[Last checked: 28 March 2025.*]
* The last time these Rules were reviewed for updates.

MAGISTRATES' COURTS RULES

[Updated to 27 December 2024**]
** Date of last changes incorporated into these Rules.

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE MAGISTRATES' COURTS OF SOUTH AFRICA

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GNR 115, G. 36157 (with effect from 22 March 2013),
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GNR 760, G. 36913 (with effect from 15 November 2013),
GNR 183, G. 37448 (with effect from 1 December 2014),
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GNR 507, G 37769 (with effect from 28 July 2014),
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GNR 1604, G. 45645 (with effect from 1 February 2022),

GNR 2134, G. 46475 (with effect from 8 July 2022),
GNR 2298, G. 47055 (with effect from 24 August 2022),
GNR 2414, G. 46789 (with effect from 1 October 2022),
GNR 2434, G. 46839 (with effect from 8 July 2022),
GNR 3371, G. 48518 of 5 May 2023 (with effect from 9 June 2023),
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GNR 4476, G. 50272 8 March 2024 (came into effect on 12 April 2024),
GNR 5127, G. 51056 of 16 August 2024 (with effect from 20 September 2024),
GNR 5559, G. 51627 of 22 November 2024 (with effect from 27 December 2024).

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

SCHEDULE

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1. Purpose and application of rules

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

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

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

(4)

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

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

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

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

(c) All processes of the court for service or execution and all documents or copies to be filed of record, other than documents or copies filed of record as documentary proof, shall be on standard A4 paper unless if filed in electronic format.

[Rule 1(4) substituted by GNR 545 in G. 38914 with effect from 31 July 2015, by GNR 1604 in G. 45645 with effect from 1 February 2022.]

2. Definitions

(1) In these Rules and in the forms annexed hereto any word or expression to which a meaning has been assigned in the Act shall bear the meaning so assigned and, unless the context otherwise indicates—

"apply" means apply on motion and "application" has a corresponding meaning;

"clerk of the court" means a clerk of the court appointed under section 13 of the Act and includes an assistant clerk of the court so appointed;

"Consumer Protection Act, 2008" means the Consumer Protection Act, 2008 (Act 68 of 2008);

["Consumer Protection Act, 2008" inserted by GNR 1055 in G. 41142 with effect from 1 November 2017.]

"Criminal Procedure Act, 1977" means the Criminal Procedure Act, 1977 (Act 51 of 1977);

"default judgment" means a judgment entered or given in the absence of the party against whom it is made;

"deliver" (except when a summons is served on the opposite party only, and in) means to file with the registrar or clerk of the court and serve a copy on the opposite party either by hand-delivery, registered post, or, where agreed between the parties or so ordered by court, by facsimile or electronic mail (in which instance Chapter III, Part 2 of the Electronic Communications and Transactions Act, 2002 will apply), and **"delivery"**, **"delivered"** and **"delivering"** have corresponding meanings;

"Divorce Act, 1979" means the Divorce Act, 1979 (Act 70 of 1979);

"Electronic Communications and Transactions Act, 2002" means the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002);

"give security" includes the giving of a security bond either by the party with someone as his surety or by two or more other persons;

"National Credit Act, 2005" means the National Credit Act, 2005 (Act 34 of 2005);

"notice" means notice in writing;

"pending case" means a case in which summons or notice of motion has been issued and which has not been withdrawn, discontinued or dismissed and in which judgment has not been entered or given;

"plaintiff", "defendant", "applicant", "respondent" and "party" include the attorney or counsel appearing for any such party and the officer of any local authority nominated by it for the purpose;

"registrar of the court" means a registrar of the court appointed under section 13A of the Act and includes an assistant registrar of the court so appointed;

"sheriff", means a person appointed in terms of section 2 of the Sheriffs Act, 1986 (Act 90 of 1986), and also a person appointed in terms of section 5 and section 6 of that Act as an acting sheriff and a deputy sheriff, respectively;

"signature", includes an advanced electronic signature as defined and described in Chapters I, II and III of the Electronic Communications and Transactions Act, 2002 and this also applies to **"sign"**, **"signing"** and **"signed"**;

"the Act" means the Magistrates' Courts Act, 1944 (Act 32 of 1944).

(2) A Saturday, Sunday or public holiday shall not, unless the contrary appears, be reckoned as part of any period calculated in terms of these Rules.

(3) All distances shall be calculated over the shortest route reasonably available in the circumstances.

CHAPTER 1 (rules 3-69)

[Chapter 1 inserted by GNR 183 in G. 37448 with effect from 1 December 2014.]

3. Duties and office hours of registrars and clerks of the court in civil matters

(1) The registrar or clerk of the court shall sign (manually or by machining a facsimile of his or her signature) and issue all such process of the court as may be sued out by any person entitled thereto or, at the request of any party by whom process was sued out, to reissue such process after its return by the sheriff.

(2) The first document filed in a case or any application not relating to a then pending case shall be numbered by the registrar or clerk of the court with a consecutive number for the year during which it is filed.

(3) Every document that has been served or delivered in an action or application referred to in subrule (2) or in any subsequent matter in continuation of any such application or action shall be marked with the relevant number by the party delivering it and shall not be received by the registrar or clerk of the court until so marked.

(4) All documents delivered to the registrar or clerk of the court to be filed and any minutes made by the court shall be filed under the number of the respective action or application.

(5) Copies of the documents referred to in rule 3(4) may be made by any person in the presence of the registrar or clerk of the court.

(6) The registrar or clerk of the court shall notify the plaintiff forthwith in writing of—

(a) the defendant's consent to judgment before the filing of any notice of intention to defend;

(b) a defective memorandum of notice of intention to defend by a defendant who is not represented by an attorney and in what respect such notice is defective as envisaged by rule 12(2)(a); and

(c) a request for a judgment by default having been refused.

(7)

(a) The registrar or clerk of the court shall note on a certified copy of a judgment at the request of the party to whom such copy is issued—

(i) particulars of any other judgment by the court or any other court, stating the relevant court in that case; and

(ii) any costs incurred after judgment and payable by the judgment debtor.

(b) A second or further certified copy of a judgment may be issued upon the filing of an affidavit confirming the loss of the certified copy of a judgment which it is intended to replace.

(8) The registrar or clerk of the court shall assist litigants by explaining these rules of procedure and providing such further assistance as is reasonably possible in accordance with section 9(6)(b)(ii) of the Jurisdiction of Regional Courts Amendment Act, 2008 (Act 31 of 2008).

(9) ...

[Rule 3(9) repealed by GNR 507 in G. 37769 with effect from 28 July 2014.]

(10) Any act to be performed or notice to be signed by the registrar or clerk of the court in terms of these Rules may be performed or signed by a judicial officer, provided that no judicial officer shall write out any affidavit, pleading or process for any party or tax any bill of costs.

(11) When a court imposes upon a person any fine such person shall forthwith pay such fine to the registrar or clerk of the court.

(12) Except on Saturdays, Sundays and public holidays, the offices of the registrar or clerk of the court shall be open from 8:00 to 13:00 and from 14:00 to 16:00, 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 8:00 to 13:00, and from 14:00 to 15:00: Provided that the registrar or clerk of the court may in exceptional circumstances issue process and accept documents at any time, and shall do so when directed by a magistrate.

4. Applications in terms of sections 57 and 58 of the Act

(1)

(a) The letter of demand referred to in sections 57 and 58 of the Act shall contain particulars about the nature and amount of the claim.

(b) Where the original cause of action is a credit agreement under the National Credit Act, 2005, the letter of demand referred to in section 58 of the Act must deal with each one of the relevant provisions of sections 129 and 130 of the National Credit Act, 2005, and allege that each one has been complied with.

(2) A request in writing referred to in section 59 of the Act shall be directed to the registrar or clerk of the court by means of Form 5A or 5B, as the case may be, supported by an affidavit containing such evidence as is necessary to establish that all requirements in law have been complied with.

(3) A consent to judgment in terms of section 58 of the Act shall be signed by the debtor and by two witnesses whose names shall be stated in full and whose addresses and telephone numbers shall also be recorded.

(4) Rules 12(5), (6), (6A) and (7) apply to a request for judgment in terms of sections 57 and 58 of the Act.

[Rule 4(4) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

5. Summons

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

(a) within the time stated in the summons, give notice of intention to defend; and

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

[Rule 5(1) substituted by GNR 2134, in G. 46475 with effect from 8 July 2022, by GNR 2434, G. 46839 with effect from 8 July 2022.]

(2)

(a) In every case where the claim is not for a debt or liquidated demand the summons shall be a combined summons similar to Form 2B of Annexure 1, to which summons shall be annexed particulars of the material facts relied upon by the plaintiff in support of plaintiffs claim, and which particulars shall, amongst others, comply with rule 6, but in divorce matters a combined summons substantially compliant with Form 2C shall be used.

(b)

(i) Where the claim is for a debt or liquidated demand, other than a claim subject to the provisions of the National Credit Act, 2005, the summons may be a simple summons similar to Form 2 of Annexure 1.

(ii) If the cause of action is based on a contract the plaintiff shall indicate whether the contract is in writing or oral, when, where and by whom it was concluded, and if the contract is in writing a copy thereof or of the part relied on shall be annexed to the simple summons.

[Rule 5(2) substituted by GNR 507 in G. 37769 with effect from 28 July 2014, GNR 1156 in G. 43856 with effect from 1 December 2020.]

(3)

(a)

(i) Every summons shall be signed by an attorney acting for the plaintiff and shall bear the attorney's physical address at which plaintiff will accept service of all subsequent documents and notices in the suit. In places where there are three or more attorneys or firms of attorneys practising independently of one another, the physical address shall be within 15 kilometres of the courthouse. The summons shall also bear the attorney's postal address, and, where available, the attorney's facsimile and electronic mail address. The State Attorney may appoint the office of the registrar or clerk of the civil court as its address for service.

[Rule 5(3)(a)(i) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(ii) If no attorney is acting for the plaintiff, the summons shall be signed by the plaintiff. The summons shall bear the plaintiff's physical address at which the plaintiff will accept service of all subsequent documents and notices in the suit. In places where there are three or more attorneys or firms of attorneys practicing independently of one another, the physical address shall be within 15 kilometres of the courthouse. The summons shall also bear the plaintiff's postal address, and, where available, the plaintiff's facsimile and electronic mail address.

[Rule 5(3)(a)(ii) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(iii) After subparagraph (i) or (ii) has been complied with, the summons shall be signed and issued by the registrar or clerk of the court and shall bear the date of issue by the registrar or clerk as well as the case number allocated thereto.

(b) The plaintiff may indicate in a summons whether the plaintiff is prepared to accept service of all subsequent documents and notices in the suit through any manner other than the physical address or postal address and, if so, shall state such preferred manner of service.

(c) If an action is defended the defendant may, at the written request of the plaintiff, deliver a consent in writing to the exchange or service by both parties of subsequent documents and notices in the suit by way of facsimile or electronic mail.

(d) If the defendant refuses or fails to deliver the consent in writing as provided for in paragraph (c), the court may, on application by the plaintiff, grant such consent, on such terms as to costs and otherwise as may be just and appropriate in the circumstances.

[Rule 5(3) substituted by GNR 611 in G. 34479 with effect from 2 September 2011]

(4) Every summons shall set forth—

(a) the surname and first names or initials of the defendant by which the defendant is known to the plaintiff, the defendant's residence or place of business and, where known, the defendant's occupation and employment address and, if the defendant is sued in any representative capacity, such capacity; and

(b) the full names, gender (if the plaintiff is a natural person) and occupation and the residence or place of business of the plaintiff, and if the plaintiff sues in a representative capacity, such capacity.

(5)

(a) Every summons shall include a form for notice of intention to defend.

(b) Every summons, except a divorce summons, shall include—

(i) a form for consent to judgment;

(ii) a notice drawing the defendant's attention to the provision of section 109 of the Act; and

(iii) a notice in which the defendant's attention is directed to the provisions of sections 57, 58, 65A and 65D of the Act in cases where the action is based on a debt referred to in section 55 of the Act.

[Rule 5(5) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(6) A summons shall also—

(a) where the defendant is cited under the jurisdiction conferred upon the court by section 28(1)(d) of the Act, contain an averment that the whole cause of action arose within the district or region, and set out the particulars in support of such averment;

(b) where the defendant is cited under the jurisdiction conferred upon the court by section 28(1)(g) of the Act, contain an averment that the property concerned is situated within the district or region; and

(c) show any abandonment of part of the claim under section 38 of the Act and any set-off under section 39 of the Act.

(7) Where the plaintiff issues a simple summons in respect of a claim regulated by legislation the summons may contain a bare allegation of compliance with the legislation, but the declaration, if any, must allege full particulars of such compliance.

[Rule 5(7) substituted by GNR 1156 in G. 43856 with effect from 1 December 2020.]

(8) A summons for rent under section 31 of the Act shall be in the form prescribed in Annexure 1, Form 3.

(9) Where the plaintiff sues as cessionary the plaintiff shall indicate the name, address and description of the cedent at the date of cession as well as the date of the cession.

(10) A summons in which an order is sought to declare executable immovable property which is the home of the defendant shall contain a notice in the following form—

“The defendant's attention is drawn to section 26(1) of the Constitution of the Republic of South Africa which accords to everyone the right to have access to adequate housing. Should the defendant claim that the order for eviction will infringe that right it is incumbent on the defendant to place information supporting that claim before the Court”.

(11) If a party fails to comply with any of the provisions of this rule, such summons shall be deemed to be an irregular step and the opposite party shall be entitled to act in accordance with rule 60A.

6. Rules relating to pleadings generally

(1) Every pleading shall be signed by an attorney or, if a party is unrepresented, by that party.

(2) The title of the action describing the parties thereto and the number assigned thereto by the registrar or clerk of the court, 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 subparagraphs) 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 or her 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 or she shall not do so evasively, but shall answer the point of substance.

(6) A party who in such party's pleading relies upon a contract shall state whether the contract is in writing or oral, when, where and by whom it was concluded, and if the contract is in writing a copy thereof or of the part relied on in the pleading shall be annexed to the pleading.

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

(8) A party claiming division, transfer or forfeiture of assets in divorce proceedings in respect of a marriage out of community of property, shall give details of the grounds on which such party claims entitlement to such division, transfer or forfeiture.

(9) 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 plaintiff's date of birth, the nature and extent of the injuries, and the nature, effects and duration of the disability alleged to give rise to such damages, and shall as far as practicable separately state what amount, if any, is claimed for—

(a) medical costs and hospital and other similar expenses and how these costs and expenses are made up;

(b) pain and suffering, stating whether temporary or permanent and which injuries caused it;

(c) disability in respect of—

(i) the earning of income (stating the earnings lost to date and how the amount is made up and the estimated future loss and the nature of the work the plaintiff will in future be able to do); and

(ii) the enjoyment of amenities of life (giving particulars and stating whether the disability concerned is temporary or permanent); and

(d) disfigurement, with a full description thereof and stating whether it is temporary or permanent.

(10) A plaintiff suing for damages resulting from the death of another shall state the date of birth of the deceased as well as that of any person claiming damages as a result of the death.

(11) If a claim is founded on any cause of action arising out of or regulated by legislation, the plaintiff shall state the nature and extent of plaintiff's compliance with the relevant provisions of the legislation.

[Rule 6(11) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(12) Where the plaintiff sues as cessionary the plaintiff shall indicate the name, address and description of the cedent at the date of cession as well as the date of the cession.

(13) If a party fails to comply with any of the provisions of this rule, such pleading shall be deemed to be an irregular step and the opposite party shall be entitled to act in accordance with rule 60A.

7. Amendment of summons

(1) Subject to the provisions of this rule, a summons may be amended by the plaintiff before service as he or she may deem fit.

(2) Any alteration or amendment of a summons before service and whether before or after issue, shall, before the summons is served, be initialled by the registrar or clerk of the court in the original summons, and, until so initialled, such alteration or amendment shall have no effect.

(3)

(a) When no first name or initial or an incorrect or incorrectly spelt first name is or not all the first names of the defendant are reflected in the summons and the first name or initial or the correct or correctly spelt first name of the defendant is or all the first names of the

defendant are furnished by the person on whom service of the summons was effected, and such first name or initial or correct or correctly spelt first name is disclosed in the return of the sheriff, or all the first names of the defendant are so disclosed, the registrar or clerk of the court may, at the request of the plaintiff and without notice to the defendant, insert such name or initial in the summons as being the name or initial of the defendant and such amendment shall for all purposes be considered as if it had been made before service of the summons.

(b) Rule 55A shall apply to the amendment of a summons after service.

8. Sheriff of the court

(1) Except as otherwise provided in these Rules, the process of the court shall be served or executed, as the case may be, through the sheriff.

(2) Service or execution of process of the court shall be effected without any unreasonable delay, and the sheriff shall, in any case where resistance to the due service or execution of the process of the court has been met with or is reasonably anticipated, have power to call upon any member of the South African Police Force, as established by the South African Police Service Act, 1995 (Act 68 of 1995), to render him or her aid.

(3) The sheriff to whom process other than summonses is entrusted for service or execution shall in writing notify—

(a) the registrar or clerk of the court and the party who sued out the process that service or execution has been duly effected, stating the date and manner of service or the result of execution and return the said process to the registrar or clerk of the court; or

(b) the party who sued out the process that he or she has been unable to effect service or execution and of the reason for such inability, and return the said process to such party,

and keep a record of any process so returned.

(4) When a summons is entrusted to the sheriff for service, subrule (3) shall *mutatis mutandis* be applicable: Provided that the registrar or clerk of the court shall not be notified of the service and that the summons shall be returned to the party who sued out the summons.

(5) In any court for which an officer of the Public Service has been appointed sheriff, the return of any process shall be deemed to have been properly effected if the said process is placed in a receptacle specially set apart for the attorney of that party in the office of the said sheriff.

(6) After service or attempted service of any process, notice or document, the sheriff, other than a sheriff who is an officer of the Public Service, shall specify the total amount of his or her charges on the original and all copies thereof and the amount of each of his or her charges separately on the return of service.

(7) The Director-General of Justice shall by notice in the *Gazette* publish the name of every court for which a sheriff who is an officer of the Public Service has been appointed.

9. Service of process, notices and other documents

(1) A party requiring service of any process, notice or other document to be made by the sheriff shall provide the sheriff with the original or a certified copy of such process, notice or document, together with as many copies thereof as there are persons to be served: Provided that the registrar or clerk of the court may, at the written request of the party requiring service, hand such process, notice or document and copies thereof to the sheriff.

(2)

(a) Except as provided in paragraph (c) or in the case of service by post or upon order of the court, process, notices or other documents shall not be served on a Sunday or public holiday.

(b) Service shall be effected as near as possible between the hours of 7:00 and 19:00.

