikel *sewe-en-twintig* van die Wet kry die verweerder in elke siviele aksie sewe dae na betekening van 'n dagvaarding aan hom (en as hy meer as vyftig myl van die naaste spoorwegstasie woon, veertien dae) waarin hy 'n kennisgewing van voorneme om te verdedig hetsy persoonlik of deur sy prokureur kan aflewer.

(2) In aksies teen 'n Minister of teen die Administrateur van Suidwes-Afrika of teen 'n ander amptenaar of werknemer van die Staat in sy amptelike hoedanigheid moet minstens een maand na betekening van die dagvaarding toegelaat word vir aflewering van 'n kennisgewing van voorneme om te verdedig tensy die hof 'n korter tydperk gemagtig het.

(3) 'n Verweerder se kennisgewing van voorneme om te verdedig moet 'n adres bevat, nie synde 'n posbus of poste restante nie, binne vyf myl van die hof, vir die betekening aan hom aldaar van alle dokumente in so 'n aksie, en betekening daarvan by die adres aldus aangegee is geldig en afdoende, behalwe waar 'n hofbevel of die hofpraktyk persoonlike betekening vereis.

(4) 'n Party word nie vanweë sy aflewering van 'n kennisgewing van voorneme om te verdedig geag afstand te gedoen het van enige reg om teen die regsbevoegdheid van die hof of teen enige onreëlmatigheid of tekortkoming in die verrigtinge beswaar te maak nie.

REËL 20.

DEKLARASIE.

(1) In alle aksies waarin die eis vir skuld is of 'n gelikwideerde eis is en die verweerder 'n kennisgewing van voorneme om te verdedig afgelewer het, moet die eiser binne veertien dae na ontvangs daarvan 'n deklarasie aflewer.

(2) Die deklarasie moet die aard van die eis bevat, die regskonklusie wat die eiser geregtig sal wees om af te lei van die feite daarin vermeld, en 'n bede om die verlangde regshulp.

(3) Wanneer meerdere afsonderlike vorderinge elk op afsonderlike feite berus, moet die vorderinge en feite afsonderlik aangegee word.

(6) A party who in his pleading relies upon a contract shall state whether the contract is written or oral, and when, where and by whom it was concluded.

(7) It shall not be necessary in any pleading to state the circumstances from which an alleged implied term can be inferred.

(8) Where a party suing for restitution of conjugal rights, divorce or judicial separation has been guilty of adultery he shall state the time and place of such adultery in his summons and pray for condonation thereof.

(9) A party to matrimonial proceedings relying on constructive desertion, shall in his pleading set out the particulars thereof.

(10) A plaintiff suing for damages shall set them out in such manner as will enable the defendant reasonably to assess the quantum thereof: Provided that a plaintiff suing for damages for personal injury shall specify the nature and effects of the disability alleged to give rise to such damages, and shall as far as practicable state separately what amount, if any, is claimed for—

(*a*) medical, hospital and other similar expenses;
(*b*) pain and suffering; and
(*c*) disability in respect of:

(i) the earning of income (stating the earnings lost to date and the estimated future loss);
(ii) the enjoyment of amenities of life (giving particulars).

RULE 19.

NOTICE OF INTENTION TO DEFEND.

(1) Subject to the provisions of section *twenty-seven* of the Act, the defendant in every civil action shall be allowed seven days after service of summons on him (and where he resides more than fifty miles from the nearest railway station, fourteen days) within which to deliver a notice of intention to defend, either personally or through his attorney.

(2) In actions against any Minister or against the Administrator of South West Africa or against any other officer or servant of the State, in his capacity as such, the time to be allowed for delivery of notice of intention to defend shall be not less than one month after service of summons, unless in any case the court has specially authorised a shorter period.

(3) When a defendant delivers notice of intention to defend, he shall therein appoint an address, not being a post office box or *poste restante*, within five miles of the court for the service on him thereat of all documents in such action, and service thereof at the address so given shall be valid and effectual, except where by any order or practice of the court personal service is required.

(4) A party shall not by reason of his delivery of notice of intention to defend be deemed to have waived any right to object to the jurisdiction of the court or to any irregularity or impropriety in the proceedings.

RULE 20.

DECLARATION.

(1) In all actions in which the plaintiff's claim is for a debt or liquidated demand and the defendant has delivered notice of intention to defend, the plaintiff shall, within fourteen days of his receipt thereof, deliver a declaration.

(2) The declaration shall set forth the nature of the claim, the conclusions of law which the plaintiff shall be entitled to deduce from the facts stated therein, and a prayer for the relief claimed.

(3) Where the plaintiff seeks relief in respect of several distinct claims founded upon separate and distinct facts, such claims and facts shall be separately and distinctly stated.

REËL 21.

VERDERE BESONDERHEDE.

(1) 'n Party wat 'n pleitstuk ontvang het kan, binne veertien dae na ontvangs daarvan of nadat hy 'n kennisgewing van voorneme om te verdedig afgelewer het, na gelang van die geval, 'n kennisgewing aflewer waarin hy alleen sodanige verdere besonderhede aanvra as wat streng gesproke nodig mag wees om hom in staat te stel om daarop te pleit of om 'n bedrag tot skikking aan te bied.

(2) (*a*) Besonderhede aldus aangevra moet binne veertien dae na ontvangs van die versoek afgelewer word en maak saam met die versoek deel uit van die pleitstukke.

(*b*) Die versoek om verdere besonderhede en die antwoord daarop moet, behalwe waar die party die geding persoonlik voer, deur 'n advokaat en 'n prokureur onderteken word.

(3) Die party wat die besonderhede ontvang, kry veertien dae tyd vanaf die ontvangs daarvan, om 'n verdere pleitstuk af te lewer.

(4) Na die sluiting van pleitstukke kan 'n party, laatstens een-en-twintig dae voor die verhoor, 'n versoek aflewer waarby uitsluitend besonderhede wat streng gesproke nodig is om hom vir die verhoor te kan voorberei, aangevra word, en daaraan moet binne tien dae na ontvangs voldoen word.

(5) Die versoek om verdere besonderhede vir die verhoor en die antwoord daarop moet, behalwe waar die party die geding persoonlik voer, deur 'n prokureur onderteken word.

(6) As die party by wie besonderhede aangevra is, versuim om dit betyds of in voldoende mate te lewer, kan die party wat dit aangevra het, by die hof aansoek doen om 'n bevel tot verskaffing daarvan, of om afwysing van die aksie of skrapping van die verweer, en die hof kan na goeddunke 'n bevel gee.

(7) Die hof moet na afloop van die verhoor *mero motu* beoordeel of die verdere besonderhede streng gesproke nodig was en alle koste van en voortvloeiende uit 'n onnodige versoek of antwoord, onverhaalbaar verklaar en hy kan enigeen van die partye beveel om die koste wat daardeur verspil is, te betaal, desverkiesend op die basis van prokureur en kliënt.

REËL 22.

PLEIT.

(1) 'n Verweerder wat 'n kennisgewing van voorneme om te verdedig afgelewer het, moet in die geval van 'n gekombineerde dagvaarding binne een-en-twintig dae na aflewering van sy kennisgewing en in ander gevalle binne een-en-twintig dae na betekening aan hom van 'n deklarasie, 'n pleit aflewer met of sonder teeneis, of 'n eksepsie met of sonder 'n aansoek om deurhaling.

(2) Die verweerder moet in sy pleit al die wesenlike feite wat in die gekombineerde dagvaarding of in die deklarasie beweer word, erken of ontken of met teenwerping erken, of meld welke van die genoemde feite nie erken word nie en in watter mate, en duidelik en bondig alle wesenlike feite aangee waarop hy steun.

(3) Elke feitebewering in die gekombineerde dagvaarding of deklarasie wat nie in die pleit uitdruklik beweer word ontken of nie erken te wees nie, word geag erken te wees. As 'n verduideliking of kwalifisering van 'n ontkenning nodig is, moet dit in die pleit vermeld word.

(4) 'n Verweerder wat 'n teeneis het wat, as dit slaag, die eiser se eis geheel of gedeeltelik sal uitwis, kan in sy pleit versoek dat uitspraak ten opsigte van die eis of soveel daarvan as wat deur die teeneis uitgewis sal word, uitgestel word totdat uitspraak op die teeneis gegee is. Uitspraak op die geheel of die betrokke gedeelte van die eis word dan uitgestel tensy die hof op aansoek van 'n belanghebbende persoon anders beveel, maar die hof kan, as geen ander verweer geopper is nie, vonnis gee vir soveel van die eis as wat nie uitgewis sal word nie, asof die verweerder in verstek is met sy pleit ten opsigte daarvan, of hy kan op aansoek van enige van die partye na goeddunke 'n bevel gee.

RULE 21.

FURTHER PARTICULARS.

(1) A party may, before delivering any pleading in answer to a pleading delivered to him and for the purpose of enabling him to plead thereto or to tender an amount in settlement, deliver a notice within fourteen days of receipt of such pleading or of the delivery of a notice of intention to defend, as the case may be, calling for only such further particulars as may be strictly necessary for either purpose aforesaid.

(2) (*a*) Particulars so required shall be delivered within fourteen days of receipt of the request which, together with the reply thereto, shall form part of the pleadings.

(*b*) The request for further particulars and the reply thereto shall, save where the party is litigating in person, be signed by an advocate and an attorney.

(3) The party receiving the particulars shall have fourteen days from receipt thereof within which to deliver a further pleading.

(4) After the close of pleadings any party may, not less than twenty-one days before trial, deliver a notice calling for only such further particulars as are strictly necessary to enable him to prepare for trial. Such request shall be complied with within ten days of receipt thereof.

(5) The request for further particulars for trial and the reply thereto shall, save where the party is litigating in person, be signed by an attorney.

(6) If the party requested to furnish any particulars as aforesaid 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 to it seems meet.

(7) The court shall at the conclusion of the trial *mero motu* 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.

RULE 22.

PLEA.

(1) Where the defendant has delivered notice of intention to defend, he shall within twenty-one days after the service upon him of a declaration or within twenty-one days after delivery of such notice in respect of a combined summons, deliver a plea with or without a claim in reconvention, or an exception with or without application to strike out.

(2) The defendant shall in his plea either admit or deny or confess and avoid all the material facts alleged in the combined summons or declaration or state which of the said facts are not admitted and to what extent, and shall clearly and concisely state all material facts upon which he relies.

(3) Every allegation of fact in the combined summons or declaration which is not stated in the plea to be denied or to be not admitted, shall be deemed to be admitted. If any explanation or qualification of any denial is necessary, it shall be stated in the plea.

(4) If by reason of any claim in reconvention, the defendant claims that on the giving of judgment on such claim, the plaintiff's claim will be extinguished either in whole or in part, the defendant may in his plea refer to the fact of such claim in reconvention and request that judgment in respect of the claim or any portion thereof which would be extinguished by such claim in reconvention, be postponed until judgment on the claim in reconvention. Judgment on the claim shall, either in whole or in part, thereupon be so postponed unless the court, upon the application of any person interested, otherwise orders, but the court, if no other defence has been raised, may give judgment for such part of the claim as would not be extinguished, as if the defendant were in default of filing a plea in respect thereof, or may, on the application of either party, make such order as to it seems meet.

REËL 23.

EKSEPSIES EN AANSOEKE OM DEURHALING.

(1) Waar 'n pleitstuk vaag en verwarrend is of beweringe mis wat nodig is om die aksie of verweer te staaf, na gelang van die geval, kan die teenparty in die tyd wat vir die indiening van 'n daaropvolgende pleitstuk toegelaat word, 'n eksepsie daarteen aflewer en dit ingevolge paragraaf (*f*) van subreël (5) van reël 6 vir verhoor ter rolle plaas: Met dien verstande dat waar die eksepsie is dat 'n pleitstuk vaag en verwarrend is, hy binne die bedoelde tyd by kennisgewing sy teenparty die geleentheid moet gee om die oorsaak van die beswaar binne veertien dae te verwyder: Met dien verstande verder dat as die party dan nog eksepsie wil opwerp, hy dit moet aflewer binne sewe dae van die dag af waarop hy antwoord op so 'n kennisgewing ontvang of waarop die antwoord ingelewer moes gewees het.

(2) As 'n pleitstuk aanstootlike, kwelsugtige of irrelevante beweringe bevat, kan die teenparty binne die tyd wat vir die indiening van 'n daaropvolgende pleitstuk toegelaat word, deurhaling aanvra en sy aansoek ingevolge paragraaf (*f*) van subreël (5) van reël 6 vir verhoor ter rolle plaas, maar die hof mag dit alleen toestaan as hy meen dat die applikant anders in die voer van sy saak benadeel sal word.

(3) Wanneer teen 'n pleitstuk geëksipieer word, moet die gronde waarop die eksepsie berus, duidelik en bondig aangegee word.

(4) Wanneer teen 'n pleitstuk geëksipieer of deurhaling aangevra word, is 'n pleit, repliek of ander pleitstuk nie nodig nie.

REËL 24.

TEENEIS.

(1) 'n Verweerder wat 'n teeneis instel, moet die desbetreffende wesenlike feite ooreenkomstig reëls 18 en 20 daarin uiteensit en dit tesame met sy pleit aflewer. Die teeneis kan 'n afsonderlike dokument vorm of deel uitmaak van die dokument wat die pleit bevat, maar dan onder die hoof „Teeneis", en dit is nie nodig om die name of beskrywing van die partye tot die hoofeis daarin te herhaal nie.

(2) As die verweerder geregtig is om aksie in te stel teen 'n ander persoon sowel as die eiser, hetsy gesamentlik, gesamentlik en afsonderlik, afsonderlik of in die alternatief, kan hy met verlof van die hof by wyse van 'n teeneis teen die eiser en so 'n ander persoon ageer soos die hof mag voorskryf.

(3) 'n Verweerder aan wie verlof verleen is om 'n teeneis in te stel soos voormeld, moet hy die titel van sy pleit 'n verdere titel voeg in die vorm asof dit 'n aksie is teen die partye teen wie hy 'n teeneis instel, en alle verdere pleitstukke in die aksie moet dié titel ook dra, onderworpe aan die voorbehoud by subreël (2) van reël 18.

(4) 'n Verweerder kan sy teeneis onderworpe stel daaraan dat die hoofeis of die verweer daarop misluk.

REËL 25.

REPLIKASIE EN PLEIT OP DIE TEENEIS.

(1) Binne veertien dae na die betekening aan hom van 'n pleit en behoudens subreël (2) hiervan moet die eiser waar nodig 'n replikasie op die pleit en 'n pleit op 'n teeneis aflewer, welke pleit aan reël 22 moet voldoen.

(2) 'n Replikasie of daaropvolgende pleitstuk wat 'n blote ingedingtreding of blote ontkenning van bewerings in die vorige pleitstuk sou wees, is onnodig en ingedingtreding word veronderstel en die pleitstukke ingevolge paragraaf (*b*) van reël 29 as gesluit beskou.

(3) Waar 'n replikasie of daaropvolgende pleitstuk nodig is, kan 'n party daarin op die bewerings in die vorige pleitstuk in geding tree. Vir sover hy nie die bewerings

RULE 23.

EXCEPTIONS AND APPLICATIONS TO STRIKE OUT.

(1) Where any pleading is vague and embarrassing or lacks averments which are necessary to sustain an action or defence, as the case may be, the opposing party may, within the period allowed for filing any subsequent pleading, deliver an exception thereto and may set it down for hearing in terms of paragraph (*f*) of sub-rule (5) of rule 6: Provided that where a party intends to take an exception that a pleading is vague and embarrassing he shall within the period allowed as aforesaid by notice afford his opponent an opportunity of removing the cause of complaint within fourteen days provided that the party excepting shall have seven days from the date whereon a reply to such notice is received or from the date on which such reply is due within which to deliver his exception.

(2) Where any pleading contains averments which are scandalous, vexatious, or irrelevant, the opposite party may, within the period allowed for filing any subsequent pleading, apply for the striking out of the matter aforesaid, and may set such application down for hearing in terms of paragraph (*f*) of sub-rule (5) of rule 6, but the court shall not grant the same unless it is satisfied that the applicant will be prejudiced in the conduct of his claim or defence if it be not granted.

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

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

RULE 24.

CLAIM IN RECONVENTION.

(1) A defendant who counterclaims shall, together with his plea, deliver a claim in reconvention setting out the material facts thereof in accordance with rules 18 and 20. The claim in reconvention shall be set out either in a separate document or in a portion of the document containing the plea, but headed "Claim in Reconvention". It shall be unnecessary to repeat therein the names or descriptions of the parties to the proceedings in convention.

(2) If the defendant is entitled to take action against any other person and the plaintiff, whether jointly, jointly and severally, separately or in the alternative, he may with the leave of the court proceed in such action by way of a claim in reconvention against the plaintiff and such other person, in such manner and on such terms as the court may direct.

(3) A defendant who has been given leave to counterclaim as aforesaid, shall add to the title of his plea a further title corresponding with what would be the title of any action instituted against the parties against whom he makes claim in reconvention, and all further pleadings in the action shall bear such title, subject to the proviso to sub-rule (2) of rule 18.

(4) A defendant may counterclaim conditionally upon the claim or defence in convention failing.

RULE 25.

REPLICATION AND PLEA IN RECONVENTION.

(1) Within fourteen days of the service upon him of a plea, and subject to sub-rule (2) hereof, the plaintiff shall where necessary deliver a replication to the plea and a plea to any claim in reconvention, which plea shall comply with rule 22.

(2) No replication or subsequent pleading which would be a mere joinder of issue or bare denial of allegations in the previous pleading shall be necessary, and issue shall be deemed to be joined and pleadings closed in terms of paragraph (*b*) of rule 29.

(3) Where a replication or subsequent pleading is necessary, a party may therein join issue on the allegations in the previous pleading. To such extent as he has not dealt

in die pleit of ander pleitstuk spesifiek behandel het nie, geld die ingedingtreding as ontkenning van elke wesenlike feitebewering in die pleitstuk waarop in geding getree is.

(4) 'n Teeneiser moet, behoudens die bepalinge *mutatis mutandis* van subreël (2) hiervan, binne veertien dae na aflewering van die teenpleit 'n teenreplikasie aflewer.

(5) Verdere pleitstukke kan, behoudens die bepalinge *mutatis mutandis* van subreël (2), deur die onderskeie partye afgelewer word binne agt dae na aflewering van die vorige pleitstuk deur die teenparty. Sulke pleitstukke word met die gebruiklike name onderskei.

REËL 26.

VERSUIM OM PLEITSTUKKE AF TE LEWER: BELET.

'n Party wat versuim om 'n replikasie of daaropvolgende pleitstuk binne die tyd in reël 25 vasgestel, af te lewer, is *ipso facto* onder belet. As 'n party versuim om enige ander pleitstuk binne die in hierdie reëls vasgestelde tyd of binne 'n behoorlik toegelate verlenging daarvan af te lewer, kan enige ander party by kennisgewing aan hom beteken, vereis dat hy so 'n pleitstuk inlewer binne drie dae na die dag waarop die kennisgewing afgelewer word. 'n Party wat versuim om die pleitstuk in die kennisgewing genoem af te lewer binne die tyd daarin bepaal of binne 'n ooreengekome verdere tyd, is in verstek daarmee en *ipso facto* onder belet: Met dien verstande dat vir die doel van hierdie reël die dae van 16 Desember af tot en met 15 Januarie nie ingereken word by die toegestane tyd vir die inlewering van 'n pleitstuk nie.

REËL 27.

VERLENGING VAN TYD, OPHEFFING VAN BELET EN KONDONASIE.

(1) Tensy die partye ooreengekom het, kan die hof op aansoek by kennisgewing en as goeie redes aangevoer is, enige tydperk wat by hierdie reëls of by hofbevel voorgeskryf is in verband met enige verrigting hoegenaamd, verleng of verkort asook enige tydperk wat bepaal is by 'n bevel wat die termyn verleng of verkort waarbinne 'n handeling verrig of 'n stap gedoen moet word in verband met enige sodanige verrigting, en wel met sodanige bepalings daarby as wat hy goedvind.

(2) So 'n verlenging kan gegee word hoewel die aansoek eers na verstryking van die voorgeskrewe of vasgestelde tyd geskied, en die hof kan na goeddunke 'n bevel gee betreffende die tenietdoening of verandering van die gevolge wat op die verstryking van 'n aldus voorgeskrewe of vasgestelde tyd sou intree hetsy uit hoofde van 'n hofbevel of van hierdie reëls.

(3) Die hof kan in uitsonderlike gevalle, as goeie redes aangevoer is, die nie-nakoming van hierdie reëls kondoneer.

REËL 28.

WYSIGING VAN PLEITSTUKKE EN DOKUMENTE.

(1) 'n Party wat 'n pleitstuk of dokument, nie synde 'n beëdigde verklaring nie, wat in verband met enige verrigtinge ingedien is, wil wysig, kan aan alle ander partye kennis gee van sy voorneme om te wysig.

(2) Die kennisgewing moet meld dat tensy beswaar skriftelik binne veertien dae teen die voorgestelde wysiging gemaak word, die party wat kennis gee, die betrokke pleitstuk of dokument dienooreenkomstig sal wysig.

(3) As geen skriftelike beswaar aldus gemaak word nie, word die party wat so 'n kennisgewing ontvang, geag tot die wysiging toe te gestem het.

(4) As beswaar binne die genoemde tydperk gemaak word, moet die party wat met die wysiging wil voortgaan, binne tien dae na ontvangs van die beswaar by die hof by kennisgewing aansoek doen om verlof om te wysig en die aangeleentheid vir verhoor ter rolle plaas. Die hof kan daarop na goeddunke 'n bevel gee.

specifically with the allegations in the plea or such other pleading, such joinder of issue shall operate as a denial of every material allegation of fact in the pleading upon which issue is joined.

(4) A plaintiff in reconvention shall, subject to the provisions *mutatis mutandis* of sub-rule (2) hereof, within fourteen days from the delivery of the plea in reconvention deliver a replication in reconvention.

(5) Further pleadings may, subject to the provisions *mutatis mutandis* of sub-rule (2), be delivered by the respective parties within eight days of the previous pleading delivered by the opposite party. Such pleadings shall be designated by the names by which they are customarily known.

RULE 26.

FAILURE TO DELIVER PLEADINGS—BARRING.

Any party who fails to deliver a replication or subsequent pleading within the time stated in rule 25 shall be *ipso facto* barred. If any party fails to deliver any other pleading within the time laid down in these rules or within any extended time allowed in terms thereof, any other party may by notice served upon him require him to deliver such pleading within three days after the day upon which the notice is delivered. Any party failing to deliver the pleading referred to in the notice within the time therein required or within such further period as may be agreed between the parties, shall be in default of filing such pleading, and *ipso facto* barred: Provided that for the purposes of this rule the days between 16 December and 15 January both inclusive shall not be counted in the time allowed for the delivery of any pleading.

RULE 27.

EXTENSION OF TIME AND REMOVAL OF BAR AND CONDONATION.

(1) In the absence of agreement between the parties, the court may upon application on notice and on good cause shown, make an order extending or abridging any time prescribed by these rules or by an order of court or fixed by an order extending or abridging any time for doing any act or taking any step in connection with any proceedings of any nature whatsoever upon such terms as to it seems meet.

(2) Any such extension may be ordered although the application therefor is not made until after the expiry of the time prescribed or fixed, and the court ordering any such extension may make such order as to it seems meet 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.

(3) The court may in exceptional cases, on good cause shown, condone any non-compliance with these rules.

RULE 28.

AMENDMENTS TO PLEADINGS AND DOCUMENTS.

(1) Any party desiring to amend any pleading or document other than an affidavit, filed in connection with any proceeding, may give notice to all other parties to the proceeding of his intention so to amend.

(2) Such notice shall state that unless objection in writing is made within fourteen days to the proposed amendment, the party giving the notice will amend the pleading or document in question accordingly.

(3) If no objection in writing be so made, the party receiving such notice shall be deemed to have agreed to the amendment.

(4) If any objection be made within the said period, the party wishing to pursue the amendment, shall within ten days of the receipt of such objection apply to court on notice for leave to amend and set the matter down for hearing. The court may make such order thereon as to it seems meet.

(5) Wanneer die hof 'n wysiging beveel het of geen beswaar binne die in subreël (2) voorgeskrewe tyd aangeteken is nie, moet die party wat wysig, die wysiging aflewer binne die tyd in die hofbevel vasgestel, of binne sewe dae na verstryking van die in subreël (2) voorgeskrewe tyd, na gelang van die geval.

(6) Wanneer 'n wysiging van 'n pleitstuk ingevolge hierdie reël afgelewer is, kan die ander party daarop pleit of 'n pleitstuk wat reeds deur hom ingedien is, wysig binne veertien dae na die ontvangs van die gewysigde pleitstuk.

(7) 'n Party wat kennis van wysiging gee, is, tensy die hof anders gelas, aanspreeklik vir die koste wat daardeur vir 'n ander party veroorsaak is.

(8) Die hof kan tydens die verhoor in enige stadium voor uitspraak verlof tot wysiging van 'n pleitstuk of dokument gee met sodanige bepalings betreffende koste of ander aangeleenthede as wat hy goedvind.

(9) So 'n wysiging moet op 'n afsonderlike bladsy verskyn, wat op 'n gepaste plek by die betrokke pleitstuk of dokument gevoeg word.

REËL 29.

SLUITING VAN PLEITSTUKKE.

Pleitstukke word as gesluit beskou—

(*a*) as enigeen van die partye in geding getree het sonder om nuwe bewerings te maak en sonder om 'n verdere pleitstuk by te voeg;

(*b*) as die laaste dag vir die indiening van 'n replikasie of daaropvolgende pleitstuk verstryk het sonder dat dit ingedien is;

(*c*) as die partye skriftelik ooreenkom dat die pleitstukke gesluit is en so 'n ooreenkoms by die griffier ingedien is; of

(*d*) as die partye nie oor die sluiting van die pleitstukke kan ooreenkom nie en die hof op aansoek van 'n party hulle gesluit verklaar.

REËL 30.

ONREËLMATIGE VERRIGTINGE.

(1) 'n Party tot 'n geding waarin 'n stap op onreëlmatige wyse gedoen is deur 'n ander party, kan binne veertien dae daarna by die hof tersydestelling daarvan aanvra: Met dien verstande dat geen party wat 'n verdere stap in die geding gedoen het terwyl hy geweet het van die onreëlmatigheid, geregtig is om so 'n aansoek te doen nie.

(2) 'n Aansoek ingevolge subreël (1) geskied by kennisgewing aan alle partye, met 'n uiteensetting van besonderhede van die beweerde onreëlmatigheid.

(3) As die hof by die verhoor van so 'n aansoek van mening is dat die stap onreëlmatig gedoen is, kan hy dit gedeeltelik of in die geheel ter syde stel, ten opsigte van al of sommige van die partye, en verlof gee om te wysig of na goeddunke 'n ander bevel gee.

(4) Totdat 'n party 'n hofbevel wat teen hom gegee is, uitgevoer het, mag hy geen verdere stap in die geding doen nie behalwe om verlenging aan te vra van die tyd waarin hy aan die bevel moet voldoen.

(5) As 'n party versuim om betyds aan 'n versoek of kennisgewing kragtens hierdie reëls te voldoen, kan die party wat die versoek gerig of kennis gegee het, die party wat in verstek is, kennis gee dat hy van voorneme is om na verloop van sewe dae 'n bevel aan te vra dat aan die kennisgewing of versoek voldoen moet word, of dat die eis of verweer geskrap word. By versuim van nakoming binne die sewe dae kan aansoek by die hof gedoen word en die hof kan daarop na goeddunke 'n bevel gee.

REËL 31.

TOESTEMMING TOT VONNIS EN VONNIS BY VERSTEK.

(1) Behalwe in aksies om egskeiding, herstel van huweliksregte, geregtelike skeiding of nietigverklaring van 'n huwelik, kan 'n verweerder te eniger tyd geheel of

(5) Whenever the court has ordered an amendment or no objection has been made within the time prescribed in sub-rule (2), the party amending shall deliver the amendment to the pleading or document within the time specified in the court's order or within seven days of the expiry of the time prescribed in sub-rule (2) as the case may be.

(6) When an amendment to a pleading has been delivered in terms of this rule, the other party shall be entitled to plead thereto or amend any pleading already filed by him within fourteen days of the receipt of the amended pleading.

(7) A party giving notice of amendment shall, unless the court otherwise orders, be liable to pay the costs thereby occasioned to any other party.

(8) The court may during the hearing at any stage before judgment grant leave to amend any pleading or document on such terms as to costs or otherwise as to it seems meet.

(9) Where any amendment is made it shall be made on a separate page to be added in an appropriate place to the pleading or the document amended.

RULE 29.

CLOSE OF PLEADINGS.

Pleadings shall be considered closed—

(*a*) if either party has joined issue without alleging any new matter, and without adding any further pleading;

(*b*) if the last day allowed for filing a replication or subsequent pleading has elapsed and it has not been filed;

(*c*) if the parties agree in writing that the pleadings are closed and such agreement is filed with the registrar; or

(*d*) if the parties are unable to agree as to the close of pleadings, and the court upon the application of a party declares them closed.

RULE 30.

IRREGULAR PROCEEDINGS.

(1) Any party to any cause in which an irregular or improper step or proceeding has been taken by any party, may within fourteen days of the taking of such step or proceeding apply to court to set it aside: Provided that no party who has taken any further step in the cause with knowledge of the irregularity or impropriety shall be entitled to make such application.

(2) Application in terms of sub-rule (1) shall be on notice to all parties specifying particulars of the irregularity or impropriety alleged.

(3) If at the hearing of such application the court is of opinion that the proceeding or step is irregular or improper it may set it aside in whole or in part, either as against all the parties or as against some of them, and grant leave to amend or make any such order as to it seems meet.

(4) Until a party has complied with any order of court made against him, he shall not take any further step in the cause, save to apply for an extension of time within which to comply with such order.

(5) Where a party fails to comply timeously with a request made or notice given pursuant to these rules, the party making the request or giving the notice may notify the defaulting party that he intends after the lapse of seven days applying for an order that such notice or request be complied with, or that the claim or defence be struck out. Failing compliance within the seven days, application may be made to court and the court may make such order thereon as to it seems meet.

RULE 31.

JUDGMENT ON CONFESSION AND BY DEFAULT.

(1) Save in actions for divorce, restitution of conjugal rights, judicial separation or nullity of marriage, a defendant may at any time confess in whole or in part the claim

gedeeltelik toestem tot vonnis. Die toestemming word deur die verweerder persoonlik onderteken en geattesteer deur 'n prokureur wat namens hom optree en nie ook vir die eiser nie, of dit word by beëdigde verklaring bevestig. Die toestemming word dan aan die eiser verskaf, waarop hy skriftelik deur die griffier by 'n regter aansoek kan doen om vonnis in terme daarvan.

(2) (*a*) Wanneer 'n verweerder in verstek is met sy kennisgewing van voorneme om te verdedig of met sy pleit, kan die eiser die aksie ter rolle plaas soos in subreël (4) vir verstekvonnisse voorgeskryf en die hof kan, waar die eis vir skuld of andersins likwied is, vonnis gee sonder om getuienis aan te hoor, en in die geval van enige ander eis, na die aanhoor van getuienis; of die hof kan na goeddunke 'n ander bevel gee.

(*b*) 'n Verweerder kan binne een-en-twintig dae nadat so 'n vonnis tot sy kennis gekom het, met kennisgewing aan die eiser by die hof aansoek doen om tersydestelling daarvan en die hof kan as goeie redes aangevoer is en mits die verweerder aan die eiser sekerheid gestel het vir die koste van die verstekvonnis en van so 'n aansoek, tot 'n maksimum van R20, die verstekvonnis ter syde stel met sodanige bepalings as wat hy goedvind.

(3) Waar 'n eiser onder belet is om 'n deklarasie af te lewer, kan die verweerder die aksie ter rolle plaas soos in subreël (4) bepaal en aansoek doen om absolusie van die instansie of, nadat hy getuienis aangebied het, om vonnis, en die hof kan daarop na goeddunke 'n bevel gee.

(4) Die verrigtinge in subreëls (2) en (3) bedoel, word ter rolle geplaas voor middag twee dae voor die dag waarop die saak verhoor moet word, met minstens drie dae kennisgewing aan die party wat in verstek is met dien verstande dat aan 'n party wat geen kennis gegee het van voorneme om te verdedig nie, geen kennisgewing van ter rolle plasing gegee hoef te word nie.

REËL 32.

SUMMIERE VONNIS.

(1) Waar die verweerder kennisgewing van voorneme om te verdedig afgelewer het, kan die eiser by die hof aansoek doen om summiere vonnis op elk van die eise in die dagvaarding wat net—

(*a*) op 'n likwiede dokument berus;
(*b*) om 'n gelikwideerde geldsom is;
(*c*) vir die lewering van bepaalde roerende goed is; of
(*d*) vir uitsetting is;

tesame met 'n eis om rente en koste.

(2) Die eiser moet binne veertien dae na die aflewering van die kennisgewing van voorneme om te verdedig, 'n kennisgewing van aansoek om summiere vonnis aflewer tesame met 'n beëdigde verklaring deur homself of deur iemand anders wat onder eed die feite kan bevestig waarop die skuldoorsaak en die geëiste bedrag (as daar is) berus, en waarin hy sê dat daar na sy mening geen *bona fide*-verweer teen die aksie is nie en dat die kennisgewing van voorneme om te verdedig afgelewer is bloot met die doel om te vertraag. As die eis op 'n likwiede dokument berus, moet 'n afskrif daarvan aangeheg word, en die kennisgewing moet vermeld dat die aansoek vir verhoor ter rolle geplaas sal word op 'n bepaalde dag minstens sewe dae na aflewering daarvan.

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

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

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

contained in the summons. Such confession shall be signed by the defendant personally and his signature shall either be witnessed by an attorney acting for him, not being the attorney acting for the plaintiff, or be verified by affidavit, and furnished to the plaintiff, whereupon the plaintiff may apply in writing through the registrar to a judge for judgment according to such confession.

(2) (*a*) Whenever a defendant is in default of delivery of notice of intention to defend or of a plea, the plaintiff may set the action down as provided in sub-rule (4) for default judgment and the court may, where the claim is for a debt or liquidated demand, without hearing evidence, and in the case of any other claim, after hearing evidence, grant judgment against the defendant or make such order as to it seems meet.

(*b*) A defendant may within twenty-one days after he has knowledge of such judgment apply to court upon notice to the plaintiff to set aside such judgment and the court may upon good cause shown and upon the defendant furnishing to the plaintiff security for the payment of the costs of the default judgment and of such application to a maximum of R20, set aside the default judgment on such terms as to it seems meet.

(3) Where a plaintiff has been barred from delivering a declaration the defendant may set the action down as provided in sub-rule (4) and apply for absolution from the instance or, after adducing evidence, for judgment, and the court may make such order thereon as to it seems meet.

(4) The proceedings referred to in sub-rules (2) and (3) shall be set down for hearing before noon on the day but one preceding the day on which the matter is to be heard upon not less than three days notice to the party in default, provided that no notice of set down need be given to any party in default of delivery of notice of intention to defend.

RULE 32.

SUMMARY JUDGMENT.

(1) Where the defendant has delivered notice of intention to defend, the plaintiff may apply to court for summary judgment on each of such claims in the summons as is only—

(*a*) on a liquid document;
(*b*) for a liquidated amount in money;
(*c*) for delivery of specified movable property, or
(*d*) for ejectment;

together with any claim for interest and costs.

(2) The plaintiff shall within fourteen days after the date of delivery of notice of intention to defend, deliver notice of such application, accompanied by an affidavit made by himself or by any other person who can swear positively to the facts verifying the cause of action and the amount, if any, claimed and stating that in his opinion there is no *bona fide* defence to the action and that notice of intention to defend has been delivered solely for the purpose of delay. If the claim is founded on a liquid document a copy of the document shall be annexed to such affidavit. Such notice of application shall state that the application will be set down for hearing on a stated day not being less than seven days from the date of the delivery thereof.

(3) Upon the hearing of an application for summary judgment the defendant may—

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

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

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

(5) As die verweerder nie sekerheid stel of die hof oortuig soos in paragraaf (*b*) van subreël (3) bepaal nie, kan die hof summiere vonnis vir die eiser gee.

(6) As dit by die aanhoor van 'n aansoek kragtens hierdie reël blyk—

(*a*) dat 'n verweerder geregtig is om te verdedig en 'n ander verweerder nie aldus geregtig is nie; of

(*b*) dat die verweerder geregtig is om te verdedig ten opsigte van 'n deel van die eis,

moet die hof—

(i) aan 'n verweerder wat aldus geregtig is, verlof gee om te verdedig en vonnis gee teen die verweerder wat nie aldus geregtig is nie; of

(ii) aan die verweerder verlof gee om te verdedig ten opsigte van 'n deel van die eis en vonnis teen hom gee ten opsigte van die res van die eis, tensy die balans reeds aan die eiser betaal is of geregtelik inbetaal is ingevolge reël 34; of

(iii) beide bevele gee wat in subparagrawe (i) en (ii) genoem word.

(7) As die verweerder sekerheid stel of die hof oortuig soos in subreël (3) bedoel, gee die hof verlof om te verdedig en die aksie gaan voort asof geen aansoek om summiere vonnis gedoen is nie.

(8) Verlof om te verdedig kan onvoorwaardelik wees of onderworpe aan voorwaardes betreffende sekerheid, tyd vir aflewering van pleitstukke of iets anders, soos die hof mag goedvind.

(9) Die hof kan by die aanhoor van so 'n aansoek na goeddunke 'n kostebevel gee: Met dien verstande dat as—

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

(*b*) die hof by die verhoor van 'n aksie waarin summiere vonnis geweier is, vonnis vir die eiser gee wesenlik soos aangevra, en meen dat summiere vonnis toegestaan sou gewees het as die verweerder nie 'n verweer geopper het wat onredelik was nie, hy kan beveel dat die eiser se koste van die aksie tussen prokureur en kliënt getakseer word.

REËL 33.

Gestelde Saak en Beslissing van Regspunte.

(1) Die partye tot 'n geskil kan na die instelling van 'n geding ooreenkom op 'n skriftelike uiteensetting van feite in die vorm van 'n gestelde saak vir beslissing deur die hof.

(2) (*a*) Die uiteensetting bevat die ooreengekome feite, die regsvrae in geskil en die partye se stellinge daaromtrent in genommerde paragrawe, en word namens die onderskeie partye deur 'n advokaat en 'n prokureur onderteken of, waar 'n party persoonlik dagvaar of gedagvaar word, deur so 'n party self. Afskrifte van dokumente wat nodig is by die beslissing, moet aangeheg word.

(*b*) 'n Gestelde saak word vir aanhoring ter rolle geplaas soos 'n verhoor.

(*c*) As 'n minderjarige of 'n swaksinnige 'n party tot so 'n geding is, kan die hof, voordat hy die regsvrae beslis, bewys vereis dat die uiteensetting van feite vir sover dit die minderjarige of swaksinnige raak, juis is.

(3) By die aanhoring kan die hof en die partye let op die hele inhoud van die stukke en die hof kan afleidings van feite of reg daaruit maak asof dit by 'n verhoor bewys is.

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

(5) If the defendant does not find security or satisfy the court as provided in paragraph (*b*) of sub-rule (3), the court may enter summary judgment for the plaintiff.

(6) If on the hearing of an application made under this rule it appears—

(*a*) that any defendant is entitled to defend and any other defendant is not so entitled; or

(*b*) that the defendant is entitled to defend as to part of the claim,

the court shall—

(i) give leave to defend to a defendant so entitled thereto and give judgment against the defendant not so entitled; or

(ii) give leave to defend to the defendant as to part of the claim and enter judgment against him as to the balance of the claim, unless he shall have paid such balance to the plaintiff or into court in terms of rule 34; or

(iii) make both orders mentioned in sub-paragraphs (i) and (ii).

(7) If the defendant finds security or satisfies the court as provided in sub-rule (3), the court shall give leave to defend, and the action shall proceed as if no application for summary judgment had been made.

(8) Leave to defend may be given unconditionally or subject to such terms as to security, time for delivery of pleadings, or otherwise, as the court deems fit.

(9) The court may at the hearing of such application make such order as to costs as to it may seem just: Provided that if—

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

(*b*) in any case in which summary judgment was refused and in which the court after trial gives judgment for the plaintiff substantially as prayed, and the court finds that summary judgment should have been granted had the defendant not raised a defence which in its opinion was unreasonable, the court may order the plaintiff's costs of the action to be taxed as between attorney and client.

RULE 33.

Special Cases and Adjudication upon Points of Law.

(1) The parties to any dispute may, after institution of proceedings, agree upon a written statement of facts in the form of a special case for the adjudication of the court.

(2) (*a*) Such statement shall set forth the facts agreed upon, the questions of law in dispute between the parties and their contentions thereon. Such statement shall be divided into consecutively numbered paragraphs and there shall be annexed thereto copies of documents necessary to enable the court to decide upon such questions. It shall be signed by an advocate and an attorney on behalf of each party or, where a party sues or defends personally, by such party.

(*b*) Such special case shall be set down for hearing in the manner provided for trials.

(*c*) If a minor or person of unsound mind is a party to such proceedings the court may, before determining the questions of law in dispute, require proof that the statements in such special case so far as concerns the minor or person of unsound mind are true.

(3) At the hearing thereof the court and the parties may refer to the whole of the contents of such documents and the court may draw any inference of fact or of law from the facts and documents as if proved at a trial.

(4) As die hof *mero motu* of op aansoek van 'n party bevind dat daar in 'n hangende aksie 'n regs- of feitevraag is wat gerieflik beslis kan word voordat getuienis gelei word of afsonderlik van enige ander vraag, kan hy afhandeling van so 'n vraag na goeddunke voorskryf en beveel dat alle verdere verrigtinge tot dan opgeskort word.

(5) Wanneer hy so 'n vraag aldus beslis kan die hof dienooreenkomstig vonnis gee en bepaal hoe enige oorblywende geskilpunte bereg moet word ten einde die geding finaal af te handel.

(6) As die geskilpunt 'n regsvraag is en die partye oor die feite saamstem, kan die feite erken en by die verhoor aangeteken word en die hof kan uitspraak doen sonder om getuienis aan te hoor.

REËL 34.

GEREGTELIKE INBETALING.

(1) (*a*) In 'n aksie om betaling van geld kan die verweerder te eniger tyd onvoorwaardelik die bedrag of 'n deel daarvan geregtelik inbetaal en die griffier moet dit op versoek van die eiser aan sy prokureur oorbetaal, of aan die eiser self as hy persoonlik dagvaar. By so 'n inbetaling moet die verweerder meld of hy aanspreeklikheid vir al die eiser se koste of 'n deel daarvan erken of ontken.

(*b*) As die verweerder aanspreeklikheid vir koste aldus geheel of gedeeltelik erken, maar versuim om dit binne sewe dae na aanvraag te betaal soos getakseer, kan die eiser skriftelik deur die griffier by 'n regter om vonnis daarvoor aansoek doen.

(*c*) As die verweerder aanspreeklikheid vir 'n deel van die koste aldus ontken, moet hy in die kennisgewing wat die geregtelike inbetaling vergesel, die gronde vir sy ontkenning meld en die aksie kan dan vir verhoor op die vraag van koste alleen ter rolle geplaas word.

(2) In 'n aksie waarin geld geëis word, hetsy alleen of tesame met ander regshulp, kan die verweerder te eniger tyd sonder benadeling 'n bedrag geregtelik inbetaal by wyse van 'n aanbod tot skikking van die eis.

(3) Waar die eiser die uitvoering van 'n handeling deur die verweerder eis, kan die verweerder te eniger tyd hetsy onvoorwaardelik of sonder benadeling aanbied om die handeling uit te voer. Tensy die handeling deur die verweerder persoonlik uitgevoer moet word moet hy, tesame met die aanbod, aan die griffier 'n onherroeplike volmag vir die uitvoering van die handeling gee.

(4) 'n Party tot 'n aksie wat blootstaan aan 'n bevel dat hy moet bydra tot 'n som waartoe 'n ander party in die aksie veroordeel kan word, of dat hy saam met die bedoelde ander party aanspreeklik daarvoor is, kan hetsy onvoorwaardelik of sonder benadeling by wyse van 'n skikkingsvoorstel—

(*a*) 'n skriftelike aanbod aan die bedoelde ander party doen om hetsy 'n bepaalde som of in 'n bepaalde verhouding by te dra tot die bedrag wat die eiser in die aksie kan verhaal, of

(*b*) 'n som geregtelik inbetaal ten opsigte van dié gedeelte van die bedrag wat die eiser kan verhaal, waarvoor hy aanspreeklik gehou kan word.

(5) Een van verskeie verweerders wat hetsy gesamentlik, gesamentlik en afsonderlik, afsonderlik of in die alternatief gedagvaar is, kan òf onvoorwaardelik òf sonder benadeling by wyse van 'n skikkingsaanbod 'n bedrag ten opsigte van die eiser se eis geregtelik inbetaal of ingevolge hierdie reëls aanbied om enige handeling te verrig waarvan die uitvoering deur die eiser geëis word.

(6) Kennis van 'n inbetaling of aanbod ingevolge hierdie reël moet aan alle partye tot die aksie gegee word en daarin moet vermeld word—

(4) If it appears to the court *mero motu* or on the application of any party that there is, in any pending action, a question of law or fact which it would be convenient to decide either before any evidence is led or separately from any other question, the court may make an order directing the trial 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.

(5) When giving its decision upon any question in terms of this rule the court may give such judgment as may upon such decision be appropriate and may give any direction with regard to the hearing of any other issues in the proceeding which may be necessary for the final disposal thereof.

(6) If the question in dispute is one of law and the parties are agreed upon the facts, the facts may be admitted and recorded at the trial and the court may give judgment without hearing any evidence.

RULE 34.

PAYMENT INTO COURT.

(1) (*a*) In any action for payment of a sum of money the defendant may at any time pay unconditionally into court the sum so claimed or any part thereof, and the registrar shall, upon the application of the plaintiff, pay such sum to the plaintiff's attorney (or to the plaintiff where he sues in person). In making such payment the defendant shall state whether he acknowledges or disavows liability for the payment of the plaintiff's costs in whole or in part.

(*b*) If the defendant in making such payment into court in terms of paragraph (*a*) of sub-rule (1) acknowledges liability for payment of the costs in whole or in part and fails to pay in full such costs, as taxed, within seven days after demand, the plaintiff may apply in writing through the registrar to a judge for judgment for the same.

(*c*) If the defendant in making payment into court in terms of paragraph (*a*) of sub-rule (1) disavows liability for any portion of the plaintiff's costs, he shall state in the notice accompanying the payment into court the grounds upon which he so disavows, and the action may be set down for hearing on the question of costs only.

(2) In any action in which a sum of money is claimed either alone or with any other relief, the defendant may, at any time without prejudice, pay an amount into court by way of an offer of settlement of the plaintiff's claim.

(3) Where the plaintiff claims the performance of some act by the defendant, the defendant may at any time tender either unconditionally or without prejudice to perform such act. Unless such act must be performed by the defendant personally, *pari passu* with such tender there shall be filed with the registrar an irrevocable power of attorney to perform such act on behalf of the person making the tender.

(4) Any party to an action who stands to be held liable to any other party to contribute towards or to be held liable with such party for the payment of any amount which may be recovered by any other party, may either unconditionally or without prejudice by way of an offer of settlement—

(*a*) make a written offer to that other party to contribute either a specific sum or in a specific proportion towards the amount to which the plaintiff may be held entitled in the action, or

(*b*) pay into court a sum in respect of the share of the amount to which the plaintiff may be held to be entitled and for which share he may be adjudged liable.

(5) One of several defendants, whether sued jointly, jointly and severally, separately or in the alternative, may either unconditionally or without prejudice by way of an offer of settlement pay into court a sum of money in respect of the plaintiff's claim or tender in terms of these rules to do any act or acts the performance of which is claimed by the plaintiff.

(6) Notice of any payment, tender or offer in terms of this rule shall be given to all parties to the action and shall state—

(*a*) of dit onvoorwaardelik is of sonder benadeling as 'n skikkingsvoorstel;

(*b*) of die eiser se koste ook geheel of gedeeltelik aangebied word; en

(*c*) of die betaalde bedrag aangebied word ter betaling van die eis sowel as die koste of van die eis alleen.