(c) An interdict, a warrant of arrest, and a warrant of attachment of property under section 30bis of the Act may be executed on any day at any hour and at any place.

[Rule 9(2) substituted by GNR 1055 in G. 41142 with effect from 1 November 2017.]

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

(a) to the said person personally or to such person's duly authorised agent: Provided that where such person is a minor or a person under legal disability, service shall be effected upon the guardian, tutor, curator or the like of such minor or person under disability;

(b) at the residence or place of business of the said person, guardian, tutor, curator or the like to some person apparently not less than 16 years of age and apparently residing or employed there: Provided that for the purpose of this paragraph, when a building, other than an hotel, boarding house, hostel or similar residential building, is occupied by more than one person or family, “residence” or “place of business” means that portion of the building occupied by the person upon whom service is to be effected;

(c) at the place of employment of the said person, guardian, tutor, curator or the like to some person apparently not less than 16 years of age and apparently in authority over such person or, in the absence of a person in authority, to a person apparently not less than 16 years of age and apparently in charge at such person's place of employment;

(d) if the person to be served has chosen a *domicilium citandi*, by delivering a copy thereof to a person apparently not less than sixteen years of age at the *domicilium* so chosen: Provided that if no person is present at the *domicilium*, the sheriff may leave a copy at the aforesaid *domicilium* and shall in the return of service set out the details of the manner and circumstances under which such service was effected;

[Rule 9(3)(d) substituted by GNR 4476 in G. 50272 with effect from 12 April 2024, GNR 5559 in G. 51627 with effect from 27 December 2024.]

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

(f) if the plaintiff or his or her authorised agent has given instructions in writing to the sheriff to serve by registered post, the process shall be so served: Provided that a debt counsellor who makes a referral to court in terms of section 86(7)(c) or 86(8)(b) of the National Credit Act, 2005 may cause the referral to be served by registered post or by hand;

(g) in proceedings in which the State or an organ of state, a Minister, a Deputy Minister, a Premier or a Member of an Executive Council in such person's official capacity is the defendant or respondent, the summons or notice instituting such proceedings shall be served in accordance with the provisions of any law regulating proceedings against and service of documents upon the State or organ of state, a Minister, a Deputy Minister, a Premier or a Member of an Executive Council;

(h) to any agent or attorney who is duly authorised in writing to accept service on behalf of the person upon whom service is to be effected in any applicable manner prescribed in this rule;

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

(j) where the person to be served with any document initiating application proceedings is already represented by an attorney of record such document may be served upon such attorney by the party initiating the proceedings:

Provided that where service has been effected in the manner prescribed by paragraphs (b),(c),(e) or (g), the sheriff shall set out in the return of service of the process the name of the person to whom it has been delivered and the capacity in which such person stands in relation to the person, corporation, company, body corporate or institution affected by the process: Provided further that whenever the court is not satisfied as to the effectiveness of the service, it may order such further steps to be taken as it deems fit: Provided furthermore that service of any process through which a divorce action or action for nullity of marriage is instituted shall only be effected by the sheriff on the defendant personally.

[Rule 9(3) amended by GNR 507 in G. 37769 with effect from 28 July 2014, GNR 1318 in G. 42064 with effect from 10 January 2019; substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(4)

(a) The sheriff shall, on demand by the person upon or against whom process is served, exhibit to that person the original or certified copy of the process.

(b) The sheriff or other person serving the process or documents shall explain the nature and contents thereof to the person upon whom service is being affected and shall state in his or her return or affidavit or on the signed receipt whether he or she has done so.

(5) Where the person to be served keeps his or her residence or place of business closed and thus prevents the sheriff from serving the process, it shall be sufficient service to affix a copy thereof to the outer or principal door or security gate of such residence or place of business or to place such copy in the post box at such residence or place of business.

(6) Service of an interpleader summons where claim is made to any property attached under process of the court may be made upon the attorney, if any, of the party to be served.

(7) Where two or more persons are to be served with the same process, service shall be effected upon each, except—

(a) in the case of a partnership, when service may be affected by delivery at the office or place of business of such partnership, or if there be none such, then by service on any member of such partnership in any manner prescribed in this rule;

(b) in the case of two or more persons sued in their capacity as trustees of an insolvent estate, liquidators of a company, executors, curators or guardians, when service may be effected by delivery to any one of them in any manner prescribed in this rule;

(c) in the case of a syndicate, unincorporated company, club, society, church, public institution or public body, when service may be effected by delivery at the local office or place of business of such body or, if there be none such, by service on the chairperson or secretary or similar officer thereof in any manner prescribed in this rule.

(8) Service of a subpoena on a witness may be effected at a reasonable time before attendance is required in any manner prescribed in this rule.

(9)

(a) Service of any notice, request, statement or other document which is not process of the court may be effected by delivery by hand at the address for service given in the summons or appearance to defend, as the case may be, or by sending it by registered post to the postal address so given: Provided that, subject to rules 5 and 13, service of such notice, request, statement or other document may be effected by sending it by facsimile or electronic mail to the facsimile address or electronic mail address given in the summons or notice of intention to defend, as the case may be.

(b) An address for service, postal address, facsimile address or electronic address so given as contemplated in paragraph (a) may be changed by the delivery of notice of a new address and thereafter service may be effected as provided for in that paragraph at such new address.

(c)

(i) Service by registered post under this subrule shall, until the contrary appears, be deemed to have been effected at 10 o'clock in the forenoon on the fourth day after the postmarked date upon the receipt for registration.

(ii) Chapter III, Part 2 of the Electronic Communications and Transactions Act, 2002 is applicable to service by facsimile or electronic mail.

(d) Service under this subrule need not be effected through the sheriff.

(10) Subject to rule 10, where the court is satisfied that service cannot be effected in any manner prescribed in this rule and that the action is within its jurisdiction, it may make an order allowing service to be effected by the person and in the manner specified in such order.

(11) Where service of an *ex parte* order calling upon the respondent to show cause at a time stated or limited in the order or of an interpleader summons is to be effected upon any party, service of such *ex parte* order or interpleader summons shall be effected—

(a) in the case where the party to be so served is the State, at least 20 days; or

(b) in the case where any other party is to be served, at least 10 days,

before the time specified in such *ex parte* order or interpleader summons for the appearance of such party.

(12) Except where otherwise provided, notice of any application to the court shall be served—

(a) in the case where the party to be served is the State or a servant of the State in his or her official capacity, at least 20 days; or

(b) in the case of any other party, at least 10 days,

before the day appointed for the hearing of the application, but the court may on cause shown reduce such period.

(13)

(a) Unless otherwise provided, where service of process may be effected by registered post such service shall be effected by the sheriff placing a copy thereof in an envelope, addressing and posting it by pre-paid registered letter to the address of the party to be served and making application at the time of registration for an acknowledgment by the addressee of the receipt thereof as provided in regulation 44(5) of the regulations published under Government Notice R550 of 14 April 1960.

(b) A receipt form completed as provided in regulation 44(8) of the said regulations shall be a sufficient acknowledgment of receipt for the purposes hereof.

(c) If no such acknowledgment be received the sheriff shall state the fact in his or her return of service of the process.

(d) Every such letter shall have on the envelope a printed or typewritten notice in the following terms—

"This letter must not be readdressed. If delivery is not effected before ..... 20....., this letter must be delivered to the Sheriff of the Magistrate's Court at .....".

(14) 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, a person in the administrative or professional division of the public service serving at a South African diplomatic or consular mission or trade office abroad;

(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

(iv) any official signing as or on behalf of the head of the department dealing with the administration of justice in that country, authorised under the law of such country to serve such process or document; or

(b) by any person referred to in subparagraph (i) or (ii) of paragraph (a), if the law of such country permits him or her to serve 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.

(15) Service of any process of the court or of any document in Australia, Botswana, Finland, France, Hong Kong, Lesotho, Malawi, New Zealand, Spain, Swaziland, the United Kingdom of Great Britain and Northern Ireland and Zimbabwe may, notwithstanding subrule (14), 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 authorised to serve process of court or documents and in the state concerned who is under the law of that state authorised to serve process of court or documents.

(16)

(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 subrule (14), shall be delivered to the registrar or the clerk of the court, as the case may be.

(c) Any process of court or document delivered to the registrar or clerk of the court, as the case may be, in terms of paragraph (b) shall be transmitted by him or her together with the translation referred to in paragraph (a), to the Director-General of International Relations and Cooperation or to a destination indicated by the Director-General of International Relations and Cooperation, for service in the foreign country concerned, and the registrar or clerk of the court shall satisfy himself or herself that the process of court or document allows a sufficient period for service to be effected in good time.

(17) Service shall be proved—

(a) where service has been effected by the sheriff, by the return of service of such sheriff; or

(b) where service has not been effected by the sheriff, nor in terms of subrule (14) or (15), by an affidavit of the person who effected service, or in the case of service on an attorney or a member of his or her staff, the Government of the Republic, the Administration of any Province or on any Minister, Premier, or any other officer of such Government or Administration, in his or her capacity as such, by the production of a signed receipt therefor.

(17A)

(a) The document which serves as proof of service shall, together with the served process of court or document, without delay be furnished to the person at whose request service was effected.

(b) The person at whose request service was effected shall file the document which serves as proof of service on behalf of the person who effected service with the registrar or clerk of the court when—

(i) he or she sets the matter in question down for any purpose;

(ii) it comes to his or her knowledge in any manner that the matter is being defended;

(iii) the registrar requests filing; or

(iv) his or her mandate to act on behalf of a party, if he or she is a legal practitioner, is terminated in any manner.

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

(a) by a certificate of the person effecting service in terms of subrule (14)(a) or subrule (15) in which he or she identifies himself or herself, states that he or she is authorised 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 subrule (15) shall be duly authenticated; or

(b) by a certificate of the person effecting service in terms of subrule (14)(b) in which he or she states that the process of court or document in question has been served by him or her, setting forth the manner and date of such service and affirming that the law of the country concerned permits him or her 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.

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

(20) Whenever the court is not satisfied as to the effectiveness of the service, it may order such further steps to be taken as it deems fit.

(21) 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 or clerk of the court, as the case may be, in terms of any applicable law, the registrar or clerk shall transmit to the sheriff or any person appointed by a magistrate of the court 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 of such process or citation if the original is in any other language.

(22) Service under subrule (21) 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 this rule.

(23) After service has been effected as provided in subrule (22) the sheriff or the person appointed for the service of such process or citation shall return to the registrar or the clerk of court 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 commissioner of oaths by the person by whom service has been effected and verified, in the case of service by the sheriff, by the certificate and seal of office of such sheriff or, in the case of service by a person appointed by the magistrate of the court concerned, by the certificate and seal of office of the registrar or clerk of the court concerned; and

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

(24) The particulars of charges for the cost of effecting service under subrule (21) shall be submitted to the taxing officer of the court concerned, who shall certify the correctness of such charges or other amount payable for the cost of effecting service.

(25) The registrar or clerk of the court concerned shall, after effect has been given to any request for service of civil process or citation, return to the Director-General of Justice—

(a) the request for service referred to in subrule (21);

(b) the proof of service together with a certificate in accordance with Form 46 of Annexure 1 duly sealed with the seal of the court concerned for use out of the jurisdiction; and

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

10. Edictal citation and substituted service

(1)

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

(b) If service of process or document whereby proceedings are instituted cannot be effected in any manner prescribed in rule 9, or if process or a document whereby proceedings are instituted is to be served outside the Republic, the person desiring to obtain leave to effect service may apply for such leave to a presiding officer, who may consider the application in chambers.

(2)

(a) Any person desiring to obtain leave in the circumstances contemplated in subrule (1)(b) shall make application to the court setting forth concisely the nature and extent of his or her 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 authorise: Provided that if the manner of service is other than personal service, the application shall further set forth the last-known whereabouts of the person to be served and the inquiries made to ascertain his or her present whereabouts.

(b) Upon such application the court may make such order as to the manner of service as it deems fit and shall further order the time within which notice of intention to defend is to be given or any other step that is to be taken by the person to be served.

(c) Where service by publication is ordered, it may be in a form similar to Form 4 of Annexure 1, approved and signed by the registrar or clerk of the court.

(3) Any person desiring to obtain leave to effect service inside or outside the Republic of any document other than one whereby proceedings are instituted, may either make application for such leave in terms of subrule (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 it deems fit.

11. Judgment by consent

(1) Save for actions for relief in terms of the Divorce Act, 1979, or nullity of marriage, a defendant may before delivering notice of intention to defend consent to judgment by—

(a) signing the form of consent endorsed on the original summons;

(b) lodging with the registrar or the clerk of the court the copy of the summons served upon him or her with the form of consent endorsed thereon duly signed by him or her; or

(c) lodging with the registrar or clerk of the court a consent in a similar form duly signed by him or her and by two witnesses whose names are stated in full and whose addresses and telephone numbers are also recorded.

(2) Where a defendant consents to judgment as contemplated in subrule (1) before instructions for service have been given to the sheriff, it shall not be necessary to serve the summons, and the defendant shall not be chargeable with fees for service.

(3) Subject to the provisions of section 58 of the Act a defendant consenting in terms of subrule (1) before the expiration of the time within which to deliver notice of intention to defend shall not be chargeable with judgment charges.

(4) A defendant may, after delivering notice of intention to defend, save for actions for relief in terms of the Divorce Act, 1979, or nullity of marriage, consent to judgment by delivering a consent similar in form to that endorsed on the summons and such consent shall be signed by the defendant or by his or her attorney.

(5)

(a) If a defendant's consent is for less than the amount claimed in the summons, he or she may deliver notice of intention to defend or may continue his or her defence as to the balance of the claim.

(b) Notwithstanding a judgment upon a consent contemplated in paragraph (a), the action may proceed as to the balance of the claim, and it shall be in all subsequent respects an action for such balance.

(6) When a defendant has consented to judgment, the registrar or clerk of the court shall, subject to section 58 of the Act and rule 12(5), (6) and (7), enter judgment in terms of the defendant's consent: Provided that where such consent to judgment is contained in defendant's plea, the registrar or clerk of the court shall refer the matter to the court and the court may thereupon exercise its powers under rule 12(7).

12. Judgment by default

(1)

(a) If a defendant has failed to deliver the notice of intention to defend within the time stated in the summons or before the lodgement of the request provided for in this paragraph, and has not consented to judgment, the plaintiff may lodge with the registrar or clerk of the court a request in writing similar to Form 5 of Annexure 1, in duplicate, together with the original summons and the return of service, for judgment against such defendant for—

(i) any sum not exceeding the sum claimed in the summons or for other relief so claimed;

(ii) the costs of the action; and

(iii) interest at the rate specified in the summons to the date of payment or, if no rate is specified, at the rate prescribed under section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975).

(b) When the defendant has been barred in terms of rule 21B from delivering a plea, the plaintiff may lodge with the registrar or clerk of the court a request in writing for judgment in the same manner as when the defendant has failed to deliver the notice of intention to defend.

(c) When the defendant has failed to deliver the notice of intention to defend or, having delivered such notice, has been barred in terms of rule 21B from delivering a plea and the plaintiff has in either case lodged a request for judgment, the registrar or clerk of the court shall process the request in terms of the provisions of subrules (2), (3), (4), (5), (6), (6A) and (7), and notify the plaintiff of the outcome of the request by returning the duplicate copy duly endorsed as to the result and the date thereof.

(d) When the defendant has delivered the notice of intention to defend but has been barred in terms of rule 21B from delivering a plea and the registrar or clerk of the court has entered judgment in terms of a request lodged by the plaintiff, costs shall be taxed as if it had been a defended action.

(e) If the original summons cannot be filed together with the request for judgment as required by paragraph (a), the plaintiff may—

(i) file with the registrar or clerk of the court a copy or duplicate original of the summons and a copy of the signed return of service received from the sheriff; and

(ii) file an affidavit together with the documents mentioned in subparagraph (i) stating the reasons why the original summons and return of service cannot be filed:

Provided that in divorce actions or actions for nullity of marriage, rule 22(5) shall apply.

(2)

(a) If it appears to the registrar or clerk of the court that the defendant intends to defend the action but that his or her notice of intention to defend is defective, in that the notice—

(i) has not been properly delivered; or

(ii) has not been properly signed; or

(iii) does not set out the postal address of the person signing it or an address for service as provided in rule 13; or

(iv) exhibits any two or more of such defects or any other defect of form,

he or she must not enter judgment against the defendant unless the plaintiff has delivered notice in writing to the defendant calling upon him or her to deliver the notice of intention to defend in due form within five days of the receipt of such notice.

(b) The notice provided for in subrule (2)(a) must set out in what respect the defendant's notice of intention to defend is defective.

(c) On failure of the defendant to deliver the notice of intention to defend as provided in paragraph (a), the plaintiff may lodge with the registrar or clerk of the court a written request for judgment in default of due notice of intention to defend: Provided that in divorce actions or actions for nullity of marriage, rule 22(5) shall apply.

(3) Judgment in default of the notice of intention to defend must not be entered in an action in which the summons has been served by registered post unless the acknowledgement of receipt referred to in rule 9(13)(a) has been filed by the sheriff with his or her return of service.

(3A) When a claim is for a debt or liquidated amount in money and the defendant has failed to deliver the notice of intention to defend or, having delivered the notice of intention to defend, has failed to deliver a plea within the period specified in the notice delivered in terms of rule 21B and the plaintiff has in either case lodged a request for judgment, the registrar or clerk of the court may, subject to the provisions of subrules (2), (4), (5), (6) and (6A) grant judgment or refer the matter to the court in terms of subrule (7).

(4) The registrar or clerk of the court shall refer to the court any request for judgment for an unliquidated amount and the plaintiff shall furnish to the court evidence either oral or by affidavit of the nature and extent of the claim, whereupon the court shall assess the amount recoverable by the plaintiff and give an appropriate judgment.

(5) The registrar or clerk of the court must refer to the court any request for judgment on a claim founded on any cause of action arising out of or based on an agreement governed by the National Credit Act, 2005, the Credit Agreements Act, 1980 (Act 75 of 1980), or the Consumer Protection Act, 2008, and the court shall thereupon make such order or give such judgment as it may deem fit.

(6) If the action is based on a liquid document or any agreement in writing the plaintiff shall together with the request for default judgment file the original of such document or the original agreement in writing or an affidavit setting out reasons to the satisfaction of the court or the registrar or clerk of the court, as the case may be, why such original cannot or should not be filed.

(6A) If a claim is founded on any cause of action arising out of or regulated by legislation, then the plaintiff shall together with the request for default judgment file evidence confirming compliance with the provisions of such legislation to the satisfaction of the court.

(7) The registrar or clerk of the court may refer to the court any request for judgment and the court may thereupon—

(a) if a default judgment be sought, call upon the plaintiff to produce such evidence either in writing or oral in support of his or her claim as it may deem necessary;

(b) if a judgment by consent be sought, call upon the plaintiff to produce evidence to satisfy the court that the consent has been signed by the defendant and is a consent to the judgment sought;

(c) give judgment in terms of plaintiff's request or for so much of the claim as has been established to its satisfaction;

(d) give judgment in terms of defendant's consent;

(e) refuse judgment; or

(f) make such other order as it may deem fit.

(7A) When the registrar or clerk of the court refers a request for judgment to the court, it shall be recorded, dated and signed by the registrar or clerk of the court on the cover of the court file.

(8) When one or more of several defendants in an action consent to judgment or fail to deliver notice of intention to defend or to deliver a plea, judgment may be entered against the defendant or defendants who have consented to judgment or are in default, and the plaintiff may proceed on such judgment without prejudice to his or her right to continue the action against another defendant or other defendants.

(9) Judgment shall be recorded by making a minute thereof on the cover of the court file, dated and signed.

[Rule 12 amended by GNR 507 in G. 37769 with effect from 28 July 2014, GNR 2 in G. 39715 with effect from 22 March 2016; substituted by GNR 1055 in G. 41142 with effect from 1 November 2017.]

13. Notice of intention to defend

(1) The defendant in every civil action shall be allowed 10 days after service of summons on defendant within which to deliver a notice of intention to defend, either personally or through defendant's attorney: Provided that the days between 16 December and 15 January, both inclusive, shall not be counted in the time allowed within which to deliver a notice of intention to defend.

(2) In an action against any Minister, Deputy Minister, Provincial Premier, officer or servant of the State, in such official capacity, the State or the administration of a province, the time allowed for delivery of notice of intention to defend shall not be less than 20 days after service of summons, unless the court has specially authorised a shorter period.

(3)

(a) When a defendant delivers notice of intention to defend—

(i) the defendant shall therein give his or her full physical, residential or business address, postal address and where available, facsimile address and electronic mail address;

(ii) the defendant shall also indicate and select therein the preferred address for service on the defendant thereat of all documents in such action, and service thereof at the address so given shall be valid and effectual, except where by an order or practice of the court personal service is required; and

(iii) if a physical address is given by the defendant in the notice of intention to defend as the preferred address for the purpose of such service, in places where there are three of more attorneys or firms of attorneys practicing independently of one another, that address shall be situated within 15 kilometres of the courthouse.

[Rule 13(3)(a) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(b) The defendant shall indicate in the notice of intention to defend whether the defendant is prepared to accept service of all subsequent documents and notices in the suit through any manner other than the physical address or postal address and, if so, shall state such preferred manner of service.

(c) The plaintiff may, at the written request of the defendant, deliver a consent in writing to the exchange or service by both parties of subsequent documents and notices in the suit by way of facsimile or electronic mail.

(d) If the plaintiff refuses or fails to deliver the consent in writing as provided for in paragraph (c), the court may, on application by defendant, grant such consent, on such terms as to costs and otherwise as may be just and appropriate in the circumstances.

[Rule 13(3) substituted by GNR 611 in G. 34479 with effect from 2 September 2011, GNR 507 in G 37769 with effect from 28 July 2014.]

(4) A party shall not by reason of 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.

(5) Notwithstanding subrules (1) and (2) a notice of intention to defend may be delivered even after expiration of the period specified in the summons or the period specified in subrule (2), before default judgment has been granted: Provided that the plaintiff shall be entitled to costs if the notice of intention to defend was delivered after the plaintiff had lodged the request for judgment by default.

(6) After receipt of a notice of intention to defend, the plaintiff shall lodge forthwith with the registrar or clerk of the court the original summons and the return of service.

[Rule 13(6) inserted by GNR 507 in G. 37769 with effect from 28 July 2014.]

14. Summary judgment

(1) The plaintiff may, after the defendant has served a plea, 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.

[Rule 14(1) substituted by GNR 318 in G. 386914 with effect from 22 May 2015; amended by GNR 107 in G. 43000 with effect from 9 March 2020.]

(2)

(a) Within 15 days after the date of service of the plea, the plaintiff shall deliver a notice of application for summary judgment, together with an affidavit made by the plaintiff, or by any other person who can swear positively to the facts.

(b) The plaintiff shall, in the affidavit referred to in subrule 2(a), verify the cause of action, the amount claimed, if any, identify any point of law relied upon, state the facts upon which the plaintiff's claim is based, and explain briefly why the defence as pleaded, does not raise any issue for trial.

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

[Rule 14(2) substituted by GNR 507 in G. 37769 with effect from 28 July 2014, GNR 318 in G. 386914 with effect from 22 May 2015, GNR 107 in G. 43000 with effect from 9 March 2020.]

(3) The defendant may—

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

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

[Rule 14(3) substituted by GNR 107 in G. 43000 with effect from 9 March 2020.]

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

[Rule 14(4) substituted by GNR 107 in G. 43000 with effect from 9 March 2020.]

(5) If the defendant does not find security or satisfy the court as provided in subrule (3), the court may enter summary judgment for the plaintiff.

[Rule 14(5) substituted by GNR 107 in G. 43000 with effect from 9 March 2020.]

(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 or her] the defendant, as to the balance of the claim, unless such balance has been paid to the plaintiff; or

[Rule 14(6)(b)(ii) substituted by GNR 107 in G. 43000 with effect from 9 March 2020.]

(iii) make both orders provided for in subparagraphs (i) and (ii).

(7) If the defendant finds security or satisfies the court as provided in subrule (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) …

[Rule 14(9) repealed by GNR 107 in G. 43000 with effect from 9 March 2020.]

(10) The court may at the hearing of an application for summary judgment, make such order as to costs as 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 subrule (1) or where the plaintiff, in the opinion of the court, knew that the defendant relied on a contention which would entitle the defendant 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

[Rule 14(10)(a) substituted by GNR 107 in G. 43000 with effect from 9 March 2020.]

(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 14(10) amended by GNR 107 in G. 43000 with effect from 9 March 2020.]

14A. 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 in accordance with Form 2A of Annexure 1, calling upon such person to pay the amount claimed or failing such payment to appear personally or by practitioner upon a day named in such summons not being less than 10 days after the service upon him or her of such summons, to admit or deny his or her liability.

(2) A summons provided for in subrule (1) shall be issued by the registrar or clerk of the court and rule 5 shall apply *mutatis mutandis*.

(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 a case for hearing for provisional sentence not later than three days before the day upon which it is to be heard.

(5)

(a) Upon the day named in a summons for provisional sentence the defendant may appear personally or by a practitioner to admit or deny his or her liability or may, not later than three days before the day upon which he or she is called upon to appear in court, deliver an affidavit setting forth the grounds upon which he or she disputes liability.

(b) In the event of delivery of an affidavit provided for in paragraph (a) the plaintiff shall be afforded a reasonable opportunity of replying thereto.

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

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

(8)

(a) 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 it deems fit.

(b) When an order provided for in paragraph (a) has been made 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 or clerk of the court, against payment of the amount due under a judgment for provisional sentence.

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

(11)

(a) 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 or her intention to do so, and he or she shall deliver a plea within 10 days thereafter.

(b) Failing a notice or plea contemplated in paragraph (a) a provisional sentence shall ipso facto become a final judgment and the security given by the plaintiff shall lapse.

15. Declaration

(1) In all actions in which the plaintiff has issued a simple summons and the defendant has delivered a notice of intention to defend, the plaintiff shall, within 15 days after receipt of the notice of intention to defend, deliver a declaration.

(2) A declaration under subrule (1) 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.

(4) …

[Rule 15(4) repealed by GNR 2 in G. 39715 with effect from 22 March 2016.]

(5) Where a plaintiff has been barred in terms of rule 21B(3) from delivering a declaration, the defendant may set the action down for hearing upon not less than 10 days' notice to the defaulting plaintiff, and apply for absolution from the instance or, after adducing evidence, for judgment, and the court may make such order thereon as it deems fit.

[Rule 15(5) substituted by GNR 2 in G. 39715 with effect from 22 March 2016.]

16. Further particulars

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

(2)

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

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

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

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

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

[Rule 16 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

17. Plea

(1) Where a defendant has delivered notice of intention to defend, the defendant shall within 20 days after the service upon him or her of a declaration or within 20 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 defendant's 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 defendant relies.

(3)

(a) Every allegation of fact in the combined summons or declaration which is not stated in the plea to be denied or to be admitted, shall be deemed to be admitted.

(b) If any explanation or qualification of any denial is necessary, it shall be stated in the plea.

(4)

(a) If by reason of any claim in reconvention, the defendant claims that on the giving of judgment on such claim, the plaintiffs claim will be extinguished either in whole or in part, the defendant may in the 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.

(b) In the event of a request for postponement as provided for in paragraph (a) judgment on the claim shall, either in whole or in part, 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 it deems fit.

(5)

(a) Where a tender is pleaded as to part of the amount claimed, the plea shall specify the items of the plaintiff's claim to which the tender relates.

(b) A plea of tender shall not be admissible unless the amount of the alleged tender is secured to the satisfaction of the plaintiff on the delivery of the plea, if not already paid or secured to the plaintiff and the amount so secured shall be paid out to the plaintiff only on the order of the court or upon an agreement in writing of the parties.

(c) A tender after action brought shall imply an undertaking to pay the plaintiff's costs up to the date of the tender, unless such an undertaking is expressly disavowed at the time of such tender, and shall be valid without a securement of the amount at which such costs may be taxed.

(6) If the defendant fails to comply with any of the provisions of subrules (2), (3) and (5), the plea shall be deemed to be an irregular step and the other party shall be entitled to act in accordance with rule 60A.

(7) Any defence which can be adjudicated upon without the necessity of going into the main case may be set down by either party for a separate hearing upon 10 days' notice at any time after such defence has been raised.

[Rule 17(7) inserted by GNR 1055 in G. 41142 with effect from 1 November 2017.]

18. Offer to settle

(1)

(a) In any action in which a sum of money is claimed, either alone or with any other relief, the defendant may at any time unconditionally or without prejudice make an offer in writing to settle the plaintiff's claim.

(b) An offer to settle the plaintiff's claim shall be signed either by the defendant himself or herself or by his or her attorney if the latter has been authorised thereto in writing.

(2)

(a) 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.

(b) In the event of a tender contemplated in paragraph (a) the defendant shall, unless the act must be performed by him or her personally, execute an irrevocable power of attorney authorising the performance of such act which he or she shall deliver to the registrar or clerk of the court together with the tender.

[Rule 18(2)(b) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(3) Any party to an action who may be ordered to contribute towards an amount for which any party to the action may be held liable, or any third party from whom relief is being claimed in terms of rule 28A, may, either unconditionally or without prejudice, by way of an offer of settlement—

(a) make an offer in writing 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) give an indemnity in writing to such other party, the conditions of which shall be set out fully in the offer of settlement.

(4) One of several defendants, as well as any third party from whom relief is claimed, may, either unconditionally or without prejudice, by way of an offer of settlement make an offer in writing to settle the plaintiffs or defendant's claim or tender to perform any act claimed by the plaintiff or defendant.

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

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

(b) whether it is accompanied by an offer to pay all or only part of the costs of the party to whom the offer or tender is made, and further that it shall be subject to such conditions as may be stated therein;

(c) whether the offer or tender is made by way of settlement of both claim and costs or of the claim only; and

(d) whether the defendant disclaims liability for the payment of costs or for part thereof, in which case the reasons for such disclaimer shall be given, and the action may then be set down on the question of costs alone.

(6) A plaintiff or party referred to in subrule (3) may within 15 days after the receipt of the notice referred to in subrule (5), or thereafter with the consent in writing of the defendant or third party or order of court, on such conditions as may be considered to be fair, accept any offer or tender, whereupon the registrar or clerk of the court, having satisfied himself or herself that the requirements of this subrule have been complied with, shall hand over the power of attorney referred to in subrule (2) to the plaintiff or his or her attorney.

(7) In the event of a failure to pay or to perform within 10 days after delivery of the notice of acceptance of the offer or tender, the party entitled to payment or performance may, on five days' notice in writing to the party who has failed to pay or perform apply through the registrar or clerk of the court to a magistrate for judgment in accordance with the offer or tender as well as for the costs of the application.

(8) If notice of the acceptance of the offer or tender in terms of subrule (6) or notice in terms of subrule (7) is required to be given at an address other than that provided in rule 13(3), then it shall be given at an address, which is not a post office box or poste restante, within 15 kilometres of the office of the registrar or clerk of the court at which such notice must be delivered.

(9) If an offer or tender accepted in terms of this rule is not stated to be in satisfaction of a plaintiff's claim and costs, the party to whom the offer or tender is made may apply to the court, after notice of not less than five days, for an order for costs.

(10) No offer or tender in terms of this rule made without prejudice shall be disclosed to the court at any time before judgment has been given, and no reference to such offer or tender shall appear on any file in the office of the registrar or clerk of the court containing the papers in the said case.

(11) The fact that an offer or tender referred to in this rule has been made may be brought to the notice of the court after judgment has been given as being relevant to the question of costs.

(12) If the court has given judgment on the question of costs in ignorance of an offer or tender in terms of this rule and it is brought to the notice of the registrar or clerk of the court, in writing, within five days after the date of judgment, the question of costs shall be considered afresh in the light of the offer or tender: Provided that nothing in this subrule contained shall affect the court's discretion as to an award of costs.

(13) Any party who, contrary to this rule, personally or through any person representing him or her, discloses an offer or tender in terms of this rule to the magistrate or the court shall be liable to have costs given against him or her even if he or she is successful in the action.

(14) This rule shall apply *mutatis mutandis* where relief is claimed on motion or claim in reconvention or in terms of rule 28A.

18A. Interim payments

(1) In an action for damages for personal injuries or the death of a person, the plaintiff may, at any time after the expiry of the period for the delivery of the notice of intention to defend, apply to the court for an order requiring the defendant to make an interim payment in respect of his or her claim for medical costs and loss of income arising from his or her physical disability or the death of a person.

(2) Subject to rule 55 the affidavit in support of the application provided for in subrule (1) shall contain the amount of damages claimed and the grounds for the application, and all documentary proof or certified copies thereof on which the applicant relies shall accompany the affidavit.

(3) Notwithstanding the grant or refusal of an application for an interim payment, further such applications may be brought on good cause shown.

(4) If at the hearing of an application for interim payment, the court is satisfied that—

(a) the defendant against whom the order is sought has in writing admitted liability for the plaintiff's damages; or

(b) the plaintiff has obtained judgment against the respondent for damages to be determined,

the court may, if it deems fit but subject to subrule (5), order the respondent to make an interim payment of such amount as it deems fit, which amount shall not exceed a reasonable proportion of the damages which in the opinion of the court are likely to be recovered by the plaintiff taking into account any contributory negligence, set off or counterclaim.

(5) No order shall be made under subrule (4) unless it appears to the court that the defendant is insured in respect of the plaintiff's claim or that he or she has the means at his or her disposal to enable him or her to make such a payment.

(6) The amount of any interim payment ordered shall be paid in full to the plaintiff unless the court otherwise orders.

(7) Where an application has been made under subrule (1), the court may prescribe the procedure for the further conduct of the action and in particular may order the early trial thereof.

(8) The fact that an order has been made under subrule (4) shall not be pleaded and no disclosure of that fact shall be made to the court at the trial or at the hearing of questions or issues as to the amount of damages until such questions or issues have been determined.

(9) In an action where an interim payment or an order for an interim payment has been made, the action shall not be discontinued or the claim withdrawn without the consent of the court.

(10) If an order for an interim payment has been made or such payment has been made, the court may, in making a final order, or when granting the plaintiff leave to discontinue his or her action or withdraw the claim under subrule (9) or at any stage of the proceedings on the application of any party, make an order with respect to the interim payment which the court may consider just and the court may in particular order that—

(a) the plaintiff repays all or part of the interim payment;

(b) the payment be varied or discharged; or

(c) a payment be made by any other defendant in respect of any part of the interim payment which the defendant, who made it, is entitled to recover by way of contribution or indemnity or in respect of any remedy or relief relating to the plaintiff's claim.

(11) The provisions of this rule shall apply *mutatis mutandis* to any claim in reconvention.

19. Exceptions and applications to strike out

(1)

(a) Where any pleading is vague and embarrassing or lacks averments which are necessary to sustain an action or defence, the opposing party who intends to take an exception shall, within the period allowed for filing any subsequent pleading, deliver an exception thereto, as provided in paragraphs (b) and (c).

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

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

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

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

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

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

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

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

[Rule 19 substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

20. Claims in reconvention

(1)

(a) The provisions of these Rules shall apply equally to claims in reconvention except that it shall not be necessary to deliver a notice of intention to defend and that all times which, in the case of a claim in convention, run from the date of delivery of a notice of intention to defend, shall, in the case of a claim in reconvention, run from the date of delivery of such claim in reconvention.

(b) A defendant who counterclaims shall, together with such defendant's plea, deliver a claim in reconvention setting out the material facts thereof in accordance with rules 6 and 15 unless the plaintiff agrees, or if plaintiff refuses, the court allows it to be delivered at a later stage.

(c) A 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”, and it shall not be necessary 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, the defendant may with the leave of the court proceed in such action by way of a claim in reconvention against the plaintiff and such other persons, in such manner and on such terms as the court may direct.

(3) A defendant who has been given leave to counterclaim as provided for in subrule (2), shall add to the title of such defendant's plea a further title corresponding with what would be the title of any action instituted against the parties against whom such defendant makes claim in reconvention, and all further pleadings in the action shall bear such title, subject to the proviso to rule 6(2).

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

(5) A defendant delivering a claim in reconvention may by notice delivered therewith or within five days thereafter apply to the court to pronounce that the claim in reconvention exceeds its jurisdiction and to stay the action under section 47 of the Act.

(6) Where a court finds that the claim in reconvention exceeds its jurisdiction, the defendant may forthwith or by notice delivered within five days after such finding apply for stay of the action.

(7) If no application for stay is made or, having been made, has been dismissed, the court shall on the application of the plaintiff or otherwise of its own motion dismiss a claim in reconvention pronounced to exceed its jurisdiction, unless the defendant shall forthwith abandon under section 38 of the Act sufficient of such claim to bring it within the jurisdiction of the court.

(8) Where both the claim in convention and the claim in reconvention proceed to trial under rule 29 each action may be tried separately but judgment shall be given on both concurrently.

(9) A claim in reconvention may not be made by a defendant in reconvention.

(10) Where an action is withdrawn, stayed, discontinued or dismissed it shall nevertheless be competent to proceed separately with the claim in reconvention.

(11) If the defendant fails to comply with any of the provisions of this Rule, the claim in reconvention shall be deemed to be an irregular step and the other party shall be entitled to act in accordance with rule 60A.

[Rule 20 substituted by GNR 215 in G. 37475 with effect from 2 May 2014.]