(7) 'n Eiser kan binne tien dae na ontvangs van die kennisgewing in subreël (6) bedoel, of daarna met toestemming van die verweerder of van 'n regter, 'n betaling, 'n aanbod om 'n handeling uit te voer of 'n skriftelike aanbod tot skikking van die eis aanneem en hy moet dan dienooreenkomstig kennis gee aan alle ander partye. Die griffier, indien oortuig dat aan die vereistes van hierdie subreël voldoen is, betaal aan die eiser se prokureur (of aan die eiser waar hy persoonlik dagvaar) die geregtelik inbetaalde geld uit of hy gee gevolg aan of lewer aan die eiser se prokureur (of aan die eiser waar hy persoonlik dagvaar) die in subreël (3) bedoelde volmag.

(8) As 'n inbetaling of aanbod ingevolge subreël (2), (3) of (5) nie meld dat dit bedoel is om die eis sowel as die koste te dek nie, kan die eiser na kennisgewing aan die verweerder vonnis vir koste aanvra.

(9) (*a*) 'n Geregtelike inbetaling of aanbod ingevolge hierdie reël, mag nie aan die hof geopenbaar word voordat uitspraak gedoen is nie, en mag nie op 'n lêer in die griffierskantoor wat die stukke van die saak bevat, verskyn nie.

(*b*) Die feit dat 'n inbetaling of aanbod in paragraaf (*a*) bedoel, gedoen is, mag na uitspraak aan die hof meegedeel word as betrekking hebbende op koste. As die hof 'n kostebevel gegee het sonder om te weet van die inbetaling of aanbod, en dit word dan binne agt-en-veertig uur onder die hoof se aandag gebring, moet koste in die lig daarvan heroorweeg word: Met dien verstande dat die hof se diskresie oor koste in geen opsig aangetas word nie.

(*c*) 'n Party wat strydig met hierdie reël persoonlik of deur sy advokaat of prokureur so 'n inbetaling of aanbod aan die hof noem of openbaar, kan selfs al slaag hy in die aksie, 'n kostebevel teen hom kry.

REËL 35.

Blootlegging, Insiening en Voorlegging van Stukke.

(1) 'n Party tot 'n aksie kan by skriftelike kennisgewing vereis dat 'n ander party binne een-en-twintig dae alle stukke wat betrekking het op 'n geskilpunt in die geding (hetsy dit ontstaan tussen die twee bedoelde partye al dan nie) en wat in die besit of onder die beheer van die ander party is of ooit was, onder eed blootlê. So 'n kennisgewing mag nie, behalwe met verlof van 'n regter, voor die sluiting van pleitstukke afgelewer word nie.

(2) Die party van wie blootlegging geverg word, moet binne een-en-twintig dae of binne die tyd in 'n bevel van 'n regter vasgestel, die bedoelde stukke blootlê by beëdigde verklaring, so na moontlik bewoord soos Vorm 11 in die Eerste Bylae, en die volgende afsonderlik aangee—

(*a*) stukke in besit van homself of sy verteenwoordiger, behalwe dié in paragraaf (*b*) genoem;

(*b*) stukke wat hy regmatig kan weier om bloot te lê;

(*c*) stukke wat hy of sy verteenwoordiger in besit gehad het, maar op die datum van die beëdigde verklaring nie meer het nie.

Dit is voldoende om stukke te beskryf as 'n pak dokumente van 'n gespesifiseerde aard wat deur die deponent geparafeer en agtereenvolgens genommer is. Verklarings van getuies wat geneem is vir die doel van die geding, mededelinge tussen prokureur en kliënt, en tussen prokureur en advokaat, pleitstukke en beëdigde verklarings en kennisgewings in die aksie moet nie aangegee word nie.

(3) As 'n party meen dat ander stukke (of afskrifte daarvan) wat ter sake mag wees in die geding, in die besit van 'n party daartoe is, kan hy van so 'n party by kennisgewing

(*a*) whether the same is unconditional or without prejudice as an offer of settlement;

(*b*) whether it is accompanied by a tender to pay the plaintiff's costs in whole or in part; and

(*c*) whether the amount paid is offered in settlement of both claim and costs or of the claim only.

(7) A plaintiff may within ten days of the receipt of the notice referred to in sub-rule (6) or thereafter with the consent of the defendant or a judge accept any payment, tender to perform an act, or written offer in settlement of his claim and shall notify all other parties to the action accordingly, and the registrar, upon being satisfied that the requirements of this sub-rule have been complied with, shall pay out to the plaintiff's attorney (or to the plaintiff where he sues in person) the money paid into court or give effect to or deliver to the plaintiff's attorney (or to the plaintiff where he sues in person) the power of attorney referred to in sub-rule (3).

(8) If a tender or payment in terms of sub-rule (2), (3) or (5) is not stated to be in satisfaction of a plaintiff's claim and costs, the plaintiff may, on notice to the defendant, apply for judgment for costs.

(9) (*a*) No payment into court, tender or offer, made without prejudice in terms of this rule, by way of an offer of settlement, shall be disclosed at any time to the court before judgment has been given. No reference to the fact of such a payment, tender or offer shall appear on any file in the office of the registrar containing the papers in the said case.

(*b*) The fact of a payment, tender or offer referred to in paragraph (*a*) of sub-rule (9) may be brought to the notice of the court after judgment has been given as being relevant to the question of costs. If the court has given judgment on the question of costs in ignorance of any such payment, tender or offer and such is brought to the notice of the court within forty-eight hours, the question of costs shall be considered afresh in the light thereof: Provided that nothing in this sub-rule contained shall affect the court's discretion as to an award of costs.

(*c*) Any party to an action who shall, contrary to this rule, by himself, his advocate or his attorney, mention or disclose to the court such payment, tender or offer shall, even if successful in the action, be liable to have costs given against him.

RULE 35.

Discovery, Inspection and Production of Documents.

(1) Any party to any action may require any other party thereto, by notice in writing, to make discovery on oath within twenty-one days of all documents 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. Such notice shall not, save with the leave of a judge, be given before the close of pleadings.

(2) The party required to make discovery shall within twenty-one days or within the time stated in any order of a judge, make discovery of such documents on affidavit as near as may be in accordance with Form 11 of the First Schedule specifying separately:

(*a*) Such documents in his possession or that of his agent other than the documents mentioned in paragraph (*b*);

(*b*) such documents in respect of which he has a valid objection to produce;

(*c*) such documents which he or his agent had but has not in his possession at the date of the affidavit.

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. Statements of witnesses taken for purposes of the proceedings, communications between attorney and client, 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 disclosed as aforesaid, documents (including copies thereof) which may be relevant to any matter in question in the possession of any party thereto, the former

eis dat hy hulle ter insae voorlê soos bedoel deur subreël (6), of dat hy binne veertien dae onder eed verklaar dat hulle nie in sy besit is nie, in welke geval hy, as hy weet, moet sê waar hulle is.

(4) 'n Stuk wat nie blootgelê is nie, mag nie, tensy die hof dit toelaat op sulke voorwaardes as wat by goedvind, vir enige doel by die verhoor gebruik word deur die party wat dit moes blootgelê het nie, maar ander partye mag dit wel gebruik.

(5) (*a*) Waar 'n geregistreerde maatskappy soos omskryf in die Motorvoertuigassuransiewet, 1942, soos gewysig, 'n party tot 'n aksie is uit hoofde van die bepalinge van genoemde Wet, kan enige party daartoe blootlegging op die wyse in paragraaf (*d*) van hierdie subreël voorgeskryf, verkry teen die bestuurder of eienaar (soos in die Wet omskryf) van die voertuig deur die maatskappy verassureer.

(*b*) Paragraaf (*a*) geld *mutatis mutandis* vir die bestuurder van 'n voertuig wat besit word deur 'n persoon, staat, regering of liggaam soos bedoel in subartikel (3) van artikel *negentien* van die genoemde Wet.

(*c*) Waar die eiser as 'n sessionaris dagvaar, het die verweerder *mutatis mutandis* dieselfde regte kragtens hierdie reël teen die sedent.

(*d*) Die party wat blootlegging ingevolge paragraaf (*a*), (*b*) of (*c*) verg, doen dit by kennisgewing so na moontlik bewoord soos Vorm 12 in die Eerste Bylae.

(6) 'n Party kan te eniger tyd by kennisgewing so na moontlik bewoord soos Vorm 13 in die Eerste Bylae, van 'n party wat ingevolge subreëls (2) en (3) blootgelê het, insae van die stukke verg. Die kennisgewing moet van die party aan wie dit gerig is, vereis dat hy binne sewe dae by kennisgewing so na moontlik bewoord soos Vorm 14 in die Eerste Bylae, 'n tyd, binne drie dae na aflewering van laasgenoemde kennisgewing, bepaal waarop die stukke ingesien kan word ten kantore van sy prokureur of, as hy nie deur 'n prokureur verteenwoordig word nie, op 'n geskikte plek in die kennisgewing genoem, of, in die geval van bankboeke of ander rekeningboeke of boeke in voortdurende gebruik vir die doel van enige besigheid of onderneming, by hul gewone plek van bewaring. Die party wat die tydsbepaling ontvang, is geregtig om op die bestemde tyd en nog sewe dae daarna in gewone besigheidsure, of op een of meer van bedoelde dae, die stukke in te sien en afskrifte daarvan te maak. 'n Party wat versuim om 'n stuk aldus ter insae voor te lê, mag dit nie by die verhoor gebruik nie tensy die hof by aanvoering van goeie redes dit toelaat.

(7) As 'n party versuim om aldus bloot te lê of na kennisgewing kragtens subreël (6) versuim om aldus 'n tyd vir insae te bepaal of insae aldus toe te laat, kan die party wat blootlegging of insae verlang, by die hof 'n bevel aanvra dat hierdie reël nagekom moet word en dat by gebreke daarvan die eis afgewys of die verweer geskrap word.

(8) 'n Party tot 'n aksie kan na die sluiting van pleitstukke van 'n ander party by kennisgewing skriftelik besonderhede verg van datums van en partye tot 'n dokument wat daardie party by die verhoor wil gebruik. Die party wat so 'n kennisgewing ontvang, moet minstens een-en-twintig dae voor die verhoordatum 'n kennisgewing aflewer met—

(*a*) besonderhede van die datums van en partye tot die stuk en die algemene aard daarvan, as dit in sy besit is; of

(*b*) as dit nie in sy besit is nie, sodanige besonderhede as wat hy mag hê ter identifikasie daarvan, en die naam en adres van die persoon in wie se besit dit is.

Die verskaffing van besonderhede van stukke wat in die party se besit is, kan geskied deur te verwys na 'n blootleggingsverklaring as die besonderhede aldaar voldoende is.

(9) 'n Party wat stukke by 'n verhoor wil bewys, kan van enige ander party by kennisgewing verlang dat hy binne veertien dae na ontvangs daarvan erken dat daardie stukke behoorlik verly is en eg is. As die party aan wie

may give notice to the latter requiring him to make the same available for inspection in accordance with sub-rule (6), or to state on oath within fourteen days that such documents are not in his possession, in which event he shall, if known to him, state their whereabouts.

(4) A document not disclosed as aforesaid may not, save with the leave of the court granted on such terms as to it may seem meet, 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.

(5) (*a*) Where a registered company as defined in the Motor Vehicle Insurance Act, 1942, as amended, is a party to any action by virtue of the provisions of the said Act, any party thereto may obtain discovery in the manner provided in paragraph (*d*) of this sub-rule against the driver or owner (as defined in the said Act) of the vehicle insured by the said company.

(*b*) The provisions of 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 subsection (3) of section *nineteen* of the said Act.

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

(*d*) The party requiring discovery in terms of paragraph (*a*), (*b*) or (*c*) shall do so by notice as near as may be in accordance with Form 12 of the First Schedule.

(6) Any party may at any time by notice as near as may be in accordance with Form 13 of the First Schedule, require any party who has made discovery to make available for inspection any documents disclosed in terms of sub-rules (2) and (3). Such notice shall require the party to whom notice is given to deliver to him within seven days a notice as near as may be in accordance with Form 14 of the First Schedule, stating a time, within three days from the delivery of such latter notice, when such documents may be inspected at the office of his attorney or, if 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. The party receiving such last-named notice shall be entitled at the time therein stated, and for a period of seven days thereafter, during normal business hours or on any one or more of such days, to inspect such documents and to take copies thereof. A party's failure to produce any such document for inspection shall preclude him from using such document at the trial save where the court on good cause shown allows otherwise.

(7) If any party fails to give discovery as aforesaid or, having been served with a notice under sub-rule (6), omits to give notice of a time for inspection as aforesaid 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.

(8) 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 intended to be used at the trial of the action on behalf of the party to whom notice is given. The party receiving such notice shall not less than twenty-one days before the date of trial give a notice—

(*a*) specifying the dates and parties of or to and the general nature of any such document which is in his possession;

(*b*) specifying such particulars as he may have to identify any such document not in his possession, at the same time furnishing the name and address of the person in whose possession such document is.

In making any such specification the party so specifying may give the particulars of such documents as may be in his possession by reference to any discovery affidavit in so far as such particulars in the discovery affidavit are sufficient.

(9) Any party proposing to prove documents at a trial may give notice to any other party requiring him within fourteen days of the receipt of such notice to admit that those documents were properly executed and are what

die kennisgewing gerig is, nie binne die genoemde tyd die bedoelde erkenning doen nie, is die party wat die kennis gegee het, teenoor hom geregtig om die bedoelde stukke by die verhoor in te dien sonder bewys, behalwe bewys (as dit betwis word) dat dit die stukke is wat in die kennisgewing bedoel was en dat kennis behoorlik gegee is. As die party aan wie die kennisgewing gerig is, antwoord dat die stukke nie erken word nie, moet hulle deur die party wat kennis gegee het, bewys word voordat hy hulle by die verhoor mag gebruik, maar die party wat hulle nie wou erken nie, kan beveel word om die koste van die bewys daarvan te betaal.

(10) 'n Party kan aan enige ander party wat 'n stuk blootgelê het, kennis gee om by die verhoor die oorspronklike daarvan, as dit nie bevoorreg is nie, voor te lê as dit in so 'n party se besit is. Minstens vier dae kennis moet voor die verhoor gegee word, maar dit kan met verlof van die hof ook tydens die verhoor geskied. Die kennisgewende party kan eis dat dit in die hof voorgelê word en kan dit van die balie af ingee as 'n bewysstuk, wat dan as getuienis toelaatbaar is asof dit in getuienis aangebied is deur die party in wie se besit dit was.

(11) Die hof kan in die loop van enige geding na goeddunke beveel dat 'n party onder eed stukke wat onder sy beheer is en betrekking het op 'n geskilpunt in die geding, voorlê, en die hof kan na goeddunke daarmee handel.

(12) 'n Party tot 'n geding kan te eniger tyd voor die verhoor 'n kennisgewing so na moontlik bewoord soos Vorm 15 in die Eerste Bylae aan 'n ander party aflewer in wie se pleitstukke of beëdigde verklarings na 'n stuk verwys word, om dit ter insae voor te lê en hom toe te laat om 'n afskrif daarvan te maak. 'n Party wat versuim om aan so 'n kennisgewing te voldoen, mag so 'n stuk nie in die geding gebruik nie tensy die hof dit toelaat, met dien verstande dat 'n ander party dit wel kan gebruik.

(13) Die bepalinge in hierdie reël wat blootlegging betref, geld *mutatis mutandis*, en vir sover die hof mag voorskryf, ook vir aansoeke.

REËL 36.

Inspeksies, Ondersoeke en Deskundige Getuienis.

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

(2) Die party wat die mediese ondersoek wil laat doen, moet 'n kennisgewing aflewer wat die aard van die beoogde ondersoek meld, asook die persoon of persone deur wie, die plek waar en die datum (wat minstens veertien dae na die kennisgewing moet wees) en tyd waarop uitvoering daarvan verlang word. Die kennisgewing moet ook meld dat die ander party sy eie mediese adviseur teenwoordig mag hê en moet vergesel gaan van 'n remise ter dekking van die redelike uitgawes wat die ander party vir bywoning van die ondersoek sal hê, teen die tarief wat sou geld as die party 'n getuie in 'n siviele saak voor die hof was, met dien verstande egter dat—

(*a*) as die ander party nie kan beweeg nie, die bedrag die koste van motorvervoer moet insluit en waar nodig ook die redelike koste van 'n begeleier;

(*b*) as die ander party sy salaris, loon of ander besoldiging tydens sy afwesigheid uit sy werk sal inboet, hy benewens bedoelde uitgawes ook geregtig is tot hoogstens R6 per dag ten opsigte van die inkomste wat hy werklik inboet;

they purported to be. If the party receiving the said notice does not within the said period so admit, then as against such party the party giving the notice shall be entitled to produce the documents specified at the trial without proof other than proof (if it is disputed) that the documents are the documents referred to in the notice and that the notice was duly given. If the party receiving the notice states that the documents are not admitted as aforesaid, such documents shall be proved by the party giving the notice before he is entitled to use them at the trial, but the party not admitting them may be ordered to pay the costs of their proof.

(10) Any party may give to any other party who has made discovery of a document notice to produce at the hearing the original of such document, not being a privileged document, in such party's possession. Such notice shall be given not less than four days before the hearing but may, if the court so allows, be given during the course of the hearing. If any such notice is so given, the party giving the same may require the party to whom notice is given to produce the said document in court and shall be entitled, without calling any witness, to hand in the said document, 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.

(11) The court may, during the course of any action or proceeding, order the production by any party thereto under oath of such documents in his power or control relating to any matter in question in such action or proceeding as the court may think meet, and the court may deal with such documents, when produced, as it thinks meet.

(12) Any party to an action or proceeding may at any time before the hearing thereof give a notice as near as may be in accordance with Form 15 of the First Schedule to any other party in whose pleadings or affidavits reference is made to any document to produce such document for his inspection and to permit him to take a copy thereof. Any party failing to comply with such notice shall not, save with the leave of the court, use such document in such action or proceeding provided that any other party may use such document.

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

RULE 36.

Inspections, Examinations and Expert Testimony.

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

(2) Any party requiring another party to submit to such examination shall deliver a notice specifying the nature of the examination required, the person or persons by whom, the place where and the date (being not less than fourteen days from the date of such notice) and time when it is desired that such examination shall take place, and requiring such other party to submit himself for examination then and there. Such notice shall state that such other party may have his own medical adviser present at such examination, and shall be accompanied by a remittance in respect of the reasonable expense to be incurred by such other party in attending such examination. Such expense shall be tendered on the scale as if such person were a witness in a civil suit before the court, provided, however,

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

(*b*) where such other party will actually lose his salary, wage or other remuneration during the period of his absence from work, he shall in addition to his expenses on the basis of a witness in a civil case be entitled to receive an amount not exceeding R6 per day in respect of the salary, wage or other remuneration which he will actually lose;

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

(3) Die persoon wat so 'n kennisgewing ontvang moet, as hy beswaar het wat betref—

(*a*) die aard van die voorgestelde ondersoek;

(*b*) die persoon of persone deur wie dit waargeneem sal word;

(*c*) die plek, datum of tyd daarvan; of

(*d*) die bedrag vir die uitgawes hom aangebied,

binne sewe dae na betekening van die kennisgewing die ander party skriftelik op hoogte stel van die aard en gronde van sy beswaar, en hy moet ook—

(i) as sy beswaar teen die plek, datum of tyd van die ondersoek is, 'n alternatiewe datum, tyd of plek voorstel; en

(ii) as sy beswaar teen die aangebode bedrag vir die uitgawes is, besonderhede gee van die hoër bedrag wat hy nodig het.

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

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

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

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

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

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

(*a*) die persoon wat die ondersoek doen, 'n volledige verslag van sy bevindinge en gevolgtrekkinge oor tersaaklike aangeleenthede laat skryf; en

(*b*) op versoek van 'n ander party 'n volledige afskrif daarvan verskaf; en

(*c*) die koste van die ondersoek dra: Met dien verstande dat sodanige uitgawe deel uitmaak van dié party se koste.

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

(3) The person receiving such notice shall within seven days of the service thereof notify the person delivering it in writing of the nature and grounds of any objection which he may have in relation to—

(*a*) the nature of the proposed examination,

(*b*) the person or persons by whom the examination is to be conducted,

(*c*) the place, date or time of the examination,

(*d*) the amount of the expenses tendered to him;

and shall further—

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

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

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

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

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

(6) If it appears that the state or condition of any thing 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 fourteen days before the hearing, give notice requiring the party relying upon the existence of such state or condition of such thing or having such thing in his possession or under his control to make it available for inspection or examination in terms of this sub-rule, and may in such notice require him to submit the thing or a fair sample thereof for inspection or examination within a period of not more than ten days from the date of the receipt of the notice.

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

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

(*a*) cause the person making the examination to give a full report in writing of the results of his examination and the opinions that he 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

(*c*) bear the expense of the carrying out of any such examination: Provided that such expense shall form part of such party's costs.

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

(*a*) minstens veertien dae voor die verhoor 'n kennisgewing dat hy dit wil doen, afgelewer het; en

(*b*) minstens tien dae voor die verhoor 'n opsomming van so 'n deskundige se menings en sy redes daarvoor, afgelewer het.

(10) (*a*) Niemand mag, behalwe met verlof van die hof of die toestemming van al die partye, 'n plan, tekening, model of foto as getuienis aanbied nie tensy hy minstens tien dae voor die verhoor 'n kennisgewing afgelewer het dat hy dit wil doen, dat hy dit ter insae aanbied en dat hy verlang dat die party wat die kennisgewing ontvang, die bewysstuk binne sewe dae erken.

(*b*) As die party wat die kennisgewing ontvang, versuim om binne die genoemde tyd so 'n erkenning te doen, word die plan, tekening, model of foto by blote voorlegging en sonder verdere bewys daarvan, in getuienis aanvaar. As so 'n party weier om te erken, kan die plan, tekening, model of foto by die verhoor bewys word en die party wat geweier het, kan beveel word om die koste van die bewys te betaal.

REËL 37.

INKORTING VAN VERRIGTINGE.

(1) (*a*) 'n Prokureur wat 'n aksie vir verhoor ter rolle wil plaas of 'n verhoordatum daarvoor wil verkry, moet so spoedig doenlik na die sluiting van pleitstukke en voor aflewering van 'n kennisgewing van terrolleplasing of indiening van 'n skriftelike versoek vir 'n verhoordatum, na gelang van die geval, die prokureurs wat namens alle ander partye optree, skriftelik vra om 'n samespreking by te woon op 'n wedersyds geskikte tyd met die doel om ooreen te kom oor maniere van inkorting van die verhoor, en meer bepaald oor soveel moontlik van die volgende aangeleenthede:

(i) erkenning van feite en van dokumente;
(ii) die hou van 'n inspeksie of ondersoek;
(iii) ooplegging van stukke;
(iv) uitwisseling tussen partye van die verslae van deskundiges;
(v) verskaffing van verdere besonderhede wat redelik nodig is vir verhoordoeleindes;
(vi) die planne, tekeninge, foto's, modelle en dergelike wat by die verhoor gebruik staan te word;
(vii) konsolidasie van verhore;
(viii) die quantum van skadevergoeding;
(ix) voorbereiding en inlewering by die verhoor van afskrifte van korrespondensie en ander stukke in die vorm van 'n gepagineerde bundel met eksemplare vir die regbank en alle partye.

(*b*) Na afloop van die samespreking moet die prokureurs 'n minuut opstel van die sake waaroor hulle ooreengekom het, en dit onderteken.

(2) In sy kennisgewing van terrolleplasing of skriftelike versoek om 'n verhoordatum, na gelang van die geval, moet die prokureur meld dat paragraaf (*a*) van subreël (1) behoorlik nagekom is.

(3) By die aanvang van die verhoor moet die advokate van die onderskeie partye aan die hof rapporteer of so 'n samespreking behoorlik gehou is en so ja, die in paragraaf (*b*) van subreël (1) bedoelde ondertekende minuut inlewer.

(4) Voordat daar met die verhoor voortgegaan word, kan die regter die advokate van die partye in sy kamers inroep ten einde ooreenkoms te probeer verkry oor dinge waardeur die verhoor waarskynlik ingekort kan word.

(5) Wanneer hy uitspraak gee, kan die hof 'n party beveel om 'n deel van die koste te betaal as sy prokureur geweier het om 'n samespreking ingevolge subreël (1) by te woon.

(9) No person shall, save with the leave of the court or the consent of all parties to the suit, be entitled to call as a witness any person to give evidence as an expert upon any matter upon which the evidence of expert witnesses may be received unless he shall—

(*a*) not less than fourteen days before the hearing, have delivered notice of his intention so to do, and

(*b*) not less than ten days before the trial, have delivered a summary of such expert's opinions and his reasons therefor.

(10) (*a*) No person shall, save with the leave of the court or the consent of all the parties, be entitled to tender in evidence any plan, diagram, model or photograph unless he shall not less than ten days before the hearing have delivered a notice stating his intention to do so, offering inspection thereof and requiring the party receiving notice to admit the same within seven days of his receipt of the notice.

(*b*) If the party receiving the notice fails within the said period so to admit, the said plan, diagram, model or photograph shall be received in evidence upon its mere production and without further proof thereof. If such party states that he does not admit them, the said plan, diagram, model or photograph may be proved at the hearing and the party receiving the notice may be ordered to pay the cost of their proof.

RULE 37.

CURTAILMENT OF PROCEEDINGS.

(1) (*a*) An attorney desirous of setting an action down for trial or of obtaining a date for the hearing thereof shall as soon as possible after the close of pleadings and before delivering a notice of set down or filing a written request for such date, as the case may be, in writing request the attorneys acting for all other parties to such action to attend a conference at a mutually convenient time with the object of reaching agreement as to possible ways of curtailing the duration of such trial and in particular as to all or any of the following matters, namely:

(i) The possibility of obtaining admissions of fact and of documents;
(ii) the holding of any inspection or examination;
(iii) the making of any discovery of documents;
(iv) the exchange between parties of the reports of experts;
(v) the giving of any further particulars reasonably required for the purposes of trial;
(vi) the plans, diagrams, photographs, models, and the like, to be used at the trial;
(vii) the consolidation of trials;
(viii) the quantum of damages;
(ix) the preparation and handing in at the trial of copies of correspondence and other documents in the form of a paged bundle with copies for the bench and all parties.

(*b*) At the conclusion of such conference the attorneys shall draw up and sign a minute of the matters upon which they are agreed.

(2) In his notice of set down or written request for a date for the hearing of the trial, as the case may be, such an attorney shall state that the requirements of paragraph (*a*) of sub-rule (1) have been duly observed.

(3) At the commencement of the trial the advocates for the respective parties shall report to the court whether such conference has been duly held and, if so, shall hand in the signed minute referred to in paragraph (*b*) of sub-rule (1).

(4) Before the trial proceeds the judge may call in to his chambers the advocates for the parties with a view to securing agreement on any matters likely to curtail the duration of the trial.

(5) When giving judgment in the action the court may make an order for the payment by a party of portion of the costs when the attorney for such party has refused a request to attend a conference in terms of sub-rule (1).

REËL 38.

VERKRYGING VAN GETUIENIS VIR VERHOOR.

(1) 'n Party wat die bywoning van iemand wil verkry om getuienis by die verhoor te lewer, kan van regsweë, sonder enige voorafgaande verrigtinge van watter aard ookal, by die kantoor van die griffier een of meer getuiedagvaardings vir daardie doel uitneem, so na moontlik bewoord soos Vorm 16 in die Eerste Bylae, wat elk die name van hoogstens vier persone bevat. Die balju of sy adjunk beteken hulle soos voorgeskryf in reël 4.

As 'n getuie 'n akte, stuk, geskrif of voorwerp in sy besit of onder sy beheer het wat die party wat sy bywoning vereis, as bewys wens voor te lê, moet dit in die getuiedagvaarding vermeld word en moet hy aangesê word om dit by die verhoor beskikbaar te hê.

(2) Die getuies word by die verhoor *viva voce* ondervra, maar 'n hof kan te eniger tyd as daar voldoende rede voor bestaan, beveel dat al die getuienis of 'n deel daarvan by wyse van beëdigde verklaring gelewer word of dat die beëdigde verklaring van 'n getuie by die verhoor voorgelees word, met sodanige voorbehoude as wat die hof goedvind: Met dien verstande dat as die hof meen dat 'n ander party rede het om 'n getuie te wil kruisvra, en die getuie gebring kan word, 'n beëdigde verklaring nie toegelaat word nie.

(3) 'n Hof kan op aansoek by kennisgewing, geriefshalwe of waar dit nodig skyn te wees ten einde reg te laat geskied, beveel dat die getuienis van 'n getuie voor of tydens die verhoor voor 'n kommissaris van die hof afgeneem word, en 'n party tot die geding toelaat om so 'n deposisie as getuienis te gebruik met sodanige voorbehoude as wat die hof goedvind, en meer bepaald kan hy beveel dat die getuienis eers na sluiting van pleitstukke of eers na blootlegging of die verskaffing van besonderhede afgeneem word.

(4) Waar die getuienis van iemand op kommissie voor 'n kommissaris in die Republiek afgeneem moet word, kan so iemand gedagvaar word om voor die kommissaris te verskyn en getuienis af te lê soos by die verhoor.

(5) Tensy die hof wat die kommissie beveel, voorskryf dat ondervraging by wyse van vraagpunte en kruisvraagpunte moet geskied, moet 'n getuie wat voor 'n kommissaris verskyn ingevolge 'n bevel kragtens subreël (3), mondeling ondervra word in die teenwoordigheid van die partye, hul advokate en prokureurs, en staan hy bloot aan kruisondervraging en herondervraging.

(6) 'n Kommissaris beslis nie of aangebode getuienis toelaatbaar is nie, maar noteer enige besware, wat deur die verhoorhof beslis word.

(7) Getuienis wat op kommissie afgeneem word, word genotuleer soos in 'n hof en die transkripsie van snelskrifaantekeninge of van 'n meganiese opname, behoorlik gesertifiseer deur die transkriptor en die kommissaris, vorm die oorkonde van die ondersoek: Met dien verstande dat die getuienis voor die kommissaris in verhalende vorm genotuleer mag word.

(8) Die oorkonde van die getuienis word deur die kommissaris aan die griffier gestuur met sy sertifikaat dat dit die oorkonde van die getuienis is wat voor hom gelewer is, en dit word daarop deel van die oorkonde van die saak.

REËL 39.

VERHOOR.

(1) As die eiser, wanneer 'n verhoor uitgeroep word, verskyn en die verweerder nie verskyn nie, kan die eiser sy eis bewys vir sover die bewyslas op hom rus en uitspraak word dienooreenkomstig gegee vir sover hy aan sy bewyslas voldoen het: Met dien verstande dat waar die eis likwied is of vir skuld is, geen getuienis nodig is nie, tensy die hof anders beveel.

RULE 38.

PROCURING EVIDENCE FOR TRIAL.

(1) 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 one or more subpoenas for that purpose, each of which subpoenas shall contain the names of not more than four persons, and service thereof upon any person therein named shall be effected by the sheriff or his deputy in the manner prescribed by rule 4, and the process for subpoenaing such witnesses shall be, as nearly as may be, in accordance with Form 16 in the First Schedule.

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

(2) 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 all or any of the evidence to be adduced at any trial be given on affidavit or that the affidavit of any witness be read at the hearing, on such terms and conditions as to it may seem meet: 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.

(3) A court may, on application on notice in any matter where it appears convenient or necessary for the purposes of justice, make an order for taking the evidence of a witness before or during the trial before a commissioner of the court, and permit any party to any such matter to use such deposition in evidence on such terms, if any, as to it seems meet, and in particular may order that such evidence shall be taken only after the close of pleadings or only after the giving of discovery or the furnishing of any particulars in the action.

(4) 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.

(5) Unless the court ordering the commission directs such examination to be by interrogatories and cross-interrogatories, the evidence of any witness to be examined before the commissioner in terms of an order granted under sub-rule (3) shall be adduced upon oral examination in the presence of the parties, their advocates and attorneys, and the witness concerned shall be subject to cross-examination and re-examination.

(6) A commissioner shall not decide upon the admissibility of evidence tendered, but shall note any objections made and such objections shall be decided by the court hearing the matter.

(7) Evidence taken on commission shall be recorded in such manner as evidence is recorded when taken before a court and the transcript of any shorthand record or record taken by mechanical means duly certified by the person transcribing the same and by the commissioner shall constitute the record of the examination: Provided that the evidence before the commissioner may be taken down in narrative form.

(8) The record of the evidence shall be returned by the commissioner to the registrar with his certificate to the effect that it is the record of the evidence given before him, and shall thereupon become part of the record in the case.

RULE 39.

TRIAL.

(1) If, when a trial is called, the plaintiff appears and the defendant does not appear, the plaintiff may prove his claim so far as the burden of proof lies upon him and judgment shall be given accordingly, insofar as he has discharged such burden: Provided that where the claim is for a debt or liquidated demand no evidence shall be necessary unless the court otherwise orders.

(2) Wanneer 'n verweerder deur sy versuim belet is om te pleit en die saak vir verhoor ter rolle geplaas is en die versuim behoorlik bewys is, mag die verweerder nie, behalwe waar die hof billikheidshalwe anders beveel, hetsy persoonlik of deur 'n advokaat by die verhoor verskyn nie.

(3) As die verweerder by die uitroeping van 'n verhoor verskyn en die eiser nie verskyn nie, is die verweerder geregtig tot absolusie van die instansie met koste, maar hy kan getuienis lei om die hof te oortuig dat finale vonnis in sy guns gegee moet word en indien aldus oortuig, kan die hof so beveel.

(4) Subreëls (1) en (2) geld vir iedereen wat 'n eis instel (hetsy by wyse van teeneis of derdeparty-kennisgewing of op enige ander wyse) asof hy 'n eiser is, en subreël (3) geld vir iedereen teen wie 'n eis ingestel is, asof hy 'n verweerder is.

(5) Waar die bewyslas op die eiser rus, kan hy of een advokaat namens hom kortliks die feite wat hy wil bewys, uiteensit en dan voortgaan met die bewys daarvan.

(6) By die sluiting van die eiser se saak kan die verweerder absolusie van die instansie aanvra, in welke geval die verweerder of een advokaat namens hom die hof kan toespreek en die eiser of een advokaat namens hom kan antwoord. Die verweerder of sy advokaat kan dan antwoord op enigiets wat daaruit voortspruit.

(7) As absolusie nie gevra word of dit geweier word en die verweerder nie sy saak gesluit het nie, kan die verweerder of een advokaat namens hom kortliks die feite wat hy wil bewys, uiteensit en dan voortgaan met die bewys daarvan.

(8) Waar 'n party verteenwoordig is, word elke getuie ondervra, gekruisvra of herondervra, na gelang van die geval, deur slegs een advokaat van so 'n party, hoewel nie noodwendig dieselfde nie.

(9) As die bewyslas op die verweerder rus, het hy of sy advokaat dieselfde regte wat aan die eiser of sy advokaat ingevolge subreël (5) toekom.

(10) Nadat die sake aan beide kante gesluit is, kan die eiser of een of meer van sy advokate namens hom die hof toespreek, waarna die verweerder of een of meer van sy advokate namens hom dieselfde mag doen en die eiser of slegs een advokaat namens hom repliek mag lewer op enigiets wat daaruit voortspruit.

(11) Enigeen van die partye kan by die aanvang van die verhoor die hof vra om te beslis op wie die onus rus om getuienis aan te voer, en die hof kan na beredenering dit beslis: Met dien verstande dat die beslissing daarna gewysig kan word ten einde 'n onreg te voorkom.

(12) As daar een of meer derde partye is of verweerders op 'n teeneis is wat nie eisers in die aksie is nie, mag hulle hul sake open en hul getuienis lei nadat die getuienis van die eiser en van die verweerder afgesluit is en voordat enige toespraak na afloop van sodanige getuienis gelewer word. Behalwe vir sover die hof anders gelas, lei die verweerders op 'n teeneis wat nie eisers is nie, eerste hul getuienis en daarna lei derde partye hul getuienis in dieselfde volgorde as wat hulle derde partye geword het. As die onus om getuienis aan te voer op die aanspraakmaker teen die derde party of op die verweerder op 'n teeneis rus, reël die hof na goeddunke die volgorde waarin die partye hul sake moet voer en die hof moet toespreek, en hul onderskeie beurte om repliek te lewer. Subreël (11) geld *mutatis mutandis* vir alle geskilpunte aangaande die onus om getuienis aan te voer.

(13) Waar die onus om getuienis aan te voer op een of meer geskilpunte op die eiser rus en dié ten opsigte van ander geskilpunte op die verweerder, voer die eiser eerste sy getuienis aan en hy kan dan sy saak sluit. Die verweerder voer daarna sy getuienis aan, tensy absolusie

(2) When a defendant has by his default been barred from pleading, and the case has been set down for hearing, and the default duly proved, the defendant shall not, save where the court in the interests of justice may otherwise order, be permitted, either personally or by an advocate, to appear at the hearing.

(3) If, when a trial is called, the defendant appears and the plaintiff does not appear, the defendant shall be entitled to an order granting absolution from the instance with costs, but may lead evidence with a view to satisfying the court that final judgment should be granted in his favour and the court, if so satisfied, may grant such judgment.

(4) The provisions of sub-rules (1) and (2) shall apply to any person making any claim (whether by way of claim in reconvention or third party notice or by any other means) as if he were a plaintiff, and the provisions of sub-rule (3) shall apply to any person against whom such a claim is made as if he were a defendant.

(5) Where the burden of proof is on the plaintiff, he or one advocate for the plaintiff may briefly outline the facts intended to be proved and the plaintiff may then proceed to the proof thereof.

(6) At the close of the case for the plaintiff, the defendant may apply for absolution from the instance, in which event the defendant or one advocate on his behalf may address the court and the plaintiff or one advocate on his behalf may reply. The defendant or his advocate may thereupon reply on any matter arising out of the address of the plaintiff or his advocate.

(7) If absolution from the instance is not applied for or has been refused and the defendant has not closed his case, the defendant or one advocate on his behalf may briefly outline the facts intended to be proved and the defendant may then proceed to the proof thereof.

(8) Each witness shall, where a party is represented, be examined, cross-examined or re-examined as the case may be by only one (though not necessarily the same) advocate for such party.

(9) If the burden of proof is on the defendant, he or his advocate shall have the same rights as those accorded to the plaintiff or his advocate by sub-rule (5).

(10) Upon the cases on both sides being closed, the plaintiff or one or more of the advocates on his behalf may address the court and the defendant or one or more advocates on his behalf may do so, after which the plaintiff or one advocate only on his behalf may reply on any matter arising out of the address of the defendant or his advocate.

(11) Either party may apply at the opening of the trial for a ruling by the court upon the onus of adducing evidence, and the court after hearing argument may give a ruling as to the party upon whom such *onus* lies: Provided that such ruling may thereafter be altered to prevent injustice.

(12) If there be one or more third parties or if there be defendants to a claim in reconvention who are not plaintiffs in the action, any such party shall be entitled to address the court in opening his case and shall lead his evidence after the evidence of the plaintiff and of the defendant has been concluded and before any address at the conclusion of such evidence. Save insofar as the court shall otherwise direct, the defendants to any counter-claim who are not plaintiffs shall first lead their evidence and thereafter any third parties shall lead their evidence in the order in which they became third parties. If the onus of adducing evidence is on the claimant against the third party or on the defendant to any claim in reconvention, the court shall make such order as may seem convenient with regard to the order in which the parties shall conduct their cases and address the court, and in regard to their respective rights of reply. The provisions of sub-rule (11) shall *mutatis mutandis* apply with regard to any dispute as to the onus of adducing evidence.

(13) Where the onus of adducing evidence on one or more of the issues is on the plaintiff and that of adducing evidence on any other issue is on the defendant, the plaintiff shall first call his evidence on any issues in respect of which the onus is upon him, and may then close his case. The defendant, if absolution from the instance is not granted, shall, if he does not close his case, thereupon

van die instansie toegestaan word of tensy hy sy saak sluit.

(14) Nadat die verweerder sy getuienis aangevoer het, het die eiser die reg om weerleggende getuienis op enige geskilpunt ten opsigte waarvan die onus op die verweerder gerus het, aan te voer: Met dien verstande dat as die eiser getuienis aangevoer het op enige sodanige geskilpunte voordat hy sy saak gesluit het, hy geen verdere getuienis daarop mag aanvoer nie.

(15) Geen bepaling van subreël (13) of (14) verhinder die verweerder om 'n getuie wat in enige stadium deur die eiser op 'n geskilpunt geroep is, te kruisvra nie, en die eiser is geregtig om so 'n getuie te herondervra na so 'n kruisondervraging sonder om die reg aan hom by subreël (14) verleen om getuienis in 'n later stadium aan te voer op die geskilpunt waarop so 'n getuie gekruisvra is, aan te tas. Die eiser kan verder die getuie wat aldus herondervra is, roep om in 'n later stadium getuienis te gee oor enige sodanige geskilpunt.

(16) Aantekening moet gehou word van—

(*a*) 'n uitspraak of reëling van die hof;

(*b*) getuienis in die hof afgelê;

(*c*) 'n beswaar wat teen gelewerde of aangebode getuienis gemaak word;

(*d*) die verrigtinge van die hof in die algemeen (insluitende 'n inspeksie ter plaatse en iets deur 'n getuie in die hof gedemonstreer); en

(*e*) enige ander deel van die verrigtinge wat die hof in die besonder mag beveel om genotuleer te word.

(17) So 'n oorkonde word gehou met die middele wat die hof geskik ag en kan meer bepaald in snelskrif aangeteken of meganies opgeneem word.

(18) Die snelskrifnotas of meganiese opname moet deur die opnemer as juis gesertifiseer en by die griffier ingedien word. Transkripsie is nie nodig nie tensy die hof of 'n regter of 'n party wat appelleer dit verlang. As 'n transkripsie gemaak word, moet dit deur die transkriptor as juis gesertifiseer en saam met die snelskrifnotas en meganiese opname by die griffier ingedien word, en dit word geag juis te wees tensy die hof anders beslis.

(19) 'n Party tot 'n aangeleentheid waarvan in snelskrif of meganies aantekening gehou is, kan skriftelik deur die griffier by 'n regter aansoek doen om 'n transkripsie as dit nie reeds beveel is nie. As 'n transkripsie beveel word, is so 'n party geregtig tot 'n afskrif daarvan teen betaling van die voorgeskrewe gelde.

(20) Die hof kan te eniger tyd na goeddunke gelas dat geriefshalwe afgewyk word van die wyse van prosesvoering in hierdie reël voorgeskryf.

(21) Elke stenograaf wat in diens geneem is om aantekening van verrigtinge te hou, word geag 'n amptenaar van die hof te wees en moet vooraf die volgende eed aflê:

> Ek, A. B., verklaar onder eed dat ek getrou en na die beste van my vermoë die verrigtinge in enige saak waarin ek as amptenaar van die hof werksaam is, in snelskrif sal aanteken of meganies sal opneem, soos deur die regter voorgeskryf, en dat ek, indien daartoe gelas, my aantekeninge of opname en, sover dit in my vermoë is, ook dié van enige ander stenograaf, sal transkribeer.

(22) Die partye tot 'n verhoor mag by toestemming te eniger tyd voor die verhoor, op skriftelike aansoek by 'n regter deur die griffier, die saak na 'n landdroshof laat oorplaas mits dit binne die regsbevoegdheid van die landdros is, hetsy by toestemming of andersins.

(23) Die regter kan by afsluiting van die getuienis in verhoorsake met die advokate in sy kamers beraadslaag betreffende die vorm en duur van die toesprake aan die hof.

(24) As die hof meen dat die verrigtinge deur die suksesvolle party bowemate verleng is deur die roep van onnodige getuies of deur te lange ondervraging of kruis-

call his evidence on all issues in respect of which such onus is upon him.

(14) After the defendant has called his evidence, the plaintiff shall have the right to call rebutting evidence on any issues in respect of which the onus was on the defendant: Provided that if the plaintiff shall have called evidence on any such issues before closing his case he shall not have the right to call any further evidence thereon.

(15) Nothing in sub-rule (13) or (14) contained shall prevent the defendant from cross-examining any witness called at any stage by the plaintiff on any issue in dispute, and the plaintiff shall be entitled to re-examine such witness consequent upon such cross-examination without affecting the right given to him by sub-rule (14) to call evidence at a later stage on the issue on which such witness has been cross-examined. The plaintiff may further call the witness so re-examined to give evidence on any such issue at a later stage.

(16) A record shall be made of—

(*a*) any judgment or ruling given by the court,

(*b*) any evidence given in court,

(*c*) any objection made to any evidence received or tendered,

(*d*) the proceedings of the court generally (including any inspection *in loco* and any matter demonstrated by any witness in court); and

(*e*) any other portion of the proceedings which the court may specifically order to be recorded.

(17) Such record shall be kept by such means as to the court seems appropriate and may in particular be taken down in shorthand or be recorded by mechanical means.

(18) The shorthand notes so taken or any mechanical record shall be certified by the person taking the same to be correct and shall be filed with the registrar. It shall not be necessary to transcribe them unless the court or a judge so directs or a party appealing so requires. If and when transcribed, the transcript of such notes or record shall be certified as correct by the person transcribing them and the transcript, the shorthand notes and the mechanical record shall be filed with the registrar. The transcript of the shorthand notes or mechanical record certified as correct shall be deemed to be correct unless the court otherwise orders.

(19) Any party to any matter in which a record has been made in shorthand or by mechanical means may apply in writing through the registrar to a judge to have the record transcribed if an order to that effect has not already been made. Such party shall be entitled to a copy of any transcript ordered to be made upon payment of the prescribed fees.

(20) If it appears convenient to do so, the court may at any time make any order with regard to the conduct of the trial as to it seems meet, and thereby vary any procedure laid down by this rule.

(21) Every stenographer employed to take down a record of any proceedings shall be deemed to be an officer of the court and shall, before entering on his duties, take the following oath:

> I, A. B., do swear that I shall faithfully, and to the best of my ability, record in shorthand, or cause to be recorded by mechanical means, as directed by the judge, the proceedings in any case in which I may be employed as an officer of the court, and that I shall similarly, when required to do so, transcribe the same or, as far as I am able, any shorthand notes, or mechanical record, made by any other stenographer.

(22) By consent the parties to a trial shall be entitled, at any time before trial, on written application to a judge through the registrar, to have the cause transferred to the magistrate's court: Provided that the matter is one within the jurisdiction of the latter court whether by way of consent or otherwise.

(23) The judge may, at the conclusion of the evidence in trial actions, confer with the advocates in his chambers as to the form and duration of the addresses to be submitted in court.

(24) Where the court considers that the proceedings have been unduly prolonged by the successful party by the calling of unnecessary witnesses or by excessive

ondervraging of deur te uitvoerige beredenering, kan hy so 'n party by die toekenning van koste penaliseer.

REËL 40.

IN FORMA PAUPERIS.

(1) (*a*) Iemand wat 'n geding *in forma pauperis* wil instel of verdedig, kan die griffier nader, en as hy meen dat die aansoeker iemand is soos in paragraaf (*a*) van subreël (2) bedoel, moet hy hom na 'n prokureur verwys en terselfdertyd die plaaslike vereniging van advokate daarvan kennis gee.

(*b*) Die prokureur moet dan ondersoek instel na die persoon se vermoë en die verdienstelikheid van sy saak, en as hy oortuig is dat dit 'n geval is waar hy gevoeglik *in forma pauperis* kan optree, versoek hy die genoemde vereniging om 'n advokaat te benoem wat gewillig en in staat is om op te tree, en as hy benoem word, moet die advokaat die saak waarneem.

(*c*) As die prokureur of advokaat daarna nie meer in staat is om op te tree nie, kan die griffier of die genoemde vereniging, na gelang van die geval, op versoek 'n ander praktisyn in sy plek benoem.

(2) As daar, wanneer 'n geding ingestel word, by die griffier namens so iemand ingedien word—

(*a*) 'n beëdigde verklaring wat sy finansiële posisie volledig uiteensit en vermeld dat met uitsondering van huisraad, klere en ambagsgereedskap hy minder as R100 aan waarde besit en nie binne 'n redelike tyd so 'n bedrag uit sy verdienste sal kan bybring nie;

(*b*) 'n verklaring deur die voormelde advokaat en prokureur onderteken dat hulle, oortuig synde dat die betrokke persoon nie in staat is om professionele gelde te betaal nie, vir die persoon in hul onderskeie professionele hoedanighede kosteloos optree; en

(*c*) 'n sertifikaat van *probabilis causa* deur die genoemde advokaat,

moet die griffier alle prosesstukke in die geding vir die persoon uitreik en ontvang sonder om leges daarvoor te vorder.

(3) Alle pleitstukke, prosesstukke en dokumente ingedien deur 'n party wat *in forma pauperis* optree, moet dié feit in die opskrif vermeld.

(4) Die griffier hou in sy kantoor 'n lys van prokureurs en wanneer hy persone na praktisyns verwys soos bedoel in subreël (1), doen hy dit sover moontlik om die beurt.

(5) Die betrokke advokaat en prokureur tree daarna kosteloos vir die persoon in die geding op en hulle mag alleen met verlof van 'n regter die saak terugtrek, skik, tot 'n vergelyk daarin kom of hulle daaraan onttrek. In geval van onttrekking kan die regter voorskrifte gee betreffende die aanstelling van plaasvervangers.

(6) Wanneer iemand *in forma pauperis* dagvaar of verdedig deur middel van prosesstukke ingevolge hierdie reël uitgereik, het sy teenparty, benewens enige ander reg wat hy mag hê, die reg om te eniger tyd by kennisgewing 'n bevel by die hof aan te vra dat die eis of verweer afgewys word of dat die persoon belet word om *in forma pauperis* voort te gaan. By die aanhoor van so 'n aansoek kan die hof na goeddunke 'n bevel gee, ook betreffende koste.

(7) As aan die einde van die saak koste aan 'n gedingvoerder *in forma pauperis* toegeken word, kan sy prokureur by sy kosterrekening die gelde en uitgawes waartoe hy gewoonlik geregtig sou wees, insluit, en na ontvangs daarvan, in die geheel of gedeeltelik, moet hy in die volgende voorkeurorde uitbetaal: eerstens, aan die griffier soveel in inkomsteseëls as wat betaalbaar sou gewees het aan leges; tweedens, aan die adjunkbalju sy gelde vir die betekening en tenuitvoerlegging van prosesstukke; derdens, aan homself en die advokaat hul gelde soos by taksasie toegeken, *pro rata* indien nodig.

examination or cross-examination, or by over-elaboration in argument, it may penalize such party in the matter of costs.

RULE 40.

IN FORMA PAUPERIS.

(1) (*a*) A person who desires to bring or defend proceedings *in forma pauperis*, may apply to the registrar who, if it appears to him that he is a person such as is contemplated by paragraph (*a*) of sub-rule (2), shall refer him to an attorney and at the same time inform the local society of advocates accordingly.

(*b*) Such attorney shall thereupon enquire into such person's means and the merits of his cause and, upon being satisfied that the matter is one in which he may properly act *in forma pauperis*, he shall request the said society to nominate an advocate who is willing and able to act, and upon being so nominated such advocate shall act therein.

(*c*) Should such attorney or advocate thereafter become unable so to act, the registrar or the said society, as the case may be, may, upon request, nominate another practitioner to act in his stead.

(2) If when proceedings are instituted there be lodged with the registrar on behalf of such person—

(*a*) an affidavit setting forth fully his financial position and stating that, excepting household goods, wearing apparel and tools of trade, he is not possessed of property to the amount of R100 and will not be able within a reasonable time to provide such sum from his earnings;

(*b*) a statement signed by the advocate and attorney aforementioned that being satisfied that the person concerned is unable to pay fees they are acting for the said person in their respective professional capacities gratuitously in the proceedings to be instituted by him; and

(*c*) a certificate of *probabilis causa* by the said advocate;

the registrar shall issue all process and accept all documents in the said proceedings for the aforesaid person without fee of office.

(3) All pleadings, process and documents filed of record by a party proceeding *in forma pauperis* shall be headed accordingly.

(4) The registrar shall maintain in his office a roster of attorneys, and in referring persons desirous of bringing or defending proceedings *in forma pauperis* to practitioners in terms of sub-rule (1), he shall do so as far as possible in rotation.

(5) The said advocate and attorney shall thereafter act gratuitously for the said person in their respective capacities in the said proceedings, and shall not be at liberty to withdraw, settle or compromise such proceedings, or to discontinue their assistance, without the leave of a judge, who may in the latter event give directions as to the appointment of substitutes.

(6) When a person sues or defends *in forma pauperis* under process issued in terms of this rule, his opponent shall, in addition to any other right he might have, have the right at any time to apply to the court on notice for an order dismissing the claim or defence or for an order debarring him from continuing *in forma pauperis*; and upon the hearing of such application the court may make such order thereon, including any order as to costs, as to it seems meet.

(7) If upon the conclusion of the proceedings a litigant *in forma pauperis* is awarded costs, his attorney may include in his bill of costs such fees and disbursements to which he would ordinarily have been entitled, and upon receipt thereof, in whole or in part, he shall pay out in the following order of preference: first, to the registrar, such amount in revenue stamps as would have been due in respect of his fees of office; second, to the deputy sheriff, his charges for the service and execution of process; third, to himself and the advocate, their fees as allowed on taxation, *pro rata* if necessary.

REËL 41.

TERUGTREKKING, SKIKKING, STAKING, UITSTEL EN ABANDONNEMENT.

(1) Iemand wat 'n geding ingestel het, kan dit voor terrolleplasing te enige tyd en daarna met die toestemming van die partye of verlof van die hof terugtrek. In elke geval moet hy 'n kennisgewing van terugtrekking aflewer, en hy kan daarin inwillig om koste te betaal. Die takseermeester takseer die koste op versoek van die ander party.

As die kennisgewing nie 'n inwilliging tot betaling van koste bevat nie of die getakseerde koste word nie binne veertien dae na aanvraag betaal nie, kan die ander party by kennisgewing 'n kostebevel by die hof aanvra.

(2) 'n Party in wie se guns 'n beslissing of vonnis gegee is, kan dit geheel of gedeeltelik abandonneer deur 'n kennisgewing dienooreenkomstig af te lewer, en waar gedeeltelik afstand gedoen is, geld net die oorblywende gedeelte van die vonnis.

(3) Wanneer 'n skikking bereik is of die partye ooreenkom om uit te stel of terug te trek, is dit die plig van die eiser of applikant se prokureur om die griffier onmiddellik daarvan in kennis te stel.

(4) Tensy die geding teruggetrek is, mag 'n party tot 'n skikking wat op skrif maar nie uitgevoer is nie, vonnis in dier voege aanvra met minstens vier dae kennisgewing aan alle belanghebbende partye.

REËL 42.

WYSIGING EN HERROEPING VAN BEVELE.

(1) Die hof het benewens ander magte wat hy mag hê, die reg om *mero motu* of op aansoek van 'n party wat geraak word, bevele of vonnisse te wysig of te herroep.

(*a*) wat verkeerdelik aangevra of verkeerdelik gegee is sonder kennisgewing aan 'n party wat daardeur geraak word;
(*b*) wat 'n dubbelsinnigheid of 'n klaarblyklike fout of weglating bevat, maar slegs tot aansuiwering van die dubbelsinnigheid, fout of weglating;
(*c*) wat gegee is as gevolg van 'n gemeenskaplike fout van die partye.

(2) 'n Party wat regshulp ingevolge hierdie reël verlang, moet kennis van sy aansoek gee aan alle partye wie se belange deur die gevraagde wysiging geraak kan word.

(3) Die hof wysig of herroep nie 'n bevel of vonnis nie tensy hy oortuig is dat alle partye wie se belange geraak kan word, kennis dra van die voorgenome herroeping of wysiging.

REËL 43.

HUWELIKSAANGELEENTHEDE.

(1) Hierdie reël geld wanneer 'n getroude persoon een of meer van die volgende vorme van regshulp by die hof aanvra:

(*a*) onderhoud *pendente lite*;
(*b*) 'n bydrae tot die koste van 'n hangende huweliksgeding;
(*c*) tussentydse bewaring van 'n kind;
(*d*) tussentydse toegang tot 'n kind.

(2) Die applikant moet 'n onbeëdigde verklaring in die aard van 'n deklarasie aflewer, waarin die gevraagde regshulp en die gronde daarvoor uiteengesit word, tesame met 'n kennisgewing aan die respondent so na moontlik bewoord soos Vorm 17 in die Eerste Bylae. Die verklaring en kennisgewing, onderteken deur die applikant of sy prokureur, moet 'n adres vir betekening binne vyf myl van die hof af bevat en word deur die balju beteken.

(3) Die respondent moet binne sewe dae na ontvangs van die verklaring 'n onbeëdigde antwoord in die aard van 'n pleit aflewer, geteken en voorsien van 'n adres soos in subreël (2) bedoel, by gebreke waarvan hy *ipso facto* onder belet is.

RULE 41.

WITHDRAWAL, SETTLEMENT, DISCONTINUANCE, POSTPONEMENT AND ABANDONMENT.

(1) A person instituting any proceedings may at any time before the matter has been set down and thereafter by consent of the parties or leave of the court withdraw such proceedings, in any of which events he shall deliver a notice of withdrawal and may embody in such notice a consent to pay costs; and the taxing master shall tax such costs on the request of the other party.

If no such consent to pay costs is embodied in the notice of withdrawal or such taxed costs are not paid within fourteen days of demand, the other party may apply to court on notice for an order for costs.

(2) Any party in whose favour any decision or judgment has been given, may abandon such decision or judgment either in whole or in part by delivering notice thereof and such judgment or decision abandoned in part shall have effect subject to such abandonment.

(3) If in any proceedings a settlement or an agreement to postpone or withdraw is reached, it shall be the duty of the attorney for the plaintiff or applicant immediately to inform the registrar accordingly.

(4) Unless such proceedings have been withdrawn, any party to a written settlement shall, if the same has not been carried out, be entitled to apply for judgment in terms thereof on at least four days' notice to all interested parties.

RULE 42.

VARIATION AND RESCISSION OF ORDERS.

(1) The court may, in addition to any other powers it may have, *mero motu* or upon the application of any party affected, rescind or vary:

(*a*) An order or judgment erroneously sought or erroneously granted without notice to any party affected thereby;
(*b*) an order or judgment in which there is an ambiguity, or a patent error or omission, but only to the extent of such ambiguity, error or omission;
(*c*) an order or judgment granted as the result of a mistake common to the parties.

(2) Any party desiring any relief under this rule shall make application therefor upon notice to all parties whose interests may be affected by any variation sought.

(3) The court shall not make any order rescinding or varying any order or judgment unless satisfied that all parties whose interests may be affected have notice of the order proposed.

RULE 43.

MATRIMONIAL MATTERS.

(1) This rule shall apply whenever a spouse seeks relief from the court in respect of one or more of the following matters:

(*a*) Maintenance *pendente lite;*
(*b*) a contribution towards the costs of a pending matrimonial action;
(*c*) interim custody of any child;
(*d*) interim access to any child.

(2) The applicant shall deliver an unsworn statement in the nature of a declaration, setting out the relief claimed and the grounds therefor, together with a notice to the respondent as near as may be in accordance with Form 17 of the First Schedule. The statement and notice shall be signed by the applicant or his attorney, shall give an address for service within five miles of the court, and shall be served by the sheriff.

(3) The respondent shall within seven days of receiving the statement deliver an unsworn reply in the nature of a plea, signed and giving an address as aforesaid, in default of which he shall be *ipso facto* barred.

(4) So gou moontlik daarna bring die griffier die saak voor die hof vir summiere verhoor met sewe dae kennis aan die partye (tensy die respondent in verstek is).

(5) Die hof kan na goeddunke die getuienis tot dié van die partye beperk.

(6) Die hof kan met dieselfde prosedure sy beslissing wysig as daar 'n wesenlike verandering in die omstandighede van enigeen van die partye of van 'n kind ingetree het of as die bydrae tot koste onvoldoende blyk te wees.

(7) Advokaatsgelde in sake kragtens hierdie reël beloop hoogstens R15 as dit onbestrede is of R25 as dit bestrede is, tensy die hof in 'n uitsonderlike geval anders beveel.

REËL 44.

HERSTEL VAN HUWELIKSREGTE.

(1) (*a*) In 'n aksie om herstel van huweliksregte kan die eiser in die alternatief 'n egskeidingsbevel eis.

(*b*) In 'n aksie om herstel van huweliksregte kan die hof by bewys dat die verweerder die eiser kwaadwillig verlaat het, hom beveel om huweliksregte te herstel of om by gebreke daarvan op 'n dag in die bevel genoem te word, redes aan te voer waarom egskeiding nie toegestaan behoort te word nie. Die bevel moet, tensy die hof anders bepaal, persoonlik aan die verweerder beteken word.

(2) As dit op die keerdatum by beëdigde verklaring of andersins bewys word dat die verweerder versuim het om aan die bevel tot herstel van huweliksregte te voldoen, kan die hof egskeiding toestaan of 'n ander bevel gee wat hy billik ag.

(3) Wanneer die hof aan die eiser verlof gee om 'n herstelbevel by wyse van publikasie te beteken, moet dit so na moontlik soos Vorm 17a in die Eerste Bylae bewoord wees.

REËL 45.

UITWINNING.

ALGEMEEN EN ROERENDE GOED.

(1) Die party in wie se guns die hof vonnis gegee het, kan op eie risiko by die griffierskantoor een of meer lasbriewe vir tenuitvoerlegging daarvan uitneem, so na moontlik bewoord soos Vorm 18 in die Eerste Bylae: Met dien verstande dat behalwe waar onroerende goed spesiaal deur die hof uitwinbaar verklaar is, geen uitwinningslasbrief teen onroerende goed uitgereik word nie tensy daar eers ten opsigte van 'n lasbrief teen sy roerende goed gerelateer is dat die persoon nie genoeg roerende goed het om daaraan te voldoen nie.

(2) Niemand word uitgewin vir die invordering van koste nie tensy die koste eers deur die takseermeester getakseer is of die betrokke party skriftelik toegestem het tot betaling van 'n bepaalde bedrag: Met dien verstande dat 'n eis om gespesifiseerde koste reeds aan die vonnisskuldeiser toegeken maar nog nie getakseer nie, in 'n uitwinningslasbrief mag verskyn, onderworpe aan behoorlike taksasie daarna; maar as hulle nie aldus getakseer is nie en die oorspronklike kosterekening, behoorlik toegestaan, nie by die adjunk-balju voor die datum van die verkoping ingedien is nie, hulle nie in sy rekening en distribusieplan mag voorkom nie.

(3) Wanneer die adjunk-balju in 'n prosesstuk van die hof gelas is om iemand se goedere uit te win, moet hy of sy assistent onverwyld na sy woon-, werk- of besigheidsplek gaan (tensy die vonnisskuldeiser 'n ander aanwysing gee betreffende die ligging van die bates waarop beslag gelê moet word) en—

(*a*) aldaar voldoening van die lasbrief eis; en by gebreke daarvan

(*b*) eis dat roerende en vervreembare goed wat na sy mening genoeg is om aan die lasbrief te voldoen, aangedui word; en by gebreke daarvan

(4) As soon as possible thereafter the registrar shall bring the matter before the court for summary hearing, on seven days' notice to the parties (unless the respondent is in default).

(5) The court may, if it thinks fit, limit the evidence to that of the parties.

(6) The court may, on the same procedure, vary its decision in the event of a material change taking place in the circumstances of either party or a child, or the contribution towards costs proving inadequate.

(7) No advocate appearing in a case under this rule shall charge a fee of more than R15 if the claim is undefended or R25 if it is defended, unless the court in an exceptional case otherwise directs.

RULE 44.

RESTITUTION OF CONJUGAL RIGHTS.

(1) (*a*) In any action for the restitution of conjugal rights the plaintiff may in the alternative claim a decree of divorce.

(*b*) Upon the hearing of the action for restitution of conjugal rights the court may upon proof of the malicious desertion of plaintiff by defendant order restitution of such rights (which order shall, unless the court otherwise directs, be served on the defendant personally), and may further direct the defendant to show cause on a day to be named in such order why a decree of divorce should not be granted.

(2) If upon such return day it is proved by affidavit or otherwise that the defendant has failed to comply with the order for restitution of conjugal rights, the court may grant a decree of divorce or make such other order as to it may seem just.

(3) When the court grants leave to the plaintiff to publish a restitution order it shall be as near as may be in accordance with Form 17A of the First Schedule.

RULE 45.

EXECUTION.

GENERAL AND MOVABLES.

(1) The party in whose favour any judgment of the court has been pronounced may, at his own risk, sue out of the office of the registrar one or more writs for execution thereof as near as may be in accordance with Form 18 of the First Schedule: Provided that, except where by judgment of the court immovable property has been specially declared executable, no such process shall issue against the immovable property of any person until a return shall have been made of any process which may have been issued against his movable property, and the registrar perceives therefrom that the said person has not sufficient movable property to satisfy the writ.

(2) No process of execution shall issue for the levying and raising of any costs awarded by the court to any party, until they have been taxed by the taxing master or agreed to in writing by the party concerned in a fixed sum: Provided that it shall be competent to include in a writ of execution a claim for specified costs already awarded to the judgment creditor but not then taxed, subject to due taxation thereafter, provided further that if such costs shall not have been taxed and the original bill of costs, duly allocated, not lodged with the deputy-sheriff before the day of the sale, such costs shall be excluded from his account and plan of distribution.

(3) Whenever by any process of the court the deputy-sheriff is commanded to levy and raise any sum of money upon the goods of any person, he shall forthwith himself or by his assistant proceed to the dwelling-house or place of employment or business of such person (unless the judgment creditor shall give different instructions regarding the situation of the assets to be attached) and there

(*a*) demand satisfaction of the writ and, failing satisfaction,

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

(*c*) self sulke goed soek.

Al sulke goed moet onmiddellik geïnventariseer word en tensy die uitwinnende skuldeiser anders gelas het en behoudens subreël (5), moet die adjunk-balju dit in bewaring neem: Met dien verstande dat—

(i) as iemand anders aanspraak maak op goed waarop beslag gelê is of wat in beslag geneem staan te word deur die adjunk-balju, die eiser eers die adjunk-balju tot sy bevrediging moet vrywaar teen verlies of skade vanweë die beslaglegging, waarna die adjunk-balju dit behou of beslag daarop lê na gelang van die geval, dit inventariseer en in bewaring neem; en

(ii) as die vonnisskuldenaar nie persoonlik gevra is om aan die lasbrief te voldoen nie, die adjunk-balju hom skriftelik kennis van die beslaglegging moet gee asook 'n afskrif van die inventaris, tensy dit onbekend is waar hy verblyf hou.

(4) Die adjunk-balju moet die prosesstuk tesame met 'n relaas van wat hy daaromtrent gedoen het, by die griffier indien en 'n afskrif van die relaas en die inventaris verskaf aan die party wat die prosesstuk laat uitreik het.

(5) Waar die adjunk-balju op roerende goed beslag gelê het, kan die vonnisskuldenaar tesame met 'n genoegsaam bemiddelde persoon as borg en met wie die adjunk-balju tevrede is, skriftelik onderneem om die goed te bring op die dag vasgestel vir die verkoping daarvan, tensy die beslaglegging vroeër regtens opgehef word. Die adjunk-balju moet dan die goed wat onder beslag en geïnventariseer is, laat bly op die perseel waar dit gevind is. Die borgakte moet so na moontlik soos Vorm 19 in die Eerste Bylae bewoord wees.

(6) As die vonnisskuldenaar nie tesame met 'n borg so 'n onderneming gee nie, moet die adjunk-balju, tensy die uitwinnende skuldeiser anders gelas, die goed na 'n geskikte plek van bewaring bring of dit in sy besit hou op die perseel waar dit in beslag geneem is. Die koste daarvan is van die vonnisskuldenaar verhaalbaar en kan uit die opbrengs geneem word.

(7) Inbeslaggenome roerende goed word waar doenlik en behoudens reël 58 deur die adjunk-balju by openbare veiling aan die hoogste bieder verkoop. Hy moet dit eers behoorlik in een of meer koerante adverteer en minstens veertien dae laat verloop na die beslaglegging. As dit bederfbare produkte is, kan hulle met toestemming van die vonnisskuldenaar of onder vrywaring van die adjunk-balju deur die uitwinnende skuldeiser teen 'n eis om skadevergoeding vanweë die verkoping, onmiddellik verkoop word soos die adjunk-balju doenlik ag.

(8) Onliggaamlike goed, hetsy roerend of onroerend, kan op die onderstaande wyse in beslag geneem word sonder om eers verlof van die hof te kry:

(*a*) 'n Huurkontrak, wissel, promesse, verband of ander sekuriteit vir die betaling van geld kan alleen geldig in beslag geneem word as—

(i) die adjunk-balju aan die huurder en verhuurder, of verbandhouer en verbandgewer, of die persoon wat op die wissel of promesse of ander sekuriteit aanspreeklik is, kennis gegee het; en

(ii) die geskrif (as daar een is) waardeur die huurkontrak bewys word, of die wissel of promesse, verband of ander sukuriteit in besit geneem is; en

(iii) in die geval van 'n geregistreerde huurkontrak of enige geregistreerde reg, kennis aan die Registrateur van Aktes gegee is.

(*b*) As die belang van 'n vonnisskuldenaar in goed aan of deur 'n derde verpand, verhuur of onder 'n opskortende voorwaarde verkoop is, kan dit alleen geldig in beslag geneem word as die adjunk-balju eers 'n kennisgewing van die beslaglegging met 'n afskrif van die uitwinningslasbrief aan die vonnisskuldenaar en aan die derde beteken het. Die adjunk-balju mag as hy die oorspronklike van die

(*c*) search for such property.

Any such property shall be immediately inventoried and, unless the execution creditor shall otherwise have directed, and subject to the provisions of sub-rule (5), shall be taken into the custody of the deputy-sheriff: Provided—

(i) that if there is any claim made by any other person to any such property seized or about to be seized by the deputy-sheriff, then, if the plaintiff gives the deputy-sheriff an indemnity to his satisfaction to save him harmless from any loss or damage by reason of the seizure thereof, the deputy-sheriff shall retain or shall seize, as the case may be, make an inventory of and keep the said property; and

(ii) that if satisfaction of the writ was not demanded from the judgment debtor personally, the deputy-sheriff shall give to the judgment debtor written notice of the attachment and a copy of the inventory made by him, unless his whereabouts are unknown.

(4) The deputy-sheriff shall file with the registrar any process with a return of what he has done thereon, and shall furnish a copy of such return and inventory to the party who caused such process to be issued.

(5) Where any movable property has been attached by the deputy-sheriff, the person whose property has been so attached may, together with some person of sufficient means as surety to the satisfaction of the deputy-sheriff, undertake in writing that such property shall be produced on the day appointed for the sale thereof, unless the said attachment shall sooner have been legally removed, whereupon the deputy-sheriff shall leave the said property attached and inventoried on the premises where it was found. The deed of suretyship shall be as near as may be in accordance with Form 19 of the First Schedule.

(6) If the judgment debtor does not, together with a surety, give an undertaking as aforesaid, then, unless the execution creditor otherwise directs, the deputy-sheriff shall remove the said goods to some convenient place of security or keep possession thereof on the premises where they were seized, the expense whereof shall be recoverable from the judgment debtor and defrayed out of the levy.

(7) Where any movable property is attached as aforesaid the deputy-sheriff shall where practicable and subject to rule 58 sell it by public auction to the highest bidder after due advertisement by him in one or more newspapers and after the expiration of not less than fourteen days from the time of seizure thereof. Where perishables are attached as aforesaid, they may with the consent of the execution debtor or upon the execution creditor indemnifying the deputy-sheriff against any claim for damages which may arise from such sale, be sold immediately by the deputy-sheriff concerned in such manner as to him seems expedient.

(8) If incorporeal property, whether movable or immovable, 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 or 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 deputy-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, and

(ii) the deputy-sheriff shall have taken possession of the writing (if any) evidencing the lease, or of the bill of exchange or promissory note, bond or other security as the case may be, and

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

(*b*) Where movable property sought to be attached is the interest of the execution 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 deputy-sheriff has served on the execution debtor and on the third person notice of the attachment with a copy of the warrant of execution. The deputy-sheriff may upon exhibiting the original of such warrant of execution to

lasbrief aan die pandhouer, huurder, verhuurder, koper of verkoper getoon het, die perseel waar die goed is, betree en 'n inventaris en waardasie van die belang maak.

(*c*) In die geval van alle ander onliggaamlike goed of onliggaamlike regte in goed—

(i) kan dit alleen geldig in beslag geneem word as—

(*a*) die adjunk-balju skriftelik aan alle belanghebbende partye kennis van die beslaglegging gegee het, en waar dit onliggaamlike onroerende goed of 'n onliggaamlike reg in onroerende goed is, ook aan die Registrateur van Aktes in wie se kantoor die eiendom of reg geregistreer is; en

(*b*) die adjunk-balju besit geneem het van die geskrif of dokument wat die aanspraak op die goed of reg bewys, of gesertifiseer het dat hy ondanks sorgvuldige nasporing die geskrif of dokument nie kon vind nie;

(ii) mag die adjunk-balju as hy die oorspronklike van die uitwinningslasbrief getoon het aan die persoon wat besit het van goed waarin die onliggaamlike reg bestaan, die perseel waar dit is, betree en 'n inventaris en waardasie van die inbeslaggenome reg maak.

(9) Beslaglegging op goed wat aan 'n retensiereg onderhewig is, geskied *mutatis mutandis* volgens subparagraaf (*b*) van subreël (8).

(10) Waar eiendom waarop 'n derde 'n saaklike reg het, uitgewin word, is die verkoping onderhewig aan die regte van die derde tensy hy andersins toestem.

(11) (*a*) Onderworpe aan 'n hipoteek wat voor die beslaglegging bestaan het, deel alle uitwinningslasbriewe wat voor die dag van die verkoping by die adjunk-balju ingedien is, *pro rata* in die opbrengs van die verkoopte goed, en volgens die orde van voorkeur in paragraaf (*c*) van subreël (14) van reël 46 vasgestel.

(*b*) As daar 'n oorskot is, moet die adjunk-balju dit aan die vonnisskuldenaar oorbetaal en aan hom 'n noukeurige staat van sy koste en van die uitwinning verskaf. Dit is onderhewig aan taksasie op aansoek van die vonnisskuldenaar en as 'n bedrag afgetakseer word, moet die adjunk-balju dit aan die vonnisskuldenaar terugbetaal.

REËL 46.

UITWINNING.

ONROERENDE GOED.

(1) 'n Uitwinningslasbrief teen onroerende goed moet 'n volledige beskrywing van die aard en ligging daarvan (insluitende die adres) bevat sodat die adjunk-balju dit kan opspoor en identifiseer, en dit moet voldoende inligting gee om hom in staat te stel om aan subreël (3) gevolg te gee.

(2) Beslaglegging moet uitgevoer word deur die adjunk-balju van die distrik waarin die goed geleë is of deur die adjunk-balju van die distrik waarin die kantoor van die Registrateur van Aktes of ander beampte belas met die registrasie van sodanige eiendom, geleë is, kragtens 'n lasbrief so na moontlik bewoord soos Vorm 20 in die Eerste Bylae.

(3) Dit geskied by wyse van betekening van 'n skriftelike kennisgewing van die adjunk-balju aan die eienaar van die onroerende goed en aan die Registrateur van Aktes of ander beampte belas met die registrasie daarvan, en as die goed deur iemand anders as die eienaar geokkupeer word, ook aan die okkupant. Betekening geskied per aangetekende brief, behoorlik vooruitbetaal en gepos, geadresseer aan die betrokke persoon.

(4) Die uitwinningsverkoping vind plaas in die distrik waar die inbeslaggenome goed geleë is, en word waargeneem deur die adjunk-balju van die distrik: Met dien verstande dat die balju in eerste instansie en behoudens paragraaf (*b*) van subreël (8), by aanvoering van goeie

the pledgee, lessor, lessee, purchaser or seller 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 property or incorporeal rights in property as aforesaid,

(i) the attachment shall only be complete when

(*a*) notice of the attachment has been given in writing by the deputy-sheriff to all interested parties and where the asset consists of incorporeal immovable property or 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

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

(ii) the deputy-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.

(9) Attachment of property subject to a lien shall be effected *mutatis mutandis* in accordance with the provisions of sub-paragraph (*b*) of sub-rule (8).

(10) Where property subject to a real right of any third person is sold in execution such sale shall be subject to the rights of such third person unless he otherwise agrees.

(11) (*a*) Subject to any hypothec existing prior to the attachment, all writs of execution lodged with the deputy-sheriff before the day of the sale in execution shall rank *pro rata* in the distribution of proceeds of the goods sold in the order of preference referred to in paragraph (*c*) of sub-rule (14) of rule 46.

(*b*) If there should remain any surplus, the deputy-sheriff shall pay it over to the judgment debtor; and the deputy-sheriff shall make out and deliver to him an exact account, in writing of his costs and charges of the execution and sale, which shall be liable to taxation upon application by the judgment debtor, and if upon taxation any sum shall be disallowed, the deputy-sheriff shall refund such sum to the judgment debtor.

RULE 46.

EXECUTION.

IMMOVABLES.

(1) A writ of execution against immovable property shall contain a full description of the nature and situation (including the address) of the immovable property to enable it to be traced and identified by the deputy-sheriff; and shall be accompanied by sufficient information to enable him to give effect to sub-rule (3) hereof.

(2) An attachment shall be made by the deputy-sheriff of the district in which the property is situate or by the deputy-sheriff of the district in which the office of the registrar of deeds or other officer charged with the registration of such property is situate, upon a writ as near as may be in accordance with Form 20 of the First Schedule.

(3) The mode of attachment of immovable property shall be by notice in writing by the deputy-sheriff served upon the owner thereof, and upon the registrar of deeds or other officer charged with the registration of such immovable property, and if the property is in the occupation of some person other than the owner, also upon such occupier. Any such notice as aforesaid shall be served by means of a registered letter, duly prepaid and posted addressed to the person intended to be served.

(4) After attachment, any sale in execution shall take place in the district in which the attached property is situate and be conducted by the deputy-sheriff of such district: Provided that the sheriff in the first instance and subject to the provisions of paragraph (*b*) of sub-rule (8) may on good cause shown authorize such sale to be con-

redes die verkoping elders en deur 'n ander adjunk-balju kan magtig. By ontvangs van 'n skriftelike opdrag van die vonnisskuldeiser om met die verkoping voort te gaan, moet die adjunk-balju vasstel en aanteken watter verbande of ander beswarings teen die eiendom geregistreer is, asook die name en addresse van die persone in wie se guns dit geregistreer is en die vonnisskuldeiser dienooreenkomstig in kennis stel.

(5) Onroerende goed wat onderworpe is aan 'n eis wat voorkeur geniet bo dié van die vonnisskuldeiser word nie ter uitwinning verkoop nie tensy—

(*a*) die vonnisskuldeiser 'n skriftelike kennisgewing van die voorgenome verkoping per geregistreerde pos aan die preferente skuldeiser laat stuur het indien sy adres bekend is en, as die eiendom belasbaar is, ook aan die betrokke plaaslike bestuur, waarby hulle opgeroep word om binne tien dae na 'n bepaalde datum 'n redelike reserweprys vas te stel of skriftelik toe te stem tot 'n verkoping sonder reserwe; en hy aan die adjunk-balju bewys gelewer het dat die preferente skuldeiser aldus vasgestel of toegestem het; of

(*b*) die adjunk-balju oortuig is dat dit onmoontlik is om enige preferente skuldeiser ingevolge hierdie reël van die voorgenome verkoping kennis te gee of so 'n skuldeiser, nadat aan hom kennis gegee is, nagelaat het om binne die gestelde tyd 'n reserweprys te bepaal of skriftelik toe te stem tot 'n verkoping sonder reserwe soos in paragraaf (*a*) bedoel.

(6) Die adjunk-balju kan by kennisgewing aan enigiemand vereis dat hy onverwyld alle dokumente in sy besit of onder sy beheer wat betrekking het op die skuldenaar se titel in die genoemde eiendom, aan hom lewer.

(7) (*a*) Die adjunk-balju bepaal 'n dag en plek vir die verkoping van die eiendom, maar behalwe met spesiale verlof van 'n landdros, nie minder as een maand na betekening van die kennisgewing van beslaglegging nie.

(*b*) Die vonnisskuldeiser moet in oorleg met die adjunk-balju 'n kennisgewing van verkoping opstel wat 'n kort beskrywing van die eiendom bevat, sy ligging en straatnommer (as daar een is), die tyd en plek van die verkoping en die feit dat die voorwaardes by die kantoor van die adjunk-balju ingesien kan word, en hy moet soveel eksemplare daarvan aan die adjunk-balju verskaf as wat hy verlang.

(*c*) Die adjunk-balju moet twee geskikte koerante wat sirkuleer in die distrik waar die eiendom geleë is (so moontlik een in elk van die amptelike tale), aandui en die vonnisskuldeiser opdrag gee om die kennisgewing een maal daarin en in die *Staatskoerant* te plaas, minstens veertien dae voor die vasgestelde datum van die verkoping, en om aan hom laatstens die dag voor die verkoping een eksemplaar van elk van die koerante en die nommer van die Staatskoerant waarin die kennisgewing verskyn het, te verskaf.

(*d*) Minstens tien dae voor die datum van die verkoping moet die adjunk-balju per geregistreerde pos 'n eksemplaar van die kennisgewing van verkoping in paragraaf (*b*) bedoel, stuur aan elke vonnisskuldeiser wat op die onroerende goed beslag laat lê het en aan elke verbandhouer wie se adres bekend is.

(*e*) Minstens tien dae voor die verkoping moet die adjunk-balju een eksemplaar van die kennisgewing op die kennisgewingsbord van die landdroshof van die distrik waarin die eiendom geleë is, aanbring, of as die eiendom geleë is in die distrik waarin die hof waar die lasbrief uitgereik is, geleë is, dan op die kennisgewingbord van daardie hof, en een eksemplaar op of so na moontlik aan die plek waar die verkoping werklik sal plaasvind.

(8) (*a*) Die vonnisskuldeiser moet minstens agt-en-twintig dae voor die datum van die verkoping die verkoopsvoorwaardes opstel so na moontlik bewoord soos Vorm 21 in die Eerste Bylae, dit aan die adjunk-balju vir goedkeuring voorlê en hom twee eksemplare daarvan gee, waarvan een in sy kantoor ter insae van belanghebbende partye moet lê.

(*b*) As 'n belanghebbende party die verkoopsvoorwaardes gewysig wil hê, moet hy minstens sewe dae voor die datum van die verkoping met vier-en-twintig uur kennisgewing aan die vonniskuldeiser en die verbanddocted elsewhere and by another deputy-sheriff. Upon receipt of written instructions from the execution creditor to proceed with such sale, the deputy-sheriff shall ascertain and record what bonds or other encumbrances are registered against the property together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered and shall thereupon notify the execution creditor accordingly.

(5) No immovable property which is subject to any claim preferent to that of the execution creditor shall be sold in execution unless—

(*a*) the execution creditor has caused notice, in writing, of the intended sale to be served by registered post upon the preferent creditor, if his address is known and, if the property is rateable, upon the local authority concerned calling upon them to stipulate within ten days of a date to be stated a reasonable reserve price or to agree in writing to a sale without reserve; and has provided proof to the deputy-sheriff that the preferent creditor has so stipulated or agreed, or

(*b*) the deputy-sheriff is satisfied that it is impossible to notify any preferent creditor, in terms of this rule, of the proposed sale, or such creditor, having been notified, has failed or neglected to stipulate a reserve price or to agree in writing to a sale without reserve as provided for in paragraph (*a*) of this sub-rule within the time stated in such notice.

(6) The deputy-sheriff may by notice served upon any person require him to deliver up to him forthwith all documents in his possession or control relating to the debtor's title to the said property.

(7) (*a*) The deputy-sheriff shall appoint a day and place for the sale of such property, such day being, except by special leave of a magistrate, not less than one month after service of the notice of attachment.

(*b*) The execution creditor shall, after consultation with the deputy-sheriff, prepare a notice of sale containing a short description of the property, its situation and street number, if any, the time and place for the holding of the sale and the fact that the conditions may be inspected at the office of the deputy-sheriff, and he shall furnish the deputy-sheriff with as many copies of the notice as the latter may require.

(*c*) The deputy-sheriff shall indicate two suitable newspapers (whenever possible one in each of the official languages) circulating in the district in which the property is situated and require the execution creditor to publish the said notice once in each of the said newspapers and in the *Government Gazette* not later than fourteen days before the date appointed for the sale and to furnish him, not later than the day prior to the date of the sale, with one copy of each of the said newspapers and with the number of the *Gazette* in which the notice appeared.

(*d*) Not less than ten days prior to the date of the sale, the deputy-sheriff shall forward by registered post a copy of the notice of sale referred to in paragraph (*b*) above to every judgment creditor who had caused the said immovable property to be attached and to every mortgagee thereof whose address is known.

(*e*) Not less than ten days prior to the date of the sale, the deputy-sheriff shall affix one copy of the notice on the notice board of the magistrate's court of the district in which the property is situate, or if the property be situate in the district in which the court out of which the writ is issued is situate, then on the notice board of such court, and one copy at or as near as may be to the place where the said sale is actually to take place.

(8) (*a*) The conditions of sale shall, not less than twenty-eight days prior to the date of the sale, be prepared by the execution creditor as near as may be in accordance with Form 21 of the First Schedule, and the said conditions shall be submitted to the deputy-sheriff to settle them. The execution creditor shall thereafter supply the deputy-sheriff with two copies of the conditions of sale, one of which shall lie for inspection by interested parties at his office.

(*b*) Any interested party may, not less than seven days prior to the date of the sale, upon twenty-four hours' notice to the execution creditor and the bondholders

houers by die landdros van die distrik waarin die eiendom verkoop sal word, daarom aansoek doen en die landdros kan daarop na goeddunke 'n bevel gee, ook betreffende koste.

(9) Die vonnisskuldeiser kan 'n prokureur aanstel om die transport van die uitgewonne eiendom te doen.

(10) Onroerende goed waarop vir uitwinning beslag gelê is, moet deur die adjunk-balju by openbare veiling verkoop word.

(11) As die koper versuim om enige van sy verpligtinge ingevolge die verkoopsvoorwaardes na te kom, kan die koop summier deur 'n regter op grond van 'n verslag van die adjunk-balju en na behoorlike kennisgewing aan die koper, gekanselleer word en die eiendom kan weer te koop aangebied word. Die koper is aanspreeklik vir verliese gely vanweë sy versuim en dit kan op aansoek van 'n benadeelde skuldeiser wie se naam op die adjunk-balju se distribusierekening verskyn, van hom verhaal word kragtens vonnis van die regter wat summier op grond van 'n skriftelike verslag van die adjunk-balju gegee word nadat die koper skriftelik in kennis gestel is dat so 'n verslag vir daardie doel voor die regter gelê sal word. As die koper reeds in besit van die eiendom is, kan die adjunk-balju met sewe dae kennisgewing by 'n regter 'n uitsettingsbevel kry teen hom of teen iemand wat voorgee deur hom te besit.

(12) Behoudens subreël (5) geskied die verkoping sonder reserwe en op die voorwaardes ingevolge subreël (8) bepaal, aan die hoogste bieder.

(13) Die adjunk-balju gee transport aan die koper teen betaling van die koopsom en vervulling van die verkoopsvoorwaardes. Hy kan vir daardie doel al die nodige doen en enigiets aldus deur hom gedaan is ewe geldig asof hy die eienaar was.

(14) (*a*) Die adjunk-balju moet onverwyld alle gelde wat hy ten opsigte van die koopprys ontvang, in die depositorekening van die landdros van die distrik stort en dit nie aan die skuldeiser oorbetaal voordat transport gegee is nie.

(*b*) Die adjunk-balju moet so gou moontlik na die verkoping 'n distribusieplan van die opbrengs opstel in rangorde van voorkeur soos hierna bepaal, en 'n afskrif daarvan aan die griffier stuur. Dan moet hy onmiddellik per aangetekende pos kennis gee aan alle partye wat lasbriewe ingedien het en aan die vonnisskuldeiser dat die plan veertien dae vanaf 'n bepaalde datum in sy kantoor en in die griffierskantoor ter insae sal lê en tensy die partye skriftelik hul goedkeuring van die plan te kenne gee, moet hy aldus ter insae lê.

(*c*) Na aftrekking van uitwinningskoste word die opbrengs in die volgende rangorde van voorkeur verdeel:

(i) die eise van preferente skuldeisers in die volgorde van hul geregtelike voorkeur; en daarna

(ii) die eise van ander skuldeisers wie se lasbriewe by die adjunk-balju ingedien is, in die rangorde van voorkeur soos vasgelê in artikels *ses-en-negentig* en *nege-en-negentig* tot en met *eenhonderd-en-drie* van die Insolvensiewet, 1936 (Wet No. 24 van 1936), soos gewysig.

(*d*) 'n Belanghebbende persoon wat teen so 'n plan beswaar het, moet binne vier dae na verstryking van die tyd in paragraaf (*b*) van hierdie subreël vasgestel, skriftelik aan die adjunk-balju en alle ander belanghebbende persone die besonderhede van sy beswaar meedeel en dit met tien dae kennisgewing aan hulle, voor 'n regter vir hersiening bring.

(*e*) Die regter moet die geskilpunt aanhoor en beslis en hy kan die distribusieplan wysig of bekragtig of na goeddunke 'n bevel gee, ook betreffende koste.

(*f*) Indien—

(i) geen beswaar teen so 'n plan ingedien word nie; of

(ii) die belanghebbende partye te kenne gee dat hulle daarmee saamstem; of

(iii) die plan by hersiening bekragtig of gewysig word,

moet die landdros na voorlegging van 'n sertifikaat van

apply to the magistrate of the district in which the property is to be sold for any modification of the conditions of sale and the magistrate may make such order thereon, including an order as to costs, as to him may seem meet.

(9) The execution creditor may appoint an attorney to attend to the transfer of the property when sold in execution.

(10) Immovable property attached in execution shall be sold by the deputy-sheriff by public auction.

(11) If the purchaser fails to carry out any of his obligations under the conditions of sale, the sale may be cancelled by a judge summarily on the report of the deputy-sheriff after due notice to the purchaser, and the property may again be put up for sale; and the purchaser shall be responsible for any loss sustained by reason of his default, which loss may, on the application of any aggrieved creditor whose name appears on the deputy-sheriff's distribution account, be recovered from him under judgment of the judge pronounced summarily on a written report by the deputy-sheriff, after such purchaser shall have received notice in writing that such report will be laid before the judge for such purpose; and, if he is already in possession of the property, the deputy-sheriff may, on seven days' notice, apply to a judge for an order ejecting him or any person claiming to hold under him therefrom.

(12) Subject to the provisions of sub-rule (5), the sale shall be without reserve and upon the conditions stipulated under sub-rule (8), and the property shall be sold to the highest bidder.

(13) The deputy-sheriff shall give transfer to the purchaser against payment of the purchase money and upon performance of the conditions of sale and may for that purpose do anything necessary to effect registration of transfer, and anything so done by him shall be as valid and effectual as if he were the owner of the property.

(14) (*a*) The deputy-sheriff shall not pay out to the creditor the purchase money until transfer has been given to the purchaser, but upon receipt thereof he shall forthwith pay into the deposit account of the magistrate of the district all moneys received in respect of the purchase price.

(*b*) The deputy-sheriff shall as soon as possible after the sale prepare in order of preference, as hereinafter provided, a plan of distribution of the proceeds and shall forward a copy of such plan to the registrar of the court. Immediately thereafter the deputy-sheriff shall give notice by registered post to all parties who have lodged writs and to the execution debtor that the plan will lie for inspection for fourteen days from a date mentioned at his office and at the office of the registrar, and unless such parties shall signify, in writing, their agreement to the plan such plan shall so lie for inspection.

(*c*) After deduction from the proceeds of the costs and charges of execution, the following shall be the order of preference:

(i) the claims of preferent creditors ranking in priority in their legal order of preference; and thereafter

(ii) the claims of other creditors whose writs have been lodged with the deputy-sheriff in the order of preference appearing from sections *ninety-six* and *ninety-nine* to *one hundred and three* (inclusive) of the Insolvency Act, 1936 (Act No. 24 of 1936) as amended.

(*d*) Any interested person objecting to such plan shall, within four days of the expiry of the period referred to in paragraph (*b*) of this sub-rule give notice in writing to the deputy-sheriff and all other interested persons of the particulars of his objection and shall bring such objection before a judge for review on ten days' notice to the deputy-sheriff and the said persons.

(*e*) The judge on review shall hear and determine the matter in dispute and may amend or confirm the plan of distribution or may make such order including an order as to costs as to him seems meet.

(*f*) If—

(i) no objection be lodged to such plan, or

(ii) the interested parties signify their concurrence therein, or

(iii) the plan is confirmed or amended on review,

the magistrate shall, on production of a certificate from

die aktebesorger dat transport aan die koper gegee is, en op versoek van die adjunk-balju, uitbetaal ooreenkomstig die distribusieplan. As die adres van 'n geregtigde nie bekend is nie, word die bedrag aan hom verskuldig gestort in die Voogdyfonds, tot stand gebring deur enige wet op die bereddering van boedels.

REËL 47.

SEKURITEIT VIR KOSTE.

(1) 'n Party wat sekuriteit vir koste van iemand mag en wil eis, moet so gou moontlik na die aanvang van 'n geding 'n kennisgewing aflewer wat die gronde daarvoor en die bedrag wat geëis word, vermeld.

(2) As slegs die bedrag betwis word, bepaal die griffier die bedrag, en sy beslissing is finaal.

(3) As die party van wie sekuriteit geëis word, betwis dat hy daarvoor aanspreeklik is, of versuim of weier om sekuriteit vir die gevraagde bedrag of die bedrag deur die griffier bepaal te gee binne tien dae na aanvraag of die griffier se beslissing, kan die ander party by kennisgewing 'n bevel by die hof aanvra dat sodanige sekuriteit gegee moet word en dat die verrigtinge opgeskort word totdat aan die bevel voldoen is.

(4) As sekuriteit nie binne 'n redelike tyd gegee word nie, kan die hof die ingestelde geding afwys of enige pleitstukke skrap wat deur die party wat in gebreke bly, ingedien is, of na goeddunke 'n ander bevel gee.

(5) Sekuriteit vir koste moet, tensy die hof anders bepaal of die partye anders ooreenkom, gegee word in die vorm, vir die bedrag en op die wyse deur die griffier voorgeskryf.

(6) Die griffier kan op aansoek van die party in wie se guns sekuriteit gegee moet word en by kennisgewing aan belanghebbende partye, die bedrag daarvan verhoog as hy oortuig is dat die oorspronklike bedrag nie meer voldoende is nie, en sy beslissing is finaal.

REËL 48.

HERSIENING VAN TAKSASIE.

(1) 'n Party wat ontevrede is met die beslissing van die takseermeester ten aansien van 'n item of deel van 'n item waarteen beswaar gemaak is, kan binne veertien dae na die *allocatur* eis dat die takseermeester 'n gestelde saak opstel vir beslissing deur 'n regter, waarin hy elke item of deel daarvan tesame met die gronde van beswaar wat by die taksasie geopper is, uiteensit, sowel as desbetreffende feitebevindinge van die takseermeester: Met dien verstande dat behalwe met toestemming van die takseermeester geen gestelde saak opgestel word waar die bedrag of die totaal van die bedrae, hetsy weierings of toelatings, waaroor die beswaarmaker ontevrede voel, minder as R10 is.

(2) Die takseermeester moet 'n afskrif van die gestelde saak aan elk van die partye verskaf en hulle mag dan binne tien dae skriftelike betoog daaroor voorlê, insluitende gronde van beswaar wat nie by die taksasie geopper is nie, ten opsigte van 'n item of deel van 'n item waarteen voor die takseermeester beswaar gemaak is. Daarna stel die takseermeester sy verslag op en lê dit met die gestelde saak en die betoog van die partye voor 'n regter, wat op grond daarvan kan beslis, of eers verdere inligting van die takseermeester kan vorder en ook desverkiesend eers die partye of hul advokate of prokureurs in sy kamers kan aanhoor, of anders die saak vir beslissing na die hof kan verwys. Die takseermeester moet 'n afskrif van sy verslag en van enige verdere inligting wat deur hom aan die regter verskaf is, aan die partye gee.