21. Replication and plea in reconvention

(1) Within 15 days after the service upon plaintiff of a plea and subject to subrule (2), 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 17.

(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 rule 21A(b).

(3)

(a) Where a replication or subsequent pleading is necessary, a party may therein join issue on the allegations in the previous pleading.

(b) To such extent as a party has not dealt 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 may, subject to the provisions *mutatis mutandis* of subrule (2), within 10 days after the delivery of the plea in reconvention deliver a replication in reconvention.

(5) Further pleadings—

(a) may, subject to the provisions *mutatis mutandis* of subrule (2), be delivered by the respective parties within 10 days after the previous pleading delivered by the opposite party; and

(b) shall be designated by the names by which they are customarily known.

21A. Close of pleadings

Pleadings shall be considered closed if—

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

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

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

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

21B. Failure to deliver pleadings - barring

(1) Any party who fails to deliver a replication or subsequent pleading within the time stated in rule 21 shall be automatically barred.

(2) 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 deliver a notice in writing calling upon that party to deliver such pleading within five days of receipt of such notice.

(3) Any party failing to deliver the pleading referred to in the notice mentioned in subrule (2) 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 automatically barred: Provided that for the purposes of this rule the days from 16 December to 15 January, both inclusive, shall not be counted in the time allowed for the delivery of any pleading.

[Rule 21B inserted by GNR 507 in G. 37769 with effect from 28 July 2014; substituted by GNR 2 in G. 39715 with effect from 22 March 2016.]

22. Set-down of trial

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

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

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

(4)

(a) On receipt of an application for a trial date the registrar or clerk of the court shall draw the court file and take it to the magistrate to enable the magistrate to consider whether a pre-trial conference in terms of section 54 of the Act is necessary.

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

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

(5)

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

(i) failed to deliver the notice of intention to defend; or

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

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

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

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

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

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

[Rule 22 amended by GNR 507 in G. 37769 with effect from 28 July 2014, by GNR 2 in G. 39715 with effect from 22 March 2016, substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

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

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

(2)

(a) The parties may hold the meeting referred to in subrule (1) using telephonic or electronic means.

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

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

(a) the admissions which such party requires;

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

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

(4) At the meeting referred to in subrule (1), the matters mentioned in subrules (3) and (5) shall be dealt with.

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

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

(b) if a party feels prejudiced because another party has not complied with the rules of court, the nature of such non-compliance and prejudice;

(c) that every party claiming relief has requested such party's opponent to make a settlement proposal and that such opponent has reacted thereto;

(d) whether any issue has been referred by the parties for mediation, arbitration or decision by a third party and the basis on which it has been so referred;

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

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

(g) the admissions made by each party;

(h) any dispute regarding the duty to begin or the onus of proof;

(i) any agreement regarding the production of evidence by way of an affidavit in terms of rule 29(16);

(j) which party will be responsible for the copying and other preparation of documents;

(k) which documents or copies of documents will, without further proof, serve as evidence of what they purport to be, which extracts may be proved without proving the whole document or any other agreement regarding the proof of documents; and

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

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

[Rule 22A inserted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

23. Discovery of documents

(1)

(a) Any party to any action may require any other party thereto, by notice in writing, to make discovery on oath within 20 days of all documents and tape, electronic, digital or other forms of recordings relating to any matter in question in such action, whether such matter is one arising between the party requiring discovery and the party required to make discovery or not, which are or have at any time been in the possession or control of such other party.

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

(2)

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

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

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

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

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

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

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

(4) A document or tape, electronic, digital or other forms of recording not disclosed as requested in terms of this rule may not, save with the leave of the court granted on such terms as it may deem appropriate, be used for any purpose at the trial by the party who was obliged, but failed to disclose it, provided that any other party may use such document or tape, electronic, digital or other forms of recording.

(5)

(a) Where the Fund as defined in the Road Accident Fund Act, 1996 (Act 56 of 1996), is a party to any action by virtue of the provisions of that Act, any party to such action may obtain discovery in the manner provided in paragraph (d) against the driver or owner or short-term insurer of the vehicle or employer of the driver of the vehicle, referred to in that Act.

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

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

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

(6)

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

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

(7)

(a) A party receiving a notice corresponding substantially with Form 15A of Annexure 1 mentioned in subrule (6)(b) shall be entitled at the time therein stated, and for a period of five days thereafter during normal business hours and on any one or more of such days, to inspect such document or tape, electronic, digital or other form of recording and to take copies or transcriptions thereof.

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

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

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

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

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

(10)

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

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

(c) If a party receiving a notice under paragraph (a) states that the document or tape, electronic, digital or other form of recording is not admitted as required, it shall be proved by the party giving the notice before such party is entitled to use it at the trial, but the party not admitting it may be ordered to pay the costs of its proof.

(11)

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

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

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

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

(13)

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

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

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

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

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

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

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

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

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

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

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

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

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

[Rule 23 amended by GNR 507 in G. 37769 with effect from 28 July 2014, substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

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

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

(2)

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

(i) the nature of the examination required;

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

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

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

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

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

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

(i) if the party being examined is immobile, the amount to be paid shall include the cost of travelling by any necessary form of transport and, where required, the reasonable cost of a person attending upon the person to be examined;

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

(iii) any amount paid by a party in accordance with this subrule shall be costs in the cause, unless the court otherwise directs.

(3)

(a) A party receiving a notice referred to in subrule (2)(a) shall, within five days of the service of the notice, notify the party delivering it; in writing; of the nature and grounds of any objection which such party may have in relation to—

(i) the nature of the proposed examination;

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

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

(iv) the amount of the expenses tendered,

and shall further—

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

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

(b) If a party receiving the notice referred to in subrule (2)(a) does not deliver an objection within the period of five days referred to in paragraph (a), such party shall be deemed to have agreed to the examination upon the terms set forth by the party giving the notice.

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

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

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

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

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

(7)

(a) The party called upon under subrule (6) to submit a property for inspection or examination may require the party requesting it to specify the nature of the inspection or examination to which it is to be submitted, and shall not be bound to submit such property thereto if this will materially prejudice such party by reason of the effect thereof upon such property.

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

(8) Any party causing an inspection or examination to be made in terms of subrule (1) or (6) shall—

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

(b) within five days after receipt of such report, inform all other parties in writing of the existence of the report, and upon request immediately furnish any other party with a complete copy thereof; and

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

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

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

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

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

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

(9A) The parties must—

(a) endeavour, as far as possible, to agree to appoint a single joint expert on any one or more or all issues in the case; and

(b) file a joint minute of experts relating to the same area of expertise within 20 days of the date of the last filing of such expert reports.

(10)

(a) No party shall, save with the leave of the court or the consent of all the parties, be entitled to tender in evidence any plan, diagram, model or photograph unless such party shall, not more than 30 days after the close of pleadings, have delivered a notice to the other party stating an intention to do so.

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

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

(d) If a party receiving the notice objects to the admission in evidence of such plan, diagram, model or photograph, 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 costs of such proof.

[Rule 24 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

25. Judicial Case Management and pre-trial Conference

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

(2) Case management through judicial intervention shall be—

(a) used in the interests of justice to alleviate congested trial rolls and to address the problems which cause delays in the finalisation of cases;

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

(c) construed and applied in accordance with the principle that, notwithstanding the provisions herein providing for judicial case management, the primary responsibility remains with the parties and their legal representatives to prepare properly, comply with all rules of court, and act professionally in expediting the matter towards trial and adjudication.

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

(4)

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

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

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

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

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

(5)

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

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

(i) the case is ready for trial, and in particular, that all issues that are amenable to being resolved without a trial have been dealt with;
(ii) the remaining issues that are to go to trial have been adequately defined;

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

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

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

(6)

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

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

(7) The notice referred to in subrule (6)(a) shall inform the parties—

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

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

(i) the simplification of the issues;

(ii) the necessity or desirability of amendments to the pleadings;

(iii) the possibility of obtaining admissions of fact and documents with a view to avoiding unnecessary proof;

(iv) the limitation of the number of expert witnesses;

(v) such other matters as may aid in the disposal of the action in the most expeditious and least costly manner;

(c) that on the date of the pre-trial conference, they are required to have held a meeting to prepare for the pre-trial conference at which the issues identified in subrule (10) in relation to the conduct of the trial of the action must have been considered; and

(d) that the plaintiff is required, not less than two days before the time appointed for the pre-trial conference referred to in section 54 of the Act, to—

(i) ensure that the court file has been suitably ordered, secured, paginated and indexed; and

(ii) deliver an agreed minute of the proceedings at the meeting held in terms of paragraph (c), alternatively, in the event that the parties have not reached agreement on the content of the minute, a minute signed by the party filing the document together with an explanation why agreement on its content has not been obtained.

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

(9)

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

(i) the issues in the case that are not in dispute; and

(ii) the issues in the case that are in dispute, describing the nature of the dispute and setting forth the parties' respective contentions in respect of each issue.

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

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

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

(b) the soliciting of admissions and the making of enquiries from and by the parties with a view to narrowing the issues or curtailing the need for oral evidence;

(c) the time periods within which the parties propose that any matters outstanding in order to bring the case to trial readiness will be undertaken;

(d) subject to rule 24(9), the instruction of witnesses to give expert evidence and the feasibility and reasonableness in the circumstances of the case that a single joint expert be appointed by the parties in respect of any issue;

(e) the identity of the witnesses they intend to call and, in broad terms, the nature of the evidence to be given by each such witness;

(f) the possibility of referring the matter for voluntary court-annexed mediation;

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

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

(i) suitable trial dates and the estimated duration of the trial; and

(j) any other matter germane to expediting the trial-readiness of the case.

(11) Without limiting the scope of judicial engagement at a pre-trial conference referred to in section 54 of the Act, the judicial officer shall—

(a) if appropriate, enquire whether the parties have considered voluntary court-annexed mediation;

(b) endeavour to promote agreement on limiting the number of witnesses that will be called at the trial, eliminating pointless repetition or evidence covering facts already admitted; and

(c) identify and record the issues to be tried in the action.

(12) The judicial officer may at a pre-trial conference referred to in section 54 of the Act—

(a) certify the case as trial-ready;

(b) refuse certification;

(c) put the parties on such terms as are appropriate to achieve trial readiness, and direct them to report at a further pre-trial conference on a fixed date;

(d) strike the matter from the pre-trial roll and direct that it be re-enrolled only after any non-compliance with the rules or pre-trial conference directions have been purged;

(e) give directions for the hearing of opposed interlocutory applications by a motion court on an expedited basis;

(f) order a separation of issues in appropriate cases notwithstanding the absence of agreement by the parties thereto;

(g) at the conclusion of such a pre-trial conference, record the decisions made and, if deemed convenient, direct the plaintiff to file a minute thereof; and

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

(13) The record of the pre-trial conference referred to in section 54 of the Act, including the minutes submitted by the parties to the judicial officer, any directions issued by the judicial officer and the judicial officer's record of the issues to be tried in the action, but excluding any settlement discussions and offers, shall be included in the court file.

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

(15) Any failure by a party to adhere to the principles and requirements of this rule may be penalised by way of an adverse costs order.

[Rule 25 amended by GNR 507 in G. 37769 with effect from 28 July 2014, substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

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

(1)

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

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

(2)

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

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

(3)

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

(b)

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

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

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

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

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

(c)

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

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

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

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

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

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

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

[Rule 26 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

26A. Evidence by audio-visual link

(1)

(a) Subject to the provisions of section 51C, any party may bring an of audio-visual link.

(b) A court making an order in terms of paragraph (a) may give such directions which it considers appropriate for the taking and recording of such evidence.

(c) An application in terms of this rule must be accompanied by a draft order setting out the terms of the order sought, including particulars of—

(i) the witness who is required to adduce evidence through audiovisual link; and

(ii) the address of the premises from where such evidence will be given.

[Rule 26A inserted by GNR 5127 in G. 51056 with effect from 20 September 2024.]

27. Withdrawal, dismissal and settlement

(1) Where a summons has not been served or the period limited for delivery of notice of intention to defend has expired and no such notice has been delivered, the plaintiff may withdraw the summons by notice to the registrar or clerk of the court.

(2) Save as provided by subrule (1), a plaintiff or applicant desiring to withdraw an action or application against all or any of the parties thereto shall deliver a notice of withdrawal similar to Form 6 of Annexure 1.

(3) Any party served with notice of withdrawal may within 20 days thereafter apply to the court for an order that the party so withdrawing shall pay the applicant's costs of the action or application withdrawn, together with the costs incurred in so applying: Provided that where the plaintiff or applicant in the notice of withdrawal embodies a consent to pay the costs, such consent shall have the force of an order of court and the registrar or clerk of the court shall tax the costs on the request of the defendant.

(4) Any party may by delivery of notice abandon any specified claim, exception or defence pleaded by him or her and such notice shall be taken into consideration in taxing costs.

(5) If in any proceedings a settlement or an agreement to postpone or withdraw is reached, the attorney for the plaintiff or applicant shall inform the registrar or clerk of the court and other parties thereto by delivering a notice accordingly.

[Rule 27(5) substituted by GNR 5 in G. 38380 with effect from 13 February 2015.]

(6)

(a) Application may be made to the court by any party at any time before judgment to record the terms of any settlement agreed to by the parties to a proceeding without entry of judgment: Provided that if the terms of settlement so provide, the court may make such settlement an order of court.

(b) Where any party to a settlement agreement is not present at the time when the terms of a settlement agreement are recorded or made an order of court, the presiding Magistrate may call for the verification of the authenticity of any signature of a party to a settlement agreement before recording the terms thereof or recording same as an order of court or granting judgment in terms thereof.

[Rule 27(6) substituted by GNR 5 in G. 38380 with effect from 13 February 2015.]

(7) An application referred to in subrule (6) shall be on notice, except when the application is made in court during the hearing of any proceeding at which the other party is represented or when a written waiver (which may be included in the statement of the terms of settlement) by such other party of notice of the application is produced to the court.

[Rule 27(7) substituted by GNR 5 in G. 38380 with effect from 13 February 2015.]

(8) At the hearing of an application referred to in subrule (6) the applicant shall lodge with the court a statement of the terms of settlement signed by all parties to the proceeding and, if no objection thereto be made by any other party, the court shall note that the proceeding has been settled on the terms set out in the statement and thereupon all further proceedings shall, save as provided in subrules (9) and (10), be stayed.

[Rule 27(8) substituted by GNR 5 in G. 38380 with effect from 13 February 2015.]

(9)

(a) When the terms of a settlement agreement which was recorded in terms of subrule (6) provide for the future fulfilment by any party of stated conditions and such conditions have not been complied with by the party concerned, the other party may at any time on notice to all interested parties apply for the entry of judgment in terms of the settlement.

(b) An application referred to in this subrule shall be on notice to the party alleged to be in default, setting forth particulars of the breach by the respondent of the terms of settlement.

(10) After hearing the parties to an application referred to in subrule (9) the court may—

(a) dismiss the application;

(b) give judgment for the applicant as specified in the terms of settlement;

(c) set aside the settlement and give such directions for the further prosecution of the action as it may deem fit; or

(d) make such order as it may deem fit as to the costs of the application.

28. Intervention, joinder and consolidation of actions

(1) The court may, on application by a person desiring to intervene in any proceedings and having an interest therein, grant leave to such person to intervene on such terms as it may deem fit.

(2) The court may, on application by any party to any proceedings, order that another person shall be added either as a plaintiff or applicant or as a defendant or respondent on such terms as it may deem fit.

(3) A plaintiff may join several causes of action in the same action and the court may at the conclusion of the proceedings make such order as to costs as it deems fit.

(4) Where there has been a joinder of causes of action or of parties, the court may on the application of a defendant 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 application make such order as it deems just and expedient.

[Rule 28(4) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(5) 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 provision of this rule shall *mutatis mutandis* apply with regard to the action so consolidated; and

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

28A. 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 or her, 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,

such party may issue a third party notice, similar to Form 43 of Annexure 1, which notice shall be served by the sheriff.

(2)

(a) A third party 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.

(b) In so far as the statement of the claim in a third party notice and the question or issue are concerned, the rules with regard to pleadings and to summonses shall *mutatis mutandis* apply.

(3)

(a) A third party notice, accompanied by a copy of all pleadings filed in the action up to the date of service of the notice, shall be served on the third party and a copy of the third party notice, without a copy of the pleadings filed in the action up to the date of service of the notice, shall be filed with the registrar or clerk of the court and served on all other parties before the close of pleadings in the action in connection with which it was issued.

(b) After the close of pleadings, a third party notice may be served only with the leave of the court.

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

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

(6) A third party may—

(a) plead or except to the third party notice as if he or she were a defendant to the action; and

(b) 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 or she would be entitled to do so in terms of rule 20.

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

(a) In so far 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; and

(b) in so far 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)

(a) 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 subrule (1), he or she may issue and serve on such other party a third party notice in accordance with the provisions of this rule.

(b) Save that no further notice of intention to defend shall be necessary, the same procedure shall apply as between the parties to a notice referred to in paragraph (a) 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 subrule (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 it deems fit, 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.

(10) …

[Rule 28(10) repealed by GNR 507 in G. 37769 with effect from 28 July 2014.]

29. Trial

(1) Unless the court otherwise orders, the trial of an action shall take place at the court from which the summons was issued.

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

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

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

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

(4)

(a) If, in any pending action, it appears to the court of its own accord that there is a question of law or fact which may conveniently be decided either before any evidence is led or separately from any other question, the court may make an order directing the disposal of such question in such manner as it may deem fit and may order that all further proceedings be stayed until such question has been disposed of.

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

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

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

(7)

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

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

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

(9)

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

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

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

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

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

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

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

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

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

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

(b) the affidavit of any witness be read at the hearing, on such terms and conditions as to it may seem fit:

Provided that where it appears to the court that any other party reasonably requires the attendance of a witness for cross-examination, and such witness can be produced, the evidence of such witness shall not be given on affidavit.

[Rule 29 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

30. Record of proceedings in civil matters

(1) Minutes of record shall forthwith be made of—

(a) any judgment given by the court;

(b) any oral evidence given in court;

(c) any objection made to any evidence received or tendered; and

(d) the proceedings of the court generally, including the record of any inspection in loco.

(2) The court shall mark each document put in evidence and note such mark on the record.

(3) The minutes and marks may be made by the registrar or clerk of the court and, save as provided in subrule (4), by the presiding judicial officer.

(4) The addresses of the parties, oral evidence given, any exception or objection taken in the course of the proceedings, the rulings and judgment of the court and any other portion of the proceedings, may be noted in shorthand (also in this rule referred to as "shorthand notes") either verbatim or in narrative form or recorded by mechanical, electronic or digital means.