(3) Die regter of hof kan na goeddunke 'n kostebevel in die gestelde saak gee, insluitende 'n bevel dat die onsuksesvolle party aan die teenparty 'n deur die regter of hof vasgestelde bedrag vir koste betaal.

the conveyancer that transfer has been given to the purchaser and on the request of the deputy-sheriff, pay out in accordance with the plan of distribution. If the address of a payee is not known the amount due to him shall be paid into the Guardian's Fund established under any law relating to the Administration of Estates.

RULE 47.

SECURITY FOR COSTS.

(1) A party entitled and desiring to demand security for costs from another shall, as soon as practicable after the commencement of proceedings, deliver a notice setting forth the grounds upon which such security is claimed, and the amount demanded.

(2) If the amount of security only is contested the registrar shall determine the amount to be given and his decision shall be final.

(3) If the party from whom security is demanded contests his liability to give security or if he fails or refuses to furnish security in the amount demanded or the amount fixed by the registrar within ten days of the demand or the registrar's decision, the other party may apply to court on notice for an order that such security be given and that the proceedings be stayed until such order is complied with.

(4) The court may, if security be not given within a reasonable time, dismiss any proceedings instituted or strike out any pleadings filed by the party in default, or make such other order as to it may seem meet.

(5) Any security for costs shall, unless the court otherwise directs, or the parties otherwise agree, be given in the form, amount and manner directed by the registrar.

(6) The registrar may, upon the application of the party in whose favour security is to be provided and on notice to interested parties, increase the amount thereof if he is satisfied that the amount originally furnished is no longer sufficient; and his decision shall be final.

RULE 48.

REVIEW OF TAXATION.

(1) Any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to may within fourteen days of the allocatur require the taxing master to state a case for the decision of a judge, which case shall set out each item or part of an item together with the grounds of objection advanced at the taxation and shall embody any relevant findings of facts by the taxing master: Provided that, save with the consent of the taxing master, no case shall be stated where the amount, or the total of the amounts, which the taxing master has disallowed or allowed, as the case may be, and which the party dissatisfied seeks to have allowed or disallowed respectively, is less than R10.

(2) The taxing master shall supply a copy of the case to each of the parties, who may within ten days of the receipt of the copy submit contentions in writing thereon, including grounds of objection not advanced at the taxation, in respect of any item or part of an item which was objected to before the taxing master. Thereafter the taxing master shall frame his report, and shall lay the case together with the contentions of the parties and his report before a judge, who may then decide the matter upon the case and contentions so submitted, together with any further information which he may require from the taxing master, or may decide it after hearing, if he deems fit, the parties or their advocates or attorneys in his chambers; or he may refer the case for decision to the court. A copy of the report of the taxing master, and of any further information supplied by him to the judge, shall be supplied by him to the parties.

(3) The judge or court so deciding may make such order as to the costs of the case as he or it may deem fit, including an order that the unsuccessful party shall pay to the opposing party a sum fixed by the judge or court as and for costs.

REËL 49.

APPÈLLE NA DIE VOLLE HOF.

(1) In 'n saak waarin appèl teen 'n bevel van 'n enkele regter van 'n afdeling na die volle hof ingevolge artikel *twintig* van die Wet ontvanklik is, moet die party wat mag en wil appelleer, binne een-en-twintig dae na die betrokke bevel 'n kennisgewing van appèl aflewer, maar die hof kan by aanvoering van goeie redes die tyd verleng.

(2) In 'n saak waarin verlof van die hof *a quo* vereis word vir appèl na die volle hof, moet die kennisgewing van appèl binne agt dae na die datum waarop verlof toegestaan is of binne een-en-twintig dae na die datum van die betrokke bevel, wat ookal die laatste is, afgelewer word.

(3) Waar verlof om na die volle hof of na die Appèlafdeling te appelleer nodig is en dit nie aangevra is ten tyde van die bevel nie, word aansoek om verlof gedoen deur binne veertien dae na die bevel waarteen appèl beoog word, 'n kennisgewing af te lewer dat die applikant verlof vra om te appelleer en waarin hy die gronde daarvoor uiteensit. Die aansoek word ter rolle geplaas op 'n datum met die griffier gereël.

(4) Elke kennisgewing van appèl na die volle hof moet vermeld of daar teen die hele of teen slegs 'n gedeelte van die bevel geappelleer word en, indien slegs teen 'n gedeelte, moet dit aangegee word sowel as die feitebevindings of regsbeslissings waarteen geappelleer word en die gronde daarvoor.

(5) 'n Teenappèl kan aangeteken word binne agt dae na die aantekening van 'n appèl. Die bepalings van hierdie reëls met betrekking tot appèlle geld *mutatis mutandis* vir teenappèlle.

(6) (*a*) Binne ses weke na aflewering van 'n kennisgewing van appèl, moet die appellant skriftelik by die griffier 'n datum vir die aanhoring aanvra en terselfdertyd aan hom die naam en adres van elke ander party tot die appèl verskaf. As hy versuim om dit te doen, kan 'n respondent binne sewe dae na verstryking van die ses weke net soos in die geval van die appellant aansoek doen om die terrolleplasing van die appèl of 'n teenappèl wat hy mog aangeteken het. As geen van die partye so 'n aansoek doen nie, word die appèl en teenappèl geag te verval het: Met dien verstande dat 'n respondent die reg het om 'n bevel vir sy verkwiste koste te vra.

(*b*) Die hof kan op aansoek van die appellant of teenappellant en by aanvoering van goeie redes 'n appèl of teenappèl wat verval het, terugplaas.

(7) Wanneer 'n datum vir aanhoring van die appèl of teenappèl aldus aangevra word, moet die griffier dit ter rolle plaas vir 'n datum deur hom gekies en minstens een-en-twintig dae skriftelike kennis aan die partye daarvan gee.

(8) Minstens veertien dae voor die datum vir aanhoring van die appèl moet die appellant aan die respondent twee eksemplare van die appèl-oorkonde verskaf en by die griffier drie indien en voorsien van 'n volledige inhoudsopgawe en kopieë van alle dokumente en bewysstukke in die saak, behalwe formele en ontersaaklike stukke, met dien verstande dat alle weglatings in die inhoudsopgawe vermeld word. Afskrifte moet duidelik met dubbele spasiëring op foliopapier getik, gepagineer en gebind word en elke tiende reël op elke bladsy moet genommer word.

(9) Met toestemming van die partye kan bewysstukke en aanhangsels wat nie op die geskilpunt in die appèl betrekking het nie en ontersaaklike dele van lang dokumente weggelaat word. Die toestemming, waarin uiteengesit word water dokumente of dele van dokumente weggelaat is, word deur die partye onderteken en by die oorkonde gevoeg: Met dien verstande dat die hof wat die appèl aanhoor, kan beveel dat die hele oorkonde voor hom gelê word.

(10) Wanneer die beslissing van 'n appèl uitsluitend van 'n regspunt afhang, kan die partye toestem om dit aan die hof in die vorm van 'n gestelde saak voor te lê, in welke geval net dié gedeeltes van die oorkonde wat nodig mag

RULE 49.

APPEALS TO THE FULL COURT.

(1) In any case in which an appeal lies from any order made by a single judge of any division to the full court in terms of section *twenty* of the Act, any party entitled and intending to appeal shall deliver notice of appeal within twenty-one days after the date of the order appealed against, but the court may upon good cause shown extend such period.

(2) In any such case where leave of the court *a quo* is required to enable an appeal to be made to the full court, notice of appeal shall be delivered within eight days of the date upon which leave is granted, or within twenty-one days after the date of the judgment appealed against, whichever is the later.

(3) Where leave to appeal to the full court or to the Appellate Division is required, application for leave shall be made by the delivery, within fourteen days after the date of the judgment or order sought to be appealed against, of a notice stating that the applicant desires leave to appeal and setting forth the grounds upon which such leave is sought. The application shall be set down on a date to be arranged with the registrar. This sub-rule shall not apply to an application for such leave made at the time of the giving of the judgment.

(4) Every notice of appeal to the full court shall state whether the whole or part only of the order is appealed against and if part only is appealed against it shall state which part; and it shall specify the findings of fact or rulings of law appealed against and the grounds upon which the appeal is founded.

(5) A cross-appeal may be noted within eight days of the noting of any appeal. The provisions of these rules with regard to appeals shall apply *mutatis mutandis* to cross-appeals.

(6) (*a*) Within six weeks after delivery of a notice of appeal, an appellant shall make written application to the registrar for a date for the hearing of such appeal and at the same time furnish him with the name and address of every other party to the appeal, and, if the appellant fails to do so, a respondent may within seven days after the expiry of the said period of six weeks, and subject to the same conditions as in the case of the appellant, apply for the set down of such appeal or any cross-appeal which he may have noted. If no such application is made by either party the appeal and cross-appeal shall be deemed to have lapsed, provided that a respondent shall have the right to apply for an order for his wasted costs.

(b) The court may, on the application of the appellant or cross-appellant, and on good cause shown, reinstate an appeal or cross-appeal which has lapsed.

(7) Upon such application for a date for the hearing of the appeal or cross-appeal, the registrar shall set the appeal or cross-appeal down for hearing on a date selected by him and shall give the parties at least twenty-one days' notice in writing of the date so assigned.

(8) Not later than fourteen days prior to the date assigned for the hearing of the appeal, the party appealing shall serve upon the respondent two copies and file with the registrar three copies of the record on appeal which shall contain a complete index and copies of all papers, documents and exhibits in the case, except formal and immaterial documents which shall be omitted provided that such omission is referred to in the said index. Such copies shall be clearly typed on foolscap paper in double spacing, paginated and bound and in addition every tenth line on every page shall be numbered.

(9) By consent of the parties to the appeal, exhibits and annexures having no bearing on the point at issue in the appeal and immaterial portions of lengthy documents may be omitted. Such consent setting out what documents or parts of documents have been omitted shall be signed by the parties and shall be included in the record of appeal, provided that the court hearing the appeal may require the whole of the record of the case to be placed before it.

(10) When the decision of an appeal turns exclusively on a point of law the parties may agree to submit such appeal to the court in the form of a special case, in which event copies shall be made of only such portions of the record as may be necessary for a proper decision of the

wees vir behoorlike beslissing van die appèl, voorgelê word, met dien verstande dat die hof wat die appèl aanhoor, kan beveel dat die hele oorkonde voorgelê word.

(11) (*a*) Waar appèl aangeteken is of aansoek gedoen is om herroeping, regstelling, hersiening of wysiging van 'n bevel van 'n hoër hof, word die werking en tenuitvoerlegging daarvan opgeskort hangende die beslising van die appêl of aansoek, tensy die hof wat die bevel gegee het, op aansoek van 'n party anders bepaal.

(b) As die bevel in paragraaf (*a*) bedoel ten uitvoer gelê word en op las van die hof, moet die party wat die tenuitvoerlegging bewerkstellig, eers sekuriteit gee soos deur die partye ooreengekom of deur die griffier bepaal, vir die terugbetaling van 'n bedrag deur sodanige tenuitvoerlegging verkry, tensy die hof anders gelas. Die griffier se beslising is finaal.

(12) Tensy die respondent van sy reg tot sekuriteit afstand doen, moet die appellant, voor indiening van die appèl-oorkondes by die griffier, voldoende sekuriteit gee vir die respondent se koste van appèl. As die partye nie oor die bedrag kan ooreenkom nie, bepaal die griffier dit, en sy beslissing is finaal.

(13) Die Regering van die Republiek of 'n provinsiale administrasie of die administrasie van die gebied Suidwes-Afrika hoef nie sekuriteit te gee nie.

(14) Minstens ses dae voor die aanhoring van die appèl moet die appellant 'n bondige opgawe aflewer van die hoofpunte (sonder om daarop uit te brei) wat hy op appèl wil aanvoer. Minstens vier dae voor die aanhoring moet die respondent 'n dergelike opgawe aflewer. Drie addisionele eksemplare word in elke geval by die griffier ingedien.

REËL 50.

Siviele Appèlle van Landdroshowe.

(1) 'n Appèl by die hof teen die beslissing van 'n landdros in 'n siviele saak moet binne ses weke na die aantekening daarvan voortgesit word, anders word dit geag te verval het.

(2) Die voortsetting van 'n appèl behels *ipso facto* die voortsetting van 'n teenappèl wat behoorlik aangeteken is.

(3) As 'n teenappèl aangeteken is en die appèl verval, verval die teenappèl ook, tensy 'n datum vir die aanhoring daarvan binne drie weke na die verval van die appèl by die griffier aangevra word.

(4) Die appellant kan binne vier weke na aantekening van die appèl skriftelik by die griffier en met kennisgewing aan alle ander partye 'n datum van aanhoring aanvra. As hy dit nie doen nie, kan die respondent te eniger tyd voor verstryking van die voormelde tydperk van ses weke op dieselfde wyse 'n datum van aanhoring aanvra. Dan word die appèl of teenappèl geag behoorlik voortgesit te wees.

(5) By ontvangs van so 'n aansoek moet die griffier onverwyld 'n datum van aanhoring toeken, minstens ses weke later, tensy alle partye skriftelik tot 'n korter tyd toestem. Hy moet die applikant onverwyld skriftelik kennis van die datum gee, waarna die applikant dadelik 'n kennisgewing van terrolleplasing aflewer en die klerk van die hof skriftelik daarvan in kennis stel.

(6) Terrolleplasing van 'n hangende appèl is *ipso facto* terrolleplasing van 'n teenappèl en andersom.

(7) (*a*) By ontvangs van die kennisgewing van die datum van aanhoring van 'n appèl, moet die party wat dit aangevra het, twee afskrifte van die oorkonde maak en hulle minstens veertien dae voor die genoemde datum by die griffier indien: Met dien verstande dat as so 'n appèl deur meer as twee regters verhoor staan te word, die griffier die nodige addisionele afskrifte kan vorder.

(*b*) Die afskrifte moet duidelik met dubbele spasiëring op foliopapier getik word en moet gepagineer wees. Ook moet elke tiende reël op elke bladsy genommer word.

appeal, provided that the court hearing the appeal may require that the whole of the record of the case be placed before it.

(11) (*a*) Where an appeal has been noted or an application to rescind, correct, review, or vary an order of a superior court has been made, the operation and execution of the order in question shall be suspended pending the decision of such appeal or application, unless the court which gave such order otherwise directs on the application of any party.

(*b*) If the order referred to in paragraph (*a*) is carried into execution in terms of any direction of the court, the party causing such execution shall, unless the court otherwise orders, before such execution, enter into such security as the parties may agree or the registrar may decide for the restitution of any sum obtained upon such execution. The registrar's decision shall be final.

(12) Unless the respondent waives his right to security, the appellant shall, before lodging with the registrar copies of the record on appeal, enter into good and sufficient security for the respondent's costs of appeal. In the case of failure to agree on the amount of security the registrar shall fix the amount, and his decision shall be final.

(13) No security shall be required from the Government of the Republic or any Provincial Administration or the Administration of the territory of South West Africa.

(14) Not later than six days before the hearing of the appeal the appellant shall deliver a concise and succinct statement of the main points (without elaboration thereon) which he intends to argue on appeal. Not later than four days before such hearing the respondent shall deliver a like statement of the main points he intends to argue. Three additional copies shall in each case be filed with the registrar.

RULE 50.

Civil Appeals from Magistrates' Courts.

(1) An appeal to the court against the decision of a magistrate in a civil matter shall be prosecuted within six weeks after the noting of such appeal, and unless so prosecuted it shall be deemed to have lapsed.

(2) The prosecution of an appeal shall *ipso facto* operate as the prosecution of any cross-appeal which has been duly noted.

(3) If a cross-appeal has been noted, and the appeal lapses, the cross-appeal shall also lapse, unless application for a date of hearing for such cross-appeal is made to the registrar within three weeks of the date of the lapse of such appeal.

(4) The appellant may, within four weeks after noting the appeal, apply in writing to the registrar on notice to all other parties for a date of hearing. If he fails to do so, the respondent may at any time before the expiry of the aforesaid period of six weeks apply for a date of hearing in like manner. Upon such application, an appeal or cross-appeal shall be deemed to have been duly prosecuted.

(5) Upon receipt of such application for a date of hearing for an appeal or a cross-appeal, the registrar shall forthwith assign a date of hearing thereto, such day to be not less than six weeks from the date of such receipt (unless all parties thereto consent in writing to a shorter period). The registrar shall forthwith give the applicant for such date written notice of the date so assigned by him, whereupon the applicant shall, without delay, deliver a notice of set down and notify the clerk of the court in writing accordingly.

(6) A notice of set down of a pending appeal shall *ipso facto* operate as a set down of any cross-appeal and *vice versa*.

(7) (*a*) Upon receipt of such notice of the date assigned for the hearing of an appeal, the party who applied for the same shall prepare and lodge with the registrar not less than fourteen days prior to the said date two copies of the record, provided that if such appeal is to be heard by more than two judges, the registrar may call for such additional copies of the record as are required.

(*b*) Such copies shall be clearly typed on foolscap paper in double spacing, and the pages thereof shall be consecutively numbered. In addition every tenth line on each page shall be numbered.

(*c*) Die oorkonde moet 'n juiste en volledige afskrif bevat van die pleitstukke en die getuienis, en van alle ander dokumente wat nodig is vir die beregting van die appèl, sowel as 'n inhoudsopgawe daarvan. Die eksemplare wat by die griffier ingedien word, moet as juis gesertifiseer wees deur die prokureur of party wat hulle indien.

(*d*) Die party wat die afskrifte van die oorkonde indien, moet ook aan elk van die ander partye twee eksemplare daarvan verskaf, aldus gesertifiseer.

(8) (*a*) Behalwe vir sover hulle die meriete van 'n appèl raak, word getuiedagvaardings, kennisgewings van verhoor, toestemmings tot uitstel, opgawes van dokumente, kennisgewings om bloot te lê of insae toe te laat en ander dokumente van formele aard uit die oorkonde weggelaat, maar 'n lys daarvan word bygevoeg.

(*b*) Met toestemming van die partye kan bewysstukke wat geen betrekking op 'n geskilpunt in die appèl het nie en ontersaaklike gedeeltes van lang dokumente ook weggelaat word, in welke geval 'n deur die partye ondertekende toestemming waarin die weglatings vermeld word, by die griffier ingedien word saam met die oorkonde: Met dien verstande dat die hof wat die appèl aanhoor, altyd die oorspronklike oorkonde kan raadpleeg en kennis kan neem van alles wat daarin voorkom.

REËL 51.

Strafappèlle van Landdroshowe.

(1) 'n Appèl van 'n veroordeelde persoon teen 'n skuldigbevinding, vonnis of bevel van 'n landdroshof in 'n strafsaak waarin die Staat die aanklaer was, of 'n appèl van 'n prokureur-generaal of ander aanklaer teen 'n afwysing van 'n dagvaarding of aanklag of 'n ander beslissing van 'n landdroshof in so 'n saak, word deur die prokureur-generaal of die griffier by kennisgewing aan die appellant of sy prokureur ter rolle geplaas vir aanhoring op een van die dae in die termyn of die vakansie wat die regterpresident vir sulke sake bepaal het.

(2) 'n Appèl teen 'n skuldigbevinding, vonnis of bevel van 'n landdroshof in enige ander strafsaak word deur die griffier by kennisgewing aan alle partye vir aanhoring ter rolle geplaas soos van tyd tot tyd deur die regterpresident voorgeskryf.

(3) Die finale verantwoordelikheid om te verseker dat alle afskrifte van die appèl-oorkonde in alle opsigte behoorlik voor die hof is, rus op die appellant of sy prokureur.

REËL 52.

Strafappèlle na die Appèlafdeling.

(1) Wanneer—

(*a*) aan 'n beskuldigde ingevolge artikel *driehonderd drie-en-sestig* van die Strafproseswet, 1955 (Wet No. 56 van 1955) verlof gegee is om te appelleer; of

(*b*) 'n beskuldigde ingevolge artikel *driehonderd vyf-en-sestig* van die Wet appèl aangeteken het; of

(*c*) 'n hof ingevolge artikel *driehonderd ses-en-sestig* van die Wet 'n regsvraag wat by die verhoor van 'n beskuldigde ontstaan, voorbehou het—

(i) moet die griffier van die hof wat die beskuldigde verhoor het, by die griffier van die Appèlafdeling agt afskrifte van die oorkonde (waarvan een deur die eersgenoemde griffier gesertifiseer is) van die verrigtinge in die verhoorhof indien en soveel eksemplare aan die Staat verskaf as wat nodig geag mag word: Met dien verstande dat in plaas van die hele oorkonde, afskrifte (waarvan een deur die eersgenoemde griffier gesertifiseer is) van sodanige gedeeltes daarvan as waarop die beskuldigde en die Staat kan ooreenkom as voldoende, deurgestuur mag word, in welke geval die Appèlafdeling nietemin afskrifte van die hele oorkonde kan aanvra.

(*c*) The record shall contain a correct and complete copy of the pleadings, evidence and all other documents necessary for the hearing of the appeal, together with an index thereof, and the copies lodged with the registrar shall be certified as correct by the attorney or party lodging the same.

(*d*) The party lodging the copies of the record shall also furnish each of the other parties with two copies thereof, certified as aforesaid.

(8) (*a*) Save insofar as these affect the merits of an appeal, subpoenas, notices of trial, consents to postponements, schedules of documents, notices to produce or inspect, and other documents of a formal nature shall be omitted from the copies of the record prepared in terms of the aforegoing sub-rule. A list thereof shall be included in the record.

(*b*) By consent of parties, exhibits having no bearing on a point at issue in an appeal and immaterial portions of lengthy documents may likewise be omitted from such copies—in which event a written consent, setting forth what documents, or portions thereof, as the case may be, have been omitted, and signed by or on behalf of the parties shall be filed with the registrar when such copies are lodged, provided that the court hearing the appeal may at all times refer to the original record and take cognisance of all matters appearing therein.

RULE 51.

Criminal Appeals from Magistrates' Courts.

(1) An appeal by a convicted person against a conviction, sentence or order made by a magistrate's court in a criminal matter in which the prosecution has been at the public instance, or an appeal by an attorney-general or other prosecutor against a dismissal of a summons or charge or other decision of a magistrate's court in such a matter, shall be set down by the attorney-general or registrar on notice to the appellant or his attorney for hearing on such day in term time or vacation as the Julge-President may appoint for such matters.

(2) An appeal against a conviction, sentence or order made by a magistrate's court in any other criminal matter shall be set down for hearing by the registrar on notice to all parties in accordance with such directions as he may receive from the Judge-President from time to time.

(3) The ultimate responsibility for ensuring that all copies of the record on appeal are in all respects properly before the court shall rest on the appellant or his attorney.

RULE 52.

Criminal Appeals to the Appellate Division.

(1) Whenever—

(*a*) an accused has been granted leave to appeal in terms of section *three hundred and sixty-three* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955); or

(*b*) an accused has noted an appeal in terms of section *three hundred and sixty-five* of the said Act; or

(*c*) a court has reserved a question of law arising on the trial of an accused in terms of section *three hundred and sixty-six* of the said Act—

(i) the registrar of the court which tried the accused shall lodge with the registrar of the Appellate Division eight copies of the record (one of which shall be certified by the first-named registrar) of the proceedings in the trial court and deliver such number of copies to the State as may be considered necessary: Provided that instead of the whole record, with the consent of the accused and the State, copies (one of which shall be certified by the first-named registrar) may be transmitted of such parts of the record as may be agreed upon by the accused and the State to be sufficient in which event the Appellate Division may nevertheless call for copies of the whole record.

(ii) Die beskuldigde mag teen betaling van die voorgeskrewe gelde van die griffier van die hof wat hom verhoor het, soveel eksemplare van die oorkonde of gedeeltes daarvan (na gelang van die geval), verkry as wat hy nodig het: Met dien verstande dat as hy te arm is om die voorgeskrewe gelde te betaal, hy die eksemplare kosteloos kan kry.

(2) Die griffier van die hof wat die beskuldigde verhoor het, moet beslis of hy te arm is om die voorgeskrewe gelde te betaal, en sy beslissing is finaal.

(3) Die woorde „die griffier van die hof wat die beskuldigde verhoor het" beteken, waar die verhoorhof 'n Rondgaande Plaaslike Afdeling was, die griffier van die afdeling van die Hooggeregshof in wie se bewaring die stukke van die betrokke Rondgaande Plaaslike Afdeling gegee is.

(4) Wanneer verlof om te appelleer in 'n strafsaak deur 'n afdeling van die Hoggeregshof gegee word, moet die griffier van daardie afdeling onverwyld die griffier van die Appèlafdeling daarvan in kennis stel.

REËL 53.

HERSIENINGS.

(1) Tensy dit by wet anders bepaal is, moet alle hersienings van beslissings of verrigtinge van 'n laer hof en van enige tribunaal, raad of beampte wat regterlike, kwasi-regterlike of administratiewe funksies verrig, geskied by wyse van kennisgewing van mosie wat deur die party wat die hersiening verlang, afgelewer en gerig word aan die landdros, voorsittende beampte of voorsitter van die hof, tribunaal of raad of aan die beampte, na gelang van die geval, en aan alle ander partye wat geraak word. Daarin word die betrokke persoon opgeroep om—

(*a*) redes aan te voer waarom die beslissing of verrigtinge nie hersien en reggestel of ter syde gestel behoort te word nie; en

(*b*) binne veertien dae na ontvangs van die kennisgewing van mosie aan die griffier die oorkonde van die verrigtinge te stuur tesame met sodanige redes as wat hy regtens moet of gevra kan word om te verstrek, en om die applikant in kennis te stel dat hy dit gedoen het.

(2) Die kennisgewing van mosie moet die betrokke beslissing of verrigtinge aangee en moet vergesel gaan van 'n beëdigde verklaring wat die gronde, feite en omstandighede bevat waarop die applikant steun vir tersydestelling of regstelling daarvan.

(3) Die griffier moet die bedoelde oorkonde aan die applikant beskikbaar stel op voorwaardes wat hy paslik ag om die veiligheid daarvan te verseker, en die applikant moet dan afskrifte laat maak van dié gedeeltes wat nodig mag wees vir die hersiening. Hy moet twee daarvan aan die griffier verskaf en een aan elk van die ander partye, in elke geval deur die applikant as juis gesertifiseer. Die koste van kopiëring, as daar is, word deur die applikant gedra en is koste in die geding.

(4) Die applikant kan binne sewe dae nadat die griffier die oorkonde aan hom beskikbaar gestel het, deur 'n kennisgewing en bygaande beëdigde verklaring af te lewer, sy kennisgewing van mosie wysig of uitbrei en die ondersteunende beëdigde verklaring aanvul.

(5) As die voorsittende beampte, voorsitter of beampte, na gelang van die geval, of 'n party wat daardeur geraak word, die bevel in die kennisgewing van mosie aangevra, wil bestry, moet hy—

(*a*) binne veertien dae na ontvangs van die kennisgewing van mosie of 'n wysiging daarvan, 'n kennisgewing aan die applikant aflewer dat hy wil bestry, en daarin 'n adres binne vyf myl van die griffierskantoor aangee waar hy betekening van alle prosesstukke in die geding sal aanvaar; en

(ii) The accused shall be entitled, on payment of the prescribed fees, to obtain from the registrar of the court which tried him such number of copies of the record or parts of the record (as the case may be) as may be necessary for his purpose: Provided that if he is unable by reason of poverty to pay the prescribed fees he shall be entitled to obtain the same without payment of any fees.

(2) Any question arising as to the accused's inability to pay the prescribed fees shall be decided by the registrar of the court which tried the accused. The registrar's decision shall be final.

(3) The words "the registrar of the court which tried the accused" shall mean, where the trial court was a Circuit Local Division, the registrar of the division of the Supreme Court in whose custody the records of the Circuit Local Division concerned are lodged.

(4) If leave to appeal in a criminal case is granted by any division of the Supreme Court the registrar of that division shall without delay notify the registrar of the Appellate Division of that fact.

RULE 53.

REVIEWS.

(1) Save where any law otherwise provides, all proceedings to bring under review the decision or proceedings of any inferior court and of any tribunal, board or officer performing judicial, quasi-judicial or administrative functions shall be by way of notice of motion directed and delivered by the party seeking to review such decision or proceedings to the magistrate, presiding officer or chairman of the court, tribunal or board or to the officer, as the case may be, and to all other parties affected—

(*a*) calling upon such persons to show cause why such decision or proceedings should not be reviewed and corrected or set aside, and

(*b*) calling upon the magistrate, presiding officer, chairman or officer, as the case may be, to despatch, within fourteen days of the receipt of the notice of motion, to the registrar the record of such proceedings sought to be corrected or set aside together with such reasons as he is by law required or desires to give or make, and to notify the applicant that he has done so.

(2) The notice of motion shall set out the decision or proceedings sought to be reviewed and shall be supported by affidavit setting out the grounds and the facts and circumstances upon which applicant relies to have the decision or proceedings set aside or corrected.

(3) The registrar shall make available to the applicant the record despatched to him as aforesaid upon such terms as the registrar thinks appropriate to ensure its safety, and the applicant shall thereupon cause copies of such portions of the record as may be necessary for the purposes of the review to be made and shall furnish the registrar with two copies and each of the other parties with one copy thereof, in each case certified by the applicant as true copies. The costs of transcription, if any, shall be borne by the applicant and shall be costs in the cause.

(4) The applicant may within seven days after the registrar has made the record available to him, by notice and accompanying affidavit amend, add to or vary the terms of his notice of motion and supplement the supporting affidavit, and shall deliver the said notice and affidavit.

(5) Should the presiding officer, chairman, or officer, as the case may be, or any party affected desire to oppose the granting of the order prayed in the notice of motion, he shall—

(*a*) within fourteen days of the receipt by him of the notice of motion or any amendment thereof deliver notice to the applicant that he intends so to oppose and shall in such notice appoint an address within five miles of the office of the registrar at which he will accept notice and service of all process in such proceedings, and

(*b*) binne een-en-twintig dae na verstryking van die tyd in subreël (4) genoem, beëdigde verklarings aflewer wat hy in antwoord op die applikant se beweringe wil aanbied.

(6) Die applikant het die regte en verpligtinge betreffende repliserende beëdigde verklarings wat in reël 6 uiteengesit is.

(7) Die bepalings van reël 6 betreffende die terrolleplasing van aansoeke geld *mutatis mutandis* vir die terrolleplasing van hersienings.

REËL 54.

STRAFVERRIGTINGE—PROVINSIALE EN PLAASLIKE AFDELINGS.

(1) Die prosesstuk waarby 'n beskuldigde opgeroep word om op 'n akte van beskuldiging te antwoord, is 'n lasbrief uitgeneem deur die hoofklerk van die prokureur-generaal wat die akte van beskuldiging voorlê, of in die geval van 'n private vervolging, deur die aanklaer of sy prokureur, en dit word aan die adjunk-balju gerig: Met dien verstande dat in die geval van die Witwatersrandse Plaaslike Afdeling en die Plaaslike Afdeling Griekwaland-Wes die lasbrief by die kantoor van die griffier uitgeneem kan word deur die adjunk-prokureur-generaal, Johannesburg, of die staatsaanklaer, Kimberley, na gelang van die geval.

(2) Wanneer iemand wat kragtens artikel *vyf-en-sewentig* van die Strafproseswet, 1955 (Wet No. 56 van 1955) vir vonnis verwys is, voor 'n hoër hof aangekla word, kan hy vir vonnis voorgebring word by enige strafsitting van die hof waarin hy aangekla word.

(3) Die prokureur-generaal of ander aanklaer of sy prokureur moet op elke akte van beskuldiging en elke afskrif daarvan wat aan die adjunk-balju vir betekening afgelewer word, 'n kennisgewing van verhoor endosseer of dit daaraan heg, waarin die hof waarin en die besondere sitting en tyd wanneer die beskuldigde moet verskyn, aangegee word.

(4) Die prokureur-generaal of ander aanklaer of sy prokureur moet aan die adjunk-balju die lasbrief, 'n afskrif van die akte van beskuldiging en die kennisgewing van verhoor vir betekening aflewer, een van elk vir elke beskuldigde. In die geval van 'n private vervolging moet die aanklaer of sy prokureur terselfdertyd aan die adjunk-balju die koste betaal wat regtens gevorder kan word vir die betekening.

(5) Die getuiedagvaarding of prosesstuk vir die verkryging van die aanwesigheid van iemand voor 'n hoër hof (nie synde 'n rondgaande hof nie) om getuienis in 'n strafsaak af te lê of om boeke, dokumente of voorwerpe in te lewer, word by die griffierskantoor van daardie hof deur die hoofklerk van die prokureur-generaal uitgeneem (of waar die vervolging deur 'n private party ingestel word, deur homself of sy prokureur). Dit word aan die adjunk-balju by sy kantoor afgelewer vir betekening, tesame met 'n afskrif vir elk van die persone aan wie betekening moet geskied. In die geval van die Witwatersrandse Plaaslike Afdeling en die Plaaslike Afdeling Griekwaland-Wes kan die prosesstukke ook deur die adjunk-prokureur-generaal, Johannesburg, of die staatsaanklaer, Kimberley, na gelang van die geval, uitgeneem en aan die betrokke adjunk-balju gelewer word.

(6) Die getuiedagvaarding moet aan die getuie (*a*) persoonlik beteken word of (b) by sy woon-, besigheids- of werksplek deur dit af te lewer aan iemand aldaar wat skynbaar minstens sestien jaar oud is en skynbaar daar woon of werk.

(7) Die betekenaar moet desgewens aan die betrokke persoon die oorspronklike van die getuiedagvaarding toon.

(8) As die persoon aan wie 'n getuiedagvaarding beteken moet word, sy woon- of besigheidsplek gesluit hou ten einde die betekening te verhinder, is dit voldoende om 'n afskrif daarvan aan die buite- of hoofdeur van die woon- of besigheidsplek te heg.

(9) Wanneer 'n hof iemand weens minagting van die hof beboet vanweë sy versuim om te verskyn of iets anders, en die boete word nie behoorlik betaal nie, moet die griffier aan die adjunk-balju besonderhede van die boete gee en

(*b*) within twenty-one days of the expiry of the time referred to in sub-rule (4) hereof, deliver any affidavits he may desire in answer to the allegations made by the applicant.

(6) The applicant shall have the rights and obligations in regard to replying affidavits set out in rule 6.

(7) The provisions of rule 6 as to set down of applications shall *mutatis mutandis* apply to the set down of review proceedings.

RULE 54.

CRIMINAL PROCEEDINGS—PROVINCIAL AND LOCAL DIVISIONS.

(1) The process for summoning an accused to answer any indictment shall be by writ sued out by the chief clerk to the Attorney-General who presents the indictment, or in the case of a private prosecution by the prosecutor or his attorney, and shall be directed to the deputy-sheriff: Provided that in the case of the Witwatersrand and Griqualand West Local Divisions the writ may be sued out of the office of the registrar of such Divisions by the Deputy Attorney-General, Johannesburg, or the State Prosecutor, Kimberley, as the case may be.

(2) When any person committed for sentence under the provisions of section *seventy-five* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955), is indicted before a superior court he may be brought up for sentence at any sitting for criminal business of the court before which he is indicted.

(3) The attorney-general or other prosecutor or his attorney shall endorse on, or annex to, every indictment and every copy of any indictment delivered to the deputy-sheriff for service thereof, a notice of trial, which notice shall specify the court before which, and the particular session and time when, he will bring the accused to trial on the said indictment.

(4) The attorney-general or other prosecutor or his attorney shall deliver to the deputy-sheriff for service the writ, a copy of the indictment and notice of trial or, if there are more than one accused, as many writs and copies of the indictment and notice of trial as there are accused. In the case of a private prosecution the prosecutor or his attorney shall at the same time hand to the deputy-sheriff his lawful costs and charges for serving the same.

(5) The subpoena or process for procuring the attendance of any person before a superior court (other than a Circuit Court) to give evidence in any criminal case or to produce any books, documents or things, shall be sued out of the office of the registrar of that court, by the chief clerk to the attorney-general (or where the prosecution is at the instance of a private party, by himself or his attorney); and the same shall be delivered to the deputy-sheriff, at his office, for service thereof, together with so many copies of the subpoena or process as there are persons to be served. In the case of the Witwatersrand and Griqualand West Local Divisions, the process may also be sued out by the Deputy Attorney-General, Johannesburg, or the State Prosecutor, Kimberley, as the case may be, and delivered to the deputy-sheriff concerned.

(6) The subpoena shall be served upon the witness (*a*) personally, or (*b*) at his residence or place of business or employment by delivering it to some person thereat who is apparently not less than sixteen years of age and apparently residing or employed thereat.

(7) The person serving the subpoena shall, if required by the person upon whom it was served, exhibit to him the original.

(8) If the person to be served with a subpoena keeps his residence or place of business closed so as to prevent the service of the subpoena it shall be sufficient service to affix a copy thereof to the outer or principal door of such residence or place of business.

(9) When a court imposes upon any person whatsoever a fine for contempt of court for default in appearance or otherwise, and such fine is not duly paid, the registrar of the court shall furnish the deputy-sheriff with particulars of such fine and deliver to him a completed warrant.

'n voltooide lasbrief aan hom aflewer, wat hy dadelik ten uitvoer moet lê.

(10) 'n Aansoek kragtens artikel *honderd een-en-vyftig* van die Strafproseswet, 1955 (Wet No. 56 van 1955) om verandering van die plek van verhoor, kan by kennisgewing deur of namens die prokureur-generaal of deur die beskuldigde by die hof gedoen word en die hof kan daarop na goeddunke 'n bevel gee.

REËL 55.

STRAFSAKE—RONDGAANDE HOF.

(1) Die prosesstuk waarmee enigiemand, hetsy beskuldigde of getuie, opgeroep word om in 'n strafsaak in 'n rondgaande hof in enige distrik te verskyn, kan te eniger tyd uitgeneem word, ook al is die datum vir die sitting van die hof nog nie bepaal nie. Dit kan deur die griffier van die provinsiale afdeling of van die rondgaande hof uitgereik word, of, wanneer laasgenoemde nie op die plek is waar die hof sal sit nie, deur die klerk van die landdroshof van die distrik of deur die klerk van 'n regter in die rondgaande hof: Met dien verstande dat die prosesstuk vir die oproeping van iemand wat deur die prokureur-generaal of sy adjunk as a getuie in 'n strafsaak in 'n rondgaande hof benodig word, nie deur of namens die prokureur-generaal geëndosseer of formeel uitgeneem hoef te word nie.

(2) Die prosesstuk van die rondgaande hof vir enige distrik vir die arres en aanhouding onder borgtog van iemand om te verseker dat hy voor die hof sal verskyn, word deur die landdros van die distrik of deur 'n regter uitgereik.

(3) Alle prosesstukke van die rondgaande hof word gedateer op die dag waarop hulle uitgereik word, geattesteer in die naam van een van die regters, geteken deur die beampte wat hulle uitreik, geëndosseer deur die persoon wat hulle uitneem en aan die adjunk-balju gerig.

(4) Die griffier van elke rondgaande hof moet by die afsluiting daarvan aan die balju 'n lys laat deurstuur van alle lasbriewe tot tenuitvoerlegging van vonnisse in strafsake wat deur hom uitgereik is.

(5) In alle sake waarin 'n prosesstuk vir die tenuitvoerlegging van 'n vonnis, uitspraak of bevel van 'n rondgaande hof in 'n strafsaak benodig word nadat die oorkondes daarvan by die kantoor van die griffier van die provinsiale afdeling in bewaring gegee is, kan 'n prosesstuk van daardie afdeling vir die doel uitgereik word aan die person wat die tenuitvoerlegging verlang.

(6) Wanneer 'n rondgaande hof enigiemand beboet weens minagting van die hof deurdat hy versuim het om te verskyn of andersins, en die boete word nie op tyd betaal nie, moet die griffier van die rondgaande hof aan die adjunk-balju besonderhede van die boete gee en 'n lasbrief ten opsigte daarvan aan hom lewer.

(7) Die griffier van 'n rondgaande hof moet onmiddellik na afsluiting van die hof in elke sentrum 'n opgawe van al die boetes opstel wat die hof aldaar opgelê het, met aangifte van die name van die persone, die bedrag van die boete, die datum van oplegging, die datum wanneer 'n lasbrief aan die adjunk-balju gelewer is vir die invordering daarvan, enige vermindering as daar was, en of dit sonder uitreiking van 'n lasbrief betaal is. Die opgawe stuur hy aan die griffier van die provinsiale afdeling.

(8) Wanneer 'n rondgangdistrik meer as een landdrosdistrik omvat, moet die klerk van die landdroshof van elke sodanige distrik binne sy distrik die pligte uitvoer wat deur hierdie reëls aan klerke van landdroshowe opgedra word.

REËL 56.

STRAFSAKE—ALGEMEEN.

(1) Prosesstukke of dokumente in reëls 54 en 55 genoem kan deur 'n lid van 'n polisiemag bedoel in subartikel (4) van artikel *driehonderd sewe-en-sewentig* van die Strafproseswet, 1955 (Wet. No 56 van 1955) beteken word.

(2) Subreëls (16) tot (19) en (21) van reël 39 geld *mutatis mutandis* vir alle verrigtinge in strafsake.

The deputy-sheriff, immediately on such warrant being delivered to him, shall execute it.

(10) An application under section *one hundred and fifty-one* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955) to change the place of trial in criminal proceedings may be made to the court, upon notice, by or on behalf of the Attorney-General or the accused. The court may thereupon make such order thereon as to it seems meet.

RULE 55.

CRIMINAL PROCEEDINGS—CIRCUIT COURT.

(1) The process of a Circuit Court for any district for summoning any person, either as an accused or as a witness in any criminal case before such court, may be sued out at any time, whether the date for holding such court shall have been appointed or not. It may be issued by the registrar of the Provincial Division or of the Circuit Court or when the latter is not in the place where the court is to be held then by the clerk of the magistrate's court of the district or by the clerk to any judge in that court: Provided that the process for summoning any person required by the Attorney-General or his deputy as a witness in a criminal case in such court need not be endorsed or formally sued out by or on behalf of the Attorney-General.

(2) The process of the Circuit Court for any district for arresting and holding to bail any person in order to compel his appearance before such court shall be issued by the magistrate for such district, or by any judge.

(3) All process of the Circuit Court shall be dated on the day on which it is issued, shall be witnessed in the name of one of the judges, shall be signed by the officer issuing it, shall be endorsed by the person suing out the same and shall be directed to the deputy-sheriff.

(4) The registrar of every Circuit Court shall, on the closing of the same, cause to be transmitted to the sheriff a list of all warrants of execution in criminal cases which have been issued by him.

(5) In all cases wherein process is required for the execution of any sentence, judgment, or order of any Circuit Court in a criminal case, after the records thereof have been deposited in the office of the registrar of the Provincial Division, the process of that division for the execution of any such sentence, judgment or order may be issued to the party requiring the execution of the same.

(6) When a Circuit Court imposes upon any party whatsoever a fine for contempt of court, for default of appearance or otherwise, and such fine is not duly paid, the registrar of the Circuit Court shall furnish to the deputy-sheriff the particulars of such fine, and deliver to him a warrant in respect thereof.

(7) The registrar of every Circuit Court shall, immediately upon the closing of the court in each circuit town, make out and transmit to the registrar of the Provincial Division a return showing all the fines which have, during the sitting of the court in that town, been imposed by the said court, specifying therein the names of the parties, the amount of the fine, the date when imposed, and the date when a warrant was delivered to the deputy-sheriff for its levy, the extent, if any, to which the fine was remitted, and whether it was paid without issue of a warrant.

(8) Whenever a Circuit Court district comprises more than one magisterial district, the clerk of the magistrate's court of each such magisterial district shall, within the limits of his district, perform the duties devolving on clerks of magistrates under these rules.

RULE 56.

CRIMINAL PROCEEDINGS—GENERAL.

(1) Any process or document referred to in rules 54 and 55 may be served by a member of a police force referred to in sub-section (4) of section *three hundred and seventy-seven* of the Criminal Procedure Act, 1955 (Act No. 56 of 1955).

(2) The provisions of sub-rules (16)-(19) and (21) of rule 39 shall apply *mutatis mutandis* to all proceedings in criminal cases.

REËL 57.

GEREGTELIKE ONDERSOEK NA GEESTESTOESTAND, AANSTELLING VAN KURATORS VIR HANDELINGS-ONBEVOEGDES EN VRYSTELLING VAN KURATELE.

(1) Iemand wat 'n bevel by die hof wil aanvra waarby 'n ander persoon (hierna „die pasiënt" genoem) geestelik verstoord verklaar word en derhalwe onbekwaam om sy belange te behartig, en waarby 'n kurator vir die pasiënt of sy goed aangestel word, moet eers die aanstelling van 'n kurator *ad litem* vir die pasiënt by die hof aanvra.

(2) So 'n aansoek geskied *ex parte* en moet volledig uiteensit—

(*a*) die gronde waarop die applikant aanspraak maak op *locus standi* om so 'n aansoek te doen;

(*b*) die gronde waarop beweer word dat die hof jurisdiksie het;

(*c*) die pasiënt se ouderdom en geslag, volle besonderhede van sy besittings en van sy algemene liggaamlike gesondheidstoestand;

(*d*) die verwantskap (as daar is) tussen die pasiënt en die applikant, en die tydsduur en mate van vertroulikheid in hul omgang (as daar is);

(*e*) die feite en omstandighede wat as bewys moet dien dat die pasiënt geestelik verstoord is en nie sy belange kan behartig nie;

(*f*) die name, beroepe en adresse van die onderskeie persone wat vir aanstelling as kurator *ad litem* en daarna as kurator vir die pasiënt se persoon of goed voorgestel word, en 'n verklaring dat hierdie persone genader is en te kenne gegee het dat hulle, indien aangestel, in staat en gewillig sal wees om in die onderskeie hoedanighede te dien.

(3) Die aansoek moet sover moontlik gesteun word deur—

(*a*) 'n beëdigde verklaring van minstens een persoon wat die pasiënt goed ken, met besonderhede oor die pasiënt se geestestoestand waarvan die deponent persoonlik kennis dra. As so iemand aan die pasiënt verwant is of persoonlike belang by die bepalings van 'n aangevraagde bevel het, moet volledige besonderhede van die verwantskap of belang gegee word;

(*b*) beëdigde verklarings van minstens twee mediese praktisyns, een van wie waar doenlik 'n psigiater moet wees wat die pasiënt kort tevore ondersoek het ten einde oor sy geestestoestand verslag te doen. Die verklarings moet al hulle waarnemings insake die pasiënt se geestestoestand bevat, asook hul menings oor die aard, omvang en waarskynlike duur van die geestesverstoring of -gebrek wat hulle gevind het, met hul redes daarvoor, gevolg deur 'n opinie of die pasiënt bekwaam is om sy belange te behartig. Die mediese praktisyns moet sover moontlik nie aan die pasiënt verwant wees nie en geen persoonlike belang by die bepalings van 'n aangevraagde bevel hê nie.

(4) By die aanhoring van die aansoek in subreël (1) bedoel kan die hof die voorgestelde person of enige ander geskikte persoon as kurator *ad litem* aanstel, die aansoek van die hand wys of na goeddunke 'n ander bevel gee. Meer bepaald kan die hof as goeie gronde aangevoer is en van weë dringendheid of ander besondere omstandighede, enige van die vereistes van hierdie reël oor die hoof sien.

(5) Na sy aanstelling moet die kurator *ad litem* (wat waar doenlik 'n advokaat of anders 'n prokureur moet wees) onverwyld 'n onderhoud met die pasiënt voer en hom die doel en aard van die aansoek meedeel tensy hy na raadpleging van een van die mediese praktisyns in paragraaf (*b*) van subreël (3) bedoel, meen dat dit die pasiënt se gesondheid sal benadeel. Hy moet sodanige verdere navrae doen as wat in die saak nodig skyn te wees en 'n verslag aan die hof opstel waarin hy ook alle verdere feite wat hy mog vasgestel het aangaande die pasiënt se geestestoestand, sy middele en omstandighede vermeld, en die aandag vestig op enige oorweging wat hy meen die

RULE 57.

DE LUNATICO INQUIRENDO, APPOINTMENT OF CURATORS IN RESPECT OF PERSONS UNDER DISABILITY AND RELEASE FROM CURATORSHIP.

(1) Any person desirous of making application to the court for an order declaring another person (hereinafter referred to as "the patient") to be of unsound mind and as such incapable of managing his affairs, and appointing a curator to the person or property of such patient shall in the first instance apply to the court for the appointment of a curator *ad litem* to such patient.

(2) Such application shall be brought *ex parte* and shall set forth fully—

(*a*) the grounds upon which the applicant claims *locus standi* to make such application;

(*b*) the grounds upon which the court is alleged to have jurisdiction;

(*c*) the patient's age and sex, full particulars of his means, and information as to his general state of physical health;

(*d*) the relationship (if any) between the patient and the applicant, and the duration and intimacy of their association (if any);

(*e*) the facts and circumstances relied on to show that the patient is of unsound mind and incapable of managing his affairs;

(*f*) the name, occupation and address of the respective persons suggested for appointment by the court as curator *ad litem*, and subsequently as curator to the patient's person or property, and a statement that these persons have been approached and have intimated that, if appointed, they would be able and willing to act in these respective capacities.

(3) The application shall, as far as possible, be supported by—

(*a*) an affidavit by at least one person to whom the patient is well known and containing such facts and information as are within the deponent's own knowledge concerning the patient's mental condition. If such person is related to the patient, or has any personal interest in the terms of any order sought, full details of such relationship or interest, as the case may be, shall be set forth in his affidavit; and

(*b*) affidavits by at least two medical practitioners, one of whom shall, where practicable, be an alienist, who have conducted recent examinations of the patient with a view to ascertaining and reporting upon his mental condition and stating all such facts as were observed by them at such examinations in regard to such condition, the opinions found by them in regard to the nature, extent and probable duration of any mental disorder or defect observed and their reasons for the same and whether the patient is in their opinion incapable of managing his affairs. Such medical practitioners shall, as far as possible, be persons unrelated to the patient, and without personal interest in the terms of any order sought.

(4) Upon the hearing of the application referred to in sub-rule (1), the court may appoint the persons suggested or any other suitable person as curator *ad litem*, or may dismiss the application or make such further or other order thereon as to it may seem meet and in particular on cause shown, and by reason of urgency, special circumstances or otherwise, dispense with any of the requirements of this rule.

(5) Upon his appointment the curator *ad litem* (who shall if practicable be an advocate, or failing such, an attorney), shall without delay interview the patient, and shall also inform him of the purpose and nature of the application unless after consulting a medical practitioner referred to in paragraph (*b*) of sub-rule (3) he is satisfied that this would be detrimental to the patient's health. He shall further make such enquiries as the case appears to require and thereafter prepare and file with the registrar his report on the matter to the court, at the same time furnishing the applicant with a copy thereof. In his report

hof sal beïnvloed betreffende die bepalings van die aangevraagde bevel. Die verslag moet hy by die griffier indien en terselfdertyd aan die applikant 'n afskrif daarvan verskaf.

(6) By ontvangs van die verslag moet die applikant dit tesame met afskrifte van die verklarings in subreëls (2) en (3) bedoel, aan die Weesheer wat jurisdiksie het, vir oorweging en verslag aan die hof voorlê.

(7) In sy verslag moet die Weesheer tot die beste van sy vermoë kommentarieer oor die pasiënt se middele en algemene omstandighede en die -al of nie-geskiktheid van die persoon wat as kurator van die pasiënt of sy goed voorgestel is, en aanbevelings doen oor die verskaffing van sekuriteit en die instuur van rekeninge deur die kurator en die magte wat na sy mening aan hom toevertrou behoort te word. 'n Afskrif van die verslag moet aan die kurator *ad litem* verskaf word.

(8) By ontvangs van die verslag van die Weesheer kan die applikant die saak op dieselfde stukke vir aanhoring ter rolle plaas om 'n bevel aan te vra waarin verklaar word dat die pasiënt geestelik verstoord is en derhalwe onbekwaam om sy belange te behartig, en waarin die voorgestelde persoon aangestel word as kurator vir die persoon of goed van die pasiënt, of albei. Die applikant moet kennis van die terrolleplasing aan die kurator *ad litem* gee, wat dit desverkiesend aan die pasiënt kan meedeel.

(9) Die hof kan beveel dat die applikant, die pasiënt en andere die aanhoring moet bywoon om mondelinge getuienis af te lê of inligting te verskaf wat die hof mag verlang.

(10) By oorweging van die aansoek, die verslae van die kurator *ad litem* en van die Weesheer en sodanige verdere inligting of getuienis as wat mondeling of andersins voorgelê mog wees, kan die hof gelas dat die aansoek aan die pasiënt beteken word of hy kan die pasiënt geestelik verstoord verklaar en onbekwaam om sy eie belange te behartig, en 'n geskikte persoon as kurator vir hom of sy goed of albei aanstel, met die voorbehoude wat hy goedvind, of hy kan die aansoek van die hand wys of in die algemeen na goeddunke 'n bevel gee (insluitende 'n bevel dat die koste van die verrigtinge uit die bates van die pasiënt betaal word).

(11) Verskillende persone kan, mits iedereen die vereistes van hierdie reël nagekom het, voorgestel en afsonderlik aangestel word as kurator vir die persoon en kurator vir die goed van iemand wat verklaar is geestelik verstoord te wees en onbekwaam om sy eie belange te behartig.

(12) Subreëls (1), (2) en (4) tot en met (10) geld, vir sover hulle daarop toegepas kan word, ook *mutatis mutandis* vir 'n aansoek om aanstelling deur die hof van 'n kurator ingevolge artikel *twee-en-sestig* van die Wet op Geestesgebreken, 1916 (Wet No. 38 van 1916) vir die goed van iemand wat aangehou word as geestelik verstoord of gebrekkig of wat as sodanig verklaar is, of wat aangehou word as 'n geestelik verstoorde of gebrekkige gevangene of as 'n pasiënt wat die beskikking van die Staatspresident afwag en wat onbekwaam is om sy belange te behartig.

(13) Behalwe vir sover as wat die hof op aansoek anders mag voorskryf, geld subreëls (1) tot (11) *mutatis mutandis* vir elke aansoek om aanstelling van 'n kurator *bonis* vir iemand op grond daarvan dat hy vanweë 'n gebrek, geestelik of liggaamlik, onbekwaam is om sy belange te behartig.

(14) Iemand wat deur die hof geestelik verstoord verklaar is en onbekwaam om sy eie belange te behartig, en vir wie se persoon of goed 'n kurator aangestel is, en wat by die hof aansoek wil doen om 'n verklaring dat hy nie meer geestelik verstoord is en onbekwaam om sy eie belange te behartig nie, of wat vrygestel wil word van kuratele, na gelang van die geval, moet veertien dae kennis van so 'n aansoek aan die kurator en die Weesheer gee.

(15) By die ontvangs van so 'n kennisgewing en na oorweging van die aansoek en sodanige ander inligting as wat hy het, moet die Weesheer onverwyld verslag daaroor aan die hof doen en kommentarieer op enige aspek van

the curator *ad litem* shall set forth such further facts (if any) as he has ascertained in regard to the patient's mental condition, means and circumstances and he shall draw attention to any consideration which in his view might influence the court in regard to the terms of any order sought.

(6) Upon receipt of the said report the applicant shall submit the same, together with copies of the documents referred to in sub-rules (2) and (3) to the master of the Supreme Court having jurisdiction for consideration and report to the court.

(7) In his report the master shall, as far as he is able, comment upon the patient's means and general circumstances, and the suitability or otherwise of the person suggested for appointment as curator to the person or property of the patient, and he shall further make such recommendations as to the furnishing of security and rendering of accounts by, and the powers to be conferred on, such curator as the facts of the case appear to him to require. The curator *ad litem* shall be furnished with a copy of the said report.

(8) After the receipt of the report of the master, the applicant may, on notice to the curator *ad litem* (who shall if he thinks fit inform the patient thereof) place the matter on the roll for hearing on the same papers for an order declaring the patient to be of unsound mind and as such incapable of managing his affairs and for the appointment of the person suggested as curator to the person or property of the patient or to both.

(9) At such hearing the court may require the attendance of the applicant, the patient, and such other persons as it may think fit, to give such evidence *viva voce* or furnish such information as the court may require.

(10) Upon consideration of the application, the reports of the curator *ad litem* and of the master and such further information or evidence (if any) as has been adduced *viva voce*, or otherwise, the court may direct service of the application on the patient or may declare the patient to be of unsound mind and incapable of managing his own affairs and appoint a suitable person as curator to his person or property or both on such terms as to it may seem meet, or it may dismiss the application or generally make such order (including an order that the costs of such proceedings be defrayed from the assets of the patient) as to it may seem meet.

(11) Different persons may, subject to due compliance with the requirements of this rule in regard to each, be suggested and separately appointed as curator to the person and curator to the property of any person found to be of unsound mind and incapable of managing his own affairs.

(12) The provisions of sub-rules (1), (2) and (4) to (10) inclusive shall in so far as the same are applicable thereto, also apply *mutatis mutandis* to any application for the appointment by the court of a curator under the provisions of section *sixty-two* of the Mental Disorders Act, 1916 (Act No. 38 of 1916), to the property of a person detained as or declared mentally disordered or defective, or detained as a mentally disordered or defective prisoner or as a State President's decision patient and who is incapable of managing his affairs.

(13) Save to such extent as the court may on application otherwise direct, the provisions of sub-rules (1) to (11) shall, *mutatis mutandis*, apply to every application for the appointment of a curator *bonis* to any person on the ground that he is by reason of some disability, mental or physical, incapable of managing his affairs.

(14) Every person who has been declared by a court to be of unsound mind and incapable of managing his affairs, and to whose person or property a curator has been appointed and who intends applying to court for a declaration that he is no longer of unsound mind and incapable of managing his affairs or for release from such curatorship, as the case may be, shall give fourteen days' notice of such application to such curator and to the master.

(15) Upon receipt of such notice and after due consideration of the application and such information as is available to him, the master shall, without delay, report thereon to the court, at the same time commenting upon

die saak waarop na sy mening die hof se aandag gevestig behoort te word.

(16) Subreëls (14) en (15) geld ook vir 'n aansoek om vrystelling van kuratele deur iemand wat ingevolge artikel *nege-en-vyftig* van die Wet op Geestesgebreken, 1916 (Wet No. 38 van 1916) uit 'n inrigting waar hy aangehou is, ontslaan is maar ten opsigte van wie 'n kurator *bonis* deur die hof ingevolge artikel *twee-en-sestig* van die genoemde Wet aangestel is.

(17) Na die aanhoring van 'n aansoek in subreëls (14) en (16) bedoel, kan die hof die applikant vry van geestesverstoring verklaar en bekwaam om sy belange te behartig en hom van kuratele onthef, of die aansoek van die hand wys, of *mero motu* 'n kurator *ad litem* aanstel om volgens goedvinde van die hof navrae te doen en daaroor te rapporteer, of hy kan sodanige verdere getuienis as wat hy wenslik ag, aanvra en die verdere aanhoring van die saak uitstel in afwagting van so 'n verslag, beëdigde verklaring of getuienis, na gelang van die geval, of hy kan die aangeleentheid *sine die* uitstel en na goeddunke 'n kostebevel gee.

REËL 58.

TUSSENPLEIT.

(1) Waar iemand, in hierdie reël „die applikant" genoem, beweer dat hy aangespreek staan te word deur twee of meer partye wat strydige eise het (in hierdie reël „die aanspraakmakers" genoem) kan hy 'n kennisgewing wat in hierdie reël 'n „tussenpleitkennisgewing" genoem word, aan die aanspraakmakers aflewer. In die geval van strydige aansprake op goed waarop vir uitwinning beslag gelê is, het die adjunk-balju die regte van 'n applikant en 'n vonnisskuldeiser die regte van 'n aanspraakmaker.

(2) (*a*) By aansprake op geld moet die applikant by aflewering van die kennisgewing die geld aan die griffier betaal, wat dit moet hou totdat die strydige aansprake beslis is.

(*b*) By aansprake op 'n voorwerp wat gelewer kan word, moet die applikant dit aan die griffier aanbied wanneer hy die tussenpleit-kennisgewing aflewer of hy moet volgens voorskrifte van die griffier sorg dat dit beskikbaar bly.

(*c*) By aansprake op onroerende goed moet die applikant die titelbewyse daarvan, as hy hulle het, aan die griffier gee wanneer hy die tussenpleitkennisgewing aflewer tesame met 'n onderneming om alle dokumente wat nodig is om transport van die onroerende goed te gee, te onderteken ooreenkomstig 'n bevel wat die hof mag gee of 'n ooreenkoms tussen die aanspraakmakers.

(3) Die tussenpleit-kennisgewing moet—

(*a*) die aard van die aanspreeklikheid, eiendom of aanspraak waaroor die geskil gaan, vermeld;
(*b*) die aanspraakmakers oproep om binne die tyd in die kennisgewing gestel, synde minstens veertien dae na betekening daarvan, besonderhede van hul eise af te lewer; en
(*c*) vermeld dat op 'n latere datum, synde minstens veertien dae na die datum in die kennisgewing genoem vir die aflewering van aansprake, die applikant by die hof aansoek sal doen om te beslis oor sy aanspreeklikheid of die geldigheid van die onderskeie aansprake.

(4) Tesame met die tussenpleit-kennisgewing moet die applikant 'n beëdigde verklaring aflewer waarin hy sê dat hy—

(*a*) geen ander belang by die onderwerp van die geskil het as om sy koste daaruit te dek nie;
(*b*) nie met enige van die aanspraakmakers saamspan nie;
(*c*) gewillig is om met die onderwerp van die geskil te handel soos die hof mag voorskryf.

(5) As 'n aanspraakmaker aan wie 'n tussenpleitkennisgewing en beëdigde verklaring behoorlik afgelewer is, nalaat om besonderhede van sy aanspraak binne die gestelde tyd af te lewer, of nadat hy dit wel gedoen het, nie in die hof verskyn ter ondersteuning van sy aanspraak nie, kan die hof beveel dat die aanspraak van hom en van almal wat deur hom eis, verval het teenoor die applikant.

any aspect of the matter to which, in his view, its attention should be drawn.

(16) The provisions of sub-rules (14) and (15) hereof shall also apply to any application for release from curatorship by a person who has been discharged under section *fifty-nine* of the Mental Disorders Act, 1916 (Act No 38 of 1916), from detention in an institution, but in respect of whom a curator *bonis* had been appointed by the court under section *sixty-two* of the said Act.

(17) Upon the hearing of any application referred to in sub-rules (14) and (16) hereof the court may declare the applicant as being no longer of unsound mind and as being capable of managing his affairs, order his release from such curatorship, or dismiss the application, or *mero motu* appoint a curator *ad litem* to make such enquiries as it considers desirable and to report to it, or call for such further evidence as it considers desirable and postpone the further hearing of the matter to permit of the production of such report, affidavit or evidence, as the case may be, or postpone the matter *sine die* and make such order as to costs or otherwise as to it may seem meet.

RULE 58.

INTERPLEADER.

(1) Where any person, in this rule called "the applicant", alleges that he is under any liability in respect of which he is or expects to be sued by two or more parties making adverse claims, in this rule referred to as "the claimants", in respect thereto, the applicant may deliver a notice, in terms of this rule called an "interpleader notice", to the claimants. In regard to conflicting claims with respect to property attached in execution, the deputy-sheriff shall have the rights of an applicant and an execution creditor shall have the rights of a claimant.

(2) (*a*) Where the claims relate to money the applicant shall be required, on delivering the notice mentioned in sub-rule (1) hereof, to pay the money to the registrar who shall hold it until the conflicting claims have been decided.

(*b*) Where the claims relate to a thing capable of delivery the applicant shall tender the subject matter to the registrar when delivering the interpleader notice or take such steps to secure the availability of the thing in question as the registrar may direct.

(*c*) Where the conflicting claims relate to immovable property the applicant shall place the title deeds thereof if available to him, in the possession of the registrar when delivering the interpleader notice and shall at the same time hand to the registrar an undertaking to sign all documents necessary to effect transfer of such immovable property in accordance with any order which the court may make or any agreement of the claimants.

(3) the interpleader notice shall—

(*a*) state the nature of the liability, property or claim which is the subject matter of the dispute;
(*b*) call upon the claimants within the time stated in the notice, not being less than fourteen days from the date of service thereof, to deliver particulars of their claims; and
(*c*) state that upon a further date, not being less than fourteen days from the date specified in the notice for the delivery of claims, the applicant will apply to court for its decision as to his liability or the validity of the respective claims.

(4) There shall be delivered together with the interpleader notice an affidavit by the applicant stating that—

(*a*) he claims no interest in the subject matter in dispute other than for charges and costs;
(*b*) he does not collude with any of the claimants;
(*c*) he is willing to deal with or act in regard to the subject matter of the dispute as the court may direct.

(5) If a claimant to whom an interpleader notice and affidavit have been duly delivered fails to deliver particulars of his claim within the time stated or, having delivered such particulars, fails to appear in court in support of his claim, the court may make an order declaring him and all persons claiming under him barred as against the applicant from making any claim on the subject matter of the dispute.

(6) As 'n aanspraakmaker besonderhede van sy eis aflewer en voor die hof verskyn, kan die hof—

(*a*) nadat hy die getuienis wat hy nodig ag, aangehoor het, die aanspraak dadelik beslis;

(*b*) beveel dat 'n aanspraakmaker as verweerder gevoeg word in enige aksie wat reeds 'n aanvang geneem het ten opsigte van die onderwerp van die geskil, in plaas van of bykomstig tot die applikant;

(*c*) beveel dat 'n geskil tussen die aanspraakmakers by wyse van 'n gestelde saak of op 'n ander wyse gestel word vir verhoor, en vir daardie doel bepaal wie die eiser sal wees wie die verweerder;

(*d*) as hy meen dat dit nie 'n geskikte geval vir 'n tussenpleit is nie, die aansoek van die hand wys;

(*e*) na goeddunke 'n bevel gee oor koste en oor die uitgawes (as daar is) deur die applikant ingevolge paragraaf (*b*) van subreël (2) aangegaan.

(7) As 'n tussenpleit-kennisgewing deur 'n verweerder in 'n aksie uitgereik word, word die verrigtinge in daardie aksie opgeskort hangende die beslissing van die tussenpleitgeding, tensy die hof op aansoek van enige ander party tot die aksie anders beveel.

REËL 59.

BEËDIGDE VERTALERS.

(1) Enige afdeling van die Hooggeregshof kan 'n meerderjarige wat hom oortuig dat hy daartoe bevoegd is, toelaat en laat inskryf as 'n beëdigde vertaler in 'n amptelike taal van die Republiek van Suid-Afrika en in enige vreemde taal.

(2) Niemand word as 'n beëdigde vertaler toegelaat en ingeskryf nie tensy sy bedrewenheid in die taal wat hy wil oorsit, na behore skriftelik gesertifiseer is op grond van 'n eksamen wat hoogstens ses maande voor die datum van aansoek deur 'n bevoegde beëdigde vertaler van minstens sewe jaar status afgeneem is: Met dien verstande dat as daar nie 'n beëdigde vertaler van voldoende status in sy regsgebied is nie, die hof iemand wat na sy mening behoorlik gekwalifiseer is om so 'n eksamen af te neem, as eksaminator kan aanstel.

(3) Elke behoorlik toegelate en ingeskrewe beëdigde vertaler word vir die betrokke tale geag 'n beëdigde vertaler vir alle afdelings van die Hooggeregshof te wees, en die griffier van die afdeling waarin hy toegelaat is, moet die griffiers van alle ander afdelings in kennis stel van die toelating en van die vertaler se adres.

(4) (*a*) Iemand wat kragtens subreël (1) toegelaat en ingeskryf is, moet voordat hy sy ampswerksaamhede begin uitvoer, onderstaande eed of plegtige verklaring aflê en onderteken—

„Ek ..... verklaar
(volle naam)
hierby onder eed/plegtig en opreg dat ek in my hoedanigheid as vertaler van die Hooggeregshof van Suid-Afrika enige dokument getrou en korrek na die beste van my kennis en vermoë sal vertaal in 'n amptelike taal van die Republiek van Suid-Afrika uit enige ander taal ten opsigte waarvan ek as vertaler toegelaat en ingeskryf is.".

(*b*) So 'n eed of plegtige verklaring word afgelê voor 'n regter van die afdeling van die Hooggeregshof waarin die vertaler toegelaat en ingeskryf word, en die betrokke regter endosseer daaronder dat dit voor hom afgelê is en die datum van aflegging, en onderteken dit.

REËL 60.

VERTALING VAN DOKUMENTE.

(1) 'n Dokument wat in 'n ander taal as 'n amptelike taal van die Republiek in die hof voorgelê word, moet vergesel gaan van 'n vertaling wat deur 'n beëdigde vertaler as juis gesertifiseer is.

(6) If a claimant delivers particulars of his claim and appears before it, the court may—

(*a*) then and there adjudicate upon such claim after hearing such evidence as it deems fit;

(*b*) order that any claimant be made a defendant in any action already commenced in respect of the subject matter in dispute in lieu of or in addition to the applicant;

(*c*) order that any issue between the claimants be stated by way of a special case or otherwise and tried, and for that purpose order which claimant shall be plaintiff and which shall be defendant;

(*d*) if it considers that the matter is not a proper matter for relief by way of interpleader notice dismiss the application;

(*e*) make such order as to costs, and the expenses (if any) incurred by the applicant under paragraph (*b*) of sub-rule (2), as to it may seem meet.

(7) If an interpleader notice is issued by a defendant in an action, proceedings in that action shall be stayed pending a decision upon the interpleader, unless the court upon an application made by any other party to the action otherwise orders.

RULE 59.

SWORN TRANSLATORS.

(1) Any person of full age may be admitted and enrolled by any division of the Supreme Court as a sworn translator in an official language of the Republic of South Africa and in any foreign language upon satisfying the court as to his competency.

(2) No person shall be admitted and enrolled as a sworn translator unless his proficiency in the language which he intends to translate has been duly certified in writing, after examination, held not more than six months before the date of his application by a competent sworn translator of not less than seven years' standing: Provided that, if there be no sworn translator of sufficient standing within its jurisdiction, the court may appoint as examiner any person whom it considers to be duly qualified to hold such examination.

(3) Every sworn translator duly admitted and enrolled shall, to the extent of such admission and enrolment, be deemed to be a sworn translator for all divisions of the Supreme Court, and the registrar of the division in which he is admitted shall notify the registrars of all other divisions of such admission and enrolment, and furnish his address.

(4) (*a*) Any person admitted and enrolled under sub-rule (1) shall before commencing to exercise the functions of his office take an oath or make an affirmation which shall be subscribed by him, in the form set out below, namely—

"I ..... do hereby swear/
(full name)
solemnly and sincerely affirm and declare that I will in any capacity as a translator of the Supreme Court of South Africa faithfully and correctly translate, to the best of my knowledge and ability, any document into an official language of the Republic of South Africa from any other language in respect of which I have been admitted and enrolled as a translator.".

(*b*) Any such oath or affirmation shall be taken or made before a judge of the division of the Supreme Court of South Africa admitting and enrolling the translator and the judge concerned shall at the foot thereof endorse a statement of the fact that it was taken or made before him and of the date on which it was so taken or made and append his signature thereto.

RULE 60.

TRANSLATION OF DOCUMENTS.

(1) If any document in a language other than an official language of the Republic is produced in any proceedings, it shall be accompanied by a translation certified to be correct by a sworn translator.

(2) 'n Vertaling aldus gesertifiseer word *prima facie* geag 'n juiste vertaling te wees en is as sodanig by voorlegging toelaatbaar.

(3) As 'n beëdigde vertaler nie beskikbaar is nie of dit na die hof se meninig nie in die belang van die regspleging sal wees om 'n beëdigde vertaling te verkry nie, hetsy vanweë die uitgawe, ongerief of vertraging daarby betrokke, kan die hof ondanks die bepalings van subreël (1) 'n vertaling as bewys toelaat wat as juis gesertifiseer is deur iemand van wie die hof oortuig is dat hy daartoe bevoegd is.

REËL 61.

VERTOLKING VAN GETUIENIS.

(1)As getuienis afgelê word in 'n taal wat die hof of 'n party of sy verteenwoordiger nie voldoende verstaan nie, moet dit vertolk word deur 'n bevoegde tolk wat 'n eed afgelê het om getrou en na die beste van sy vermoë in die betrokke tale te tolk.

(2) Voordat iemand as 'n tolk gebruik word, kan die hof desverskiesend of as 'n party op redelike gronde dit verlang, homself oortuig van die bevoegdheid en integriteit van so iemand deur getuienis aan te hoor of op 'n ander wyse.

(3) Wanneer 'n tolk in 'n geding gebruik word, volg die koste van vertolking (as daar is) die uitslag tensy die hof anders gelas: Met dien verstande dat waar die verteenwoordiger van 'n party getuienis uit een van die amptelike tale van die Republiek wil laat vertolk, die koste daarvan deur die betrokke party betaal word.

REËL 62.

INDIENING, VOORBEREIDING EN INSAE VAN STUKKE.

(1) As 'n saak deur meer as een regter verhoor moet word, moet 'n afskrif van alle pleitstukke, belangrike kennisgewings, aanhangsels, beëdigde verklarings en dergelike vir die gebruik van elke addisionele regter ingedien word.

(2) Alle stukke wat by die hof ingedien word behalwe oorspronklike bewysstukke en aanhangsels moet duidelik gedruk of getik word in permanente swart of blou-swart ink net op een kant van die papier, wat van foliogrootte en goeie gehalte moet wees. 'n Stuk word geag getik te wees as dit duidelik op geskikte paper deur duplikasie, litografie, fotografie of enige ander kopieermetode gereproduseer is.

(3) Gestelde sake, petisies, beëdigde verklarings, appèlgronde en dergelike moet in bondige, genommerde paragrawe verdeel word.

(4) 'n Applikant moet minstens drie dae voor die verhoor alle afgelewerde stukke rangskik, pagineer, gerieflik vasmaak en 'n inhoudsopgawe daarvan voorsien en aflewer.

(5) Op die eerste bladsy van elke beëdigde verklaring wat deur of namens 'n respondent by die griffier ingedien word, moet as hy verteenwoordig is, die naam en adres van die indienende prokureur verskyn.

(6) Die griffier kan 'n stuk wat nie aan die vereistes van hierdie reël voldoen nie, verwerp.

(7) 'n Party tot 'n geding en enigiemand wat persoonlike belang daarby het, kan met verlof van die griffier na aanvoering van goeie redes, in die griffier se kantoor alle stukke insien en kopieer.

REËL 63.

WAARMERKING VAN DOKUMENTE WAT BUITE DIE REPUBLIEK EN SUIDWES-AFRIKA VERLY IS VIR GEBRUIK IN DIE REPUBLIEK EN SUIDWES-AFRIKA.

(1) In hierdie reël, tensy uit die samehang anders blyk, beteken—

„dokument" 'n akte, kontrak, volmag, beëdigde verklaring of ander geskrif, maar dit sluit nie 'n beëdigde of plegtige of geattesteerde verklaring in wat voor 'n by

(2) A translation so certified by a sworn translator shall be deemed *prima facie* to be a correct translation and admissible as such upon its production.

(3) If no sworn translator is available or if, in the opinion of the court, it would not be in the interests of justice to require a sworn translation, whether by reason of the expense, inconvenience or delay involved, the court may, notwithstanding the provisions of sub-rule (1), admit in evidence a translation certified to be correct by any person who it is satisfied is competent to make such translation.

RULE 61.

INTERPRETATION OF EVIDENCE.

(1) Where evidence in any proceedings is given in any language with which the court or a party or his representative is not sufficiently conversant, such evidence shall be interpreted by a competent interpreter, sworn to interpret faithfully and to the best of his ability in the languages concerned.

(2) Before any person is employed as an interpreter the court may, if in its opinion it is expedient to do so, or if any party on reasonable grounds so desires, satisfy itself as to the competence and integrity of such person after hearing evidence or otherwise.

(3) Where the services of an interpreter are employed in any proceedings, the costs (if any) of interpretation shall, unless the court otherwise orders be costs in the cause: Provided that where the interpretation of evidence given in one of the official languages of the Republic is required by the representative of a party, such costs shall be at such party's expense.

RULE 62.

FILING, PREPARATION AND INSPECTION OF DOCUMENTS.

(1) Where a matter has to be heard by more than one judge, a copy of all pleadings, important notices, annexures, affidavits and the like shall be filed for the use of each additional judge.

(2) All documents filed with the court, other than the originals of exhibits and annexures, shall be clearly and legibly printed or typewritten in permanent black or blue-black ink on one side only of suitable paper of foolscap size and of good quality. A document shall be deemed to be typewritten if it is reproduced clearly and legibly on suitable paper, by a duplicating, lithographic, photographic or any other method of reproduction.

(3) Stated cases, petitions, affidavits, grounds of appeal and the like shall be divided into concise paragraphs which shall be consecutively numbered.

(4) An applicant shall not later than three days prior to the hearing of the matter collate, and number consecutively, and suitably secure, all pages of the documents delivered and shall prepare and deliver a complete index thereof.

(5) Every affidavit filed with the registrar by or on behalf of a respondent shall, if he is represented, on the first page thereof bear the name and address of the attorney filing it.

(6) The registrar may reject any document which does not comply with the requirements of this rule.

(7) Any party to a cause, and any person having a personal interest therein, with leave of the registrar on good cause shown, may at his office, examine and make copies of all documents in such cause.

RULE 63.

AUTHENTICATION OF DOCUMENTS EXECUTED OUTSIDE THE REPUBLIC AND SOUTH WEST AFRICA FOR USE WITHIN THE REPUBLIC AND SOUTH WEST AFRICA.

(1) In this rule, unless inconsistent with the context—

"document" means any deed, contract, power of attorney, affidavit or other writing, but does not include an affidavit or solemn or attested declaration purporting to have been made before an officer prescribed by

artikel *agt* van die Wet op Vrederegters en Kommissarisse van Ede, 1963 (Wet No. 16 van 1963) voorgeskrewe amptenaar afgelê heet te wees nie;

„waarmerking", wanneer op 'n dokument toegepas, die bevestiging van 'n handtekening daarop.

(2) 'n Dokument wat op 'n plek buite die Republiek en Suidwes-Afrika verly is, word geag voldoende gewaarmerk te wees vir doeleindes van gebruik in die Republiek en Suidwes-Afrika indien dit behoorlik gewaarmerk is op so 'n vreemde plek deur die handtekening en ampseël—

(*a*) van die hoof van 'n Suid-Afrikaanse diplomatieke of konsulêre missie of van iemand in die administratiewe of vakkundige afdeling van die staatsdiens wat by 'n Suid-Afrikaanse diplomatieke, konsulêre of handelskantoor in die buiteland diens doen of van 'n Suid-Afrikaanse buitelandse diensbeampte Graad X of 'n Suid-Afrikaanse ere-konsul-generaal, konsul, vise-konsul of handelskommissaris; of

(*b*) van 'n diplomatieke of konsulêre beampte van enige Regering wat die waarmerking van dokumente namens die Republiek waarneem in die land waar die dokument verly is; of

(*c*) van 'n staatsinstansie van so 'n vreemde plek wat met die waarmerking van dokumente ingevolge die reg van daardie vreemde land belas is; of

(*d*) van 'n notaris of iemand anders in so 'n vreemde plek wat volgens 'n sertifikaat van 'n persoon in paragraaf (*a*), (*b*) of (*c*) genoem of van 'n diplomatieke of konsulêre beampte van so 'n vreemde land in die Republiek en Suidwes-Afrika behoorlik gemagtig is om so 'n dokument ingevolge die reg van daardie vreemde land te waarmerk; of

(*e*) van 'n notaris in die Verenigde Koninkryk van Groot Brittanje en Noord-Ierland of in Rhodesië, Basoetoland, die Betsjoeanaland Protektoraat of Swaziland; of

(*f*) van 'n offisier van die Suid-Afrikaanse Weermag soos omskryf in artikel een van die Verdedegingswet, 1957 (Wet No. 44 van 1957), in die geval van 'n dokument wat deur iemand op aktiewe diens verly is.

(3) As iemand wat 'n dokument ingevolge subreël (2) waarmerk geen ampseël het nie, moet hy in dier voege daarop onder sy handtekening sertifiseer.

(4) Ondanks die bepalings van hierdie reël, kan 'n geregshof of openbare kantoor 'n dokument wat tot die bevrediging van so 'n geregshof of die beampte in beheer van so 'n openbare kantoor werklik geteken blyk te wees deur die persoon deur wie dit heet geteken te wees as behoorlik gewaarmerk aanvaar indien, daarbenewens, die genoemde hof of beampte oortuig is dat, met inagneming van die omstandighede wat op die tyd en plek van verlyding heers, dit vir so iemand onmoontlik was om sonder onredelike vertraging of onkoste die dokument op die by hierdie reël voorgeskrewe wyse te verly.

(5) Vir 'n volmag in Basoetoland, die Betsjoeanaland Protektoraat of Swaziland verly en bedoel as magtiging aan iemand om enige geregtelike verrigtinge in 'n landdroshof in die Republiek of Suidwes-Afrika in te stel of te verdedig of daarin toe te tree, word geen waarmerking vereis nie: Met dien verstande dat so 'n volmag behoorlik onderteken en die ondertekening deur twee bevoegde getuies geattesteer skyn te wees.

REËL 64.

VERNIETIGING VAN STUKKE.

As 'n saak nie deur die hof of 'n regter beslis is en nie teruggetrek is nie, kan die griffier, behoudens die bepalings van die Argiefwet, 1962 (Wet No. 6 van 1962), na verloop van drie jaar vanaf die datum waarop die laaste stuk ingedien is, die vernietiging van die betrokke stukke wat by hom ingedien is, magtig.

REËL 65.

KOMMISSARISSE VAN DIE HOF.

Iedereen wat behoorlik aangestel is as 'n kommissaris van 'n afdeling van die Hooggeregshof van Suid-Afrika vir die afneem van beëdigde verklarings op 'n plek buite die Republiek, word uit hoofde van so 'n aanstelling 'n

section *eight* of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963);

"authentication" means, when applied to a document, the verification of any signature thereon.

(2) Any document executed in any place outside the Republic and South West Africa shall be deemed to be sufficiently authenticated for the purpose of use in the Republic and South West Africa if it be duly authenticated at such foreign place by the signature and seal of office—

(*a*) of the head of the South African diplomatic or consular mission or a person in the administrative or professional division of the public service serving at a South African diplomatic, consular or trade office abroad or a South African foreign service officer grade X or an honorary South African consul-general, consul, vice-consul or trade commissioner; or

(*b*) of a diplomatic or consular officer of any Government authenticating documents on behalf of the Republic in the country where such document is executed; or

(*c*) of any Government authority of such foreign place charged with the authentication of documents under the law of that foreign country; or

(*d*) of any notary public or other person in such foreign place who shall be shown by a certificate of any person referred to in paragraph (*a*), (*b*) or (*c*) or of any diplomatic or consular officer of such foreign country in the Republic and South West Africa to be duly authorised to authenticate such document under the law of that foreign country; or

(*e*) of a notary public in the United Kingdom of Great Britain and Northern Ireland or in Rhodesia, Basutoland, the Bechuanaland Protectorate or Swaziland; or

(*f*) of a commissioned officer of the South African Defence Force as defined in section *one* of the Defence Act, 1957 (Act No. 44 of 1957), in the case of a document executed by any person on active service.

(3) If any person authenticating a document in terms of sub-rule (2) has no seal of office, he shall certify thereon under his signature to that effect.

(4) Notwithstanding anything in this rule contained, any court of law or public office may accept as sufficiently authenticated any document which is shown to the satisfaction of such court or the officer in charge of such public office, to have been actually signed by the person purporting to have signed such document if, in addition, the said court or officer is satisfied that, having regard to the conditions prevailing at the time and place of execution, it was not possible without unreasonable delay or expense for such person to execute the document in the manner prescribed by this rule.

(5) No power of attorney, executed in Basutoland, the Bechuanaland Protectorate or Swaziland, and intended as an authority to any person to take, defend or intervene in any legal proceedings in a magistrate's court within the Republic or South West Africa, shall require authentication: Provided that any such power of attorney shall appear to have been duly signed and the signature to have been attested by two competent witnesses.

RULE 64.

DESTRUCTION OF DOCUMENTS.

In any matter which has not been adjudicated upon by the court or a judge, and has not been withdrawn, the registrar may, subject to the provisions of the Archives Act, 1962 (Act No. 6 of 1962), after the lapse of three years from the date of the filing of the last document therein, authorize the destruction of the documents filed in his office relating to such matter.

RULE 65.

COMMISSIONERS OF THE COURT.

Every person duly appointed as a commissioner of any division of the Supreme Court of South Africa for taking affidavits in any place outside the Republic shall, by virtue

kommissaris van die Hooggeregshof en gevolglik geregtig om deur die griffier van elke ander afdeling as 'n kommissaris daarvan ingeskryf te word. Ten einde inskrywing te vergemaklik, moet die griffier van elke afdeling die name en adresse van diegene wat as kommissarisse van sy afdeling aangestel is, aan die griffiers van al die ander afdelings stuur. Niemand wat in die Republiek woon, word hierna as kommissaris aangestel nie.

REËL 66.

VERJARING.

(1) Na verloop van drie jaar vanaf die dag waarop 'n uitspraak gedoen is, kan geen lasbrief vir tenuitvoerlegging uitgereik word nie tensy die skuldenaar toestem of tensy die vonnis deur die hof hernieu word. Dit kan geskied met kennisgewing aan die skuldenaar, maar geen nuwe bewyse van die skuld is nodig nie. In die geval van 'n vonnis vir periodieke betalings word die drie jaar ten opsigte van enige betaling bereken vanaf die vervaldatum daarvan.

(2) Lasbriewe vir tenuitvoerlegging van 'n vonnis wat eenmaal uitgereik is, bly van krag en kan, behoudens die bepalings van subparagraaf (ii) van paragraaf (*e*) van subartikel (2) van artikel *drie* van die Verjaringswet, 1943 (Wet No. 18 van 1943), ter eniger tyd ten uitvoer gelê word sonder hernuwing totdat daar ten volle aan die vonnis voldoen is.

REËL 67.

TARIEF VAN HOFGELDE.

Die hofgelde betaalbaar ten opsigte van die verskillende provinsiale en plaaslike afdelings (uitgesonderd die afdeling Suidwes-Afrika) is soos volg:

		R c.
(*a*)	(i) Op elke oorspronklike eerste dokument waardeur 'n aksie ingestel of 'n aansoek ingelei word	3.00
	(ii) op elke kosterekening wat getakseer moet word en wat nie verbonde is aan 'n aksie of aansoek wat reeds in die hof geregistreer is nie	3.00
	(iii) op elke prokurasie (wat by die griffier ingedien moet word) om teen die uitspraak van 'n laerhof te appelleer, behalwe in strafsake	3.00
	(iv) op elke kennisgewing van appèl teen die uitspraak van 'n enkele regter na die volle hof ... Met dien verstande dat geen gelde gehef word op die dokument waardeur 'n *in forma pauperis*-aksie ingestel word nie.	3.00
(*b*)	vir die sertifikaat van die griffier op gewaarmerkte afskrifte van dokumente (elk)	0.20

REËL 68.

TARIEF VIR ADJUNK-BALJU'S.

(1) Die gelde in die onderstaande tarief kan deur adjunk-balju's gevorder word: Met dien verstande dat geen gelde gehef word vir die betekening van prosesstukke in *in forma pauperis*—verrigtinge nie behalwe die nodige uitgawes daaraan verbonde.

(2) Waar 'n besondere handeling op meer as een wyse kan geskied, moet die goedkoopste manier gevolg word tensy daar redelike beswaar teen is of die party ten behoewe van wie prosesstukke uitgevoer word, op eie koste 'n bepaalde wyse verkies.

(3) Geskille oor die opeisbaarheid of omvang van enige gelde of koste, en vergoeding vir noodsaaklike werk en noodsaaklike uitgawes waarvoor geen voorsiening gemaak is nie, word beslis deur die takseermeester van die hof waarvan die prosesstukke uitgegaan het.

TARIEF.

	R c.
1. Registrasie van 'n dokument vir betekening of tenuitvoerlegging, by ontvangs daarvan	0.20
2. Betekening of gepoogde betekening van dagvaardings, petisies tesame met kennisgewing van mosie of van ter rolle plasing, ander kennisgewings, bevele of enige ander dokumente, elk	1.00

of such appointment, become a commissioner of the said Supreme Court, and shall, as such, be entitled to be enrolled by the registrar of every other division as a commissioner thereof. For the purpose of facilitating such enrolment the registrar of each division shall transmit the names of those who are appointed as commissioners of such division, as well as their respective addresses, to the registrars of all the other divisions: Provided that no person residing within the Republic shall hereafter be appointed as such commissioner.

RULE 66.

SUPERANNUATION.

(1) After the expiration of three years from the day whereon a judgment has been pronounced, no writ of execution may be issued unless the debtor consents to the issue of the writ or unless the judgment is revived by the court on notice to the debtor, but in such case no new proof of the debt shall be required. In the case of judgment for periodic payments, the three years shall run, in respect of any payment, from the due date thereof.

(2) Writs of execution of a judgment once issued remain in force, and may, subject to the provisions of subparagraph (ii) of paragraph (*e*) of sub-section (2) of section *three* of the Prescription Act, 1943 (Act No. 18 of 1943), at any time be executed without being renewed until judgment has been satisfied in full.

RULE 67.

TARIFF OF COURT FEES.

The court fees payable in respect of the various provincial and local divisions (except the South West Africa division) are as follows:

		R c.
(*a*)	(i) On every original initial document whereby an action is instituted or application is made	3.00
	(ii) on every bill of costs to be taxed which is not related to an action or application already registered in the court	3.00
	(iii) on every power of attorney (to be filed with the registrar) to appeal against the judgment of an inferior court, excluding appeals in criminal cases	3.00
	(iv) on every notice of appeal against the judgment of a single judge to the full court ... ... Provided that no fee shall be levied on the document whereby an *in forma pauperis* action is instituted.	3.00
(*b*)	For the registrar's certificate on certified copies of documents (each)	0.20

RULE 68.

TARIFF FOR DEPUTY SHERIFFS.

(1) The fees and charges contained in the appended tariff shall be chargeable by and allowed to deputy-sheriffs, provided that no fees may be charged for the service of process in *in forma pauperis* proceedings (but the necessary disbursements for the purpose of such service may be recovered).

(2) Where there are more ways than one of doing any particular act, the least expensive way shall be adopted unless there is some reasonable objection thereto, or unless the party at whose instance process is executed desires any particular way to be adopted at his expense.

(3) Where any dispute shall arise as to the validity or amount of any fees or charges, or where necessary work is done and necessary expenditure incurred for which no provisions is made, the matter shall be determined by the taxing officer of the court whose process is in question.

TARIFF.

	R c.
1. For registration of any document for service or execution, upon receipt thereof	0.20
2. For service, or attempted service, of summonses, petitions together with notice of motion or notice of set down, notices, orders or any other documents, each	1.00

R c.

Met dien verstande dat—

(i) wanneer 'n dokument saam met 'n prosesstuk beteken moet word en in die prosesstuk genoem word of 'n aanhangsel daarvan is, geen addisionele gelde gevorder mag word vir betekening van die dokument nie. Owerigens mag R1 gevorder word vir elke afsonderlike dokument wat beteken word;

(ii) 'n gepoogde betekening van meer as een dokument aan dieselfde persoon beskou word as 'n gepoogde betekening van slegs een dokument; en

(iii) geen geld vir 'n aparte dokument gevorder word by die betekening van prosesstukke in strafsake nie.

3. **Reistoelae:**

(*a*) Vir die afstand werklik en noodsaaklikerwys deur die adjunk-balju of sy verteenwoordiger afgelê, bereken van die kantoor van die adjunk-balju af vir die heen- en terugreis, per myl of deel van 'n myl 0.15

(*b*) Wanneer twee of meer dagvaardings of ander prosesstukke, in opdrag van dieselfde party of van verskillende partye, met een en dieselfde reis beteken kan word, moet die reistoelae redelik en billik verdeel word tussen die verskillende sake met inagneming van die afstand wat die onderskeie partye aan wie die prosesstukke gerig is van die kantoor van die adjunk-balju af woon, maar die gelde is betaalbaar vir elke betekening of gepoogde betekening.

(*c*) Hierdie toelae is alleen betaalbaar in gevalle waar die betrokke diens meer as een myl van die kantoor van die adjunk-balju af verrig moet word: Met dien verstande dat as die kantoor van die adjunk-balju meer as drie myl van die landdroskantoor van sy distrik is, die afstand van een myl van die landdroskantoor af gemeet word.

(*d*) Die beperking opgelê deur die voorbehoud by die voorgaande subparagraaf 3 (*c*) kan deur die Minister van Justisie na goeddunke verslap word waar omstandighede dit regverdig en op aanbeveling van die balju van die betrokke provinsie, in welke geval die balju die aanbevole toegewing ten tyde van die aanstelling van die adjunk-balju moet meld.

4. (*a*) Posgeld in siviele sake, volgens die postarief.

(*b*) In strafsake, posvry.

LET WEL.—Indien moeilikheid ondervind word om koeverte wat „Amptelik" gemerk is deur die plaaslike posowerheid aangeneem te kry, kan die adjunk-balju die posstukke na die griffier van die Hooggeregshof neem, of as daar geen griffier in sy dorp of stad is nie, na die landdros, wat die koevert met sy amptelike frankeerstempel moet merk.

5. **Tenuitvoerlegging van enige lasbrief—**

(*a*) (i) vir die arres van 'n persoon insluitende die vervoer van hom na die hof, na die prokureur se kantoor of na die gevangenis, per persoon 4.20

(ii) vir vervoer van die verweerder na die hof van die plek van aanhouding op 'n dag na die dag van arres, en bywoning van die hof, R1.05 per uur, met 'n minimum van R2.10 maar hoogstens 4.20

(*b*) vir uitsetting R1.50 per uur, onderworpe aan 'n minimum van ... ... 5.25 (benewens redelike uitgawes noodsaaklikerwys aangegaan)

(*c*) teen onroerende goed:

(i) vir tenuitvoerlegging, insluitende betekening van kennisgewing van beslaglegging aan die eienaar van die onroerende goed en die registrateur van aktes of ander beampte belas met registrasie van sodanige goed en as die onroerende goed deur iemand anders geokkupeer word, ook aan die okkupant 3.05

(ii) vir kennisgewing van beslaglegging aan 'n enkele huurder of bewoner 1.05

Identiese kennisgewings waar daar meer as een huurder, bewoner of eienaar is vir elkeen na die eerste 0.25

(iii) vir waardasie of verslag vir die doel van 'n verkoping 5.00

(iv) waar 'n adjunk-balju gemagtig is om goed te verkoop en die goed nie verkoop word nie omdat die beslaglegging teruggetrek word of die skuldenaar se boedel insolvent verklaar word, afgesien van die bedrag van die lasbrief 2.10

Die nodige kennisgewing van terugtrekking van beslaglegging, die eerste 1.05

Ander identiese kennisgewings vir elkeen na die eerste 0.25

R c.

Provided that—

(i) whenever any document to be served with any such process is mentioned in the process or forms an annexure thereto, no additional fee shall be charged for the service of such document, otherwise a fee of R1 may be charged in respect of each separate document served;

(ii) an attempted service of more than one document on the same person shall be treated as an attempted service of one document only; and

(iii) no fee for the service of a separate document shall be charged in respect of the service of process in criminal cases.

3. Travelling allowance:

(*a*) For the distance actually and necessarily travelled by the deputy-sheriff or his officer reckoned from the office of the deputy-sheriff, both on the forward and the return journey, per mile or fraction of a mile 0.15

(*b*) When two or more summonses or other process, whether at the instance of the same party or or of different parties, are capable of being served on one and the same journey, the travelling allowance for performing the round of service shall be fairly and equitably apportioned among the several cases, regard being had to the distance at which the parties against whom such process is directed respectively reside from the office of the deputy-sheriff, but the fee for service shall be payable for each service made or attempted to be made.

(*c*) This allowance shall be payable only in cases where the duty in question is to be performed beyond a radius of one mile from the office of the deputy-sheriff: Provided that if the office of the deputy-sheriff is situate more than three miles from the office of the magistrate of his district, the allowance shall be payable only where such duty is to be performed beyond a distance of one mile from the magistrate's office.

(*d*) The restriction imposed by the proviso in the preceding sub-paragraph 3 (*c*) may however be relaxed by the Minister of Justice, in his discretion, where circumstances warrant it and on the recommendation of the sheriff of the province concerned, in which event the extent thereof shall be specially mentioned in the appointment of the deputy-sheriff.