(5)

(a) Every person employed for the taking of shorthand notes or for the transcription of notes so taken by another person shall be deemed to be an officer of the court and shall before entering on his or her duties in writing take an oath or make an affirmation before a judicial officer in the following form—

> "I, ..., swear/solemnly and sincerely affirm and declare that I will faithfully, accurately and to the best of my ability take down in shorthand or cause to be recorded by mechanical, electronic or digital means, as directed by the judicial officer, the proceedings in any case in which I may be employed thereto as an officer of the court and that I will similarly, when required to do so, transcribe the same or, as far as I am able to do so, any other notes taken by any officer of the court or recorded by mechanical, electronic or digital means.".

(b) Such oath or affirmation shall be administered in the manner prescribed for the taking of an oath or affirmation.

(6)

(a) Shorthand notes taken in terms of this rule shall be certified as correct by the shorthand writer and filed with the record of the case by the registrar or clerk of the court.

(b) Subject to the provisions of subrule (7), no shorthand notes taken in terms of this rule shall be transcribed unless a judicial officer so directs.

(c) The transcript of any shorthand notes transcribed in terms of paragraph (b) shall be certified as correct by the person making it and shall be filed with the record.

(7)

(a) In any case in which no transcription was directed in terms of subrule (6) any person may on notice to the registrar or clerk of the court request a transcription of any shorthand note taken by virtue of a direction given under subrule (4) and shall pay, in respect of proceedings made by mechanical, electronic or digital means, the full cost thereof as predetermined by agreement between the contractor concerned and the State for such transcription.

(b) One copy of the transcript of the shorthand notes referred to in paragraph (a) shall be supplied, free of charge, to the person at whose request the transcription was made.

(c) The original copy of the transcript of any shorthand notes referred to in paragraph (a), shall be certified as correct by the person making it and shall be filed with the record of the case.

(d) A sum sufficient to cover the approximate fee payable under paragraph (a) shall be deposited with the registrar or clerk of the court in advance.

(8) Subject to the provisions of subrule (11), any shorthand notes, and any transcript thereof, certified as correct, shall be deemed to be correct and shall form part of the record of the proceedings in question.

(9) Subject to subrule (7)(b), a copy of any transcript made simultaneously with the transcription of proceedings made by mechanical, electronic or digital means may, upon application to the registrar or clerk of the court, be supplied to any person upon payment of the full cost thereof as predetermined by agreement between the contractor concerned and the State, in the case of a copy of a transcript referred to in subrules (6) and (7).

(10) Any reference in this rule to shorthand notes or to a transcription or transcript of such notes, or to a copy of such transcript, or to a person employed for the taking of such notes, or to a person transcribing such notes, shall be construed also as a reference to a record of proceedings made by mechanical, electronic or digital means, to a transcription or transcript of such record, or to a copy of such transcript, to a person employed for the making of such mechanical, electronic or digital record, or to a person transcribing such record, as the case may be.

(11) Any party may, not later than 10 days after judgment, or where the proceedings have been noted in shorthand or by mechanical, electronic or digital means, within 10 days after having been notified by the registrar or clerk of the court that the transcript of the shorthand notes or mechanical, electronic or digital record has been completed, apply to the court to correct any errors in the minutes of such proceedings or in the transcript of such shorthand notes or mechanical, electronic or digital record and the court may then correct any such errors.

(12) If, before the hearing of the application, all parties affected file a consent to the corrections claimed, no costs of such application shall be allowed; otherwise, costs shall be in the discretion of the court.

31. Adjournment and postponement

(1)

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

(b)

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

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

(2)

(a)

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

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

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

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

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

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

[Rule 31 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

32. Non-appearance of a party - withdrawal and dismissal

(1) If a plaintiff or applicant does not appear at the time appointed for the trial of an action or the hearing of an application, the action or application may be dismissed with costs.

(2) If a defendant or respondent does not so appear, a judgment (not exceeding the relief claimed) may be given against him or her with costs, after consideration of such evidence, either oral or by affidavit, as the court deems necessary.

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

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

[Rule 32 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

33. Costs

(1)

(a) The court in giving judgment or in making any order, including any adjournment or amendment, may award such costs as it deems fit.

(b) A costs order may upon application by any party indicate which portions of the proceedings are deemed urgent.

[Rule 33(1) substituted by GNR 4476 in G. 50272 with effect from 12 April 2024.]

(2) The costs of any application or order or issue raised by the pleadings may—

(a) be awarded by the court irrespective of the judgment in the action; or

(b) may be made costs in the action; or

(c) may be reserved to be dealt with on the conclusion of the action,

but if no order is made, such costs shall be costs in the action.

(3) Unless the court shall for good cause otherwise order, costs of interim orders shall not be taxed until the conclusion of the action, and a party may present only one bill for taxation up to and including the judgment or other conclusion of the action.

(4) Where a judgment or order for costs is made against two or more persons it shall, unless the contrary is stated, have effect against such persons severally as well as jointly.

(5)

(a) In district court civil matters, the scale of fees to be taken by attorneys as between party and party shall—

(i) be that set out in Table A of Annexure 2 in addition to the necessary expenses;

(ii) in relation to proceedings under sections 65, 65A to 65M, inclusive, and 72 of the Act and all matters ancillary thereto be that set out in Parts I and II, respectively, of Table B of the said Annexure; and

(iii) in relation to proceedings under sections 74 and 74A to 74W, inclusive, of the Act and all matters ancillary thereto be that set out in Part III of Table B of the said Annexure.

(b) The scale of fees referred to in paragraph (a)(iii) of this subrule shall also be the scale of fees to be taken between attorney and client in relation to proceedings under sections 74 and 74A to 74W, inclusive, of the Act.

(c) In regional court civil matters, including matters in respect of causes of action in terms of section 29(1B)(a) of the Act, the scale of fees to be taken by attorneys as between party and party shall be that set out in scale D of Table A of Annexure 2 in addition to the necessary expenses.

[Rule 33(5) substituted by GNR 760 in G. 36913 with effect from 15 November 2011.]

(5A) In district court and regional court civil matters, the scale of fees to be taken by advocates referred to in section 34(2)(a)(ii) of the Legal Practice Act, 2014 (Act 28 of 2014) as between party and party shall be that set out in Table A and Table B of Annexure 2 subject to any restrictions in any Part of the Tables.

[Rule 33(5A) inserted by GNR 1156 in G. 43856 with effect from 1 December 2020.]

(6) Save as to appearance in open court without an advocate referred to in section 34(2)(a)(i) of the Legal Practice Act, 2014 (Act 28 of 2014), the fees in subrule (5) shall be allowed whether the work has been done by an attorney or by his or her candidate attorney, but shall, except in the case of the fee referred to in paragraph 13 of the general provisions under Table A of Annexure 2, be allowed only in so far as the work to which such fees have been allocated has in fact and necessarily been done.

[Rule 33(6) substituted by GNR 1156 in G. 43856 with effect from 1 December 2020.]

(7) The magistrate presiding over any civil proceedings which last for the period of a quarter of an hour or longer, shall note on the record of the proceedings in respect of each day thereof—

(a) the time of the day when the proceedings actually commenced and actually ended; and

(b) the time of the day of the commencement and conclusion of each adjournment on that day.

(8) The court may on request made at or immediately after the giving of judgment in any contested action or application in which—

(a) is involved any difficult question of law or of fact; or

(b) the plaintiff makes two or more claims which are not alternative claims; or

(c) the claim or defence is frivolous or vexatious; or

(d) costs have been reasonably incurred and in respect of which costs there is no specific provision in these Rules,

award costs on any scale higher than that on which the costs of the action would otherwise be taxable: Provided that the court may give direction as to the manner of taxation of such costs as may be necessary.

(9) When it is reasonable in any proceedings for a party to employ the services of an attorney other than a local attorney, the court may on proof thereof, and if costs are awarded to him or her, order that such costs shall include the reasonable travelling time, travelling expenses and subsistence expenses of such attorney as determined by the court: Provided that the court may order that the determination of such costs be done on taxation by the registrar or clerk of the court.

(10) Where the court is of the opinion that at the hearing the party to whom costs are awarded has occupied time unnecessarily or in relation to matters not relevant to the issue, the court may disallow a proportionate part of the hearing fee payable to his or her attorney or advocate.
[Rule 33(10) substituted by GNR 1156 in G. 43856 with effect from 1 December 2020.]

(11) The court may in its discretion order that the whole of the costs of an action (including the costs of any claim in reconvention) be paid by the parties in such proportions as it may direct.

(12) Where the court is of the opinion that expense has been unnecessarily incurred because of the successful party's failure to take a course which would have shortened the proceedings and decreased the costs it shall award only such costs as would have been incurred if the successful party had taken such course.

(13) Where costs in convention and reconvention are awarded to different parties, the registrar or clerk of the court shall on taxation subject to any order which has been made by the court, allow each party to submit a bill of costs in respect of all costs and charges incurred in instituting and defending the claim in convention and reconvention, and defending the claim in convention and reconvention, respectively, and then to award the successful parties a proportionate amount of their costs in accordance with the award given by the court.

(14)

(a) The costs of issuing any warrant of execution or arrest shall, where they are payable by the party against whom the warrant is issued, be assessed by the registrar or clerk of the court without notice and inserted in the warrant.

(b) The costs payable by the judgment debtor in respect of any proceedings under section 65 or 65A to 65 m inclusive, or 72 of the Act shall be inserted by the judgment creditor or his or her attorney on the face or reverse side of any process issued under either of those sections and assessed by the registrar or clerk of the court before issue.

(c) The registrar or clerk of the court may refuse to issue any process under section 65 or 65A to 65 m, inclusive, or 72 of the Act in which the costs are not inserted or inserted but not according to tariff.

(15) Where costs or expenses are awarded to any party by the court, otherwise than by a judgment in default of the defendant's delivery of notice of intention to defend or on the defendant's consent to judgment before the time for such notice has expired, the party to whom such costs or expenses have been awarded shall—

(a) draw a bill of such costs or expenses and he or she may include in such bill all such payments as have been necessarily and properly made by him or her; and

(b) prior to enrolling a matter for taxation, by notice as near as may be in accordance with Form 58 of Annexure 1—

(i) afford the party liable to pay costs at the time therein stated, and for a period of 10 days thereafter, by prior arrangement, during normal business hours and on any one or more such days, the opportunity to inspect such documents or notes pertaining to any item on the bill of costs; and

(ii) require the party to whom notice is given, to deliver to the party giving the notice within 10 days after the expiry of the period in subparagraph (i), a written notice of intention to oppose, specifying the items on the bill of costs objected to, and a brief summary of the reason for such objection.

(c) for the purposes of this subrule, not count the days from 16 December to 15 January, both inclusive, in the time allowed for inspecting documents or notes pertaining to any item on a bill of costs or the giving of a written notice of intention to oppose.

[Rule 33(15) substituted by GNR 107 in G. 43000 with effect from 9 March 2020.]

(15A) No taxation shall be set down in the days from 16 December to 15 January, both inclusive, except—

(a) where the period for delivery of the notice to oppose has expired before the commencement of the period 16 December to 15 January, both inclusive, and no notice of intention to oppose has been delivered; or

(b) where the party liable to pay the costs has consented in writing to the taxation in his or her absence.

[Rule 33(15A) inserted by GNR 107 in G. 43000 with effect from 9 March 2020.]

(16) The registrar or clerk of the court shall not proceed with the taxation of any bill of costs and allow the relevant costs and expenses unless he or she is satisfied that the party liable to pay the costs has received—

(a) due notice in terms of subrule 15(b); and

(b) not less than 10 days' notice of the date, time and place of such taxation and that he or she is entitled to be present at the taxation: Provided that such notice shall not be necessary—

(i) if the party liable to pay the costs has consented in writing to taxation in his or her absence; or

(ii) if the party liable to pay the costs failed to give notice of intention to oppose in terms of subrule (15)(b)(ii):

Provided further that, if any party fails to appear, after having given notice of intention to oppose in terms of subrule (15)(b)(ii), the taxation may proceed in that party's absence.

(c) Witness fees shall not be allowed in taxation unless properly vouched for.

[Rule 33(16) substituted by GNR 107 in G. 43000 with effect from 9 March 2020.]

(17)

(a) Where more than one-fourth of the bill (excluding expenses) is taxed off, the party presenting the bill shall not be allowed any costs of taxation.

(b) Where a party to whom a bill of costs is presented makes a written offer of payment in respect of such costs, and such offer is refused, the party presenting the bill shall not be allowed any costs of taxation if the bill is taxed in an amount which is smaller than the amount of the offer.

(18) Where a bill of costs as between attorney and client is required to be taxed, taxation shall take place on at least five days' notice thereof to the attorney or client, whether or not an action therefor is pending: Provided that, notwithstanding the provisions of subrule (3), a bill of costs as between attorney and client may be taxed at any time after termination of the mandate.

(19) Where liability for costs is determined without judgment of the court by virtue of the provisions of these Rules or by a settlement recorded in terms of rule 27(8), such costs shall be taxable by the registrar or clerk of the court as if they had been awarded by the court.

(20) On failure of a party giving notice of taxation to appear at the appointed time for taxation, such bill of costs may be taxed in his or her absence but such party shall not be allowed any costs of taxation.

(21) If a party consents to pay the costs of another party, the registrar or clerk of the court shall, in the absence of an order of the court, tax such costs, as if they had been awarded by the court.

(22) Value added tax may be added to all costs, fees, disbursements and tariffs in respect of which value added tax is chargeable.

34. Fees of the sheriff

(1) The fees and charges to be taken by a sheriff who is an officer of the Public Service shall be those prescribed in Part I of Table C of Annexure 2 and in the case of any other sheriff those prescribed in Part II of the said Table and Annexure.

(2)

(a) Every account of fees or charges furnished by a sheriff shall contain the following note—

"You may require this account to be taxed and vouched before payment."

(b) Where any dispute arises as to the validity or amount of any fees or charges, or where necessary work is done and necessary expenditure incurred for which no provision is made, the matter shall be determined by the taxing officer of the court whose process is in question.

[Rule 34(2) substituted by GNR 1318 in G. 42064 with effect from 10 January 2019.]

(3)

(a) Any party having an interest may by notice in writing require the fees and charges claimed by or paid to the sheriff to be taxed by the registrar or clerk of the court, and may attend on such taxation.

(b) Upon a taxation referred to in paragraph (a) the sheriff shall vouch to the satisfaction of the registrar or clerk of the court all charges claimed by him or her.

(c) A fee for the attending of the taxation shall be allowed—

(i) to the sheriff if the sheriff's fees or charges are taxed and passed in full, as allowed for in Table C; and

(ii) to the interested party concerned if the sheriff's fees or charges are taxed but not passed in full, on the same basis as the fee allowed to the sheriff under subparagraph (i).

34A. Tariff of fees and allowances for intermediaries in proceedings other than criminal proceedings

The tariff of fees and allowances for intermediaries appointed in terms of section 51A(1) of the Act appearing at proceedings other than criminal proceedings, and who are not in the full-time employment of the State, shall be those set out in Table E of Annexure 2 to the Rules.

[Rule 34A inserted by GNR 2414, G. 46789 with effect from 1 October 2022.]

35. Review of taxation

(1) Any interested party may, within 15 days after he or she has knowledge thereof, bring before a judicial officer for review—

(a) the costs and expenses claimed in any undefended action;

(b) the assessment by the registrar or clerk of the court of any costs and expenses;

(c) the taxation by the registrar or clerk of the court of any costs awarded in any action or matter; or

(d) the taxation by the registrar or clerk of the court of any fees or charges of the sheriff.

(2) A review in terms of subrule (1) shall be on 10 days' notice to the party entitled to receive or liable to pay such costs and expenses or to the sheriff, as the case may be.

(3) Any party dissatisfied with the decision of the judicial officer as to any item or part of an item which was objected to before the registrar or clerk of the court, may, after notice to the other party, within 10 days of the decision require the judicial officer to state a case for the decision of a judge, which case shall embody all relevant findings of fact by the judicial officer: Provided that, save with the consent of such officer, no case shall be stated where the total of the amounts which he or she has disallowed or allowed, as the case may be, and which the dissatisfied party seeks to have allowed or disallowed, respectively, is less than R1 000.

(4) Any party may within 10 days after the judicial officer has stated a case in terms of subrule (3) submit contentions in writing to the judicial officer.

(5) The judicial officer shall lay the case together with the written contentions submitted and his or her own report not later than 15 days after receipt of such contentions, before a judge of the court of appeal who may then—

(a) decide the matter upon the case and contentions so submitted, together with any further information which he or she may require from the judicial officer; or

(b) decide if after hearing the parties or their counsel or attorneys in chambers; or

(c) refer the case for decision to the court of appeal.

(6) The judge or the court deciding a matter in terms of subrule (5) may make such order as he or she or it deems fit, including an order that the unsuccessful party shall pay to the opposing party a sum fixed by the judge or the court as costs.

36. Process in execution

(1) The process for the execution of any judgment for the payment of money, for the delivery of property whether movable or immovable, or for ejectment shall be by warrant issued and signed by the registrar or clerk of the court and addressed to the sheriff.

(2) A process issued under subrule (1) may be sued out by any person in whose favour any such judgment shall have been given, if such judgment is not then satisfied, stayed or suspended.

(3) A process issued under subrule (1) may at any time, on payment of the fees incurred, be withdrawn or suspended by notice to the sheriff by the party who has sued out such process: Provided that a request in writing made from time to time by such party to defer execution of such process for a definite period not being longer than one month shall not be deemed to be a suspension.

(4) Any alteration in a process issued under subrule (1) shall be initialled by the registrar or clerk of the court before it is issued by him or her.

(5) The registrar or clerk of the court shall at the request of a party entitled thereto reissue process issued under subrule (1) without the court having sanctioned the reissue.

(6) Any process issued under subrule (1) shall be invalid if a wrong person is named therein as a party, but no such process shall be invalid merely by reason of the misspelling of any name therein, or of any error as to date.

(7) Except where judgment has been entered by consent or default, process in execution of a judgment shall not be issued without leave of the court applied for at the time of granting the judgment, before the day following that on which the judgment is given.

37. Second or further warrants or emoluments attachment orders or garnishee orders

(1) Where any warrant or emoluments attachment order or garnishee order has been lost or mislaid, the court may on the application of any interested party and after notice to any person affected thereby, authorise the issue of a second or further warrant or emoluments attachment order or garnishee order, as the case may be, on such conditions as the court may determine and may make such order as to costs as it may deem fit.

(2) Notice of an application in terms of subrule (1) shall be on not less than five days' notice and shall state the reasons for the application.

(3) Subrules (1) to (6), inclusive, of rule 36 shall *mutatis mutandis* apply to any warrant or emoluments attachment order or garnishee order authorised by the court in terms of subrule (1) and in addition such warrant or garnishee order shall clearly be endorsed as follows—

"This second or further warrant .... (describe nature of warrant) of emoluments attachment order or garnishee order (as the case may be) was authorised by the court on ..... and replaces any warrant .... (describe nature of warrant) or emoluments attachment order or garnishee order (as the case may be) instead of which it is issued or reissued".