4. (*a*) Postage in civil matters, as per postal tariff.

(*b*) Postage in criminal matters, free.

NOTE.—If difficulty is experienced in having envelopes marked "Official" accepted by the local postal authorities the deputy-sheriff may take the postal matter to the registrar of the Supreme Court, or if there is no registrar in his town or city, to the magistrate, who shall frank the envelope with his official franking stamp.

5. For the execution of any writ—

(*a*) (i) of personal arrest, including conveying defendant to court, to attorney's office or to a prison, per person 4.20

(ii) for conveying defendant to court from place of custody on a day subsequent to the day of arrest and attending at court, R1.05 per hour with a minimum of R2.10 but not exceeding 4.20

(*b*) of ejectment: R1.50 per hour, subject to a minimum fee of ... ... 5.25 (in addition to reasonable expenses necessarily incurred)

(*c*) against immovable property:

(i) for execution, including service of notice of attachment upon the owner of the immovable property and upon the registrar of deeds or other officer charged with the registration of such property and if the property is in occupation of some person other than the owner, also upon such occupier 3.05

(ii) for notice of attachment to a single lessee or occupier 1.05

Identical notices when there are several lessees, occupiers or owners, for each after the first 0.25

(iii) for making valuation or report for purposes of sale 5.00

(iv) when a deputy-sheriff has been authorized to sell property and the property is not sold by reason of the fact that the attachment is withdrawn or the debtor's estate made insolvent, irrespective of the amount of the writ 2.10

The necessary notice for the withdrawal of the attachment, the first 1.05

Other identical notices for each after the first 0.25

	R c.
(v) vir die vasstelling en aantekening van watter verband of ander beswarings teen die eiendom geregistreer is, asook die name en adresse van die persone in wie se guns dit geregistreer is, insluitende briefwisseling in verband daarmee	6.00
(vi) om vonnisskuldeiser in kennis te stel van verbande of beswarings en van die name en adresse van die persone in wie se guns dit geregistreer is	0.50
(vii) vir oorweging van bewys dat preferente skuldeiser aan die vereistes van paragraaf (*a*) van subreël (5) van reël *ses-en-veertig* voldoen het	0.50
(viii) vir die in subreël (6) van reël *ses-en-veertig* bedoelde kennisgewing	1.05
(ix) vir oorweging van kennisgewing van verkoping wat deur vonnisskuldeiser in oorleg met adjunk-balju opgestel word	2.10
(x) vir nagaan van aangeduide koerante en die *Staatskoerant* waarin kennisgewing van verkoping geplaas is	0.50
(xi) vir die stuur van 'n eksemplaar van die kennisgewing van verkoping aan elke vonnisskuldeiser wat op die onroerende goed beslag laat lê het en aan elke verbandhouer wie se adres bekend is, vir elke eksemplaar	0.25
(xii) vir die aanbring van 'n eksemplaar van die kennisgewing van verkoping op die kennisgewingbord van die in paragraaf (*e*) van subreël (7) van reël *ses-en-veertig* bedoelde landdroshof en op of so na moontlik aan die plek waar die verkoping sal plasvind, 'n omvattende geld van	1.05
(xiii) vir oorweging van die verkoopsvoorwaardes	1.05
(xiv) by die verkoop van onroerende goed deur die adjunk-balju as afslaer, twee en 'n half persent van die opbrengs van die verkoping, betaalbaar deur die koper, met 'n minimum van ... ... Dit sluit in opwagting om die gelde wat ten opsigte van die koopprys ontvang is op die depositorekening van die landdros van die distrik in te betaal.	20.00
(xv) vir enige by subreël (2) van reël *ses-en-veertig* bedoelde verslag	2.10
(xvi) vir die gee van transport aan die koper	1.05
(xvii) vir die opstel van 'n distribusieplan van die opbrengs (insluitende nodige afskrifte) en afsending van afskrif aan griffier	7.00
(xviii) vir kennisgewing aan partye wat lasbriewe ingedien het en aan die vonnisskuldenaar dat distribusieplan ter insae sal lê, vir elke kennisgewing	0.50
(xix) vir versoek aan landdros om ooreenkomstig distribusieplan uit te betaal	0.50
(*d*) Teen roerende goed—	
(i) Wanneer 'n lasbrief by aanbieding betaal word, 1 persent van die bedrag aldus betaal met 'n minimum van	2.10
(ii) Onsuksesvolle poging om beslag te lê, insluitende opsporing vir een uur en navraag	2.10
(iii) Waar 'n lasbrief teruggetrek word of die skuldenaar se boedel insolvent verklaar word voordat beslag gelê is	2.10
(iv) Beslaglegging, insluitende opsporing vir een uur en navraag	3.05
(v) Kennisgewing van beslaglegging, indien nodig, aan een persoon ... ... Identiese kennisgewings waar daar meer as een persoon is wat kennis moet kry, vir elkeen na die eerste	1.05 0.25
(vi) Waar beslaglegging deur die vonnisskuldeiser teruggetrek word of die skuldenaar word insolvent verklaar voor die verkoping, 3½ persent van die waarde van die inbeslaggenome goed of die bedrag van die lasbrief, watter ookal die minste is.	
(vii) Waar die lasbrief aan die adjunk-balju betaal word deur die skuldenaar na beslaglegging maar voor verkoping, 3½ persent van die bedrag betaal.	
(viii) Waar beslag op geld gelê word, 1½ persent van sodanige bedrag.	
(ix) Opstel van advertensie van verkoping van inbeslaggenome goed	0.70
(x) Verkoping vir uitwinning (met of sonder afslaer) insluitende verdeling van die opbrengs, vir die eerste R200 of deel daarvan 6 persent, en daarna 5 persent.	
(xi) Die adjunk-balju moet roerende goed self uitwin maar 'n afslaer aanstel indien skriftelik daartoe deur die vonnisskuldeiser versoek, en mits die vonnisskuldeiser die addisionele kommissie, as daar is, betaal.	

	R c.
(v) to ascertain and record what bonds or other encumbrances are registered against the property together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered, including any correspondence in connection therewith	6.00
(vi) to notify the execution creditor of such bonds or other encumbrances and of the names and addresses of the persons in whose favour such bonds or other encumbrances are registered	0.50
(vii) for consideration of proof that preferent creditor has complied with the requirements of paragraph (*a*) of sub-rule (5) of rule *forty-six*	0.50
(viii) for the notice referred to in sub-rule (6) of rule *forty-six*	1.05
(ix) for consideration of notice of sale prepared by execution creditor in consultation with deputy-sheriff	2.10
(x) for verifying that notice of sale has been published in the newspapers indicated and in the *Gazette*	0.50
(xi) for forwarding a copy of the notice of sale to every judgment creditor who had caused the immovable property to be attached and to every mortgagee thereof whose address is known, for each copy	0.25
(xii) for affixing a copy of the notice of sale on the notice board of the magistrate's court referred to in paragraph (*e*) of sub-rule (7) of rule *forty-six* and at or as near as may be to the place where the sale is actually to take place, an inclusive fee of	1.05
(xiii) for considering the conditions of sale	1.05
(xiv) on the sale of immovable property by the deputy-sheriff as auctioneer two and one half per cent of the proceeds of the sale which shall be paid by the purchaser, with a minimum of ... ... This includes call to pay into the deposit account of the magistrate of the district all moneys received in respect of the purchase price.	20.00
(xv) for any report referred to in sub-rule (2) of rule *forty-six*	2.10
(xvi) for giving transfer to the purchaser	1.05
(xvii) for preparing a plan of distribution of the proceeds (including the necessary copies) and for forwarding a copy to the registrar	7.00
(xviii) for giving notice to all parties who have lodged writs and to the execution debtor that the plan will lie for inspection, for every notice	0.50
(xix) for request to magistrate to pay out in accordance with the plan of distribution ...	0.50
(*d*) Against movable property—	
(i) When a writ is paid on presentation, 1 per cent on the amount so paid with a minimum fee of	2.10
(ii) For any abortive attempt at attachment, including one hour's search and enquiry	2.10
(iii) When a writ is withdrawn or the debtor's estate made insolvent before any property is attached	2.10
(iv) For making an attachment, including one hour's search and enquiry	3.05
(v) Notice of attachment, if necessary, to a single person ... ... Identical notices when there are more than one person to be given notice, for each after the first	1.05 0.25
(vi) When an attachment is withdrawn by a judgment creditor or the debtor's estate is made insolvent before sale, 3½ per cent on the value of the property attached or the amount of the writ whichever is the lesser.	
(vii) When a writ is paid by the debtor to the deputy-sheriff after attachment but before sale, 3½ per cent on the amount so paid.	
(viii) When moneys are taken in execution, 1½ per cent on the amount so taken.	
(ix) For drawing advertisement of sale of goods attached	0.70
(x) For selling in execution (whether auctioneer employed or not), including distribution of the proceeds, on the first R200 or part thereof, 6 per cent, and over and above the first R200, 5 per cent.	
(xi) The deputy-sheriff himself shall sell movable property in execution but he shall engage the services of an auctioneer if directed thereto in writing by the judgment creditor, provided the judgment creditor bears the additional commission, if any.	

	R c.
(xii) Kommissie is nie van 'n vonnisskuldenaar verhaalbaar op die waarde van inbeslaggenome roerende goed wat daarna deur 'n derde opgeëis en gevolglik vrygegee is nie, tensy die goed in beslag geneem is op die uitdruklike skriftelike versoek van die vonnisskuldeiser, in welke geval die vonnisskuldeiser teenoor die adjunk-balju aanspreeklik is vir die kommissie.	
(xiii) Versekering van inbeslaggenome roerende goed wanneer dit nodig geag word en in skriftelike opdrag van die vonnisskuldeiser aan die adjunk-balju, benewens die premie wat betaal word, 'n allesinsluitende bedrag van	3.05
(*e*) Vir bewaring van goed (geld uitgesluit);	
(i) Vir 'n beampte wat noodsaaklikerwys in besit gelaat is, 'n redelike allesinsluitende bedrag per dag van hoogstens	4.20
Vir 'n addisionele beampte waar nodig, beperk tot een, per dag, hoogstens	0.75
LET WEL: "Bewaring" beteken die voortdurende en noodsaaklike teenwoordigheid op die perseel vir die tydperk waarvoor bewaring bereken word, van iemand in diens van en betaal deur die adjunk-balju vir die uitsluitende doel om besit te behou.	
(ii) Vervoer en opberging, die redelike en noodsaaklike uitgawes, en as 'n dier op stal geplaas of gevoer moet word, die redelike uitgawes daaraan.	
(iii) Oppas van lewende hawe, die nodige uitgawes daaraan.	
(iv) Waar niemand in besit gelaat word en geen akte van sekerheidstelling verkry is nie, maar die inbeslaggenome roerende goed bly onder toesig van die adjunk-balju, per dag	0.25
6. (*a*) Opstel van 'n inventaris, insluitende 'n afskrif vir die persoon wie se goed geïnventariseer word, per 100 woorde of deel daarvan	0.70
(*b*) Enige nodige addisionele afskrif, per 100 woorde of deel daarvan	0.15
(*c*) Bystand waar nodig by die opstel van 'n inventaris (beperk tot een beampte), 'n redelike allesinsluitende bedrag per dag van hoogstens	4.20
7. (*a*) Opstel van relaas van betekening of tenuitvoerlegging, insluitende opstel en tik van oorspronklike vir die hof, beperk tot een persoon op elke oorspronklike prosesstuk	0.50
(*b*) Afskrif daarvan vir die party wat betekening of tenuitvoerlegging verlang	0.25
8. Opstel en voltooiing van 'n akte van borgstelling, sekerheidstelling of vrywaring	2.10
9. Afskrifte van prosesstukke en bevele noodsaaklikerwys gemaak, per folio	0.20
met 'n minimum van	0.50
10. Kopiëring van dagvaardings, bevele getuiedagvaardings, lasbriewe, ens., telegrafies ontvang, 12½c per folio van 100 woorde, met 'n minimum van	0.50
11. Afneem van 'n verklaring van 'n beskuldigde wat nie verteenwoordig is nie en wat verlang dat getuies op koste van die Staat gedagvaar moet word, betreffende sy middele, die name en addresse van die getuies en wat hulle ter verdediging van hom kan sê, ten einde die griffier of die klerk van die hof op rondgang in staat te stel om te oordeel of die getuies gedagvaar moet word	0.25
LET WEL: Hierdie inligting moet verkry word wanneer die kennisgewing van verhoor en akte van beskuldiging beteken word en aan die griffier of die klerk van die hof oorgedra word in dieselfde brief onder dekking waarvan die dokumente teruggestuur word.	
12. Bywoning van strafsittings van 'n hoër hof of 'n rondgaande hof, per hof per dag	4.20
13. Waar die doodvonnis opgelê word—	
(*a*) Indien die gevangene tereggestel word—reëlings vir teregstelling en bywoning daarvan, 'n allesinsluitende bedrag van	25.20
(*b*) Indien die gevangene nie tereggestel word nie, 'n allesinsluitende bedrag van	8.40
LET WEL: In beide bevalle dek die bedrag die uitkenning van die gevangene by aankoms, daaropvolgende besoeke by die gevangenis op versoek van die gevangene of die owerheid, die neem van verklarings van die gevangene indien daartoe versoek, en vervoer.	
14. Elke nodige brief behalwe formele briewe wat prosesstukke of relase vergesel	0.50
15. Maak of beantwoording van elke nodige telefoonoproep (benewens voorgeskrewe hooflyngelde) ...	0.30
16. Uitreiking van juriedagvaardings per sitting, allesinsluitend	6.30

	R c.
(xii) Commission shall not be chargeable, as against a judgment debtor, on the value of movable property attached and subsequently claimed by a person other than the judgment debtor and released in consequence of such claim unless such property has been attached at the express direction of the judgment creditor, in writing, in which event the judgment creditor shall be liable to the deputy-sheriff for the commission.	
(xiii) For insuring movable property attached when it is considered necessary and when the deputy-sheriff is directed thereto in writing, by the judgment creditor, in addition to the amount of premium paid, an inclusive fee of	3.05
(*e*) For keeping possession of property (money excepted):	
(i) For an officer necessarily left in possession, a reasonable inclusive fee per day not exceeding	4.20
For an additional officer, where necessary, limited to one, per day, not exceeding ...	0.75
NOTE.—"Possession" means the continuous and necessary presence on the premises for the period in respect of which possession is charged of a person employed and paid by the deputy-sheriff for the sole purpose of retaining possession.	
(ii) For removal and storage, the reasonable and necessary expenses for such removal and storage; and if an animal is to be stabled or fed, the reasonable charges for such stabling and feeding.	
(iii) For herding and preserving livestock, the necessary expenses for herding and preserving such stock.	
(iv) When no officer is left in possession and no security bond is taken, but movable property attached remains under the supervision of the deputy-sheriff, per day ...	0.25
6. (*a*) For making an inventory, including a copy for the person whose goods are being inventoried, per 100 words or part thereof	0.70
(*b*) For any additional necessary copy, per 100 words or part thereof	0.15
(*c*) For assistance, where necessary, in taking inventory (limited to one officer), a reasonable and inclusive fee per day, not exceeding	4.20
7. (*a*) For making return of service or execution, including drawing and typing original for court, limited to one person upon each original process	0.50
(*b*) Copy thereof for party desiring service or execution	0.25
8. For drawing and completing bail bond, deed of suretyship or indemnity bond	2.10
9. For copies of process and orders necessarily made @ per folio ... ... with a minimum of 50c.	0.20
10. For making copies of summonses, orders, subpoenas, writs, etc., received by telegram, 12½c. per folio of 100 words, with a minimum of	0.50
11. Taking statement from accused, who is not represented and who desires witnesses to be subpoenaed at the expense of the State, as to his means, the names and addresses of the witnesses and what they can say in his defence, in order to enable the registrar or the clerk of the court on circuit to decide whether the witnesses should be subpoenaed	0.25
NOTE.—This information is to be obtained at the time of serving the notice of trial and indictment and conveyed to the registrar or clerk of the court in the same letter under cover of which the documents are returned.	
12. Attending any criminal session of a Superior Court or any Circuit Court, per court per day	4.20
13. In cases of prisoners sentenced to death:	
(*a*) Where prisoner is executed—arranging for, etc., and attending capital punishment, an inclusive fee of	25.20
(*b*) Where prisoner is not executed, an inclusive fee of	8.40
NOTE.—This fee in both cases includes identifying the prisoner on arrival, subsequent attendances at the prison at the request of the prisoner or the authorities, taking statements from prisoner if requested to do so, and transport.	
14. For each necessary letter excluding formal letters accompanying process or returns	0.50
15. For each necessary attendance by telephone (in addition to prescribed trunk charges)	0.30
16. For issuing jurors' summonses per session—inclusive fee	6.30

REËL 69.

ADVOKAATSGELDE IN SIVIELE SAKE IN DIE PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE HOOGGEREGSHOF.

(1) Die gelde van net een advokaat word tussen party en party toegelaat, behalwe waar die hof die van meer dan een advokaat tussen party en party magtig.

(2) Waar gelde vir meer as een advokaat tussen party en party toegelaat word, beloop dié van 'n addisionele advokaat hoogstens die helfte van dié van die eerste.

(3) Die onderstaande tarief van maksimum-gelde tussen party en party (hieronder die tarief genoem) geld vir die volgende aangeleenthede, behalwe waar die hof anders gelas op 'n aansoek gedoen voor of onmiddellik na die uitspraak:

(*a*) 'n eis van hoogstens R3,000 met of sonder aanvullende regshulp;
(*b*) 'n eis om lewering van roerende of onroerende goed met 'n waarde van hoogstens R3,000;
(*c*) 'n eis om uitsetting uit 'n perseel waar die waarde van die okkupasiereg vir die okkupant hoogstens R3,000 is;
(*d*) 'n eis om egskeiding of geregtelike skeiding, of ander huweliksaangeleenthede, tensy vergesel van 'n eis om 'n som geld van meer as R3,000 of om goed met 'n waarde van meer as R3,000 (maar nie onderhoud nie);
(*e*) 'n appèl of 'n hersiening van 'n landdroshof af;
(*f*) 'n aansoek om 'n interdik *pendente lite* betreffende 'n aangeleentheid in paragraaf (*a*), (*b*), (*c*) of (*d*) genoem;

Met dien verstande dat—

(i) waar die bedrag van die eis R3,000 oorskry maar dié van die vonnis nie, die tarief van toepassing is;
(ii) waar aan die verweerder of respondent koste toegeken word en die bedrag of waarde van die eis teen hom R3,000 oorskry het, die tarief nie van toepassing is nie,

in elke geval tensy die hof anders gelas.

(4) By die toepassing van die tarief moet die takseermeester die skaal van gelde wat gewoonlik tussen party en party vir soortgelyke dienste in sy afdeling toegelaat is voor inwerkingtreding van die tarief, in ag neem en nie sonder gegronde redes gelde toelaat wat dit wesenlik oorskry nie.

(5) Die taksering van advokaatsgelde tussen party en party word deur die takseermeester in ooreenstemming met hierdie reël en waar van toepassing, die tarief, gedoen. Waar die tarief nie geld nie, laat hy soveel toe as wat hy redelik ag, en nie noodwendig meer as die tarief nie.

TARIEF VAN MAKSIMUM GELDE VIR ADVOKATE TUSSEN PARTY EN PARTY IN SEKERE SIVIELE SAKE.

	Rand
1. Skriftelike advies en memoranda in die loop van gedingvoering	25
2. Opstel van pleitstukke en gestelde sake, nasien van die opgawe van feite in 'n gekombineerde dagvaarding of derde-party-kennisgewing	20
3. Advies oor getuienis	30
4. Konsultasies vir verhoor, om beëdigde verklarings, gestelde sake, ens. na te sien en om opdragte te ontvang of advies te gee, informele inspeksies met prokureur of kliënt voor die verhoor, ens. (per uur)	8
5. Nasien van kennisgewing van mosie, beëdigde verklaring ens., waar konsultasie nie gehou is nie	25
6. Verskyning in hof:	
(*a*) Eerste dag van aanhoring:	
(i) Bestrede aansoeke	60
(ii) Eksepsies of mosies om deurhaling	60
(iii) Gestelde sake	60
(iv) Verhore	100
(v) Appèlle en hersienings van landdroshowe af	75

RULE 69.

ADVOCATES' FEES IN CIVIL MATTERS IN THE PROVINCIAL AND LOCAL DIVISIONS OF THE SUPREME COURT.

(1) Save where the court authorizes fees consequent upon the employment of more than one advocate to be included in a party and party bill of costs, only such fees as are consequent upon the employment of one advocate shall be allowed as between party and party.

(2) Where fees in respect of more than one advocate are allowed in a party and party bill of costs, the fees to be permitted in respect of any additional advocate shall not exceed one half of those allowed in respect of the first advocate.

(3) The appended tariff of maximum fees as between party and party (hereinafter referred to as the tariff) shall (save where the court on application made before or when judgment is delivered otherwise orders) apply in the following matters:—

(*a*) Any claim for a sum not exceeding R3,000 with or without any claim for ancillary relief;
(*b*) any claim for delivery of property movable or immovable of a value not exceeding R3,000;
(*c*) any claim for ejectment from premises where the value of the right of occupation to the occupier does not exceed R3,000;
(*d*) any claim for divorce, judicial separation or other matrimonial matters unless accompanied by a money claim exceeding R3,000 or a proprietary claim exceeding R3,000 in value (excluding a claim for maintenance);
(*e*) any appeal and review from magistrates' courts;
(*f*) any application for interdicts *pendente lite* in regard to any matter mentioned in paragraph (*a*), (*b*), (*c*) or (*d*);

provided that—

(i) where the amount of the claim exceeds R3,000 but that of the judgment does not, the tariff shall apply;
(ii) where the defendant or respondent is awarded costs and the amount or value of the claim against him exceeded R3,000 the tariff shall not apply unless in either case the court otherwise orders.

(4) In applying the provisions of the tariff the taxing master shall have regard to the scale of fees ordinarily allowed, as between party and party, at the time of coming into operation of this tariff for like services in his division and shall not without substantial reason allow any fee materially in excess thereof.

(5) The taxation of advocates' fees as between party and party shall be effected by the taxing master in accordance with this rule and, where applicable, the tariff. Where the tariff does not apply, he shall allow such fees (not necessarily in excess thereof) as he considers reasonable.

TARIFF OR MAXIMUM FEES FOR ADVOCATES ON PARTY AND PARTY BASIS IN CERTAIN CIVIL MATTERS.

	Rand
1. Written advice and memoranda in the course of litigation	25
2. Drawing pleadings and stated cases, settling a statement of claim in a combined summons or third party notice ...	20
3. Advice on evidence	30
4. Consultations on trial, to settle affidavits, stated cases, etc., and receive instructions and/or furnish advice, informal inspections with attorney and/or client prior to hearing, etc. (per hour)	8
5. Settling notice of motion, affidavit, etc., where consultation not held	25
6. Appearances in court—	
(*a*) First day of hearing:	
(i) Opposed applications	60
(ii) Exceptions or motions to strike out	60
(iii) Stated cases	60
(iv) Trials	100
(v) Appeals from magistrates' courts including review of proceedings thereof	75

	Rand
(*b*) Daaropvolgende dae: 'n Aanvuller (sonder die noodsaaklikheid van 'n aanvullende opdrag) tot 'n bedrag per dag volgens goeddunke van die takseermeester, maar hoogstens twee-derdes van die gelde by taksasie vir die eerste dag toegelaat.	
(*c*) (i) Bywoning van hof om 'n voorbehoue uitspraak te noteer ...	5
(ii) Bywoning van hof om 'n voorbehoue uitspraak te noteer, insluitende beredenering van terme van bevel, hetsy betreffende koste of iets anders, en 'n aansoek om verlof om te appelleer	15
(*d*) Bywoning van hof vir formele onbestrede uitstel	5
(*e*) Gelde in plaas van dié vir eerste dag se verhoor wanneer saak geskik of teruggetrek of uitgestel is op instansie van enige party—	
(i) hoogstens twee dae voor die verhoordatum	Gelde andersins toelaatbaar by taksasie vir eerste dag van verhoor.
(ii) minstens drie dae en hoogstens sewe dae voor die verhoordatum	Twee-derdes van gelde kragtens (i).
(iii) minstens agt dae en hoogstens een-en-twintig dae voor die verhoordatum	Helfte van gelde kragtens (i).
7. Sake in rondgaande hof: Vir dienste noodsaaklikerwys op rondgang verrig ten opsigte van 'n saak reeds hangende in 'n rondgangafdeling, kan gelde andersins toelaatbaar ingevolge die bostaande tarief, in die diskresie van die takseermeester met hoogstens een-derde verhoog word.	

REËL 70.

Taksasie en Tarief van Gelde van Prokureurs.

(1) 'n Takseermeester mag alle kosterekeninge vir dienste werklik deur 'n prokureur in sy hoedanigheid as prokureur gelewer, takseer hetsy in verband met gedingvoering of nie. In laasbedoelde geval moet hy hom nietemin sover moontlik laat lei deur die skaal van gelde in die onderstaande tarief (hierna die tarief genoem): Met dien verstande dat die takseermeester nie koste mag takseer in gevalle waar 'n ander beampte gemagtig is om dit te doen nie. Hy mag byvoorbeeld nie die koste bedoel in subartikel (2) van artikel *drie-en-sewentig* van die Insolvensiewet, 1936 (Wet No. 24 van 1936) takseer vir sover hulle nie op 'n geding waartoe 'n kurator 'n party is, betrekking het nie.

(2) By die taksasie van 'n kosterekening kan die takseermeester boeke, dokumente, stukke of rekeninge opeis wat syns insiens nodig is om hom in staat te stel om 'n aangeleentheid wat uit die taksasie voortspruit, behoorlik te beslis.

(3) Ten einde die party aan wie koste toegestaan is ten volle te vergoed vir alle uitgawes redelikerwys deur hom aangegaan met betrekking tot sy eis of verweer en om te verseker dat dit deur die party teen wie die bevel gegee is, betaal word, moet die takseermeester al die koste en uitgawes toelaat wat syns insiens nodig of gepas was om reg te laat geskied, of om die regte van enige party te beskerm maar behalwe teen die party wat hulle aangegaan het, moet hy geen koste toelaat wat syns insiens aangegaan of verhoog is uit oorversigtigheid, of deur nalatigheid of dwaling nie, of deur die betaling van spesiale gelde aan 'n advokaat, spesiale uitgawes aan getuies of andere, of deur ander ongewone uitgawes.

(4) Voordat die takseermeester 'n kosterekening takseer, moet hy oortuig wees dat die party wat die rekening moet betaal, behoorlik kennis gekry het van die tyd en plek van taksasie en kennis dat hy geregtig is om daarby teenwoordig te wees: Met dien verstande dat so 'n kennisgewing nie nodig is nie—

(*a*) as die party teen wie koste toegestaan is, nie persoonlik of deur middel van sy regsverteenwoordiger by die verhoor verskyn het nie;

	Rand
(*b*) Subsequent days: A refresher (without the necessity of a refresher brief) in an amount per day to be allowed in the discretion of the taxing master, but not to exceed two-thirds of the fees allowed on taxation in respect of the first day.	
(*c*) (i) Attending court to note a reserved judgment	5
(ii) Attending court to note a reserved judgment, including argument as to terms of order, whether as to costs or otherwise, and an application for leave to appeal	15
(*d*) Attending court on formal unopposed postponement	5
(*e*) Fee in lieu of fee for first day's hearing when case settled or withdrawn or postponed at the instance of any party:	
(i) not more than two days prior to the date of hearing	Fee otherwise allowable on taxation for first day's hearing.
(ii) not less than three days and not more than seven days prior to the date of hearing	Two-thirds of fee under (i).
(iii) not less than eight days and not more than twenty-one days prior to the date of hearing	Half the fee under (i).
7. Circuit matters: For services necessarily rendered on circuit in respect of a matter already pending in a circuit local division, any fee otherwise allowable in terms of the aforegoing tariff may be increased in the discretion of the taxing master by an amount not exceeding one-third of such fee.	

RULE 70.

Taxation and Tariff of Fees of Attorneys.

(1) It shall be competent for any taxing master to tax all bills of costs for services actually rendered by an attorney in his capacity as such, whether in connection with litigation or not. In the latter event the taxing master shall nevertheless be guided as far as possible by the scales of fees fixed by the appended tariff (hereinafter referred to as the tariff): Provided that the taxing master shall not tax costs in instances where some other official is empowered so to do; for example he shall not tax such costs as are referred to in sub-section (2) of section *seventy-three* of the Insolvency Act, 1936 (Act No. 24 of 1936) in so far as these do not relate to litigation to which a trustee is a party.

(2) At the taxation of any bill of costs the taxing master may call for such books, documents, papers or accounts as in his opinion are necessary to enable him properly to determine any matter arising upon such taxation.

(3) With a view to affording the party who has been awarded an order for costs a full indemnity for all costs reasonably incurred by him in relation to his claim or defence and to ensure that all such costs shall be borne by the party against whom such order has been awarded, the taxing master shall, on every taxation, allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the taxing master to have been incurred or increased through over-caution, negligence or mistake, or by payment of a special fee to an advocate, or special charges and expenses to witnesses or to other persons or by other unusual expenses.

(4) The taxing master shall not proceed to the taxation of any bill of costs unless he is satisfied that the party liable to pay the same has received due notice as to the time and place of such taxation and notice that he is entitled to be present thereat: Provided that such notice shall not be necessary—

(*a*) if the party against whom costs have been awarded has not appeared at the hearing either in person or by his legal representative;

(*b*) as die persoon wat vir die betaling van koste aanspreeklik is, skriftelik toegestem het tot taksasie in sy afwesigheid; en

(*c*) vir die taksasie van lasbriefrekeninge en uitwinningsrekeninge.

(5) Die takseermeester mag in buitengewone of uitsonderlike gevalle na goeddunke van hierdie tarief afwyk waar die strenge nakoming daarvan onbillik sou wees.

(6) (*a*) Ten einde sover moontlik die koste van kopiëring van stukke wat die opdragte van advokate vergesel, te verminder, moet die takseermeester nie die koste van onnodige duplikasie in opdrag toestaan nie.

(*b*) Geen gelde word deur die takseermeester tussen party en party toegestaan vir die kopiëring van 'n dokument wat nie by die verhoor gebruik is nie, tensy die hof anders gelas.

(7) Gelde vir kopiëring moet geweier word vir sover hulle redelikerwys verminder kon gewees het deur gedrukte vorms vir verbande, huurkoopkontrakte of ander dokumente te gebruik.

(8) Waar na die mening van die takseermeester meer as een prokureur noodsaaklikerwys in diens geneem is vir enige van die dienste deur die tarief gedek, is elke sodanige prokureur geregtig om volgens die tarief vergoed te word vir werk noodsaaklikerwys deur hom gedoen.

(9) 'n Folio bestaan uit honderd woorde of 'n gedeelte daarvan en vier syfers word as 'n woord beskou.

(10) By die toepassing van die tarief in die gebied Suidwes-Afrika word die hierin genoemde gelde met sewe en een half persent verhoog.

TARIEF VAN GELDE VAN PROKUREURS.

A—Neem van Instruksies.

	R. c. R. c.
1. Om 'n geding in te stel of te verdedig	2.10 tot 31.50
2. Vir advies oor getuienis of op kommissie	1.05 tot 16.80
3. Vir verkryging van opinie, of vir die leiding van 'n advokaat by die opstel van pleitstukke, insluitende eksepsies:	Gelde gelykstaande aan dié wat ingevolge item 2 van afdeling D vir die opstel van die dokument toegelaat word.
4. Vir 'n getuieverklaring	1.05 tot 16.80
5. Om 'n saak ter rolle te plaas, uitreiking van 'n getuiedagvaarding of lasbrief, of enige ander eenvoudige instruksies	0.67
6. Om 'n petisie of beëdigde verklaring op te stel:	Gelde gelykstaande aan die helfte van dié wat ingevolge item 7 van afdeling D vir die opstel van die dokumente toegelaat word: Met dien verstande dat die taksеermeester, in gevalle waar geen petisie of beëdigde verklaring werklik opgestel is nie, na goeddunke gelde toelaat maar minstens R2.10.
7. Om appèl aan te teken	2.10
8. Om appèl voort te sit of te verdedig (met uitsluiting van deurlesing van die oorkonde)	1.05 tot 10.50

B—Opwagting en Deurlesing.

	R c.
1. Ontvangs, deurlesing en oorweging van—	
(*a*) 'n dagvaarding, petisie, beëdigde verklaring, pleitstuk, advokaat se advies en konsep, verslag en belangrike kennisgewing, per folio vir die eerste tien	0.50
en daarna per folio	0.25
(*b*) 'n brief, oorkonde, voorraadlyste by vrywillige oorgawe, uitspraak of enige ander belangrike dokument nie elders vermeld nie: 13c per folio met 'n minimum van	0.50
2. Ontvangs van en oorweging van enige plan of bewysstuk of ander belangrike dokument nie gedek deur item 1 van hierdie afdeling nie	0.67 tot 10.50

(*b*) if the person liable to pay costs has consented in writing to taxation in his absence; and

(*c*) for the taxation of writ and postwrit bills.

(5) The taxing master shall be entitled in his discretion at any time, to depart from any of the provisions of this tariff in extraordinary or exceptional cases, where strict adherence to such provisions would be inequitable.

(6) (*a*) In order to diminish as much as possible the costs arising from the copying of documents to accompany the briefs of advocates, the taxing master shall not allow the costs of any unnecessary duplication in briefs.

(*b*) No fees shall be allowed by the taxing master as between party and party for the copying of any document not used at the hearing, unless the court otherwise directs.

(7) Fees for copying shall be disallowed to the extent by which such fees could reasonably have been reduced by the use of printed forms in respect of bonds, hire-purchase agreements or other documents.

(8) Where in the opinion of the taxing master, more than one attorney has been necessarily engaged in the performance of any of the services covered by the tariff, each such attorney shall be entitled to be remunerated on the basis set out in the tariff for the work necessarily done by him.

(9) A folio shall contain one hundred words or part thereof; four figures to be counted as a word.

(10) In the application of the tariff to the territory of South West Africa the fees mentioned herein shall be increased by seven and one half per cent.

TARIFF OF FEES OF ATTORNEYS.

A—Taking Instructions.

	R. c. R. c.
1. To institute or defend any proceeding	2.10 to 31.50
2. For advice on evidence or on commission	1.05 to 16.80
3. For case on opinion, or for advocate's guidance in preparing pleadings, including exceptions	A fee equivalent to the fee allowed under Item 2 of Section D for drafting the document.
4. For statement of witness	1.05 to 16.80
5. To set down cause, issue subpoena or writ or any other simple instructions	0.67
6. To draft a petition or affidavit	A fee equivalent to one half of the fee allowed under Item 7 of Section D for drafting the document provided that in cases where no petition or affidavit is actually drawn the taxing master shall allow a fee in his discretion, but not less than R2.10.
7. To note an appeal	2.10
8. To prosecute or defend an appeal (exclusive of the perusal of the record)	1.05 to 10.50

B—Attendance and Perusal.

	R c.
1. Attending the receipt of and perusing, and considering:	
(*a*) Any summons, petition, affidavit, pleading, advocate's advice and drafts, report, and important notice or document, per folio for the first ten folios	0.50
and thereafter, at, per folio	0.25
(*b*) Any letter, record stock sheets in voluntary surrenders, judgments or any other material document not elsewhere specified: 13c per folio, with a minimum fee of 50c.	
2. Attending the receipt of and considering any plan or exhibit or other material document in respect of which the basis of remuneration set out in Item 1 of this Section cannot be applied	0.67 to 10.50

	R c.
3. Nasporing in oorkondekantore (per halfuur of gedeelte daarvan)	1.33
4. Sortering, rangskikking en paginering van stukke vir die opstel van pleitstukke, advies oor getuienis of opdrag vir 'n verhoor of appèl (per halfuur)	1.33
5. Opwagting by blootlegging of insae (per halfuur) ...	1.33
6. Te woord staan van getuie om besonderhede van sy eis te kry en dit te betaal	1.05
7. Opwagting om vertaling te reël en dit daarna te verkry	1.05
8. Ander dienste, insluitende telefoonoproepe, behalwe formeles (per halfuur)	1.33
(OPMERKING. Die gelde alhier toegelaat is bykomstig tot dié wat vir opdragte onder afdeling A toegestaan kan word. By die berekening van gelde vir die deurlesing van dokumente in verband met opdragte ingevolge items A1 en A6, moet die aantal woorde in al die dokumente saamgestel en die totaal deur 100 verdeel word).	

C—Opwagting (Formeel).

	R c.
1. Om 'n noodsaaklike dokument of brief te beteken of af te lewer (anders as deur die pos), of 'n telegram te stuur	0.50
2. Om 'n prosesstuk uit te neem of 'n dokument in te dien	0.50
3. Om sake vir verhoor ter rolle te plaas	0.50
4. Om relaas na te spoor	0.50
5. Ontvangs van kennisgewing van voorneme om te verdedig	0.50
6. By 'n advokaat, bv. met 'n opdrag of om 'n afspraak te maak	0.50
7. By ondertekening van prokurasies om te dagvaar of te verdedig	0.50
8. By *jurat*	0.67
9. Ander formele opwagtings, insluitende telefoonoproepe	0.50
10. Aandag skenk aan die ontvangs van 'n formele erkenning	0.33

D—Opstel van Dokumente.

	R c.
1. Inskrywing in kamerboek waar dit in gebruik is (insluitende alle opwagtings)	1.33
2. Instruksies vir 'n opinie, of vir die leiding van advokate by die voorbereiding van pleitstukke (met inbegrip van verdere besonderhede en versoeke daarom), insluitende eksepsies (per folio)	0.50
3. Instruksies aan advokaat insake advies oor getuienis, vir opdrag op verhoor of op kommissie (per folio) ...	0.50
4. Instruksie vir argument aan advokate ten opsigte van alle soorte pleitstukke: Met dien verstande dat gelde vir die opstel van instruksies insake 'n mosie, petisie, eksepsie of appèl, slegs na goeddunke van die takseermeester toegestaan word (per folio) ...	0.50
5. Getuieverklarings (per folio)	0.50
6. Getuiedagvaardings, prokurasies om te dagvaar of te verdedig en formele kennisgewings (per folio) ...	0.50
7. Petitisie, beëdigde verklaring, enige kennisgewing (uitgesonderd 'n formele kennisgewing), dagvaarding, versoek om en verskaffing van verdere besonderhede vir verhoor, lasbriewe vir uitwinning, arres of beslaglegging en enige ander belangrike dokument waarvoor geen ander voorsiening gemaak is nie (per folio vir die eerste twintig folio's)	1.00
en daarna (per folio)	0.50
(Die minimum onder hierdie item vir die opstel van 'n dagvaarding, petisie of beëdigde verklaring is R4.20 maar dit geld nie vir formele beëdigde versuimverklarings in gedinge om herstel van huweliksregte, bevestigende beëdigde verklarings, beëdigde verklarings ten opsigte van betekening of ander formele beëdigde verklarings nie).	
8. Brief of telegram	0.67
Indien meer as een folio, vir elke bykomende folio	0.33
Lêerafskrif (per folio)	0.10
9. Inhoudsopgawe vir advokaatsopdrag (per folio) ...	0.30
10. Kort opdrag	0.67

OPMERKING 1.—By die berekening van die aantal folio's van die dokumente bedoel in items 2, 3, 4, 5 en 7 van hierdie afdeling, trek die takseermeester gedeeltes af wat bestaan uit aanhalings uit ander stukke, maar wanneer dit ter sake is, behandel hy dit as bylaes.

OPMERKING 2.—Die vorderinge wat in hierdie afdeling toegelaat word vir die opstel van dokumente sluit nie, behalwe in die geval van items nommers 1, 6, 8 en 10, die maak van die eerste skoon afskrif in nie, waarvoor ingevolge item 1 van Afdeling F gehef word.

	R c.
3. Making searches in offices of record (per half hour or part thereof)	1.33
4. Sorting out, arranging and paginating papers for pleading, advice on evidence or brief on trial or appeal (per half hour)	1.33
5. Attending to give or take disclosure (per half hour)	1.33
6. Attending on witness to obtain particulars of his claim and to settle same	1.05
7. Attending to bespeak and thereafter to procure translation	1.05
8. Other attendances including telephone calls other than formal telephone calls (per half hour)	1.33
NOTE.—The fees allowed under this Section shall be in addition to such fees as may be allowed for instructions under Section A. In computing the fees chargeable for perusal of documents in connection with instructions under Items A 1 and A 6, the number of words in all documents to be perused, shall be added together and the total divided by 100.	

C—Attendance (Formal).

	R c.
1. To serve or deliver (other than by post) any necessary document or letter or despatch any telegram	0.50
2. To sue out any process or file any document ...	0.50
3. To set down causes for trial	0.50
4. To search for any return	0.50
5. On receipt of notice of intention to defend	0.50
6. On advocate, e.g., with brief or to make appointment	0.50
7. On signature of powers of attorney to sue or defend	0.50
8. On *jurat*	0.67
9. Other formal attendances, including telephone calls	0.50
10. Attending receipt of a formal acknowledgment ...	0.33

D—Drafting and Drawing.

	R c.
1. Making an entry in the chamber book, where used (including all attendances)	1.33
2. Drafting instructions for case on opinion, for advocate's guidance in preparing pleadings (including further particulars and requests for same), including exceptions (per folio)	0.50
3. Drafting instructions to advocate for advice on evidence, for brief on trial or on commission (per folio)	0.50
4. Drafting instructions to advocate for argument in respect of all classes of pleading, provided that a fee for drafting instructions on motion, petition, exception or appeal, shall only be allowed in discretion of the taxing master (per folio)	0.50
5. Drafting statements of witnesses (per folio)	0.50
6. Drawing subpoenas, powers of attorney to sue or defend and formal notices (per folio)	0.50
7. Drafting a petition, affidavit, any notice, except formal notice, summons, further particulars requested and furnished for trial, writs of execution, arrest or attachment and any other important document not otherwise provided for (per folio, for the first twenty folios)	1.00
and thereafter (per folio)	0.50
(The minimum charge under this item for drafting a summons, petition or affidavit shall be R4.20 save that the minimum charge shall not apply in the case of a formal affidavit of non-return in restitution suits, verifying affidavits, affidavits of service and other formal affidavits.)	
8. Letter or telegram	0.67
If more than one folio, for every additional folio	0.33
Copy to keep (per folio)	0.10
9. Drawing index to brief (per folio)	0.30
10. Drawing short brief	0.67

NOTE 1.—In computing the number of folios of any documents referred to in paragraph 2, 3, 4, 5 and 7 of this Section, the taxing master shall deduct, but treat as annexures where relevant, any portions consisting of quotations from other documents and papers.

NOTE 2.—The charges allowed in this Section for drafting and drawing do not, save in the case of Items number 1, 6, 8 and 10, include making the first fair copy which shall be charged for under Item 1 of Section F.

E—Bywoning, Samespreking en Ondersoek.

	R c.
1. (*a*) Bywoning van prokureur wanneer 'n advokaat optree, in hof of voor 'n regter of voor 'n kommissaris of skeidsregter of by 'n ondersoek wat deur die hof gelas is:	
Om slegs uitspraak te noteer	2.10
andersins per uur	5.25
(*b*) Opwagting van prokureur sonder 'n advokaat voor 'n regter op versoek van die regter, of voor 'n kommissaris of skeidsregter, per uur	10.00
Die bostaande skaal geld nie vir reis- of wagtyd nie, maar die takseermeester moet na goeddunke soveel addisioneel daarvoor toestaan as wat hy billik en redelik ag, maar hoogstens R21.00 per dag plus 'n redelike bedrag vir noodsaaklike vervoerkoste.	
2. Bywoning deur 'n prokureur se ingeskrewe klerk om by bestrede verrigtinge te help:	
As 'n advokaat optree, per uur	1.05
As geen advokaat optree nie, per uur	2.10
Wanneer hy die prokureur bystaan, per dag	3.15
3. Enige samespreking met advokaat, met of sonder getuies, en ten opsigte van pleitstukke met inbegrip van eksepsies en besonderhede by pleitstukke, aansoeke, petitisies, beëdigde verklarings, getuienis en enige ander aangeleentheid wat die takseermeester noodsaaklik ag:	
Per halfuur	2.10
4. (*a*) Enige samespreking met 'n kliënt, getuie of teenparty en enige ander samespreking wat die takseermeester noodsaaklik ag	2.10
(*b*) Bywoning van samespreking ingevolge reël 37, per halfuur	4.00
5. Enige inspeksie *in situ* of elders, per uur	4.20
Bostaande skaal geld nie vir reistyd nie, maar die takseermeester moet ten opsigte van noodsaaklike reistyd hoogstens R21 per dag addisioneel toestaan, plus 'n redelike bedrag vir noodsaaklike vervoerkoste.	
6. Getuienis: Vergoeding wat volgens die mening van die takseermeester billik is vir die verkryging van die getuienis en die bywoning van getuies wie se getuiegelde op taksasie toegestaan is; met dien verstande dat die voorbereidingsgelde van 'n getuie nie sonder 'n bevel van die hof of die toestemming van alle belanghebbende partye toegestaan word nie.	

F—Diverse.

	R c.
1. Advokaatsopdragte en kopiëring: Om afskrifte vir die hof, vir 'n advokaat of vir 'n prokureur, of vir betekening of vir enige ander noodsaaklike doel te maak, is die bedrag 20c per folio vir die eerste afskrif (met inbegrip van die eerste afskrif van 'n opgestelde dokument waarvoor 'n vordering ingevolge items 2, 3, 4, 5, 7 en 9 van Afdeling D van hierdie tarief verhaalbaar is) en vir verdere afskrifte tot 20, per folio, 10c en vir nog verdere afskrifte, per folio	0.05
Vir die maak van afskrifte van die oorkonde in 'n siviele appèl van die landdroshof af, vir die eerste afskrif, per folio	0.10
en vir alle ander afskrifte, per folio	0.05
2. Opstel van insolvensieskedules insluitende die petisie, beëdigde verklarings en die betrokke opwagting, *ad iurat*	6.30 tot 21.00
Elke noodsaaklike afskrif (die bedrag in item 1 van hierdie afdeling voorgeskryf).	
3. Om 'n mondelinge of skriftelike opinie te gee (tussen prokureur en kliënt)	2.10 tot 21.00
4. Algemeen: Allesinsluitende gelde vir konsultasies en samesprekings met 'n kliënt of advokaat waarvoor geen ander voorsiening gemaak is nie	2.10 tot 21.00

G—Kosterekeninge.

In verband met 'n kosterekening van 'n prokureur is die prokureur geregtig om te vorder:

1. Vir die opstel van die kosterekening, die maak van die nodige afskrifte en die betaling daarvan, vyf persent op die eerste R200 of gedeelte daarvan, twee en 'n half persent op die tweede R200 of gedeelte daarvan en een persent op die gedeelte bo R400 van die prokureursgelde, hetsy soos geëis in die kosterekening indien nie getakseer nie, of soos toegestaan by taksasie; en
2. Daarbenewens, indien tot taksasie oorgegaan word, vir die reëling en bywoning van taksasie en verkryging van toestemmings tot taksasie, vyf persent op die eerste R200 of gedeelte daarvan, twee en 'n half persent op die tweede R200 of gedeelte daarvan en een en 'n half persent op die gedeelte bo R400 van die toegestaande gelde

E—Appearance, Conference and Inspection.

	R c
1. (*a*) Attendance by attorney when an advocate is employed in court or before a judge or before a commissioner or referee or at an inspection directed by the court:	
To note judgment only	2.10
otherwise, per hour	5.25
(*b*) Appearance by attorney without an advocate before a judge on request by the judge, or before a commissioner or referee, per hour ...	10.00
The above rates of remuneration shall not be applicable in respect of the time spent in travelling or waiting, but the taxing master shall, in respect of time necessarily so spent, allow such additional remuneration not exceeding R21 per diem as he in his discretion may deem fair and reasonable, and shall also allow a reasonable amount to cover the cost of necessary conveyance.	
2. Attendance of attorney's articled clerk to assist at contested proceeding:	
If advocate employed, per hour	1.05
If advocate not employed, per hour	2.10
When assisting attorney, per diem	3.15
3. Any conference or consultation with advocate with or without witnesses and on pleadings including exceptions and particulars to pleadings, applications, petitions, affidavits, testimony and on any other matter which the taxing officer may consider necessary:	
Per half hour	2.10
4. (*a*) Any conference or consultation with client, witness or opposite party, and any other conference or consultation which the taxing officer may consider necessary	2.10
(*b*) Attending conference in terms of rule 37, per half hour	4.00
5. Any inspection *in situ*, or otherwise, per hour ...	4.20
The above rates of remuneration shall not be applicable in respect of time spent in travelling but the taxing master shall in respect of time necessarily so spent, allow additional remuneration not exceeding R21 per diem, and shall also allow the reasonable costs of necessary conveyance.	
6. Evidence: Such just and reasonable charges and expenses as may, in the opinion of the taxing master, have been properly incurred in procuring the evidence and attendance of witnesses whose fees have been allowed on taxation provided that the qualifying expenses of a witness shall not be allowed without an order of court or the consent of all interested parties.	

F—Miscellaneous.

1. Briefing and copying: For making copies for the court, for counsel or for attorney, or for service or for any other necessary purpose, the charge shall be, for the first copy at the rate of 20c per folio (including the first copy of any document drafted in respect of which a charge is recoverable under Items 2, 3, 4, 5, 7 and 9 of Section D of this tariff) and for further copies up to 20, per folio	0.10
and for still further copies, per folio	0.05
For making copies of the report in a civil appeal from the magistrates' courts the charge shall be for the first copy, per folio	0.10
and, for all other copies, per folio	0.05
2. Drawing insolvency schedules, including petition, affidavits, and relative attendance, *ad jurat*	6.30 to 21.00
Each necessary copy (the charge provided in Item 1 of this Section).	
3. For giving a verbal or written opinion (as between attorney and client)	2.10 to 21.00
4. General: Inclusive fee for consultations and discussions with client or advocate not otherwise provided or specially charged	2.10 to 21.00

G—Bill of Costs.

In connection with a bill of costs for services rendered by an attorney, such attorney shall be entitled to charge:

1. For drawing the bill of costs, making the necessary copies and attending settlement, five per cent on the first R200 or portion thereof, two and a half per cent on the second R200 or portion thereof, and 1 per cent on the amount in excess of R400 of the amount of the attorney's fees, either as charged in the bill if not taxed, or as allowed on taxation; and
2. In addition thereto, if recourse is had to taxation, for arranging and attending taxation and obtaining consents to taxation, five per cent on the first R200 or portion thereof, and two and a half per cent on the second R200 or portion thereof, and one and a half per cent on the amount in excess of R400 of the fees allowed.

OPMERKING. (1) Die minimum onder elke item in hierdie afdeling is R1.05.

(2) Die gelde onder elke item van hierdie afdeling word op dieselfde bedrag bereken.

H—VERMINDERING VAN GELDE.

In elke kosterekening tussen party en party betreffende gedingvoering (behalwe sake waarin die verweerder of respondent nie kennis gegee het van voorneme om te verdedig nie) waarop die tarief in reël 69 van toepassing is, moet die takseermeester, voordat hy *sy allocator* aanbring, vyf persent van die totale gelde deur hom toegestaan, aftrek.

I—NOTARIËLE GELDE.

(*a*) Notering van wissels en promesses:

	R c.
1. Opwagting om promesse of wissel te presenteer en antwoord aan te teken	2.10
2. Brief of kennisgewing aan maker, trekker of endossant, elk	0.67
3. Lêerafskrif	0.10
4. Uitgawe aan vervoer	—
5. Afskrif van elke brief of dokument wat indien nodig by protes aangeheg word (per folio) ...	0.20
6. Protes in tweevoud	2.10
7. Uitgawe aan seëls	—
8. Sertifikaat van presentering in tweevoud	2.10
9. Afskrifte van dokumente om, indien nodig, aan te heg (per folio)	0.20
10. Uitgawe aan seëls	—

(*b*) Die vordering vir notariële dienste behalwe dié hierbo uiteengesit word bereken teen dieselfde tarief as dié vir prokureurs.

REËL 71.

HERROEPING VAN REËLS.

Alle reëls uitgevaardig kragtens 'n by artikel *ses-en-veertig* van die Wet herroepe wetsbepaling, of kragtens paragraaf (*a*) van sub-artikel (2) van artikel *drie-en-veertig* van die Wet, soos vervang deur artikel *elf* van die Wysigingswet op die Hooggeregshof, 1963 (Wet No. 85 van 1963), waarby die verrigtinge van die onderskeie provinsiale en plaaslike afdelings gereël word, word kragtens sub-artikel (5) van artikel *drie-en-veertig* van die Wet hierby herroep, behalwe vir sover in die bylae aangedui word.

BYLAE

TRANSVAAL-RËELS.

Reël No.	*Onderwerp*	*Goewerments-kennisgewing*	*Datum*
1	Termyne	153 soos van tyd tot tyd gewysig	1.5.1902
2	Vakansies	do.	1.5.1902
47	Terrolleplasing	153 soos van tyd tot tyd gewysig	1.5.1902
48	do.	do.	1.5.1902
49	do.	do.	1.5.1902
108	Kriminele Sessies	1425	23.9.1960
109	Sittings van Witwatersrandse Plaaslike Afdeling	1130	3.6.1955
	Sake in Laaste Week van Termyn	1093	30.9.1903
1—26	Rongaande-Hof-reëls	678	Aug. 1905
	Toelating van Advokate	1266	14.12.1906
	ORANJE-VRYSTAAT.		
1	Termyne	221 soos van tyd tot tyd gewysig	23.7.1902
2	Vakansie	do.	23.7.1902
47	Terrolleplasing	do.	23.7.1902
48	do.	do.	23.7.1902
49	do.	do.	23.7.1902
103	Toelating van Advokate	do.	23.7.1902
107–124	Rondgaande-Hof-reëls	do.	23.7.1902

NOTE. (1) The minimum fee under each item of this Section shall be R1.05.

(2) The fee under each item of this Section shall be calculated on the same amount.

H—ABATEMENT OF FEES.

In every party and party bill of costs relating to litigation (other than matters in which the defendant or respondent has not notified his intention to defend or oppose) to which the tariff referred to in rule 69 applies, the taxing master shall, before affixing his allocatur, deduct five per cent of the total fees allowed by him.

I—NOTARIAL CHARGES.

(*a*) Noting of bills of exchange and promissory notes:

	R c.
1. Attending to present note or bill and noting answer	2.10
2. Letter or notice to maker, drawer or endorser, each	0.67
3. Copy to keep	0.10
4. Paid for conveyance	—
5. Copy each letter or document to annex to protest, if necessary (per folio)	0.20
6. Protest in duplicate	2.10
7. Paid in stamps	—
8. Certificate of presentation in duplicate	2.10
9. Copy documents to annex, if necessary (per folio)	0.20
10. Paid stamps	—

(*b*) Charges for services rendered by a notary public other than those above set forth shall be assessed upon the same scale as is allowed to attorneys.

RULE 71.

REPEAL OF RULES.

All rules made under any provision of a law repealed by section *forty-six* of the Act or under paragraph (*a*) of sub-section (2) of section *forty-three* of the Act, as substituted by section *eleven* of the Supreme Court Amendment Act, 1963 (Act No. 85 of 1963) regulating the conduct of the proceedings of the various provincial and local divisions are hereby repealed in terms of sub-section (5) of section *forty-three* of the Act, save to the extent indicated in the appended schedule.

SCHEDULE

TRANSVAAL RULES.

Rule No.	*Subject Matter*	*Government Notice*	*Date*
1	Terms	153 as amended from time to time	1.5.1902
2	Vacations	do.	1.5.1902
47	Set Down	do.	1.5.1902
48	do.	do.	1.5.1902
49	do.	do.	1.5.1902
108	Criminal Sessions	1425	23.9.1960
109	Sittings of Witwatersrand Local Division	1130	3.6.1955
	Cases in Last Week of Term	1093	30.9.1903
1—26	Circuit Court Rules	678	Aug. 1905
	Admission of Advocates	1266	14.12.1906
	ORANGE FREE STATE.		
1	Terms	221 as amended from time to time	23.7.1902
2	Vacation	do.	23.7.1902
47	Set Down	do.	23.7.1902
48	do.	do.	23.7.1902
49	do.	do.	23.7.1902
103	Admission of Advocates	do.	23.7.1902
107—124	Circuit Courts Rules	do.	23.7.1902

Reël No.	*Onderwerp*	*Goewerments-kennisgewing*	*Datum*
	KAAPSE PROVINSIALE AFDELING.		
3	Sittings van die Hof en Vakansies	41 soos van tyd tot tyd gewysig	13.1.1938
5 (1)	Toelating van Advokate	do.	13.1.1938
7	Wet op Verlate Grond	do.	13.1.1938
34	Terrolleplasing	do.	13.1.1938
39 (22)—(32)	Beslaglegging	do.	13.1.1938
50	Jurielede	do.	13.1.1938
52, 54—63	Rondgaande-Hof-reëls	do.	13.1.1938
	NATALSE PROVINSIALE AFDELING.		
Order III 1—12, 14	Sittings van die Hof en Terrolleplasing	79 soos van tyd tot tyd gewysig	—.2.1907
Order XI 61	Terrolleplasing	do.	—.2.1907
Order XI 62	Terugtrekking van Terrolleplasing	do.	—.2.1907
Order XI 67	Terrolleplasing	do.	—.2.1907
Order XXVIII Die geheel	Eksekuteur Datief en ander	do.	—.2.1907
Order XXXII Waar nie reeds herroep nie	Toelating van Advokate en Prokureurs	do.	—.2.1907
Order XXXIV Die geheel	Rondgaande-Hof-reëls	do.	—.2.1907
	SUIDWES-AFRIKA-AFDELING.		
3	Sittings van die Hof en Vakansies	103 soos van tyd tot tyd gewysig	15.6.1939
5	Toelating van Advokate	do.	15.6.1939
5*bis*	do.	do.	15.6.1939
34	Terrollesplasing	103 soos van tyd tot tyd gewysig	15.6.1939
39 (21)—(31)	Beslaglegging	do.	15.6.1939
52	Rondgaande Hof-reëls	do.	15.6.1939
54—63	do.	do.	15.6.1939
68	Toelating van Prokureurs	do.	15.6.1939
	OOS-KAAPSE HOWE		
2 (*b*) en (*e*) 2 (*d*) 2 (*n*)	Sittings en Vakansies Toelating van Advokate Rondgaande-Hof-reëls	1639	25.10.1957
34	Plasing van verdedigde sake en eksepsies op die rol	43 soos van tyd tot tyd gewysig	13.1.1938
39 (22)—(32)	Beslaglegging	do.	13.1.1938
	PLAASLIKE AFDELING GRIEKWALAND-WES.		
2 (*b*) synde reël 3 (1) en (4)	Sittings en Vakansies	280	6.2.1953
2 (*c*)	Toelating van Advokate	42 soos van tyd tot tyd gewysig	13.1.1938
34	Plasing van verdedigde sake en eksepsies op die rol	do.	13.1.1938
39 (22)—(32)	Beslaglegging	do.	13.1.1938

EERSTE BYLAE.

VORM 1.

EDIKTALE DAGVAARDING: VERKORTE VORM VAN PROSESSTUK.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak tussen:

Eiser

en

Verweerder

AAN:

A ..... B ..... (geslag), ... (beroep) woonagtig te ....., maar wie se huidige verblyfplek onbekend is:

NEEM KENNIS dat u, deur middel van 'n dagvaarding wat by hierdie hof uitgeneem is, opgeroep is om kennis te gee, binne ..... dae na die publikasie hiervan, aan die griffier en aan die eiser se prokureur, van u voorneme om te verdedig (indien u aldus van voorneme is) in 'n aksie waarin C .... D ..... eis:

Rule No.	*Subject Matter*	*Government Notice*	*Date*
	CAPE PROVINCIAL DIVISION.		
3	Sittings of the Court and vacations	41 as amended from time to time	13.1.1938
5 (1)	Admission of Advocates	do.	13.1.1938
7	Derelict Lands Act	do.	13.1.1938
34	Set Down	do.	13.1.1938
39 (22)—(32)	Execution	do.	13.1.1938
50	Jurors	do.	13.1.1938
52, 54—63	Circuit Courts Rules	do.	13.1.1938
	NATAL PROVINCIAL DIVISION.		
Order III 1—12, 14	Sittings of the Court and Set Down	79 as amended from time to time	—2.1907
Order XI 61	Set Down	do.	—.2.1907
Order XI 62	Withdrawal of Set Down	do.	—.2.1907
Order XI 67	Set Down	do.	—.2.1907
Order XXVIII The Whole	Executive Dative and others	do.	—.2.1907
Order XXXII Where not already repealed	Admission of Advocates and Attorneys	do.	—.2.1907
Order XXXIV The Whole	Circuit Court Rules	do.	—.2.1907
	SOUTH WEST AFRICA DIVISION		
3	Sittings of the Court and Vacations	103 as amended from time to time	15.6.1939
5	Admission of Advocates	do.	15.6.1939
5*bis*	do.	do.	15.6.1939
34	Set Down	103 as amended from time to time	15.6.1939
39 (21)—(31)	Execution	do.	15.6.1939
52	Circuit Courts Rules	do.	15.6.1939
54—63	do.	do.	15.6.1939
68	Admission of Attorneys	do.	15.6.1939
	EASTERN CAPE COURTS.		
2 (*b*) and (*c*) 2 (*d*) 2 (*n*)	Sittings and Vacations Admission of Advocates Circuit Court Rules	1639	25.10.1957
34	Setting down of defended cases and exceptions	43 as amended from time to time	13.1.1938
39 (22)—(32)	Execution	do.	13.1.1938
	GRIQUALAND WEST LOCAL DIVISION.		
2 (*b*) being Rule 3 (1) and (4)	Sittings and Vacations	280	6.2.1953
2 (*c*)	Admission of Advocates	42 as amended from time to time	13.1.1938
34	Setting down of defended cases and exceptions	do.	13.1.1938
39 (22)—(32)	Execution	do.	13.1.1938

FIRST SCHEDULE.

FORM 1.

EDICTAL CITATION: SHORT FORM OF PROCESS.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter between:

Plaintiff

and

Defendant

TO:

A ..... B ..... (sex), ... (occupation) formerly residing at ....., but whose present whereabouts are unknown:

TAKE NOTICE that by summons sued out of this court, you have been called up to give notice, within days after publication hereof, to the registrar and to the plaintiff's attorney of your intention to defend (if any) in an action wherein C .... D ..... claims:

(*a*) .....
(*b*) .....
(*c*) .....

NEEM VERDER KENNIS dat indien u versuim om aldus kennis te gee, uitspraak teen u gedoen kan word sonder verdere verwysing na u.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

.....
Eiser se Prokureur.
Adres vir betekening:
.....
.....
.....

VORM 2.

KENNISGEWING VAN MOSIE.
(AAN GRIFFIER.)

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak van

Applikant

NEEM KENNIS dat aansoek namens bogenoemde applikant op die ..... dag van ..... 19..... om 10 vm. of so spoedig daarna as wat die advokaat aangehoor kan word, gedoen sal word om 'n bevel met die volgende bepalings:

(*a*) .....
(*b*) .....
(*c*) .....

en dat die beëdigde verklaring van ..... hierby aangeheg gebruik sal word ter ondersteuning daarvan.

Geliewe die saak dienooreenkomstig vir verhoor ter rolle te plaas.

GEDATEER te .....

.....
Applikant se Prokureur.

Aan die Griffier van bogenoemde Hof.

VORM 2 (*a*).

KENNISGEWING VAN MOSIE.
(AAN GRIFFIER EN RESPONDENT.)

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak tussen:

Applikant

en

Respondent

NEEM KENNIS DAT ..... (hierna die applikant genoem) voornemens is om by hierdie hof aansoek te doen om 'n bevel (*a*) ..... (*b*) ..... (c) ..... (sit hier die vorm van die aangevraagde bevel uiteen) en dat die bygaande beëdigde verklaring van ..... (of petisie waar regtens vereis) gebruik sal word ter ondersteuning daarvan.

NEEM VERDER KENNIS dat die applikant .....
.....
(meld hier 'n adres binne vyf myl vanaf die griffierskantoor) aangewys het waar hy kennisgewings en die betekening van alle prosesstukke in hierdie verrigtinge sal aanvaar.

NEEM VERDER KENNIS dat indien u voornemens is om hierdie aansoek te bestry, u (*a*) die applikant se prokureur op of voor die ..... skriftelik daarvan in kennis moet stel en (*b*) binne veertien dae na die betekening van hierdie kennisgewing aan u, u antwoordende beëdigde verklarings, as u het, moet indien; en verder dat u in die kennisgewing 'n adres binne vyf myl van die griffierskantoor af moet aangee waar u kennisgewings en die betekening van alle dokumente in hierdie verrigtings sal aanvaar.

Indien geen kennis van voorneme om te bestry gegee word nie, sal die aansoek op ..... om ..... vm. gedoen word.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Applikant of sy Prokureur.
(Adres).

AAN:
(1) C. D.
(Adres).
RESPONDENT.
(2) Die Griffier van bogenoemde Hof.
.....

VORM 3.

DAGVAARDING: VOORLOPIGE VONNIS.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak tussen:

Eiser

en

Verweerder

Aan die balju of sy adjunk:

(*a*) .....
(*b*) .....
(*c*) .....

TAKE NOTICE FURTHER that if you fail to give such notice, judgment may be granted against you without further reference to you.

DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Supreme Court.

.....
Plaintiff's Attorney.
Address for service:
.....
.....

FORM 2.

NOTICE OF MOTION
(TO REGISTRAR).

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter of

Applicant

TAKE NOTICE that application will be made on behalf of the above-named applicant on the ..... day of ..... at 10 a.m. or as soon thereafter as counsel may be heard for an order in the following terms:

(*a*) .....
(*b*) .....
(c) .....

and that the affidavit of ..... annexed hereto will be used in support thereof.

Kindly place the matter on the roll for hearing accordingly.

DATED at .....

.....
Applicant's Attorney.

To the Registrar of the above-named Court.

FORM 2 (*a*).

NOTICE OF MOTION
(TO REGISTRAR AND RESPONDENT).

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that ..... (hereinafter called the applicant) intends to make application to this Court for an order (*a*) ..... (*b*) ..... (*c*) ..... (here set forth the form of order prayed) and that the accompanying affidavit of ..... (or petition where required by law) will be used in support thereof.

TAKE NOTICE FURTHER that the applicant has appointed ..... (here set forth an address which must be within *five* miles of the office of the registrar) at which he will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing this application you are required (*a*) to notify applicant's attorney in writing on or before the ..... (*b*) and within *fourteen* days of the service of this notice upon you, to file your answering affidavits, if any; and further that you are required to appoint in such notification an address within *five* miles of the office of the registrar at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the ..... at ..... a.m.

DATED at ..... this ..... day of ..... 19.....

.....
Applicant or his Attorney
(address).

TO:
(1) C.D.
(Address),
RESPONDENT.
(2) The Registrar of the above Court,
.....

FORM 3.

SUMMONS: PROVISIONAL SENTENCE.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter between:

Plaintiff

and

Defendant

To the sheriff or his deputy:

STEL A ..... B ..... (geslag), ... (beroep), van .... (woon- of besigheidsplek) hierna die verweerder genoem, in kennis:

(1) dat hy hierby opgeroep word om onmiddellik aan C .... D ..... (geslag) ..... (beroep), van .... (woon- of besigheidsplek) .... (hierna die eiser genoem) 'n bedrag van ..... moet betaal tesame met rente daarop bereken teen ..... persent per jaar vanaf ..... deur die eiser gevorder op grond van ..... (sit die skuldoorsaak hier uiteen) ..... 'n afskrif van welke dokument hierby aangeheg is;

(2) dat by versuim van betaling, hy hierby opgeroep word om voor hierdie hof persoonlik of deur 'n advokaat te ..... op ..... die ..... dag van ..... 19..... om..... uur in die voormiddag (of se spoedig daarna as wat die saak verhoor kan word) te verskyn om sy aanspreeklikheid vir die genoemde eis te erken of te ontken en te vermeld waarom die eiendom wat aan die verband onderhewig is, nie uitwinbaar verklaar behoort te word nie;

(3) dat indien hy aanspreeklikheid ontken hy nie later nie as middag op die ..... dag van ..... 19..... 'n beëdigde verklaring by die griffier van hierdie hof kan indien waarvan hy 'n afskrif aan die eiser se prokureur moet beteken, en waarin hy die gronde van sy verweer teen die eis uiteensit en in die besonder vermeld of hy erken of ontken dat dit sy of sy verteenwoordiger se handtekening is wat op die genoemde ..... verskyn, en as dit sy verteenwoordiger s'n is, of hy dié se magtiging erken of ontken.

EN STEL die genoemde verweerder verder in kennis dat indien hy nie die voormelde bedrag en rente onmiddellik aan die eiser betaal nie en indien hy (die genoemde verweerder) ook versuim om 'n beëdigde verklaring soos hierbo bedoel, in te dien en voor hierdie hof op die bogemelde tyd te verskyn, voorlopige vonnis onverwyld met koste teen hom toegestaan kan word en die eiendom wat aan die verband onderhewig is, uitwinbaar verklaar kan word, maar dat by betaling van die genoemde bedrag, rente en koste, hy geregtig sal wees om sekuriteit vir die terugbetaling daarvan te eis vir geval die vonnis daarna ter syde gestel sou word.

EN beteken 'n afskrif van hierdie dagvaarding en van die genoemde ..... aan die verweerder en lewer dan hierdie dagvaarding aan die griffier terug met u relaas van wat u daaromtrent gedoen het.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

.....
Eiser se Prokureur.
Adres vir betekening:
.....
.....
.....

VORM 4.

LASBRIEF TOT ARRES.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak tussen:

Eiser

en

Verweerder

Aan die balju of sy adjunk:

U word hierby gelas om A ..... B ..... (geslag) ..... (beroep), van .... (woon- of besigheidsplek) in die distrik ..... (hierna die verweerder genoem) te arresteer en aan te hou en hom voor hierdie hof te bring op die ..... dag van ..... 19....., om ..... uur in die voormiddag (om C ..... D ..... (geslag), ... (beroep), van ..... (woon- of besigheidsplek) in die distrik ..... (hierna die eiser genoem) te antwoord in die aksie waarin die eiser (1) ..... (2) ..... en (3) ..... van die verweerder vorder, en om die uitspraak van die hof daarop af te wag):

(*of indien lasbrief uitgereik word na instelling van geding*, om redes aan te voer waarom hy nie gelas behoort te word om die uitspraak van die hof af te wag of sekerheid te stel dat hy binne die hof se regsgebied sal bly totdat uitspraak gedoen is in die aksie ingestel deur C ..... D ..... (geslag), ... (beroep), van ..... (woon- of besigheidsplek), in die distrik ..... (hierna die eiser genoem) waarin die eiser vorder (1) ..... (2) ..... en (3) ..... of by versuim om sekerheid aldus te stel, hy nie in 'n gevangenis aangehou behoort te word hangende die uitspraak van die hof nie).

INFORM A ..... B ..... (sex), ... (occupation), of .... (residence or place of business) and hereinafter called the defendant:

(1) that he is hereby called upon immediately to pay to C ..... D ..... (sex) ..... (occupation), of .... (residence or place of business) ..... (hereinafter called the plaintiff) an amount of ..... together with interest thereon at the rate of .....% per annum as from ..... claimed by plaintiff ..... (here set out the cause of action) ....., and a copy of which document is annexed hereto;

(2) that failing such payment, he is hereby called upon to appear before this Court personally or by an advocate at ..... on ..... the ..... day of ..... 19..... at ..... o'clock in the forenoon (or as soon thereafter as the matter can be heard) to admit or deny his liability for the said claim, and to state why the mortgaged property should not be declared executable.

(3) that if he denies liability for the same, he may not later than noon on ..... the ..... day of ..... 19....., file an affidavit with the registrar of this court, and serve a copy thereof on plaintiff's attorney, which affidavit shall set forth the grounds of his defence to the said claim, and in particular state whether he admits or denies his signature to the said ..... or whether he admits or denies the signature or authority of his agent.

AND INFORM the said defendant further that in the event of his not paying the amount and interest above-mentioned to the plaintiff immediately and if he (the said defendant) further fails to file an affidavit as aforesaid, and to appear before this Court at the time above stated, provisional sentence may forthwith be granted against him with costs, and the mortgaged property may be declared executable, but that against payment of the said amount, interest and costs, he will be entitled to demand security for the restitution thereof if the said sentence should thereafter be reversed.

AND serve a copy of this summons and of the said .... on the said defendant and then return this summons to the registrar with your return of what you have done thereon.

DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Supreme Court.

.....
Plaintiff's Attorney.
Address for service:
.....
.....

FORM 4.

WRIT OF ARREST.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter between:

Plaintiff

and

Defendant

To the sheriff or his deputy:

You are hereby commanded to apprehend A ..... B ..... (sex) ..... (occupation), of ..... (residence or place of business) in the district of ..... (hereinafter called the defendant) and to detain and bring him before this Court on the ..... day of ..... 19....., at ..... o'clock in the forenoon (to answer C ..... D ..... (sex), ... (occupation), of ..... (residence or place of business) in the district of ..... (hereinafter called the plaintiff) in an action wherein the plaintiff claims (1) ..... (2) ..... and (3) ..... from defendant, and to abide the judgment of this Court thereon):

(*or if writ issued after institution of proceedings*, to show cause why he should not be ordered to abide the judgment of the Court or furnish security for his further presence within its jurisdiction until its judgment has been delivered in the action instituted therein, by C ..... D ..... (sex), ... (occupation), of .... (residence or place of business), in the district of ..... (hereinafter called the plaintiff), and in which the said plaintiff claims (1) ..... (2) ..... and (3) ..... from defendant, or failing the due provisions of such security, why he should not be committed to prison and detained pending the judgment of this Court in the said action).

(2) Aan die Bevelvoerende Offisier van die Gevangenis aan wie die adjunk-balju hierdie lasbrief voorlê.

U word hierby gelas om die genoemde C.D. in bewaring te neem en hom veilig aan te hou totdat hy na die hof verwyder word vir die doel in die eerste gedeelte van hierdie lasbrief uiteengesit, of totdat hy andersins regtens ontslaan word.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

.....
Eiser se Prokureur.
Adres vir betekening:
.....
.....

OPMERKING: Die koste van hierdie lasbrief is getakseer en toegestaan in die bedrag van ....., uitsluitende die balju se gelde van .....

.....
Griffier van die Hooggeregshof.

VORM 5.

BORGAKTE BY ARRES.

Ons, die ondergetekendes, C ..... D ..... van ..... en L ..... M ..... van ..... erken hierby dat ons en ons onderskeie eksekuteurs en administrateurs teenoor die balju van die provinsie ..... (of die adjunk-balju vir die distrik .....), gesamentlik en afsonderlik verbind is, om aan hom of sy sessionarisse of regsverkrygendes die som van ..... te betaal indien die genoemde C ..... D ..... nie behoorlik voor die ..... Afdeling van die Hooggereghof van Suid-Afrika te ..... op die ..... dag van ..... 19....., om ..... uur in die voormiddag verskyn nie om A ..... B ..... van ..... in die distrik ..... (hierna die eiser genoem) te antwoord in 'n geding waarin die eiser (1) ..... (2) ..... (3) ..... van die genoemde C ..... D ..... vorder, en indien die genoemde C ..... D ..... nie daarna binne die regsgebied van hierdie hof bly totdat uitspraak in die geding gegee is nie.

ONDERTEKEN deur ons in die teenwoordigheid van die ondergetekende getuies te ..... op hierdie ..... dag van ..... 19.....

.....
C.D. (Verweerder).

.....
L.M. (Borg).

AS GETUIES:
1. .....
2. .....

VORM 6.

OORDRAG VAN BORGAKTE.

Ek, ..., in my hoedanigheid as balju van die provinsie ..... (of adjunk-balju vir die distrik .....) sedeer hierby en dra hierby oor aan A ..... B ....., die genoemde eiser, al my regte, titel en belang in die voorgaande borgakte.

GETEKEN deur my in die teenwoordigheid van die ondergetekende getuies te ..... hierdie ..... dag van ..... 19.....

.....
Balju/Adjunk-balju.

AS GETUIES:
1. .....
2. .....

VORM 7.

KENNISGEWING AAN DERDE PARTY.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak tussen:

Eiser

en

Verweerder

en

Derde party

Aan die bogenoemde derde party:

NEEM KENNIS dat die bogenoemde eiser 'n geding teen die bogenoemde verweerder ingestel het vir die regshulp in die dagvaarding uiteengesit, 'n afskrif waarvan hiermee aan u beteken word.

Die bogenoemde verweerder eis 'n bydrae of skadeloosstelling (of so 'n ander grond as wat voldoende is om 'n derdeparty-kennisgewing te regverdig) op die gronde in die aanhangsel hiervan uiteengesit.

(2) To the Officer Commanding the Prison to whom the deputy-sheriff presents this writ.

You are hereby commanded and required to receive the said C.D. and to keep him safely until such time as he shall be removed to have him before the Court in accordance with the first part of this writ or until he shall be otherwise lawfully discharged.

DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Supreme Court.

.....
Plaintiff's Attorney.
Address for service:
.....
.....

NOTE: The costs of this writ have been taxed and allowed at ....., exclusive of the sheriff's caption fee of .....

.....
Registrar of the Supreme Court.

FORM 5.

ARREST—BAIL BOND.

We, the undersigned, C ..... D ..... of..... and L..... M..... of ....., hereby acknowledge ourselves to be firmly bound to the sheriff of the province of ..... (or the deputy-sheriff for the district of .....), in an amount of ..... to be paid to the said sheriff (or deputy-sheriff) or his cessionaries or assigns, for which payment we bind ourselves jointly and severally, and our respective executors and administrators in like manner, the condition of this bond being that if the said C ..... D ..... duly appear before the ..... Division of the Supreme Court of South Africa at ..... on the ..... day of ..... 19....., at ..... o'clock in the forenoon to answer A ..... B ..... of ..... in the district of ..... (hereinafter called the plaintiff) in an action wherein the said plaintiff claims (1) ..... (2) ..... (3) ..... from the said C ..... D ..... and thereafter remains within the jurisdiction of this Court until its judgment has been delivered in the said action, and abides such judgment, this bond shall be void; otherwise it shall be of full force and effect.

SIGNED by us in the presence of the subscribing witnesses at ..... on this the ..... day of ....., 19.....

.....
C.D. (Defendant).

.....
L.M. (Surety).

AS WITNESSES:
1. .....
2. .....

FORM 6.

ASSIGNMENT OF BAIL BOND.

I, ..., in my capacity as sheriff of the province of ..... (or deputy-sheriff for the district of .....) hereby cede, assign and make over to him all my right, title and interest in the aforegoing Bail Bond to A ..... B ..... the above-named plaintiff.

SIGNED by me in the presence of the subscribing witnesses at ..... this ..... day of ..... 19.....

.....
Sheriff/Deputy-Sheriff.

AS WITNESSES:
1. .....
2. .....

FORM 7.

NOTICE TO THIRD PARTY.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter between:

Plaintiff

and

Defendant

and

Third Party

To the above-named third party:

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

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

As u daardie gronde betwis of die vordering van die eiser teen die verweerder betwis, moet u binne ..... dae kennis gee van u voorneme om te verdedig. Die kennisgewing moet skriftelik wees en by die griffier ingedien word en 'n afskrif daarvan moet aan die bogenoemde verweerder by die adres onderaan hierdie kennisgewing vermeld, beteken word. Daarin moet 'n adres (nie synde 'n posbus of *poste restante* nie) binne vyf myl van die hof af vir die betekening aan u van kennisgewings en dokumente in die geding, aangegee word. Binne veertien dae nadat u aldus kennis gegee het, moet u 'n pleit op die eiser se vordering teen die verweerder of 'n pleit op die verweerder se vordering teen u, of beide sodanige pleite, indien.
GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Verweerder se Prokureur
(adres).

Aan .....
en aan Eiser se Prokureur,
(adres).

VORM 8.

KENNISGEWING AAN BEWEERDE VENNOOT.
IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....
In die saak tussen:
Eiser
en
Verweerder

AAN: A ..... B .....
NEEM KENNIS dat 'n aksie deur bogenoemde eiser teen bogenoemde verweerder om die bedrag van ..... ingestel is en dat die eiser beweer dat bogenoemde verweerder 'n vennootskap is waarvan u vanaf ..... tot .... 'n vennoot was.
Indien u dit betwis dat u 'n vennoot was of indien u beweer dat geen aanspreeklikheid as vennoot in bogenoemde tydperk teen u ontstaan het nie, moet u binne agt dae na die betekening van hierdie kennisgewing kennis gee van voorneme om te verdedig. Nadat u aldus kennis gegee het, sal 'n afskrif van die dagvaarding wat aan bogenoemde verweerder beteken is, aan u beteken word.
Om aldus kennis te gee, moet u 'n kennisgewing waarin vermeld word dat u voornemens is om te verdedig by die griffier indien en 'n afskrif daarvan aan die eiser by die adres hier onderaan vermeld, beteken. In u kennisgewing moet 'n adres (nie synde 'n posbus of *poste restante* nie) binne vyf myl van die hof af vir die betekening aan u van kennisgewings en dokumente in die aksie, aangegee word. Tensy u al hierdie dinge doen, sal u kennisgewing ongeldig wees.

Daarna moet u 'n pleit indien waarin u kan betwis dat u 'n vennoot was of kan aanvoer dat die hierbo beweerde tydperk nie ter sake is nie of dat die verweerder aanspreeklik is, of al drie hierdie verwere.
Indien u nie aldus kennis gee nie sal dit u nie vrystaan om enige van bogenoemde verwere te opper nie. Indien die genoemde verweerder aanspreeklik bevind word, sal u blootstaan aan die uitreiking van 'n lasbrief vir uitwinning teen u indien die verweerder se bates uitgewin is en onvoldoende is.
GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Prokureur vir .....

.....
(adres).
(N.B. In aansoekverrigtinge moet hierdie vorm paslik gewysig word).

VORM 9.

DAGVAARDING.
(Ten opsigte van skuld of gelikwideerde eis.)

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....
In die saak tussen:
Eiser
en
Verweerder

Aan die balju of sy adjunk:
STEL A. B., van .....
(meld geslag en beroep) .....
(hierna die verweerder genoem), in kennis dat C. D., van .... (vermeld geslag en beroep) ..... (hierna die eiser genoem), hierby 'n aksie teen hom instel in welke aksie die eiser vorder:
(Sit die skuldoorsaak hier bondig uiteen.)
STEL die verweerder verder in kennis dat indien hy die eis betwis en die aksie wens te verdedig, hy binne ..... dae na die betekening aan hom van hierdie dagvaarding by die griffier van hierdie hof te ..... (meld adres van die griffier) 'n kennisgewing van sy voorneme om te verdedig moet indien en 'n afskrif daarvan aan die eiser se prokureur moet beteken, in welke kennisgewing 'n adres (nie synde 'n posbus of *post restante* nie) binne vyf myl van die hof af vir die betekening aan die verweerder van alle kennisgewings en dokumente in die aksie, aangegee moet word.

If you dispute those grounds or if you dispute the claim of the plaintiff against the defendant you must give notice of your intention to defend, within .....days. Such notice must be in writing and filed with the registrar and a copy thereof served on the above-named defendant at the address set out at the foot of this notice. It must give an address (not being a post office box or *poste restante*) within *five* miles of the Court for the service upon you of notices and documents in the action. Within *fourteen* days of your giving such notice you must file a plea to the plaintiff's claim against the defendant or a plea to the defendant's claim against you, or both such pleas.
DATED at ..... this ..... day of ..... 19.....

.....
Defendant's Attorney
(address).

To .....
and to Plaintiff's Attorney
(address).

FORM 8.
NOTICE TO ALLEGED PARTNER.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....
In the matter between:
Plaintiff
and
Defendant

TO: A ..... B .....
TAKE NOTICE that action has been instituted by the above-named plaintiff against the above-named defendant for the sum of ....., and that the plaintiff alleges that the above-named defendant is a partnership of which you were from ..... to ..... a partner.
If you dispute that you were a partner or that the above-mentioned period is in any way relevant to your liability as a partner you must within *eight* days of the service of this notice give notice of your intention to defend. Upon your giving such notice a copy of the summons served upon the above-named defendant will be served upon you.
To give such notice you must file with the registrar and serve a copy thereof upon the plaintiff at the address set out at the foot hereof a notice stating that you intend to defend. Your notice must give an address (not being a post office box or *poste restante*) within *five* miles of the Court for the service upon you of notices and documents in the action. Unless you do all these things your notice will be invalid.
Thereafter you should file a plea in which you may dispute that you were a partner 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 be insufficient.
DATED at ..... this ..... day of ..... 19.....

.....
Attorney for .....

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

FORM 9.

SUMMONS.

(Claim in respect of debt or liquidated demand.)

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....
In the matter between:
Plaintiff
and
Defendant

To the sheriff or his deputy:
INFORM A. B., of ..... (state sex and occupation) ..... (hereinafter called the defendant), that C. D., of .....(state sex and occupation) ..... (hereinafter called the plaintiff), hereby institutes action against him in which action the plaintiff claims:
(Here set out in concise terms plaintiff's cause of action.)
INFORM the defendant further that if he disputes the claim and wishes to defend the action he shall within ..... days of the service upon him of this summons file with the registrar of this court at (here set out the address of the registrar's office) notice of his intention to defend and serve a copy thereof on the plaintiff's attorney which notice shall give an address (not being a post office box or *poste restante*) within *five* miles of the court for the service upon the defendant of all notices and documents in the action.

STEL die verweerder verder in kennis dat indien hy versuim om 'n kennisgewing in te dien en te beteken soos voormeld, vonnis soos aangevra teen hom gegee kan word sonder verdere kennisgewing aan hom.

En beteken onmiddellik daarna 'n afskrif van hierdie dagvaarding aan die verweerder en lewer die oorspronklike aan die griffier terug met 'n relaas van wat u daaromtrent gedoen het.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

.....
Eiser se Prokureur.
(Adres).
.....
.....

VORM 10.

GEKOMBINEERDE DAGVAARDING.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

Eiser

en

Verweerder

Aan die balju of sy adjunk:

STEL A. B. van .....
(vermeld geslag en beroep) .....
(hierna die verweerder genoem) in kennis dat C. D. van .....
..... (vermeld geslag en beroep) .....
(hierna die eiser genoem), hierby 'n aksie teen hom instel waarin hy die regshulp eis wat in die aangehegte besonderhede aangegee word, op die gronde daarin uiteengesit.

STEL die verweerder verder in kennis dat indien hy die eis betwis en die aksie wens te verdedig, hy—

(i) binne ..... dae na die betekening aan hom van hierdie dagvaarding by die griffier van hierdie hof te ..... (meld adres van die griffier) 'n kennisgewing van sy voorneme om te verdedig moet indien en 'n afskrif daarvan aan die eiser se prokureur moet beteken, waarin 'n adres (nie synde 'n posbus of *poste restante* nie) binne vyf myl van die hof af vir die betekening aan die verweerder van alle kennisgewings en dokumente in die aksie, aangegee word;

(ii) daarna, en binne veertien dae na die indiening en betekening van die kennisgewing van voorneme om te verdedig soos voormeld, by die griffier 'n pleit, eksepsie, kennisgewing van mosie vir deurhaling, met of sonder 'n teeneis, moet indien en aan die eiser moet beteken.

STEL die verweerder verder in kennis dat indien hy versuim om 'n kennisgewing soos voormeld in te dien of te beteken, vonnis soos aangevra teen hom gegee kan word sonder verdere kennisgewing aan hom, of indien hy versuim om te pleit, eksepsie op te werp, aansoek om deurhaling te doen of 'n teeneis in te stel nadat so 'n kennisgewing ingedien en beteken is, vonnis ook teen hom gegee kan word.

GEDATEER te ..... op hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

AANHANGSEL.

BESONDERHEDE VAN EISER SE VORDERING.

.....
.....
.....
.....
Eiser se Prokureur.
.....
Eiser se Advokaat.

.....
Adres van Eiser se Prokureur.

VORM 11.

BLOOTLEGGING—VORM VAN BEËDIGDE VERKLARING.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

A. B. Eiser

en

C. D. Verweerder

EK, C. D., die bogenoemde verweerder, verklaar onder eed:

(1) Ek het in my besit of onder my beheer die dokumente betreffende die geskilpunte in hierdie aksie wat in die eerste en tweede dele van die eerste aanhangsel hiervan aangegee word.

(2) Ek maak beswaar teen die blootlegging van die dokumente in die tweede deel van die aanhangsel aangegee.

(3) My beswaar berus daarop dat .....
.....
(vermeld hier op watter gronde die beswaar gemaak word en bevestig die feite sover moontlik).

INFORM the defendant further that if he fails to file and serve notice as aforesaid, judgment as claimed may be given against him without further notice to him.

And immediately thereafter serve on the defendant a copy of this summons and return the same to the registrar with whatsoever you have done thereupon.

DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Supreme Court.

.....
Plaintiff's Attorney.
(Address).

FORM 10.

COMBINED SUMMONS.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

Plaintiff

and

Defendant

To the sheriff or his deputy:

INFORM A. B., of ..... (state sex and occupation) ....., (hereinafter called the defendant), that C.D., of ..... (state sex and occupation) ..... (hereinafter called the plaintiff), hereby institutes action against him in which action the plaintiff claims the relief and on the grounds set out in the particulars annexed hereto.

INFORM the defendant further that if he disputes the claim and wishes to defend the action he shall—

(i) within ..... days of the service upon him of this summons file with the registrar of this court at (set out the address of the registrar) notice of his intention to defend and serve a copy thereof on the plaintiff's attorney, which notice shall give an address (not being a post office box or *poste restante*) within *five* miles of the court for the service upon the defendant of all notices and documents in the action;

(ii) thereafter, and within *fourteen* days after filing and serving notice of intention to defend as aforesaid, file with the registrar and serve upon the plaintiff a plea, exception, notice to strike out, with or without a counterclaim.

INFORM the defendant further that if he fails to file and serve notice as aforesaid judgment as claimed may be given against him without further notice to him, or if, having filed and served such notice, he fails to plead, except, make application to strike out or counter-claim, judgment may be given against him.

DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Supreme Court.

ANNEXURE.

PARTICULARS OF PLAINTIFF'S CLAIM.

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

.....
Plaintiff's Attorney.
.....
Plaintiff's Advocate.

.....
Address of Plaintiff's Attorney.

FORM 11.

DISCOVERY—FORM OF AFFIDAVIT.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

A. B. Plaintiff

and

C. D. Defendant

I, C. D., the above-named defendant, make oath and say:

(1) I have in my possession or power the documents relating to the matters in question in this cause set forth in the first and second parts of the First Schedule hereto.

(2) I object to produce the said documents set forth in the second part of the said schedule hereto.

(3) I do so for the reason that ..... (here state upon what grounds the objection is made, and verify the fact as far as may be).

(4) Ek het die dokumente betreffende die geskilpunte in hierdie aksie wat in die tweede aanhangsel aangegee word, in my besit of onder my beheer gehad maar nou nie meer nie.
(5) Laasgenoemde dokumente was laas in my besit of onder my beheer ..... (vermeld wanneer).
(6) Die ..... (vermeld hier wat van laasgenoemde dokumente geword het en in wie se besit hulle nou is).
(7) Na die beste van my wete het ek geen ander dokument of afskrif of uittreksel daarvan wat betrekking het op enige geskilpunt in hierdie aksie, as dié in die eerste en tweede aanhangsels hiervan aangegee, nou in my besit, bewaring of beheer of in die besit, bewaring of beheer van my prokureur of gevolmagtigde nie, of van enige ander persoon namens my nie, en ek het ook nooit gehad nie.
GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Verweerder.

VORM 12.

KENNISGEWING INGEVOLGE REËL 35 (5).

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak tussen:

A. B. Eiser
en
C. D. Verweerder

AAN .....

Geliewe kennis te neem dat die bogenoemde eiser verlang dat u binne veertien dae by die ondergemelde adres 'n skriftelike verklaring aflewer waarin uiteengesit word watter dokumente van die volgende aard u tans in u besit het of voorheen gehad het:

(*a*) .....
(*b*) .....
(*c*) .....
(*d*) .....

In die verklaring moet u breedvoerig aangee watter dokumente nog in u besit is. Indien u nie meer enige van die dokumente wat voorheen in u besit was, het nie, moet u meld in wie se besit hulle nou is.
Indien u versuim om die kennisgewing binne die voormelde tydperk af te lewer, sal aansoek by die hof gedoen word om 'n bevel waarby u verplig word om dit te doen en u gelas word om die koste van die aansoek te betaal.

.....
Eiser se Prokureur.
(Adres).

FORM 13.

BLOOTLEGGING—KENNISGEWING OM VOOR TE LÊ.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

Eiser
Verweerder

NEEM KENNIS dat die ..... (eiser of verweerder) verlang dat u binne sewe dae die volgende dokumente wat in u beëdigde verklaring gedateer die ..... dag van ..... 19..... aangegee word, ter insae voorlê.
(Beskryf dokumente verlang).

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Prokureur vir .....
(Adres).

AAN:

.....
Prokureur vir die .....
(Adres).

VORM 14.

BLOOTLEGGING—KENNISGEWING DAT DOKUMENTE INGESIEN KAN WORD.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

Eiser
Verweerder

NEEM KENNIS dat u die dokumente in u kennisgewing van die ..... dag van ..... 19..... genoem, by my kantoor of te ..... tussen die ure van ..... en ..... op die volgende dae kan insien (of)

(4) I have had, but have not now in my possession or power, the documents relating to the matters in question in this action, set forth in the Second Schedule hereto.
(5) The last-mentioned documents were last in my possession or power ..... (state when).
(6) The ..... (here state what has become of the last-mentioned documents, and in whose possession they are now).
(7) According to the best of my knowledge and belief, I have not now, and never had in my possession, custody, or power, or in the possession, custody or power of my attorney, or agent, or any other person on my behalf, any document or copy of, or extract from any document, relating to any matters in question in this cause, other than the documents set forth in the First and Second Schedules hereto.
DATED at ..... this ..... day of ..... 19.....

.....
Defendant.

FORM 12.

NOTICE IN TERMS OF RULE 35 (5).

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter between:

A. B. Plaintiff
and
C. D. Defendant

TO: .....

Please take notice that the above-named Plaintiff requires you within *fourteen* days to deliver to the under-mentioned address a written statement setting out what documents of the following nature you have presently or had previously in your possession:

(*a*) .....
(*b*) .....
(*c*) .....
(*d*) .....

In such statement you must specify in detail which documents are still in your possession. If you no longer have any such documents which were previously in your possession you must state in whose possession they now are.
If you fail to deliver the statement within the time aforesaid, application will be made to court for an order compelling you to do so and directing you to pay the costs of such application.

.....
Plaintiff's Attorney.
(Address).

FORM 13.

DISCOVERY—NOTICE TO PRODUCE.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

Plaintiff
Defendant

TAKE NOTICE that the ..... (plaintiff or defendant) requires you to produce within *seven* days for his inspection the following documents referred to in your affidavit, dated the ..... day of ..... 19.....
(Describe documents required)
DATED at ..... this ..... day of ..... 19.....

.....
Attorney for .....
(Address)

TO:

.....
Attorney for the .....
(Address)

FORM 14.

DISCOVERY—NOTICE TO INSPECT DOCUMENTS.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

Plaintiff
Defendant

TAKE NOTICE that you may inspect the documents mentioned in your notice of the ..... day of ..... 19....., at my office, or at ..... and between the hours of ..... and ..... on the following days.
(or)

Dat die (eiser of verweerder) beswaar maak teen die voorlegging van die dokumente in u kennisgewing van die ..... dag van ..... 19..... genoem, vir insae deur u, op grond daarvan dat .....
(Vermeld die gronde).

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Prokureur vir .....
(adres).

AAN:
.....
Prokureur vir die .....
(Adres).

VORM 15.

BLOOTLEGGING—KENNISGEWING OM DOKUMENTE IN PLEITSTUKKE ENS., VOOR TE LÊ.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

Eiser
Verweerder

NEEM KENNIS dat die eiser (of verweerder) verlang dat u hom ter insae die volgende dokumente in u .... (deklarasie of pleit of beëdigde verklaring) genoem, voorlê.

(Beskryf dokumente vereis).