(4)

(a) When any warrant or emoluments attachment order or garnishee order which has been replaced by a warrant or emoluments attachment order or garnishee order issued in terms of subrule (1) becomes available it shall immediately be cancelled by the registrar or clerk of the court by endorsing across the face thereof between two parallel transverse lines the following words—

"Cancelled. Fresh warrant .... (describe nature of warrant) or emoluments attachment order or garnishee order (as the case may be) issued in terms of an order of the court dated ...".

(b) An endorsement in terms of paragraph (a) shall be signed and dated by the registrar or clerk of the court.

(5) The fact that a second or further warrant or emoluments attachment order or garnishee order has been issued and the date and amount thereof shall be endorsed on the record of the case by the registrar or clerk of the court.

38. Security by execution creditor

(1) If there is a claim made by any person to any property seized, or about to be seized by the sheriff, then, if the execution creditor gives the sheriff security to his or her satisfaction, to indemnify the sheriff against any loss or damage by reason of the seizure thereof, the sheriff shall retain or seize, as the case may be, and keep the said property.

(2) Unless the summons commencing the action has been served upon the defendant personally or the defendant has delivered notice of intention to defend or notice of attachment has been given to the defendant personally—

(a)

(i) if any property is attached in execution, the execution creditor shall, at least 10 days before the day appointed for the sale of such property give security to the satisfaction of the sheriff for the payment to the judgment debtor or any person if such attachment is set aside, of any sum which the judgment debtor or such person may in law be entitled to recover from the execution creditor for damages suffered by reason of such attachment or of any proceedings consequent thereon; and

(ii) if security is not given, the attachment shall be automatically suspended until security is given: Provided that—

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

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

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

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

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

(5) This rule shall not apply where the party suing out the process in execution or the execution creditor is represented by Legal Aid South Africa.

[Rule 38 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

39. General provisions regarding execution

(1) Unless otherwise ordered by the court, the costs and expenses of issuing a warrant and levying execution shall be a first charge on the proceeds of the property sold in execution and may so far as such proceeds are insufficient be recovered from the judgment debtor as costs awarded by the court.

(2)

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

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

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

(3)

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

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

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

(5) Notwithstanding a claim to property referred to in subrule (4) by a third party, the sheriff shall attach such property if the sheriff has not yet done so, and the property shall remain under attachment pending the outcome of interpleader proceedings unless sooner released from attachment upon order of the court or otherwise, and subrules 41(14), (17) and (18) shall apply with appropriate changes to property so attached.

(6)

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

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

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

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

[Rule 39 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

40. Execution against a partnership

(1) Where a judgment debtor is a partner in a firm and the judgment is against him or her for a separate debt, the court may, after notice to the judgment debtor and to his or her firm, appoint the sheriff as receiver to receive any moneys payable to the judgment debtor in respect of his or her interests in the partnership.

(2) An appointment in terms of subrule (1) shall, until the judgment debt is satisfied, operate as an attachment of the interest of the judgment debtor in the partnership assets and the sheriff so appointed shall notify all other sheriffs appointed for that area of such appointment.

(3) Where a judgment is against a firm, the partnership property shall first be exhausted, so far as it is known to the judgment creditor, before the judgment is executed against the separate property of the partners.

41. Execution against movable property

(1) An execution creditor may, at his or her own risk, and subject to the provisions of rules 36 and 37, issue out of the office of the registrar or clerk of the court a warrant of execution in a form corresponding substantially with form 32 of Annexure 1.

[Rule 41(1) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

(2)

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

(b)

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

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

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

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

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

(c) search for such property.

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

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

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

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

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

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

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

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

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

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

(14)

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

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

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

[Rule 41(14) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

(15)

(a) Any person whose movable property has been attached by the sheriff may, together with some person of sufficient means who binds himself or herself as surety to the satisfaction of the sheriff, undertake in writing to produce such property on the date appointed for the sale thereof, whereupon the sheriff shall leave the said property attached and inventoried on the premises where it was found.

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

(16)

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

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

(17)

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

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

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

(18)

(a) Unless an order of court is produced to the sheriff requiring him or her to retain any movable property under attachment for such further period as may be stipulated in such order, the sheriff must release from attachment such property which has been retained for a period exceeding six months unless a sale in execution of such property is pending.

(b) If such order was granted in terms of an *ex parte* application, such order shall not require confirmation.

(c) In the event of a claimant lodging an interpleader claim with the sheriff in accordance with rule 44, the period of six months referred to in paragraph (a) shall be suspended from the date on which the claimant delivers his or her affidavit to the sheriff until the final adjudication of the interpleader claim, including any review or appeal in respect of such interpleader claim.

[Rule 41(18) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

(19)

(a)

(i) Any movable property to be sold in execution shall be sold by public auction for cash to the highest bidder by the sheriff who removed the goods in terms of subrule (17)(a) or, with the approval of the magistrate, by an auctioneer or other person appointed by the sheriff, at or as near to the place where same was attached or to which same had been so removed as aforesaid: Provided that the auction may be conducted *via* electronic platform simultaneously with the physical auction, and the auction shall be conducted in accordance with the provisions of section 45 of the Consumer Protection Act, 2008 and the regulations promulgated thereunder.

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

(b) The execution creditor shall, after consultation with the sheriff, prepare a notice of sale and furnish two copies thereof to the sheriff in sufficient time to enable one copy to be affixed not later than 10 days before the day appointed for the sale on the notice board or door of the court-house or other public building in which the said court is held and the other at or as near as may be to the place where the said sale is to take place: Provided that where an auction is conducted via electronic platform simultaneously with the physical auction the notice of sale shall comply with the provisions of section 45 of the Consumer Protection Act, 2008 and the regulations promulgated thereunder.

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

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

[Rule 41(19) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

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

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

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

(23)

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

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

[Rule 41 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

42. Execution against movable property (continued)

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

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

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

(ii) the sheriff shall have taken possession of the document, if any, evidencing the lease, the bill of exchange, promissory note, bond or other security, as the case may be, or has certified that he or she has been unable, despite diligent search, to obtain possession of the document; and

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

(b)

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

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

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

(i) the attachment shall only be complete when—

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

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

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

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

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

[Rule 42 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

43. Execution against immovable property

(1)

(a) Subject to the provisions of rule 43A, no warrant of execution against the immovable property of any judgment debtor shall be issued unless—

(i) a return has been made of any process issued against the movable property of the judgment debtor from which it appears that the said person has insufficient movable property to satisfy the warrant; or

(ii) such immovable property has been declared to be specially executable by the court.

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

(i) a full description of the nature, magisterial district and physical address of the immovable property to enable it to be traced and identified by the sheriff; and

(ii) sufficient information to enable the sheriff to give effect to subrule (3) hereof, including the title deed number, the erf number or sectional title unit number and exclusive use area to enable the Registrar of Deeds to identify the immovable property and record the attachment as an interdict against the immovable property.

[Rule 43(1)(b) substituted by GNR 2134, in G. 46475 with effect from 8 July 2022, by GNR 2434, G. 46839 with effect from 8 July 2022.]

(2) The attachment of the immovable property shall be made by any sheriff of the district in which the property is situated, upon a warrant of execution corresponding substantially with Form 32 of Annexure 1.

(3)

(a) Notice of the attachment, corresponding substantially with Form 33 of Annexure 1, shall be served by the sheriff 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 occupied by some person other than the owner, also upon such occupier.

(b) Any notice referred to in paragraph (a) shall—

(i) draw attention to the provisions of subrule (8)(a)(iii); and

(ii) be served according to the provisions of rule 9, except that service upon the registrar of deeds or other officer charged with the registration of immovable property may also be effected by the sheriff by means of a registered letter, duly prepaid and posted, addressed to the officer intended to be served.

(4)

(a) When effecting the attachment, the sheriff may enter buildings or structures on the immovable property in order to ascertain the improvements made to the immovable property, as well as the condition of such improvements: Provided that where the sheriff after reasonable attempts is unable to gain access onto the immovable property or into any building or structure on account of the property, building or structure being locked, the sheriff may use a locksmith to gain entry.

(b) After attachment, any sale in execution shall take place in the district in which the attached immovable property is situated and shall be conducted by the sheriff of such district who first attached the property: Provided that the sheriff in the first instance and subject to the provisions of paragraph (d) of subrule (8) may on good cause shown authorise such sale to be conducted elsewhere and by another sheriff.

(c) Upon receipt of written instructions from the execution creditor to proceed with such sale, the sheriff shall ascertain and record the bonds or other encumbrances which are registered against the attached immovable 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) Subject to rule 43A and any order made by the court, 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 of the intended sale, corresponding substantially with Form 34 of Annexure 1, to be served upon—

(i) preferent creditors personally;

(ii) the local authority, if the property is rated; and

(iii) the body corporate, if the property is a sectional title unit,

calling upon the aforesaid entities to stipulate within 10 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 sheriff that such entities have so stipulated or agreed; or

(b) subject to the provisions of section 66(2)(b) of the Act, the 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) within the time stated in such notice.

(6) The sheriff may by notice served upon any person require such person to deliver up to the sheriff forthwith, all documents in such person's possession or control relating to the debtor's title to the said property.

(7)

(a) The sheriff conducting the sale shall appoint a day and place for the sale of the attached immovable property, such day being, except by special leave of a magistrate, not less than 45 days after service of the notice of attachment and shall forthwith inform all other sheriffs appointed in the district of such day and place: Provided that—

(i) the auction may be conducted via electronic platform simultaneously with the physical auction; and

(ii) the auction shall be conducted in accordance with the provisions of sections45 of the Consumer Protection Act, 2008 and the regulations promulgated thereunder.

(b)

(i) The execution creditor shall, after consultation with the sheriff conducting the sale, prepare a notice of sale containing a short description of the attached immovable property, its improvements, magisterial district and physical address, the time and place for the holding of the sale and the fact that the conditions may be inspected at the office of the sheriff conducting the sale.

(ii) The execution creditor must furnish the sheriff with as many copies of the notice of sale as the sheriff may require.

(c) The execution creditor shall—

(i) publish the notice once in a newspaper circulating daily or weekly in the district in which the attached immovable property is situated and in the Gazette not less than five days and not more than 15 days before the date of the sale; and

(ii) provide the sheriff conducting the sale, by hand, or by facsimile or electronic mail, with one satisfactory photocopy of each of the notices published in the newspaper and the Gazette, respectively.

(d) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall forward a copy of the notice of sale referred to in paragraph (b) to every execution creditor who had caused the said immovable property to be attached and to every mortgagee thereof whose address is known and shall simultaneously furnish a copy of the notice of sale to all other sheriffs appointed in that district.

(e) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall affix—

(i) one copy of the notice on the notice-board of the magistrate's court of the district in which the attached immovable property is situated, or if the said property is situated in the district where the court out of which the warrant was issued is situated, then on the notice-board of such court; and

(ii) one copy at or as near as may be to the place where the said sale is actually to take place.

[Rule 43(7) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

(8)

(a)

(i) Not less than 35 days prior to the date of the sale, the execution creditor shall prepare the conditions of sale, corresponding substantially with Form 33A of Annexure 1, upon which the attached property is to be sold and shall submit such conditions to the sheriff conducting the sale, for the purposes of settling them.

(ii) In addition to any other terms, the conditions of sale shall include any conditions ordered by the court.

(iii) Not less than 25 days prior to the date of the sale, any interested party may submit to the sheriff, in writing, further or amended conditions of sale.

(iv) Not less than 20 days prior to the date of the sale, the sheriff shall settle the conditions of sale.

(v) The sale in execution and the conditions of sale shall comply with the provisions of any law relating to auctions, in particular the Consumer Protection Act, 2008 and the regulations promulgated thereunder.

(b)

(i) The execution creditor shall thereafter supply the said sheriff with three copies of the conditions of sale, one of which shall lie for inspection by interested parties at the office of the sheriff for 15 days prior to the date of the sale.

(ii) The sheriff conducting the sale shall forthwith furnish a copy of the conditions of sale to all other sheriffs appointed in that district.

(c) Not less than 15 days prior to the date of the sale, the sheriff shall serve one copy of the conditions of sale on the judgment debtor.

(d) Not less than 10 days prior to the date of the sale, any interested party may, subject to rule 43A and any order made by the court under the provisions thereof, and upon 24 hours' notice to all known affected parties apply to the magistrate of the district in which the attached immovable property is to be sold for any modification of the conditions of sale and the magistrate may make such order thereon, including an appropriate order as to costs.

(9) The execution creditor shall appoint a conveyancer to attend to the transfer of the attached immovable property sold in execution: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer.

(10)

(a) Immovable property attached in execution shall be sold by public auction by the sheriff or a private auctioneer appointed in terms of paragraph (b).

(b) The execution creditor or any person having an interest in the due and proper realisation of the attached immovable property may, by notice given to the sheriff within 15 days after attachment, but subject to the provisions hereinafter contained, require that such property be sold by an auctioneer in the ordinary course of business and may in such notice nominate the auctioneer to be employed.

(c)

(i) Where a notice in terms of paragraph (b) is given by any person other than the execution creditor, such notice must be accompanied by the deposit of a sum sufficient to cover the additional expense of sale by an auctioneer in the ordinary course of business, and in default of such a deposit such notice shall be void.

(ii) A notice in terms of paragraph (b) shall lapse if the services of an auctioneer are not obtainable.

(iii) If after satisfying the claim of the execution creditor and all warrants of execution lodged with the sheriff on or before the day immediately preceding the date of the sale and all costs there are surplus proceeds of the sale of the immovable property, the deposit must be refunded to the depositor: Provided that if there is no surplus, such deposit must, as far as may be necessary, be applied in payment of the auctioneer's fees and expenses.

(d) If two or more notices in terms of paragraph (b) are given, the first shall have preference.

(11)

(a)

(i) If the purchaser fails to carry out any obligations due by the purchaser under the conditions of sale, the sale may be cancelled by a magistrate summarily on the report of the sheriff conducting the sale, after due notice to the purchaser, and the attached immovable property may be put up for sale again.

(ii) The report shall be accompanied by a notice corresponding substantially with Form 33B of Annexure 1.

(iii) If the sale is cancelled, the sheriff shall inform the judgment debtor of the cancellation.

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

[Rule 43(11)(b) substituted by GNR 2134, in G. 46475 with effect from 8 July 2022, by GNR 2434, G. 46839 with effect from 8 July 2022.]

(c) If the purchaser is already in possession of the immovable property, the said sheriff may, on notice to affected persons apply to a magistrate for an order evicting the purchaser or any person claiming to occupy the property through the purchaser or otherwise occupying the property.

(12) Subject to the provisions of rule 43A and subrule (5) hereof—

(a) the sale shall be conducted upon the conditions stipulated under subrule (8); and

(b) the immovable property shall be sold to the highest bidder.

(13)

(a) All moneys in respect of the purchase price of the immovable property sold in execution shall be paid to the sheriff and the sheriff shall retain such moneys in his or her trust account until transfer has been given to the purchaser.

(b) The sheriff conducting the sale 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 or her shall be as valid and effectual as if he or she were the owner of the property.

(c) No amount of the purchase money shall be paid out until the provisions of subrule (14) have been complied with.

(14)

(a) After conclusion of the sale, but before preparation by the sheriff of a plan of distribution, the execution creditor or his or her attorney shall provide the sheriff with a certificate of all money paid by the judgment debtor to the execution creditor or his or her attorney after the issue of the warrant of execution.

(b)

(i) Within 10 days after the date of registration of the transfer, the sheriff shall have prepared a plan of distribution of the proceeds in order of preference, and must forward a copy of such plan to the registrar or clerk of the court and to all other sheriffs appointed in that district.

(ii) Immediately thereafter the said sheriff shall give notice to all parties who have lodged warrants and to the execution debtor that the plan of distribution will lie for inspection at his or her office and the office of the registrar or clerk of the court for 15 days from a date mentioned, and unless such parties signify in writing their agreement to the plan, such plan will 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) Claims of preferent creditors ranking in priority in their legal order of preference; and thereafter

(ii) Claims of other creditors whose warrants have been lodged with the sheriff in the order of preference appearing from sections 96 and 98A to 103 (inclusive) of the Insolvency Act, 1936 (Act 24 of 1936).

(d) Any interested person objecting to the plan must—

(i) before the expiry of the period referred to in paragraph (b)(ii), give notice in writing to the sheriff and all other interested persons of the particulars of the objection; and

(ii) within 10 days after the expiry of the period referred to in paragraph (b)(ii), bring such objection before a magistrate for review upon 10 days' notice to the sheriff and the said persons.

(e) The magistrate 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 he or she deems appropriate.

(f) If—

(i) no objection is lodged to such plan; or

(ii) the interested parties signify their concurrence therein; or

(iii) the plan is confirmed or amended on review,

the sheriff shall, on production of a certificate from the conveyancer that transfer has been given to the purchaser, pay out in accordance with the plan of distribution.

(15) Neither a sheriff nor any person on behalf of the sheriff shall at any sale in execution purchase any immovable property offered for sale either for himself or herself or for any other person.

[Rule 43 amended by GNR 685 in G. 35626 with effect from 5 October 2012; substituted by GNR 1272 in G. 41257 with effect from 22 December 2017.]

43A. Execution against residential immovable property

(1) This rule applies whenever an execution creditor seeks to execute against the residential immovable property of a judgment debtor.

(2)

(a) A court considering an application under this rule must—

(i) establish whether the immovable property which the execution creditor intends to execute against is the primary residence of the judgment debtor; and

(ii) consider alternative means by the judgment debtor of satisfying the judgment debt, other than execution against the judgment debtor's primary residence.

(b) A court shall not authorise execution against immovable property which is the primary residence of a judgment debtor unless the court, having considered all relevant factors, considers that execution against such property is warranted.

(c) The registrar or clerk of the court shall not issue a warrant of execution against the residential immovable property of any judgment debtor unless a court has ordered execution against such property.

(3) Every notice of application to declare residential immovable property executable shall be—

(a) substantially in accordance with Form 1B of Annexure 1;

(b) on notice to the judgment debtor and to any other party who may be affected by the sale in execution, including the entities referred to in rule 43(5)(a): Provided that the court may order service on any other party it considers necessary;

(c) supported by affidavit which shall set out the reasons for the application and the grounds on which it is based; and

(d) served by the sheriff on the judgment debtor personally: Provided that the court may order service in any other manner.

(4)

(a) The applicant shall in the notice of application—

(i) state the date on which the application is to be heard;

(ii) inform every respondent cited therein that if the respondent intends to oppose the application or make submissions to the court, the respondent must do so on affidavit within 10 days of service of the application and appear in court on the date on which the application is to be heard;

(iii) appoint a physical address which shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse at which the applicant will accept service of all documents in these proceedings; and

(iv) state the applicant's postal, facsimile or electronic mail address where available.

(b) The application shall not be set down for hearing on a date less than five days after expiry of the period referred to in paragraph (a)(ii).

(5) Every application shall be supported by the following documents, where applicable, evidencing—

(a) the market value of the immovable property;

(b) the local authority valuation of the immovable property;

(c) the amounts owing on mortgage bonds registered over the immovable property;

(d) the amount owing to the local authority as rates and other dues;

(e) the amounts owing to a body corporate as levies; and

(f) any other factor which may be necessary to enable the court to give effect to subrule (8):

Provided that the court may call for any other document which it considers necessary.

(6)

(a) A respondent, upon service of an application referred to in subrule (3), may—

(i) oppose the application; or

(ii) oppose the application and make submissions which are relevant to the making of an appropriate order by the court; or

(iii) without opposing the application, make submissions which are relevant to the making of an appropriate order by the court.

(b) A respondent referred to in paragraph (a)(i) and (ii) shall—

(i) admit or deny the allegations made by the applicant in the applicant's founding affidavit; and

(ii) set out the reasons for opposing the application and the grounds on which the application is opposed.

(c) Every opposition or submission referred to in paragraphs (a) and (b) shall be set out in an affidavit.

(d) A respondent opposing an application or making submissions shall, within 10 days of service of the application—

(i) deliver the affidavit referred to in paragraph (c);

(ii) appoint a physical address which shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse at which documents may be served upon such respondent; and

(iii) state the respondent's postal, facsimile or electronic mail address where available.

(7) The registrar or clerk of the court shall place the matter on the roll for hearing by the court on the date stated in the Notice of Application.

(8) A court considering an application under this rule may—

(a) of its own accord or on the application of any affected party, order the inclusion in the conditions of sale, of any condition which it may consider appropriate;

(b) order the furnishing by—

(i) a municipality of rates due to it by the judgment debtor; or

(ii) a body corporate of levies due to it by the judgment debtor;

(c) on good cause shown, condone—

(i) failure to provide any document referred to in subrule (5); or

(ii) delivery of an affidavit outside the period prescribed in subrule (6)(d);

(d) order execution against the primary residence of a judgment debtor if there is no other satisfactory means of satisfying the judgment debt;

(e) set a reserve price;

(f) postpone the application on such terms as it may consider appropriate;

(g) refuse the application if it has no merit;

(h) make an appropriate order as to costs, including a punitive order against a party who delays the finalisation of an application under this rule; or

(i) make any other appropriate order.

(9)

(a) In an application under this rule, or upon submissions made by a respondent, the court must consider whether a reserve price is to be set.

(b) In deciding whether to set a reserve price and the amount at which the reserve is to be set, the court shall take into account—

(i) the market value of the immovable property;

(ii) the amount owing as rates or levies;

(iii) the amounts owing on registered mortgage bonds;

(iv) any equity which may be realised between the reserve price and the market value of the property;

(v) reduction of the judgment debtor's indebtedness on the judgment debt and as contemplated in subrule (5)(a) to (e), whether or not equity may be found in the immovable property, as referred to in subparagraph (iv);

(vi) whether the immovable property is occupied, the persons occupying the property and the circumstances of such occupation;

(vii) the likelihood of the reserve price not being realised and the likelihood of the immovable property not being sold;

(viii) any prejudice which any party may suffer if the reserve price is not achieved; and

(ix) any other factor which in the opinion of the court is necessary for the protection of the interests of the execution creditor and the judgment debtor.

(c) If the reserve price is not achieved at a sale in execution, the court must, on a reconsideration of the factors in paragraph (b) of this subrule and its powers under this rule, order how execution is to proceed.

(d) Where the reserve price is not achieved at a sale in execution, the sheriff must submit a report to the court, within five days of the date of the auction, which report shall contain—

(i) the date, time and place at which the auction sale was conducted;

(ii) the names, identity numbers and contact details of the persons who participated in the auction;

(iii) the highest bid or offer made; and

(iv) any other relevant factor which may assist the court in performing its function in paragraph (c).

(e) The court may, after considering the factors in paragraph (d) and any other relevant factor, order that the property be sold to the person who made the highest offer or bid.

[Rule 43A substituted by GNR 1272 in G. 41257 with effect from 22 December 2017.]

43B. Enforcement of foreign civil judgment

(1) Whenever a certified copy of a judgment referred to in section 3(1) of the Enforcement of Foreign Civil Judgments Act, 1988 (Act 32 of 1988), is filed with the registrar or clerk of the court in the Republic, such registrar or clerk of the court shall register that judgment by numbering it with a consecutive number for the year during which it is filed and by noting the particulars in respect of the judgment referred to in paragraphs (a), (b) and (c) of the said section on the case cover.

(2) A judgment creditor shall, together with the certified copy of a judgment referred to in subrule (1)—

(a) file an affidavit made by himself or herself or by somebody else who can confirm the following facts stating—

(i) the amount of interest due, the appropriate rate of interest and how the amount of interest has been calculated; and

(ii) whether any amount has been paid by the judgment debtor since judgment, and, if so, whether such amount has been deducted from the capital amount of the judgment debt or from the interest or costs, as the case may be; and

(b) if any amount payable under the judgment is expressed in a currency other than the currency of the Republic, file a certificate issued by a banking institution registered in terms of section 4 of the Banks Act, 1965 (Act 23 of 1965), stating the rate of exchange prevailing at the date of the judgment.

(3) A notice issued in terms of section 3(2) of the Enforcement of Foreign Civil Judgments Act, 1988 (Act 32 of 1988), shall contain—

(a) the consecutive number referred to in subrule (1);

(b) the date on which the judgment was registered;

(c) the balance of the amount payable under the judgment;

(d) the taxed costs awarded by the court of the designated country;

(e) the interest, if any, which by the law or by order of the court of the designated country concerned is due on the amount payable under the judgment up to the time of registration of the judgment;

(f) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining a certified copy of the judgment;

(g) the names of the parties concerned; and

(h) the name of the court where the judgment was given.

[Rule 43B inserted by GNR 1272 in G. 41257 with effect from 22 December 2017.]

44. Interpleader claims

(1)

(a) Where any third party (hereinafter in this subrule referred to as the 'applicant') has in his or her custody or possession property to which two or more persons (hereinafter in this rule referred to as the “claimants”) make adverse claims the applicant may sue out a summons in the form prescribed for that purpose in Annexure 1 calling upon the claimants to appear and state the nature and particulars of their claims and have such claims adjudicated upon.

(b) If the property in question consists of money, the applicant shall when suing out the summons pay the amount thereof into court.

(c) The applicant shall annex to a summons referred to in paragraph (a) an affidavit setting out that—

(i) he or she claims no interest in the subject matter in dispute other than for charges or costs;

(ii) he or she is not colluding with any of the claimants; and

(iii) in the case of property other than money paid into court in terms of paragraph (b), he or she is willing to deal with the property as the court may direct.

(2)

(a) Where any person other than the execution debtor (hereinafter in this subrule referred to as the “claimant”) makes any claim to or in respect of property attached by the sheriff in execution of any process of the court or where any such claimant makes any claim to the proceeds of property so attached and sold in execution the sheriff shall require from such claimant to lodge an affidavit in triplicate with the sheriff within 10 days from the date on which such claim is made, setting out—

(i) the claimant's full names, identity number and occupation;

(ii) the claimant's residential address and business address or address of employment; and

(iii) the nature and grounds of his or her claim substantiated by any relevant evidence.

(b)

(i) Within 15 days after the date on which the claim is made the sheriff shall notify the execution creditor and all other sheriffs appointed for that area who have submitted certificates referred to in rule 39(2)(c) of the claim.

(ii) Simultaneously with the notice referred to in subparagraph (i), the sheriff shall deliver one copy of the claimant's affidavit to the execution creditor and one to the execution debtor.

(c)

(i) The execution creditor shall, within 10 days of receipt of notice of the claimant's claim and affidavit, advise the sheriff in writing whether he or she admits or rejects the claimant's claim.

(ii) If the execution creditor gives the sheriff notice within the period stated in paragraph (i) that he or she admits the claim, he or she shall not be liable for any costs, fees or expenses afterwards incurred and the sheriff may withdraw from possession of the property claimed.

(3)

(a) If the execution creditor gives the sheriff notice that he or she rejects the claim, the sheriff shall within 10 days from date of such notice prepare and issue out a summons in the form prescribed for that purpose in Annexure 1 calling upon the claimant and the execution creditor to appear on the date specified in the summons to have the claim of the claimant adjudicated upon.

(b) The sheriff shall notify all other sheriffs appointed for that area who have submitted certificates referred to in rule 39(2)(c) of the date specified in the summons sued out under paragraph (a) and of the judgment of the court.

(c) The registrar or clerk of the court shall sign and issue the summons.

(4) If any claimant does not appear in pursuance of any summons sued out under this rule or appears but fails or refuses to comply with any order made by the court after his or her appearance, the court may make an order declaring him or her and all persons thereafter claiming under him or her barred from making any claim in respect of the subject matter referred to in the summons against the applicant or the sheriff.

(5) If any claimant referred to in this rule appears in pursuance of any summons sued out under this rule, the court may—

(a) order him or her to state, orally or in writing on oath or otherwise, as the court may deem expedient, the nature and particulars of his or her claim;

(b) order that the matters in issue shall be tried on a day to be appointed for that purpose and, if any such claimant is a claimant referred to in subrule (1), order which of the claimants shall be plaintiff and which defendant for the purpose of trial; or

(c) try the matters in dispute in a summary manner.

(6) Where the matters in issue are tried, whether summarily or otherwise, the provisions of rule 29 as to the trial of an action shall *mutatis mutandis* apply.

(7) The court may, in and for the purposes of any interpleader proceedings, make such order as to any additional expenses of execution occasioned by the claim and as to payment of costs incurred by the applicant or sheriff as it may deem fit.

45. Enquiry into financial position of judgment debtor

(1) A notice referred to in section 65A(1) of the Act calling upon a judgment debtor or, if the judgment debtor is a juristic person, a director or officer of the juristic person as the representative of the juristic person and, in his or her personal capacity, to appear before the court in chambers shall be on a form corresponding substantially with Form 40 of Annexure 1 and shall indicate the date of the judgment or order, the amount thereof, the balance of the capital, interest, costs and collection fees which the defendant undertook to pay under section 57(1)(c) of the Act owing as at the date of issue or reissue of such notice and be supported by an affidavit by the judgment creditor or a certificate by his or her attorney stating—

(a) the date of the judgment or the date of the expiry of the period of suspension under section 48(e) of the Act, as the case may be;

(b) that the judgment or order has remained unsatisfied for a period of 10 days from the date on which it was given or became payable or from the expiry of the period of suspension in terms of section 48(e) of the Act;

(c) in what respect the judgment debtor has failed to comply with the judgment or order referred to in section 65A(1) of the Act, the amount in arrear and outstanding balance on the date on which the notice is issued;

(d) that the judgment debtor has been advised by registered letter of the terms of the judgment or of the expiry of the period of suspension under section 48(e) of the Act, as the case may be, and that a period of 10 days has elapsed since the date on which the said letter was posted.

(2) A notice referred to in subrule (1) shall state the consequences of failure to appear in court on the date determined for the enquiry.

(3) Any alteration in a notice referred to in subrule (1) or in a warrant of arrest in terms of section 65A(6) of the Act shall be initialled by the judgment creditor or his or her attorney and by the clerk of the court before issue or reissue thereof.

(4) When a judgment or order referred to in section 65A(1) of the Act has been given in any court other than the court of the district in which the enquiry is held, the clerk of the court shall not issue the notice until there is lodged with him or her a copy of the judgment or order of such other court duly certified by the registrar or clerk of that court.

(5)

(a) When a judgment debtor has been arrested and is brought before a court which is not the court which authorised the warrant of arrest, that clerk of the court shall open a file, allocate a case number to it and hand it, together with the warrant, to the court.

(b) When the court referred to in paragraph (a) transfers the matter in terms of section 65A(11) of the Act to the court which authorised the warrant, the clerk of the court shall without delay send the original warrant and certified copies of the minutes of the proceedings and the order to that effect to the court which authorised the warrant.

(c) If the court before which proceedings in terms of section 65A(10)(b) or (11) are pending is not the court which authorised the warrant in terms of section 65A(6), the clerk of the former court shall by telephone or in writing by facsimile notify the clerk of the latter court of the appearance of the judgment debtor, director or officer before the former court and shall inform the judgment creditor or his or her attorney by telephone or in writing by facsimile accordingly: Provided that full particulars of telephone calls and proof of transmission of facsimiles shall be filed in the case cover.

(6) The provisions of rule 55 shall apply, with appropriate changes, to a request referred to in section 65A(3) of the Act.

(7) A written offer referred to in section 65 of the Act shall be on affidavit setting out the following particulars pertaining to the judgment debtor—

(a) the full names of the judgment debtor, his or her identity number or passport number, residential and business address;

(b) the name and address of his or her employer and his or her employee number;

(c) his or her marital status;

(d) the number of his or her dependants, their age and their relationship to him or her;

(e) his or her assets and liabilities, substantiated where reasonably possible with the most recent proof thereof and attached as annexures;

(f) his or her gross weekly or monthly income (including that of his or her spouse and dependants) and expenses substantiated by the most recent proof in the possession of the debtor relating to his or her income and expenditure;

(g) the details of agreements with other creditors for payment of a debt in instalments, and of emoluments attachment orders or other court orders against him or her and the total amount payable thereunder, substantiated by copies thereof and attached as annexures; and

(h) his or her offer and the dates of the proposed instalments.

(8) A warrant in terms of section 65A(6) of the Act shall correspond substantially with Form 40A of Annexure 1.

(9) A notice in terms of section 65A(8)(b) of the Act shall correspond substantially with Form 40B of Annexure 1.

[Rule 45 substituted by GNR 632 in G. 41723 with effect from 1 August 2018.]

46. Attachment of emoluments by emoluments attachment order

(1) When an emoluments attachment order has been authorised by the court, an application to issue that order must be made on a form corresponding substantially with Form 38A of Annexure 1.

(2) An emoluments attachment order shall be issued on a form corresponding substantially with Form 38 of Annexure 1, and shall contain sufficient information to enable the garnishee to identify the judgment debtor, including the date of birth, identity number or passport number and employee number of the judgment debtor.

[Rule 46 substituted by GNR 632 in G. 41723 with effect from 1 August 2018.]

47. Attachment of a debt by garnishee order

(1) An application for an attachment of a debt shall be supported by an affidavit or affirmation by the creditor or a certificate by his or her attorney stating that—

(a) a court—

(i) has granted judgment to the judgment creditor; or

(ii) has ordered the payment of a debt referred to in section 55 of the Act and costs in specific instalments;

(b) the judgment or order referred to in subrule (1)(a) is still unsatisfied, stating the amounts still payable thereunder;

(c) the garnishee resides, carries on business or is employed within the district, with mention of the address of the garnishee; and

(d) a debt is at present or in future owing or accruing by or from the garnishee to the judgment debtor and the amount thereof.

(2) Unless an application for a garnishee order is directed to the court which granted the judgment or order referred to in subrule (1)(a), a certified copy of the judgment or order against the judgment debtor shall accompany the affidavit or affirmation or certificate referred to in subrule (1).

(3) Sufficient information including the identity number or work number or date of birth of the judgment debtor shall be furnished in a garnishee order to enable the garnishee to identify the judgment debtor.

(4) Upon an application under this rule the court may require such further evidence as it may deem fit.

(5) Upon an application under this rule the court may order the garnishee to pay to the judgment creditor or his or her attorney so much of the debt at present or in future owing or accruing by or from him or her to the judgment debtor as may be sufficient to satisfy the said judgment, together with the costs of the garnishee proceedings (including the costs of service), or failing such payment to appear before the court on a day to be named in the said order and show cause why he should not pay such debt.

(6) The registrar or clerk of the court shall note upon the face of an order made under subrule (5) the day it was made.

(7) An order made under subrule (5) shall be served upon the garnishee and upon the judgment debtor and shall operate as an attachment of the said debt in the hands of the garnishee.

(8) The judgment debtor and the garnishee may appear on the day fixed for the hearing of the application, but may not question the correctness of the judgment on which the application is based.

(9) If the garnishee does not dispute his or her indebtedness to the judgment debtor, or allege that he or she has a set-off against the judgment debtor or that the debt sought to be attached belongs to or is subject to a claim by some other person, or if he or she shall not appear to show cause as provided in subrule (5), the court may order the garnishee to pay the debt (or such portion of it as the court may determine) to the judgment creditor or his or her attorney on the dates set out

in the said order, and should the garnishee make default, execution for the amount so ordered and costs of the said execution may be issued against the garnishee. Rules 36 to 43, inclusive shall *mutatis mutandis* apply to execution in terms of this subrule.

(10) If the garnishee disputes his or her liabilities to pay the debt or alleges that he or she has any other defence, set-off or claim in reconvention which would be available to him or her if he or she were sued for the said debt by the judgment debtor, the court may order the garnishee to state, orally or in writing, on oath or otherwise, as to the court may seem expedient, the particulars of the said debt and of his or her defence thereto and may either hear and determine the matters in dispute in a summary manner or may order that—

(a) the matters in issue shall be tried under the ordinary procedure of the court; and

(b) for the purpose of such trial, the judgment creditor shall be plaintiff and the garnishee defendant, or vice versa.

(11) If the garnishee alleges that the debt belongs to or is subject to a claim by some other person the court may extend the return day and order such other person to appear and state the nature and particulars of his or her claim and either to maintain or relinquish it, and may deal with the matter as if the judgment creditor and such other person were claimants in interpleader in terms of rule 44.

(12) If the judgment debtor alleges that the judgment has been satisfied or is for some other reason not operative against him or her, or that the garnishee is not indebted to him or her, the court may try the issue summarily.

(13) After hearing the parties or such of them as appear the court may—

(a) order payment by the garnishee in terms of subrule (9);

(b) declare the claim of any person to the debt attached to be barred;

(c) dismiss the application; or

(d) make such other order as it may deem fit.

48. Administration orders

(1) A creditor who, in terms of section 74F(3) of the Act, wishes to object to any debt listed with an administration order or to the manner in which the order commands payments to be made, shall do so within 20 days after the granting of the order has come to his or her notice.

(2) A creditor who, in terms of section 74G(10)(b) of the Act, wishes to object to any debt included in the list of creditors shall, within 15 days after he or she has received a copy of the administration order, notify the administrator in writing of his or her objections and the grounds whereupon his or her objections are based.

(3) In a matter referred to in subrule (2) the administrator shall obtain from the clerk of the court a suitable day and time for the hearing of the objections by the court and thereupon, in writing, notify the creditor referred to in subrule (2), the debtor and any other involved creditors, of the said day and time.