.....
Prokureur vir .....
(Adres).

AAN:
.....
Prokureur vir .....
(Adres).

VORM 16.

GETUIEDAGVAARDING.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

Eiser
Verweerder

Aan die balju of sy adjunk:
STEL:
(1)
(2) (Vermeld naam, geslag, beroep, ras en
(3) besigheids- of woonplek van elke getuie)
(4)
in kennis dat elkeen van hulle hierby gelas word om persoonlik voor hierdie hof te ..... te verskyn op ..... die ..... dag van ..... 19....., om ..... uur in die voormiddag en om daarna aanwesig te bly totdat hy deur die hof verskoon word, ten einde getuienis af te lê namens die bogemelde eiser/verweerder aangaande sake waarvan hy kennis dra betreffende 'n aksie nou in die genoemde hof hangende, waarin die eiser van die verweerder (1) ..... (2) ..... (3) ..... vorder.

EN STEL hom in kennis dat daar verder van hom verlang word om ..... (beskryf hier noukeurig elke dokument, boek of ander voorwerp wat voorgelê moet word) ..... saam met hom te bring en aan die genoemde hof voor te lê.

EN STEL elk van die genoemde persone verder in kennis dat hy in geen omstandighede moet nalaat om aan hierdie getuiedagvaarding te voldoen nie aangesien hy hom daardeur kan blootstel aan 'n boete van R50 of gevangenisstraf van drie maande.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

.....
Eiser/Verweerder se
Prokureur.

VORM 17.

KENNISGEWING INGEVOLGE REËL 43.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Tussen

Applikant

en

Respondent

Aan die bogenoemde respondent:

That the (plaintiff or defendant) objects to giving you inspection of the documents mentioned in your notice of the ..... day of ..... 19....., on the grounds that .....
(State the grounds)

DATED at ..... this ..... day of ..... 19.....

.....
Attorney for .....
(Address)

TO:
.....
Attorney for the .....
(Address)

FORM 15.

DISCOVERY—NOTICE TO PRODUCE DOCUMENTS IN PLEADINGS, ETC.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

Plaintiff
Defendant

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

.....
Attorney for .....
(Address)

TO:
.....
Attorney for .....
(Address)

FORM 16.

SUBPOENA.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

Plaintiff
Defendant

To the sheriff or his deputy:
INFORM:
(1)
(2) (State names, sex, occupation, race and place
(3) of business or residence of each witness)
(4)
that each of them is hereby required to appear in person before this court at ..... on ..... the ..... day of ....., 19....., at ..... o'clock in the forenoon and thereafter to remain in attendance until excused by the said court, in order to testify on behalf of the above-named plaintiff/defendant in regard to all matters within his knowledge relating to an action now pending in the said court and wherein the plaintiff claims (1) ..... (2) ..... (3) ..... from the defendant.

AND INFORM him that he is further required to bring with him and to produce to the said court ..... (here describe accurately each document, book or other thing to be produced) .....

AND INFORM each of the said persons further that he should on no account neglect to comply with this subpoena as he may thereby render himself liable to a fine of R50, or to imprisonment for *three* months.

DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Supreme Court.

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

FORM 17.

NOTICE IN TERMS OF RULE 43.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Between

Applicant

and

Respondent

To the above-named respondent:

NEEM KENNIS dat indien u voornemens is om hierdie eis te verdedig, u binne sewe dae 'n antwoord by die griffier van hierdie hof moet indien, waarin 'n adres vir betekening binne vyf myl van die hof af aangegee word, en 'n afskrif daarvan aan die applikant se prokureur moet beteken. Indien u dit nie doen nie sal u outomaties belet wees om te verdedig en vonnis soos aangevra kan teen u gegee word. In u antwoord moet aangedui word welke bewerings in die applikant se verklaring u erken of ontken en u verweer moet bondig daarin uiteengesit word.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Applikant se Prokureur.

Adres vir betekening:
.....
.....

VORM 17A.

HERSTEL VAN HUWELIKSREGTE.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

AAN:

A. B., voorheen van ..... maar wie se huidige adres onbekend is;

NEEM KENNIS dat u by 'n hofbevel gedateer die ..... dag van ..... 19..... gelas word om terug te keer na en huweliksregte te herstel aan C. D., u ..... (eggenote/eggenoot), op of voor die ..... dag van ..... 19..... Indien u versuim om dit te doen en u nie voor die bogenoemde hof om 10 vm. op die ..... dag van ..... 19 ..... redes vir die teendeel aanvoer nie, kan 'n egskeidingsbevel teen u gegee word met koste en aan u ..... (eggenote/eggenoot) kan die toesig oor die ..... minderjarige kind(ers) van die huwelik toegeken word, en u kan beveel word om onderhoud te betaal vir .... ten bedrae van .....

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hof.

.....
Eiser se Prokureur.
(Adres).

VORM 18.

LASBRIEF TOT UITWINNING.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

Eiser
Verweerder

Aan die adjunk-balju
vir die distrik .....

U word hierby gelas om op die roerende goed van ....., die bogenoemde verweerder van ..... (adres) ....., beslag te lê en dit by openbare veiling uit te win tot 'n bedrag van ..... tesame met rente daarop teen ..... persent per jaar vanaf die ..... dag van ..... 19..... plus die bedrag van ..... vir die getakseerde koste en uitgawes van die genoemde .... (eiser) wat hy by uitspraak van hierdie hof gedateer die ..... dag van ..... 19..... in die bogenoemde saak verhaal het, en ook alle ander koste en uitgawes van die eiser in die genoemde saak wat hierna regtens behoorlik getakseer word, benewens al u koste daarby aangegaan.

Betaal verder aan die genoemde ..... of sy prokureur die bedrag of bedrae aan hom verskuldig met koste soos vermeld.

WAARVOOR dit u lasbrief is.

En lewer hierdie lasbrief terug met 'n relaas van wat u daaromtrent gedoen het.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

.....
Eiser se Prokureur.
(Adres).

TAKE NOTICE that if you intend to defend this claim you must, within *seven* days, file a reply with the Registrar of this court, giving an address for service within *five* miles of the court, and serve a copy thereof on the applicant's attorney. If you do not do these things you will be automatically barred from defending, and judgment may be given against you as claimed. Your reply must indicate what allegations in the applicant's statement you admit or deny, and must concisely set out your defence.

DATED at ..... this ..... day of ..... 19.....

.....
Applicant's Attorney.

Address for service:
.....
.....

FORM 17A.

RESTITUTION OF CONJUGAL RIGHTS.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

TO:

A. B., formerly of ....., but whose present address is unknown;

TAKE NOTICE that by Order of Court dated the ..... day of ..... 19....., you are required to return, and restore conjugal rights, to C. D., your .... (wife/husband) on or before the ..... day of ..... 19..... Should you fail to do so, and not show cause to the contrary before the above-mentioned court at 10 a.m. on the ..... day of ..... 19....., an order of divorce may be granted against you, with costs, and your (wife/husband) may be granted custody of the ..... minor child(ren) of the marriage, and you may be ordered to pay maintenance for ..... at the rate of .....

DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Court.

.....
Plaintiff's Attorney.
(Address).

FORM 18.

WRIT OF EXECUTION.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

Plaintiff
Defendant

To the deputy-sheriff

for the district of .....

You are hereby directed to attach and take into execution the movable goods of ..... the above-mentioned defendant of ..... (address) ....., and of the same to cause to be realized by public auction the sum of ..... together with interest thereon at the rate of ..... per centum per annum from the ..... day of ..... 19..... and the sum of ..... for the taxed costs and charges of the said ....., which he recovered by judgment of this Court dated the ..... day of ..... 19....., in the above-mentioned case, and also all other costs and charges of the plaintiff in the said case to be hereafter duly taxed according to law, besides all your costs thereby incurred.

Further pay to the said ..... or his attorney the sum or sums due to him with costs as above mentioned, and for your so doing this shall be your warrant.

And return you this writ with what you have done thereupon.

DATED at ..... this ..... day of ..... 19.....
.....

.....
Registrar of the Supreme Court.

Plaintiff's Attorney.
(Address).

VORM 19.

VORM VAN SEKERHEIDSTELLING INGEVOLGE REËL 45 (5).

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

n die saak tussen:

Eiser
Verweerder

NADEMAAL uit hoofde van 'n sekere lasbrief van die Hooggeregshof van Suid-Afrika, ... Afdeling, gedateer die ..... dag van ..... 19....., uitgereik op instansie van A. B. teen C. D. van ...., die adjunk-balju die onderstaande artikels geneem en daarop beslag gelê het, naamlik:

10 osse
1 ploeg
1 eg
ens., ens., ens.

DERHALWE verbind ons, die genoemde C. D. en G. H., van ....., 'n ..... beroep), as borg vir hom, onsself gesamentlik en afsonderlik heur hierby teenoor die genoemde adjunk-balju of sy sessionarisse, regverkrygendes of opvolgers, te onderneem dat die genoemde goed nie verwyder sal word nie maar in die besit van die genoemde C. D. onder beslaglegging sal bly en aan die genoemde adjunk-balju (of ander persoon deur hom gemagtig om dit te ontvang) oorhandig sal word op die ..... dag van ..... 19..... (die dag vir die verkoping bepaal) of op enige ander dag wanneer dit benodig mag word vir verkoping, tensy die genoemde beslaglegging regtens opgehef word. Vir die geval dat hierdie onderneming nie nagekom word nie, verbind ek, die genoemde G. H., myself en my goed hierby, vir betaling van die bedrag van ..... (geskatte waarde van die inbeslaggenome goed) aan die genoemde adjunk-balju, sy sessionarisse, regverkrygendes of opvolgers, ten behoewe van die genoemde A. B.

As getuie waarvan ons, die genoemde C. D. en G. H., hierdie stuk onderteken op hierdie ..... dag van .... 19.....

C. D.
.....
Vonnisskuldenaar.

G. H.
.....
Borg.

.....
Adjunk-balju.

OORDRAG VAN BORGAKTE.

Ek, ..., in my hoedanigheid as adjunk-balju vir die distrik ....., sedeer en dra aan A. B. oor al my regte, titel en belang in die voorgaande borgakte.

Onderteken deur my in die teenwoordigheid van die ondergetekende getuies te ..... hierdie ..... dag van ..... 19.....

.....
Adjunk-balju.

As getuies:
1. .....
2. .....

VORM 20.

LASBRIEF TOT BESLAGLEGGING—ONROERENDE GOED.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

Eiser
Verweerder

Aan die adjunk-balju
vir die distrik .....

NADEMAAL u gelas is om die bedrag van ..... in te vorder ter voldoening van 'n vonnisskuld en koste deur A. B. teen die genoemde C. D. in hierdie hof op die ..... dag van ..... 19....., verkry,

EN NADEMAAL u in u relaas vermeld het dat ..... (gee hier die adjunk-balju se relaas op die lasbrief teen roerende goed).

DERHALWE word u gelas om op die onroerende goed van die genoemde C. D., synde ..... (gee hier 'n beskrywing van die eiendom) ..... beslag te lê en dit uit te win om daaruit die bedrag van .... tesame met die koste hiervan en van die vorige las-

FORM 19.

FORM OF SECURITY UNDER RULE 45 (5).

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

In the matter between:

Plaintiff
Defendant

WHEREAS by virtue of certain writ of the Supreme Court of South Africa, ... Division, dated the ..... day of ..... 19....., issued at the instance of A. B. against C. D. of ..... the deputy-sheriff has seized and laid under attachment the under-mentioned articles, namely:

10 oxen
1 plough
1 harrow
etc., etc., etc.

NOW, therefore, we, the said C. D. and G. H., of ...., a ..... (occupation), as surety for him, bind ourselves severally and *in solidum*, hereby undertaking to the said deputy-sheriff or his 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 deputy-sheriff (or other person authorized by him to receive the same) on the ..... day of ..... 19..... (the day appointed for the sale) or on any other day 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 ..... (estimated value of the effects seized) to the said deputy-sheriff, his 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 .... 19.....

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 ..... 19.....

.....
Deputy-Sheriff.

As Witnesses:
1. .....
2. .....

FORM 20.

WRIT OF ATTACHMENT—IMMOVABLE PROPERTY.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

Plaintiff
Defendant

To the deputy-sheriff for
the district of .....

WHEREAS you were directed to cause to be realized the sum of ..... in satisfaction of a judgment debt and costs obtained by A. B. against the said C. D. in this court on the ..... day of ..... 19.....

AND WHEREAS your return stated ..... (here quote the deputy-sheriff's return on the writ against movables).

NOW, therefore, you are directed to attach and take into execution the immovable property of the said C. D., being .... (here give the description of the property) ..... to the cause to be realized therefrom the sum of ..... together with the costs hereof and of

brief ten bedrae van ..... en u uitgawes in verband daarmee te verkry en om daarna met die opbrengs ooreenkomstig Hofreël 45 te handel.

WAARVOOR dit u lasbrief is.

GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Griffier van die Hooggeregshof.

.....
Eiser se Prokureur.
(Adres).

VORM 21.

VERKOOPSVOORWAARDES BY UITWINNING VAN ONROERENDE GOED.

Insake:

Eiser
Verweerder

Die eiendom wat te koop aangebied sal word op die ..... dag van ..... 19..... bestaan uit:

Die verkoping sal aan die volgende voorwaardes onderworpe wees:

1. Die eiendom sal deur die adjunk-balju van .... te ..... aan die hoogste bieder sonder 'n reserweprys/met 'n reserweprys van ..... verkoop word.

2. Die verkoping geskied in rande en geen bod van minder as een rand sal aanvaar word nie.

3. Indien 'n geskil betreffende 'n bod ontstaan, kan die eiendom weer vir verkoping aangebied word.

4. Indien die afslaer 'n fout by die verkoping maak, is so 'n fout nie op enige van die partye bindend nie maar kan dit reggestel word. Indien die afslaer vermoed dat 'n bieder nie in staat is om òf die deposito wat in voorwaarde 6 genoem word òf die balans van die koopprys te betaal nie, kan hy weier om die bod van so 'n bieder te aanvaar of kan hy dit voorwaardelik aanvaar totdat die bieder hom oortuig het dat hy in staat is om beide sodanige bedrae te betaal. By die weiering van 'n bod in die omstandighede, kan die eiendom onmiddellik weer vir verkoping aangebied word.

5. Die koper moet so spoedig doenlik na die verkoping en onmiddellik wanneer deur die ..... versoek, hierdie voorwaardes onderteken en indien hy as verteenwoordiger gekoop het, die naam van sy prinsipaal vermeld.

6. (*a*) Die koper moet 'n deposito van tien persent van die koopprys kontant op die dag van die verkoping betaal, die balans betaalbaar teen transport en verseker te word deur 'n waarborg van 'n bank of bougenootskap wat deur die eiser se prokureur goedgekeur is, die waarborg aan die adjunk-balju binne ..... dae na die datum van die verkoping verstrek te word.

(*b*) Indien die transport van die eiendom nie binne een maand na die verkoping geregistreer is nie, sal die koper aanspreeklik wees vir die betaling van rente aan die eiser teen ..... per sent per jaar en aan die verbandhouer teen ..... per sent per jaar op die onderskeie bedrae van die toekenning aan die eiser en die verbandhouer in die distribusieplan, vanaf die verloop van een maand na die verkoping tot die datum van transport.

7. Aangesien die verweerder 'n lid van die ..... groep is, sal geen bod gemaak deur of namens iemand wat nie 'n lid van dieselfde groep is nie, aanvaar word nie tensy so iemand aan die afslaer by die verkoping 'n permit van die Minister van Binnelandse Sake toon waarby hy gemagtig word om eiendom te verkry.

8. As die koper versuim om enige van sy verpligtinge ingevolge die verkoopsvoorwaardes na te kom, kan die koop summier deur 'n regter op grond van 'n verslag van die adjunk-balju en na behoorlike kennisgewing aan die koper, gekanselleer word en die eiendom kan weer te koop aangebied word. Die koper is aanspreeklik vir verliese gely vanweë sy versuim en dit kan op aansoek van 'n benadeelde skuldeiser wie se naam op die adjunk-balju se distribusierekening verskyn, van hom verhaal word kragtens vonnis van die regter wat summier op grond van 'n skriftelike verslag van die adjunk-balju gegee word nadat die koper skriftelik in kennis gestel is dat so 'n verslag vir daardie doel voor die regter gelê sal word. As die koper reeds in besit van die eiendom is, kan die adjunk-balju met sewe dae kennisgewing by 'n regter 'n uitsettingsbevel kry teen hom of teen iemand wat voorgee deur hom te besit.

9. Die koper moet afslaersgelde op die dag van die verkoping betaal en ook hereregte, transportkoste en agterstallige belastings en ander uitgawes wat nodig is om transport te laat geskied, op versoek van die prokureur van die vonniskuldeiser.

10. Die eiendom kan onmiddellik na betaling van die eerste deposito in besit geneem word en sal na die betaling daarvan op die risiko en tot voordeel van die koper gehou word.

11. Die koper kan onverwyld transport kry as hy die hele koopprys betaal en aan voorwaarde 9 voldoen in welke geval enige eis vir rente verval. Anders sal transport gegee word eers nadat die koper voorwaardes 6 en 9 hiervan nagekom het.

12. Die adjunk-balju kan eis dat enige gebou op die verkoopte eiendom onmiddellik deur die koper vir die volle waarde daarvan verassureer word en dat die assuransiepolis aan hom oorhandig en van krag gehou word vir solank as wat die koopprys nog nie ten volle betaal is nie. As hy dit nie doen nie, kan die adjunk-balju die assuransie op die koper se koste uitneem.

13. Die eiendom word verkoop soos deur die titelaktes en kaart voorgestel; die adjunk-balju is nie aanspreeklik vir enige

the prior writ amounting to ..... and your charges in and about the same, and thereafter to dispose of the proceeds thereof in accordance with Rule of Court No. 45.

FOR which this shall be your warrant.
DATED at ..... this ..... day of ..... 19.....

.....
Registrar of the Supreme Court.

.....
Plaintiff's Attorney.
(Address).

FORM 21.

CONDITIONS OF SALE IN EXECUTION OF IMMOVABLE PROPERTY.

In re:

Plaintiff
Defendant

The property which will be put up to auction on the ..... day of ..... 19..... consists of:

The sale shall be subject to the following conditions:

1. The property shall be sold by the deputy-sheriff of .... at ..... to the highest bidder without reserve/with a reserve price of .....

2. The sale shall be for rands, and no bid of less than *one* rand shall be accepted.

3. If any dispute arises about any bid the property may be again put up to auction.

4. If the auctioneer makes any mistake in selling, such mistake shall not be binding on any of the parties but may be rectified. If the auctioneer suspects that a bidder is unable to pay either the deposit referred to in condition 6 or the balance of the purchase price he may refuse to accept the bid of such bidder, or accept it provisionally until the bidder shall have satisfied him that he is in a position to pay both such amounts. On the refusal of a bid under such circumstances, the property may immediately be again put up to auction.

5. The purchaser shall, as soon as possible after the sale and immediately on being requested by the ..... sign these conditions, and if he has bought *qua qualitate*, state the name of his principal.

6. (*a*) The purchaser shall pay a deposit of ten per cent of the purchase price in cash on the day of sale, the balance against transfer to be secured by a bank or building society guarantee, to be approved by plaintiff's attorney, to be furnished to the deputy-sheriff within ..... days after the date of sale.

(*b*) If transfer of the property is not registered within *one* month after the sale, the purchaser shall be liable for payment of interest to the plaintiff at the rate of ..... per cent p.a. and to the ..... bondholder at the rate of ..... per cent p.a. on the respective amounts of the award to the plaintiff and the ..... bondholder in the plan of distribution as from the expiration of *one* month after the sale to date of transfer.

7. Inasmuch as the defendant is a member of the ..... Group, no bids will be accepted by or on behalf of a person who is not a member of such Group, unless such person exhibits to the auctioneer at the sale a permit from the Minister of the Interior authorizing him to acquire such property.

8. If the purchaser fails to carry out any of his obligations under the conditions of sale, the sale may be cancelled by a judge summarily on the report of the deputy-sheriff after due notice to the purchaser, and the property may again be put up for sale; and the purchaser shall be responsible for any loss sustained by reason of his default, which loss may, on the application of any aggrieved creditor whose name appears on the deputy-sheriff's distribution account, be recovered from him under judgment of the judge pronounced summarily on a written report by the deputy-sheriff, after such purchaser shall have received notice in writing that such report will be laid before the judge for such purpose; and if he is already in possession of the property, the deputy-sheriff may, on *seven* days' notice, apply to a judge for an order ejecting him or any person claiming to hold under him therefrom.

9. The purchaser shall pay auctioneer's charges on the day of sale and in addition, transfer dues, costs of transfer, and arrear rates, taxes and other charges necessary to effect transfer, upon request by the attorney for the execution creditor.

10. The property may be taken possession of immediately after payment of the initial deposit, and shall after such deposit be at the risk and profit of the purchaser.

11. The purchaser may obtain transfer forthwith if he pays the whole price and complies with condition 9, in which case any claim for interest shall lapse, otherwise transfer shall be passed only after the purchaser has complied with the provisions of conditions 6 and 9 hereof.

12. The deputy-sheriff may demand that any buildings standing on the property sold shall be immediately insured by the purchaser for the full value of the same, and the insurance policy handed to him and kept in force as long as the whole price has not been paid; and if he does not do so, the deputy-sheriff may effect the insurance at the purchaser's expense.

13. The property is sold as represented by the title deeds and diagram, the deputy-sheriff not holding himself liable for any

tekort wat gevind mag word nie en doen afstand van enige oorskot. Die eiendom word ook verkoop onderhewig aan alle sewitute en voorwaardes in die transportakte vermeld.

14. Die vonnisskuldeiser is geregtig om 'n prokureur aan te stel om die transport te behartig.

TE ..... hierdie ..... dag van ..... 19.....

.....
Adjunk-balju.

Ek sertifiseer dat die voormelde eiendom vandag vir .... aan ..... in my teenwoordigheid verkoop is:

.....

Ek, die ondergetekende, ...,
woonagtig te ..... in die distrik ..... verbind my hierby as koper van die voormelde eiendom om die koopprys te betaal en om al die bogenoemde voorwaardes na te kom.

.....

TWEEDE BYLAE.
(Gepubliseer vir die leiding van praktisyns).

VORM „A".

LASBRIEF TOT UITWINNING—ROERENDE GOED, VOORLOPIGE VONNIS.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

A. B. Eiser
en
C. D. Verweerder

Aan die adjunk-balju
vir die distrik .....

U word hierby gelas om op die roerende goed van C. D., die bogenoemde verweerder, van ..... (adres) .... beslag te lê en dit by openbare veiling uit te win tot die bedrag van ..... tesame met rente daarop teen ..... persent per jaar vanaf die ..... dag van ..... 19..... en die bedrag van ..... vir die getakseerde koste en uitgawes van die genoemde A. B. wat hy by voorlopige vonnis van hierdie hof verhaal het op die ..... dag van .... 19....., asook alle ander koste en uitgawes van die genoemde eiser in die genoemde aksie wat hierna regtens getakseer word, benewens al u koste daarby aangegaan, en ook twee rand tien sent as die verweerder sekerheid *de restituendo* vereis; en verder om aan die genoemde A. B. of sy prokureur die bedrag of bedrae aan hom verskuldig met koste soos voormeld te betaal na die stelling van voldoende sekerheid (indien vereis) deur hom vir die teruggawe daarvan indien die vonnis in die prinsipale saak ter syde gestel word.

WAARVOOR dit u lasbrief is.

EN lewer hierdie lasbrief terug met 'n relaas van wat u daaromtrent gedoen het.

.....
Griffier.

.....
Eiser se Prokureurs.
(Adres).

VORM „B".

LASBRIEF TOT BESLAGLEGGING—VOORLOPIGE VONNIS —ONROERENDE GOED UITWINBAAR VERKLAAR.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

A. B. Eiser
en
C. D. Verweerder

Aan die adjunk-balju
vir die distrik .....

U word hierby gelas om beslag te lê op sekere .... (gee hier die volledige beskrywing van die eiendom) wat by 'n vonnis van hierdie hof gedateer die ..... dag van ..... 19..... spesiaal uitwinbaar verklaar is ter betaling van die bedrag ..... en rente daarop teen ..... persent per jaar vanaf die ..... dag van ..... 19..... tot die datum van betaling wat A. B. by die genoemde voorlopige vonnis van die genoemde C. D. verhaal het, tesame met die bedrag van ..... vir die getakseerde koste en uitgawes van die genoemde A. B. en daarbenewens twee rand tien sent as die verweerder sekerhid *de restituendo* vereis, en ook die bedrag van ..... synde die getakseerde koste van hierdie lasbrief benewens al u koste daarby aangegaan, en betaal aan die genoemde A. B. of sy prokureur die bedrag of bedrae aan hom verskuldig met koste soos voormeld na die stelling van voldoende sekerheid (indien vereis) deur hom vir die teruggawe daarvan indien die genoemde vonnis in die prinsipale saak ter syde gestel word.

WAARVOOR dit u lasbrief is.

deficiency that may be found to exist and renouncing all excess. The property is also sold subject to all servitudes and conditions specified in the deed of transfer.

14. The execution creditor shall be entitled to appoint an attorney to attend to transfer.

AT ..... this ..... day of ..... 19.....

.....
Deputy-Sheriff.

I certify hereby that to-day the ..... in my presence the hereinbefore-mentioned property was sold for ..... to .....
.....
.....

I, the undersigned, ... residing at ....., in the district of ..... do hereby bind myself as the purchaser of the hereinbefore-mentioned property to pay the purchase price and to perform all and singular the conditions mentioned above.

.....

SECOND SCHEDULE.
(Published for the guidance of practitioners.)

FORM "A".

WRIT OF EXECUTION—MOVABLE PROPERTY, PROVISIONAL SENTENCE.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

A. B. Plaintiff
and
C. D. Defendant

To the deputy-sheriff for the
District of .....

YOU are hereby directed to attach and take into execution the movable goods of C. D., the above-mentioned defendant, of ..... (address) ..... and of the same to cause to be realized by public auction the sum of ..... together with interest thereon at ..... per centum per annum from the ..... day of ....., 19..... and the sum of ..... for the taxed costs and charges of the said A. B. which he recovered provisionally by judgment of this court on the ..... day of ..... 19..... in the above-mentioned suit, and also all other costs and charges of the said plaintiff in the said suit to be hereafter taxed according to law, besides all your costs thereby incurred, and two rand ten cents in addition in case the said defendant shall require security *de restituendo* and further to pay to the said A. B. or his attorney the sum or sums due to him with costs as above-mentioned upon sufficient security (if required) being given by him for the restitution thereof, if in the principal case the said sentence is reversed, and for so doing this shall be your warrant.

AND return this writ with what you have done thereupon.

.....
Registrar.

.....
Plaintiff's Attorneys.
(Address).

FORM "B".

WRIT OF ATTACHMENT—PROVISIONAL SENTENCE—IMMOVABLE PROPERTY DECLARED EXECUTABLE.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

A. B. Plaintiff
and
C. D. Defendant

To the deputy-sheriff for the
District of .....

YOU are hereby directed to attach certain ..... (here set out fully the description of the property) ..... which was by sentence of this court bearing date the ..... day of ..... 19..... specially declared executable to satisfy the sum of ..... and interest thereon at ..... per centum per annum from the ..... day of ..... 19..... to date of payment, which A. B. by the said sentence recovered provisionally against the said C. D., together with the sum of ..... for the taxed costs and charges of the said A. B. and two rand ten cents in addition in case the defendant shall require security *de restituendo*, and also the sum of ..... being the taxed costs of this writ besides all your costs thereby incurred, and pay to the said A. B. or his attorney the sum or sums due to him with costs as above-mentioned upon sufficient security (if required) being given by him for restitution thereof if in the principal case the said sentence be reversed, and for so doing this shall be your warrant.

EN lewer hierdie lasbrief terug met 'n relaas van wat u daaromtrent gedoen het.
GEDATEER te ..... op hierdie ..... dag van ..... 19.....

.....
Griffier.

.....
Eiser se Prokureurs.
(Adres).

VORM „C".

SEKURITEITSAKTE NA TENUITVOERLEGGING VAN VOORLOPIGE VONNIS WANNEER DIE VERWEERDER VOORNEMENS IS OM TOT DIE PRINSIPALE SAAK OOR TE GAAN.

NADEMAAL op die ..... dag van ..... 19..... aan ..... (eiser) van ..... deur die ..... Afdeling van die Hooggeregshof van Suid-Afrika voorlopige vonnis vir die bedrag van ..... met rente en koste teen C. D. toegestaan is en nademaal die adjunk-balju uit hoofde van die vonnis die bedrag van ..... ingevorder het, en nademaal die genoemde C. D. vereis het dat sekerheid gestel word vir die teruggawe daarvan indien die vonnis in die prinsipale saak ter syde gestel sou word:

SY DIT HIERMEE kennelik dat ek, A. B., van ..... verbind is aan C. D. van ..... vir die bedrag van ....., betaalbaar aan die genoemde C. D., sy eksekuteurs, administrateurs of regverkrygendes, vir die behoorlike betaling waarvan ek myself, my erfgename, eksekuteurs, administrateurs of regverkrygendes hiermee onder voorwaardelike verpligting stel.

DIE VOORWAARDE van hierdie aanspreeklikheid is dat die genoemde vonnis in die prinsipale saak ter syde gestel word, in welke geval die genoemde adjunk-balju aan die genoemde C. D., sy erfgename, eksekuteurs, administrateurs of regverkrygendes die bedrag van ..... of so 'n deel daarvan as wat die hof mag vasstel, sal betaal.

INDIEN die genoemde vonnis bekragtig word of indien die genoemde C. D. nie verskyning om te verdedig binne twee maande vanaf die datum van die voormelde vonnis aanteken nie, sal hierdie akte van nul en gener waarde wees.
GEDATEER te ..... op hierdie ..... dag van ..... 19.....
AS GETUIES:
.....
.....

VORM „D".

SERTIFIKAAT VAN EIENAARSKAP EN BESWARINGS: UITWINNINGSVERKOPING VAN ONROERENDE GOED.

UITWINNINGSVERKOPING: .....
teen .....
Saak No. .....
Ek, ..., Registrateur van Aktes van die Provinsie ....., sertifiseer dat ..... die geregistreerde eienaar is van die plaas ..... geleë in die distrik ....., groot ..... morg ..... vierkante roede, uit hoofde van Transportakte No. ..... geregistreer op die ..... dag van ..... 19..... en dat daar geen beswarings op die genoemde eiendom is nie met uitsondering van die volgende:
Verbande
Servitute
Ens., ens., ens.
Die eiendom/me is geleë in 'n ..... gebied ingevolge die Wet op Groepsgebiede geproklameer.
Die soekgelde betaalbaar is .....
GEDATEER te ..... hierdie ..... dag van ..... 19.....

.....
Registrateur van Aktes.

VORM „E".

LASBRIEF TOT UITSETTING.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....
In die saak tussen:

A. B. Eiser (Applikant)
en
C. D. Verweerder (Respondent)

NADEMAAL A. B., ... (beroep en adres) ..... 'n bevel in die ..... Afdeling van die Hooggeregshof van Suid-Afrika op die ..... dag van ..... 19..... teen C. D. ..... (beroep en adres) ..... verkry het waarby beveel is dat hy en alle persone wat voorgee dat hulle 'n besitsreg van hom aflei, uitgesit word uit ..... (meld eiendom of persele waaruit verweerder gesit moet word) ....., tans geokkupeer deur die genoemde C. D. soos dit uit die stukke blyk,

AND return you this writ with what you have done thereupon.
DATED at ..... on this ..... day of ..... 19.....

.....
Registrar.

.....
Attorney for Plaintiff.
(Address).

FORM "C".

DE RESTITUENDO BOND AFTER LEVY OF A PROVISIONAL SENTENCE, WHEN THE DEFENDANT INTENDS TO GO INTO THE PRINCIPAL CASE.

WHEREAS on the ..... day of ..... 19..... ..... (plaintiff) of ..... did by sentence of the ..... Division of the Supreme Court of South Africa, recover provisionally against C. D. the sum of ..... with interest and costs by him about his suit in that behalf expended; and whereas the deputy-sheriff has levied by virtue of the said sentence the sum of ....., and whereas the said C. D. has required security for the restitution thereof if in the principal case the said sentence shall be reversed:

KNOW ALL MEN by these presents that I, A. B. of .... am held and firmly bound to C. D. of ..... in the sum of ..... to be paid to the said C. D., his executors, administrators or assigns, for which payment, to be well and truly made, I bind myself, my heirs, executors, administrators or assigns firmly by these presents under my hand:

NOW the condition of this obligation is such that if the said sentence shall in the principal case be reversed, then the said deputy-sheriff shall pay to the said C. D., his heirs, executors, administrators or assigns, the said sum of ..... or such part thereof as the said court may adjudge, but if the said sentence should be confirmed, or if the said C. D. does not enter appearance to defend within *two* months from date of the judgment aforesaid then this Bond shall be null and void: otherwise it shall be and remain of full force and effect.

DATED at ..... on this ..... day of ..... 19.....
AS WITNESSES:
.....
.....

FORM "D".

CERTIFICATE OF OWNERSHIP AND ENCUMBRANCES: SALE IN EXECUTION OF IMMOVABLE PROPERTY.

SALE IN EXECUTION: .....
versus .....

Case No. .....
I, ..., Registrar of Deeds of the Province of ....., hereby certify that ..... is the registered owner of the farm ..... situate in the district of ...., in extent ..... morgen ..... square roods, by virtue of Deed of Transfer No. ..... registered on the ..... day of ..... 19....., and that there are no encumbrances on the said property save and except the following:
Bonds
Servitudes
Etc., etc., etc.
The property/ies is/are situated in a/an ..... area proclaimed under the Group Areas Act.
The search fee payable is .....
DATED at ..... this ..... day of ..... 19.....

.....
Registrar of Deeds.

FORM "E".

WRIT OF EJECTMENT.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....
In the matter between:

A. B. Plaintiff (Applicant)
and
C. D. Defendant (Respondent)

WHEREAS A. B., ... (occupation and address) ..... obtained an order in the ..... Division of the Supreme Court of South Africa on the ..... day of ..... 19....., against C. D. ..... (occupation and address) ....., ordering him and all persons claiming through him to be ejected from and out of ..... (set out the property or premises from which the defendant is to be ejected) ....., at present occupied by the said C. D. as appears to us of record,

DERHALWE word u gelas om die genoemde C. D. en alle persone wat voorgee dat hulle 'n besitsreg van hom aflei, en sy goedere en besittings, uit te sit uit die grond of perseel en dit dan te verlaat sodat die genoemde A. B. dit vreedsaam kan betrek en in besit kan neem.

WAARVOOR dit u lasbrief is.

GEDATEER te ..... op hierdie ..... dag van ..... 19.....

.....
Griffier.

.....
Eiser se Prokureur.
(Adres).

VORM „F".

LASBRIEF TOT GEVANGESETTING WEENS MINAGTING VAN DIE HOF.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

A. B. Applikant
en
C. D. Respondent

(1) Aan die Balju van die Provinsie .....
of sy wettige adjunk.

NADEMAAL dit volgens die stukke blyk dat hierdie hof op die ..... dag van ..... 19..... 'n bevel toegestaan het:

(verstrek besonderhede van hofbevel).

EN NADEMAAL dit verder volgens die stukke blyk dat hierdie hof op die ..... dag van ..... 19..... 'n bevel toegestaan het vir die gevangesetting van die respondent weens minagting van die hof deurdat hy versuim het om aan voormelde hofbevel te voldoen, op die volgende wyse:

(Meld hier op welke wyse hy versuim het).

WORD u hierby gelas om C. D. van ..... in die Provinsie ....., indien hy in daardie provinsie gevind word, te neem en hom aan die bewaarder van die gevangenis van die distrik waarin hy gevind word, tesame met 'n behoorlik gewaarmerkte afskrif van hierdie lasbrief te oorhandig, waar hy veilig aangehou moet word vir 'n tydperk van ..... vanaf die datum waarop hy kragtens hierdie lasbrief in genoemde gevangenis aangehou word, of totdat hy op 'n ander wyse regtens ontslaan word;

WAARVOOR dit u lasbrief is.

EN lewer hierdie lasbrief terug met 'n relaas van wat u daaromtrent gedoen het.

(2) Aan die Bevelvoerder van die Gevangenis aan wie die adjunkbalju hierdie lasbrief oorhandig:

U word hierby gelas om genoemde C. D. te ontvang en hom veilig aan te hou vir 'n tydperk van ..... vanaf die datum waarop genoemde C. D. kragtens hierdie lasbrief in genoemde gevangenis ontvang word of totdat hy andersins regtens ontslaan word.

GEDATEER te ..... op hierdie ..... dag van ..... 19.....

.....
Griffier.

.....
Applikant se Prokureur.
(Adres).

VORM „G".

LASBRIEF TOT SIVIELE GYSELING.
IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

Saak No. .....

In die saak tussen:

A. B. Eiser
en
C. D. Verweerder

(1) Aan die Balju van die Provinsie .....
of sy wettige adjunk.

U word hierby gelas ingevolge 'n bevel van die .... Afdeling van die Hooggeregshof van Suid-Afrika gedateer die ..... dag van ..... 19..... om C. D. ..... (voeg beroep en adres in) ....., indien hy in hierdie provinsie gevind word, te neem en hom aan die bevelvoerder van die gevangenis van die distrik waarin hy gevind word, te oorhandig tesame met 'n behoorlik gewaarmerkte afskrif van hierdie lasbrief, waar hy veilig aangehou moet word vir ..... (tydperk) siviele gyseling, vanaf die datum waarop die genoemde C. D. opgeneem of aangehou word in die gevangenis kragtens hierdie lasbrief, of totdat hy aan A. B. ..... (voeg beroep en adres in) ..... die bedrag van R..... betaal het met rente daarop teen ..... persent per jaar vanaf die ..... dag van ..... 19..... tot die dag van betaling, welke bedrag die genoemde A. B. by vonnis van die genoemde hof gedateer die ..... dag van ..... 19..... van die genoemde C. D. verhaal het, tesame met die bedrag van ....., synde getakseerde koste en uitgawes deur die genoemde A. B. in sy aksie aangegaan, en ook u eie koste, uitgawes en onkoste hierin, of totdat die genoemde C. D. andersins regtens ontslaan word.

WAARVOOR dit u lasbrief is.

NOW therefore you are directed to eject the said C. D. and all persons claiming through him, his goods and possessions from and out of all occupation and possession whatsoever of the said ground and/or premises, and to leave the same, to the end that the said A. B. may peaceably enter into and possess the same, and for so doing this shall be your warrant.

DATED at ..... on this ..... day of ..... 19.....

.....
Registrar.

.....
Plaintiff's Attorney.
(Address).

FORM "F".

WRIT OF COMMITMENT FOR CONTEMPT OF COURT.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

A. B. Applicant
and
C. D. Respondent

(1) To the Sheriff of the Province of .....
or his lawful deputy.

WHEREAS it appears of record that this Court on the ..... day of ....., 19 ....., granted an order:

(set out particulars of order of Court)

AND WHEREAS it further appears of record that this Court, on the ..... day of ....., 19....., granted a decree committing the respondent for contempt of Court for failing to comply with the aforesaid order of Court, in the manner following:

(here set out the terms of his omission)

YOU are hereby directed to take C. D. of ..... in the Province of ....., if he be found within that Province and deliver him to the keeper of the prison of the district in which he be found, together with a duly certified copy of this writ, there to be safely kept until the expiration of ..... from the date upon which he shall have been detained in the said prison by virtue of this warrant, or until the said C. D. shall be otherwise legally discharged; and for your so doing this shall be your warrant.

AND return you this writ with what you have done thereupon.

(2) To the Officer Commanding the Prison to whom the deputy-sheriff presents this writ.

YOU are hereby commanded and required to receive the said C.D. into your custody and keep him safely until the expiration of ..... from the date on which the said C. D. shall be received in the said prison by virtue of this warrant or until he shall be otherwise legally discharged.

DATED at ..... on this ..... day of ..... 19.....

.....
Registrar.

.....
Applicant's Attorney.
(Address).

FORM "G".

WRIT OF CIVIL IMPRISONMENT.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

A. B. Plaintiff
and
C. D. Defendant

(1) To the Sheriff of the Province of .....
or his lawful deputy.

YOU are hereby directed pursuant to an order of the .... Division of the Supreme Court of South Africa bearing date the ..... day of ....., 19..... to take C. D. ..... (insert occupation and address) ....., if he be found within this Province, and deliver him to the keeper of the prison of the district wherein he shall be found, together with a duly certified copy of this writ, there to be safely kept until the expiration of ..... (period) civil imprisonment, from the date upon which the said C. D. shall be received into or detained in the said prison by virtue of this warrant, or until he shall have paid to A. B. ..... (insert occupation and address), the sum of R..... of lawful money, with interest thereon at the rate of ..... per centum per annum from the ..... day of ....., 19....., to the day of payment, which the said A. B., by sentence of the said Court, bearing date the ..... day of ....., 19....., recovered against the said C. D., together with the sum of ..... for the taxed costs and charges of the said A. B. by him about this suit in that behalf expended, and also your own costs, charges and expenses herein, or until the said C.D. shall be otherwise legally discharged; and for your so doing this shall be your warrant.

EN lewer hierdie lasbrief terug met 'n relaas van wat u daaromtrent gedoen het.
(2) Aan die Bevelvoerder van die Gevangenis aan wie die adjunkbalju hierdie lasbrief oorhandig.
U word hierby gelas om genoemde C. D. te ontvang en hom veilig aan te hou vir ..... (tydperk) vanaf die datum waarop genoemde C. D. kragtens hierdie lasbrief in genoemde gevangenis ontvang word of totdat hy andersins regtens ontslaan word.
GEDATEER te ..... op hierdie ..... dag van ..... 19.....

.....
Griffier.

.....
Applikant se Prokureur.
(Adres).

VORM „H".

LASBRIEF TOT GESLAGLEGGING OM JURISDIKSIE TE VESTIG.

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA
(AFDELING).

In die saak tussen:

Saak No. .....

A. B. Applikant
en
C. D. Respondent

Aan die adjunk-balju
vir die distrik .....
U word hierby gelas ingevolge 'n bevel van die .... Afdeling van die Hooggeregshof van Suid-Afrika gedateer die ..... dag van ..... 19..... om onverwyld beslag te lê op ..... (meld eiendom) ..... tans te ..... (adres) ....., vir die vestiging van jurisdiksie van die genoemde hof in die aksie van A. B. teen C. D. van ..... (adres van respondent) ..... vir ..... (meld skuldoorsaak) .....; waarvoor dit u lasbrief is.
EN lewer hierdie lasbrief terug met 'n relaas van wat u daaromtrent gedoen het.
GEDATEER te ..... op hierdie ..... dag van ..... 19.....

.....
Griffier.

.....
Applikant se Prokureur.
(Adres).

OPMERKING: Die adjunk-balju kan nie bloot uit hoofde van die hofbevel beslag lê nie; daar moet 'n lasbrief soos hierbo aan hom gegee word.

VORM „I".

WAARMERKING VAN HANDTEKENING.

AAN WIE DIT MAG AANGAAN:
Ek, (griffier se volle naam), Griffier van die Hooggeregshof van Suid-Afrika, ... Afdeling, sertifiseer hierby dat ..... (notaris of prokureur se volle naam) ..... wie se handtekening op die aangehegte dokument gemerk „A", verskyn, 'n notaris of prokureur is wat kragtens wettige gesag behoorlik ingesweer en toegelaat is* en wat as sodanig in hierdie provinsie praktiseer en dat alle aktes, stukke, dokumente en geskrifte deur hom in daardie hoedanigheid onderteken as volkome betroubaar en geloofwaardig beskou word in hierdie provinsie, sowel in die hof as daarbuite.
GEGEE onder my hand en ampseël te ..... in die Provinsie ..... op hierdie ..... dag van ..... in die jaar Eenduisend Negehonderd .....

.....
Griffier van die Hooggeregshof
van Suid-Afrika.
.....
Afdeling.
(Seël)

* Indien die notaris of prokureur 'n beëdigde verklaring afgeneem het, voeg by „en as sodanig 'n kommissaris van ede is".

VORM „J".

SERTIFIKAAT VAN BETEKENING VAN BUITELANDSE PROSESSTUKKE.

Ek, ..., Griffier van die .... Afdeling van die Hooggeregshof van Suid-Afrika, verklaar hierby dat die volgende stukke aangeheg is:
(1) die oorspronklike versoek om betekening van 'n prosesstuk of sitasie ontvang van ..... (staat, gebied of hof) in die saak tussen ..... en .....;
(2) die prosesstuk wat die versoek vergesel het;
(3) die bewys van betekening aan ....., die persoon in die versoek om betekening genoem, tesame met die bevestigende sertifikaat van .....
Ek verklaar ook dat die betekening en die bewys daarvan voldoen aan die praktyk en reëls van hierdie Afdeling van die Hooggeregshof van Suid-Afrika.

AND return you this writ with what you have done thereon.
(2) To the Officer Commanding the Prison to whom the deputy-sheriff presents this writ.

YOU are hereby commanded and required to receive the said C. D. into your custody and to keep him safely until the expiration of ..... from the date on which the said C.D. shall be received in the said prison by virtue of this warrant or until he shall be otherwise legally discharged.
DATED at ..... on this ..... day of ..... 19.....

.....
Registrar.

.....
Applicant's Attorney.
(Address).

FORM "H".

WRIT OF ATTACHMENT.

AD FUNDANDAM JURISDICTIONEM.

IN THE SUPREME COURT OF SOUTH AFRICA
(DIVISION).

Case No. .....

In the matter between:

A. B. Applicant
and
C. D. Respondent

To the deputy-sheriff for the district of .....
YOU are hereby directed pursuant to an order of the .... Division of the Supreme Court of South Africa, bearing date the ..... day of ....., 19....., forthwith to attach ..... (here set out the property) ..... at present at ..... (address) ....., *ad fundandam jurisdictionem* of the said Court in an action by A. B. against C. D. of ..... (address of respondent) ..... for ..... (here set out the cause of action) .....; and for so doing this shall be your warrant.
AND return you this writ with what you have done thereon.
DATED at ..... on this ..... day of ..... 19.....

.....
Registrar.

.....
Applicant's Attorney.
(Address).

NOTE: The deputy-sheriff cannot attach merely on the Order of Court; he must be furnished with a writ as above.

FORM "I".
AUTHENTICATION OF SIGNATURE.

TO ALL WHOM IT MAY CONCERN:

I, (Registrar's name in full), Registrar of the Supreme Court of South Africa, ... Division, do hereby certify that ..... (Notary's or Attorney's name in full) ....., whose signature appears on the document hereto annexed marked "A", is a Notary Public or Attorney by lawful authority duly sworn and admitted and* and practising as such in this Province, and that to all Acts, Instruments, Documents and Writings subscribed by him in that capacity full faith and credence are given in this Province in Court and thereout.

GIVEN UNDER MY HAND and Seal of Office, at ...., in the Province of ..... on this ..... day of ..... in the year One Thousand Nine Hundred and .....

.....
Registrar of the Supreme
Court of South Africa.
(Seal)
.....
Division.

*If the Notary or Attorney has taken an affidavit, add "and as such a Commissioner for Oaths".

FORM "J".

CERTIFICATE OF SERVICE OF FOREIGN PROCESS.

I, ..., registrar of the ..... division of the Supreme Court of South Africa hereby certify that the following documents are annexed:
(1) the original request for service of process or citation received from ..... (state, territory or court) in the matter between ..... and .....;
(2) the process received with such request;
(3) the proof of service upon ....., the person named in such request for service, together with the certificate of verification of .....
I also certify that the service so proved and the proof thereof are such as are required by the practice and rules of this division of the Supreme Court of South Africa.

Ek verklaar verder dat die koste van die betekening, behoorlik deur die takseermeester van hierdie afdeling bevestig, die som van R..... bedra.

GEGEE ONDER MY HAND EN AMPSEËL, TE .... OP HIERDIE ..... DAG VAN .... 19.....

.....
Griffier van die Hooggeregshof van Suid-Afrika.

Seël

.....
Afdeling.

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

GIVEN UNDER MY HAND AND SEAL OF OFFICE, AT ..... THIS ..... DAY OF .....19.....

.....
Registrar of the Supreme Court of South Africa.

Seal

.....
Division.

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