[Rule 48(3) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(4) An administrator may, in terms of section 74L(1)(b) of the Act, before making a distribution referred to in that section detain an amount not exceeding 25 per cent of the amount collected to cover the costs that he or she may have to incur if the debtor is in default or disappears: Provided that the amount in the possession of the administrator for this purpose at any stage shall not exceed the amount of R600.

(5) Should an administrator be an officer employed by the State the remuneration referred to in section 74L of the Act shall accrue to the State.

49. Rescission and variation of judgments

(1) A party to proceedings in which a default judgment has been given, or any person affected by such judgment, may within 20 days after obtaining knowledge of the judgment serve and file an application to court, on notice to all parties to the proceedings, for a rescission or variation of the judgment and the court may, upon good cause shown, or if it is satisfied that there is good reason to do so, rescind or vary the default judgment on such terms as it deems fit: Provided that the 20 days' period shall not be applicable to a request for rescission or variation of judgment brought in terms of subrule (5) or (5A).

(2) It will be presumed that the applicant had knowledge of the default judgment 10 days after the date on which it was granted, unless the applicant proves otherwise.

(3) Where an application for rescission of a default judgment is made by a defendant against whom the judgment was granted, who wishes to defend the proceedings, the application must be supported by an affidavit setting out the reasons for the defendant's absence or default and the grounds of the defendant's defence to the claim.

(4) Where an application for rescission of a default judgment is made by a defendant against whom the judgment was granted, who does not wish to defend the proceedings, the applicant must satisfy the court that he or she was not in wilful default and that the judgment was satisfied, or arrangements were made to satisfy the judgment, within a reasonable time after it came to his or her knowledge.

(5)

(a) Where a plaintiff in whose favour a default judgment was granted has consented in writing that the judgment be rescinded or varied, either the plaintiff or the defendant against whom the judgment was granted, or any other person affected by such judgment, may, by notice to all parties to the proceedings, apply to the court for the rescission or variation of the default judgment, which application shall be accompanied by written proof of the plaintiff's consent to the rescission or variation.

(b) An application referred to in paragraph (a) may be made at any time after the plaintiff has consented in writing to the rescission or variation of the judgment.

(5A)

(a) Where a judgment debt, the interest thereon at the rate granted in the judgment and the costs have been paid in full, a court may, on application by the judgment debtor or any other person affected by the judgment, rescind that judgment.

(b) The application contemplated in paragraph (a) —

(i) must be made on a form corresponding substantially with Form 5C of Annexure 1;

(ii) must be accompanied by an affidavit with annexures providing reasonable proof that the judgment debt, the interest and the costs have been paid; and

(iii) must be served on the judgment creditor not less than 10 days prior to the hearing of the application.

(6) Where an application for rescission or variation of a default judgment is made by any person other than an applicant referred to in subrule (3), (4) or (5), the application must be supported by an affidavit setting out the reasons why the applicant seeks rescission or variation of the judgment.

(7) All applications for rescission or variation of judgment other than a default judgment must be brought on notice to all parties, supported by an affidavit setting out the grounds on which the applicant seeks the rescission or variation, and the court may rescind or vary such judgment if it is satisfied that there is good reason to do so.

(8) Where the rescission or variation of a judgment is sought on the ground that it is void from the beginning, or was obtained by fraud or mistake, the application must be served and filed within one year after the applicant first had knowledge of such voidness, fraud or mistake.

(9) A magistrate who of his or her own accord corrects errors in a judgment in terms of section 36(1)(c) of the Act shall, in writing, advise the parties of the correction.

[Rule 49 substituted by GNR 632 in G. 41723 with effect from 1 August 2018.]

50. Appeals and transfer of actions to magistrates' courts

(1) Where an appeal lies to a magistrate's court it may be noted by delivery of notice within 10 days after the date of the judgment appealed against.

(2) The notice of appeal shall set out concisely and distinctly the grounds of appeal.

(3) The party noting an appeal shall prosecute the same within 20 days after the noting of the appeal.

(4) The hearing of an appeal shall be subject to the delivery by the appellant of notice of set down for a day approved by the registrar or clerk of the court.

(5) A notice of set down referred to in subrule (4) shall be delivered at least 10 days before the day of hearing.

(6) At any time after delivery of notice of appeal but not later than delivery of notice of set-down the appellant shall cause to be filed with the clerk of the court the record, or a duly certified copy thereof, of the proceedings which resulted in the judgment or decision appealed against.

(7) Subject to the provisions of any other law regulating procedure of the court on appeals, the court may, in its discretion, grant leave to a party to adduce oral evidence at the hearing of an appeal or proceed by way of rehearing either in whole or in part.

(8) The court may in its discretion award to either party the costs incurred in an appeal, which costs shall be taxed on such scale of costs prescribed for actions in the court as the court may direct.

(9) The summons or other initial document issued in a case transferred to a court in terms of rule 39(22) of the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the High Court of South Africa shall stand as summons commencing an action in the court to which such case has been so transferred and shall, subject to any right the defendant may have to except thereto, be deemed to be a valid summons, issued in terms of the rules and any matter done or order given in the court from which such case has been transferred and the case shall thereupon proceed from the appropriate stage following the stage at which it was terminated before such transfer.

(10) Costs incurred in a case before transfer in terms of subrule (9) shall, unless the court otherwise directs, be costs in the cause.

51. Appeals in civil cases

(1) Upon a request in writing by any party within 10 days after judgment and before noting an appeal the judicial officer shall within 15 days hand to the registrar or clerk of the court a judgment in writing which shall become part of the record showing—

(a) the facts he or she found to be proved; and

(b) his or her reasons for judgment.

(2) The registrar or clerk of the court shall on receipt from the judicial officer of a judgment in writing supply to the party applying therefor a copy of such judgment and shall endorse on the original minutes of record the date on which the copy of such judgment was so supplied.

(3) An appeal may be noted by the delivery of notice within 20 days after the date of a judgment appealed against or within 20 days after the registrar or clerk of the court has supplied a copy of the judgment in writing to the party applying therefor.

[Rule 51(3) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

(4)

(a) Unless the respondent waives his or her right to security or the court subsequently on application to it has released the appellant wholly or partially from that obligation, the appellant shall, before lodging copies of the record on appeal with the registrar or clerk of the court, enter good and sufficient security for the respondent's costs of appeal.

(b) In the event of failure by the parties to agree on the amount of security, the registrar or clerk of the court shall fix the amount and the appellant shall enter security in the amount so fixed or such percentage thereof as the court has determined, as the case may be: Provided that no security shall be required from the State or, unless the court of appeal otherwise orders, from a person to whom legal aid is rendered by a statutorily established legal aid board.

[Rule 51(4) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

(5) Money paid into court under subrule (4) and outstanding for more than three years, may be paid into the National Revenue Fund, after three months' notice of such intention in writing has been given to the parties concerned, whereafter the parties concerned may apply for a refund of the amount paid into the said Fund.

[Rule 51(5) substituted by GNR 4476 in G. 50272 with effect from12 April 2024.]

(6) A cross-appeal shall be noted by the delivery of notice within 10 days after the delivery of the notice of appeal.

(7) A notice of appeal or cross-appeal shall state—

(a) whether the whole or part only of the judgment is appealed against, and if part only, then what part; and

(b) the grounds of appeal, specifying the findings of fact or rulings of law appealed against.

(8)

(a) Upon the delivery of a notice of appeal the relevant judicial officer shall within 15 days thereafter hand to the registrar or clerk of the court a statement in writing showing (so far as may be necessary having regard to any judgment in writing already handed in by him or her)—

(i) the facts he or she found to be proved;

(ii) the grounds upon which he or she arrived at any finding of fact specified in the notice of appeal as appealed against; and

(iii) his or her reasons for any ruling of law or for the admission or rejection of any evidence so specified as appealed against.

(b) A statement referred to in paragraph (a) shall become part of the record.

(c) This rule shall also, so far as may be necessary, apply to a cross-appeal.

(9) A party noting an appeal or a cross-appeal shall prosecute the same within such time as may be prescribed by rule of the court of appeal and, in default of such prosecution, the appeal or cross-appeal shall be deemed to have lapsed, unless the court of appeal shall see fit to make an order to the contrary.

(10) Subject to rule 50 of the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the High Court of South Africa, the registrar or clerk of the court shall, within 15 days after he or she receives notice that an appeal has been set down for hearing, transmit to the registrar of the court of appeal the record in the action duly certified.

(11)

(a) A respondent desiring to abandon the whole or any part of a judgment appealed against may do so by the delivery of a notice in writing stating whether he or she abandons the whole, or if part only, what part of such judgment.

(b) Every notice of abandonment in terms of paragraph (a) shall become part of the record.

(12) Where the parties agree in terms of section 82 of the Act that the decision of the court shall be final, either party may lodge the memorandum of such agreement with the registrar or the clerk of the court, and such memorandum shall thereupon become part of the record in the action or matter.

52. Representation and substitution of parties

(1)

(a) A party may institute or defend and may carry to completion any legal proceedings either in person or by a practitioner.

(b) A local authority, company or other incorporated entity in doing so may act through an officer thereof authorised by it for that purpose.

(c) A partnership, association, body corporate or any other group of persons associated for a common purpose may act through a member thereof authorised by it for that purpose.

(d) No person acting under paragraphs (a), (b) or (c) other than a practitioner shall be entitled to recover any legal fees other than necessary disbursements.

(2)

(a) It shall not be necessary for any person to file a power of attorney to act, but the authority of any person acting for a party may be challenged on notice by the other party within 10 days of such party becoming aware that such person is so acting or with the leave of the court on good cause shown at any time before judgment.

(b) If a person's authority to act for a party is challenged, he or she may not, without the leave of the court, so act further until the court is satisfied that he or she has authority so to act, and the court may adjourn the hearing of the proceedings to enable him or her to do so.

(3) If a party dies or becomes incompetent to continue an action the action shall thereby be stayed until such time as an executor, trustee, guardian or other competent person has been appointed in his or her place or until such incompetence shall cease to exist.

(4) Where an executor, trustee, guardian or other competent person has been appointed for a party who has died or has become incompetent, the court may, on application, order that the person so appointed be substituted in the place of that party.

[Rule 52 substituted by GNR 1318 in G. 42064 with effect from 10 January 2019.]

52A. Notice of withdrawal, appointment or substitution as attorney of record

(1)

(a) Where an attorney acting in any proceedings for a party ceases so to act, such attorney shall forthwith deliver notice thereof to—

(i) such party at the party's last known address, which address shall be stated in the notice;

(ii) the registrar or clerk of the court; and

(iii) all other parties to the proceedings:

Provided that the notice to the party for whom such an attorney acted shall be served in accordance with the provisions of rule 9(9).

(b) The notice contemplated in paragraph (a)(i) shall inform the said party to appoint an address for service of subsequent documents and notices on him or her, and to notify all other parties and the registrar or clerk of the court of such address within 10 days of the notice, such address being a—

(i) physical address, which address shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse;

(ii) postal address; and, where available;

(iii) facsimile address and electronic mail address.

(c) The notice to the registrar or clerk of the court shall state the names and addresses of the parties notified and the date on which and the manner in which the notice was sent to them.

(d) Notwithstanding the withdrawal of an attorney as the attorney of record for a party in any proceedings, all subsequent documents in the proceedings shall be served on such party in accordance with the rules relating to service: Provided that the party whose attorney has withdrawn and who has failed to provide an address within the period of 10 days stated in paragraph (b) shall be liable for the payment of the costs occasioned by subsequent service on such party in terms of the rules relating to service, unless the court orders otherwise.

(2)

(a) Save as may be otherwise provided for in rules 5 and 13, whenever an attorney acts on behalf of any party in any proceedings, such attorney shall notify all other parties of—

(i) the attorney's name and physical address, which address shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse;

(ii) the attorney's postal address; and, where available;

(iii) the attorney's facsimile address and electronic mail address.

(b) The provisions of this subrule apply, with appropriate variations, to an attorney appointed as a substitute to a party's previous attorney.

(3) Upon receipt of a notice in terms of subrule (1) or (2), the address of the attorney or of the party, becomes the address of such party for the service of all subsequent documents in such proceedings, but any service duly effected elsewhere before receipt of such notice shall, notwithstanding such change, for all purposes be valid, unless the court orders otherwise.

[Rule 52A inserted by GNR 1318 in G. 42064 with effect from 10 January 2019.]

53. *Pro Deo* applicants

(1)

(a) Any person desiring to sue or defend as a *pro Deo* litigant may apply to the court on notice to the party to be sued or to the plaintiff, as the case may be, for leave to do so.

(b) The applicant shall deliver with a notice referred to in paragraph (a) an affidavit made by himself or herself setting out fully the grounds of action or of defence on which he or she intends to rely and particulars of his or her means.

(2) The registrar or clerk of the court shall, at the request of an applicant desiring to sue or defend as a *pro Deo* litigant and on the direction of a judicial officer, write out the relevant notice and affidavit, notwithstanding that the claim or value of the matter in dispute exceeds R100 and no fee shall be payable by the applicant for such assistance.

(3) The court may upon an application to sue or defend as a *pro Deo* litigant—

(a) examine the applicant on oath as to his or her right of action or grounds of defence, and as to his or her means;

(b) require the applicant to call further evidence with reference to either question; or

(c) refer any such application to an attorney for investigation and report as to the applicant's means and whether he or she has a *prima facie* right of action or defence, as the case may be.

(4) If the court is satisfied that an applicant referred to in subrule (1) has a prima facie right of action or of defence and is not possessed of means sufficient to enable him or her to pay the costs of the action, court fees and sheriff's charges and will not be able within a reasonable time to provide such sums from his or her earnings, the court may order that—

(a) process of the court shall be issued and served free of charge to the applicant other than for the disbursements of the sheriff;

(b) an attorney be appointed to act for such applicant; or

(c) the registrar or clerk of the court, without charge, write out such process, affidavits, notices and other documents as may be required to comply with these Rules.

(5) If a *pro Deo* litigant succeeds and is awarded costs against his or her opponent he or she shall, subject to taxation, be entitled to include and recover in such costs his or her attorney's costs and also the court fees and sheriff's charges so remitted and if he or she shall recover either the principal amount, the interest or the costs, he or she shall first pay and make good out of that pro rata all such costs, fees and charges.

(6) If the *pro Deo* litigant does not succeed or recover upon a judgment in his or her favour no fees shall be taken from him or her by the attorney so appointed to act for him or her.

(7) An order made under this rule—

(a) shall not exempt a *pro Deo* litigant from liability to be adjudged to pay adverse costs; and

(b) may, on application at any time before judgment by any person affected thereby, be reviewed and rescinded or varied by the court for good cause shown.

(8) Nothing contained in this rule shall prevent the court, at its discretion, from referring a *pro Deo* litigant or applicant to a convenient legal aid centre or justice centre for assistance at any given time.

54. Actions by and against partners, a person carrying on business in a name or style other than his or her own name, an unincorporated company, syndicate or association

(1) In this Rule—

"association" means any unincorporated body of persons that is not a partnership;

"entity" means an association, partnership, firm or sole proprietorship;

"firm" means an unincorporated business;

"partnership" means an arrangement whereby two or more persons undertake to contribute towards an enterprise to be carried on jointly by them with the object of making a profit and sharing it between them;

"plaintiff" and **"defendant"** include an applicant and respondent;

"relevant date" means the date when the cause of action arose;

"sole proprietorship" means a business that is carried on by the sole proprietor under a name and style other than his or her own; and

"sue" and **"sued"** are used in relation to actions and applications.

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

(3)

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

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

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

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

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

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

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

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

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

(h) The provisions of paragraphs (a) to (g) apply equally, with necessary changes, to a defendant sued by an entity.

[Rule 54(3)(h) inserted by GNR 5127 in G. 51056 with effect from 20 September 2024.]

(4)

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

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

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

(5) Execution of a judgment against an entity must first be levied against the assets thereof, and after such excussion [sic] if permitted by law, against the assets of any person held to be a member, partner or proprietor, as if judgment had been entered against such a person.

[Rule 54 substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

55. Applications

(1)

(a) Every application must be brought on notice of motion supported by an affidavit as to the facts upon which the applicant relies for relief.

[Rule 55(1)(a) substituted by GNR 632 in G. 41723 with effect from 1 August 2018.]

(b) The notice of motion must be addressed to the party or parties against whom relief is claimed and to the registrar or clerk of the court.

(c) Where it is necessary or proper to give any person notice of an application, the notice of motion must also be addressed to and served on such person.

[Rule 55(1)(c) substituted by GNR 632 in G. 41723 with effect from 1 August 2018.]

(d)

(i) The notice of motion in every application other than interlocutory and other applications incidental to pending proceedings or one brought ex parte must correspond substantially with Form 1A of Annexure 1.

(ii) Copies of the notice and all annexures thereto must be served upon every party to whom notice is to be given.

[Rule 55(1)(d) substituted by GNR 632 in G. 41723 with effect from 1 August 2018.]

(e) In a notice of motion the applicant must—

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

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

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

[Rule 55(1)(e)(iii) substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

[Rule 55(1)(e) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

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

[Rule 55(1)(f) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(g) Any party opposing the grant of an order sought in a notice of motion must—

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

[Rule 55(1)(g)(i) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(ii) within 10 days of notifying the applicant of his or her intention to oppose the application, deliver his or her answering affidavit, if any, together with any relevant documents; and

(iii) where it intends to raise questions of law only, deliver notice of intention to do so, within the time stated in subparagraph (ii), setting forth such question.

[Rule 55(1)(g) amended by GNR 842 in G. 42497 with effect from 1 July 2019.]

(h)

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

[Rule 55(1)(h)(i) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(ii) Within 10 days of the service upon him or her of the affidavit and documents referred to in paragraph (g)(ii), the applicant may deliver a replying affidavit.

[Rule 55(1)(h) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(i) The court may in its discretion permit the filing of further affidavits.

(j)

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

[Rule 55(1)(j)(i) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

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

[Rule 55(1)(j)(ii) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(iii) If the applicant fails so to apply within the appropriate period provided for in subparagraph (ii), the respondent may do so immediately upon the expiry thereof.

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

[Rule 55(1)(j)(iv) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(k)

(i) Where an application cannot properly be decided on affidavit the court may dismiss the application or make such order as it deems fit with a view to ensuring a just and expeditious decision.

(ii) The court may in particular, but without affecting the generality of subparagraph (i) 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 that person 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.

[Rule 55(1) substituted by GNR 611 in G. 34479 with effect from 2 September 2011.]

(2)

(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.

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

[Rule 55(2)(b) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(3)

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

(i) the giving of notice to the party against whom the order is claimed would defeat the purpose of the application; or

(ii) the degree of urgency is so great that it justifies dispensing with notice.

[Rule 55(3)(a) amended by GNR 842 in G. 42497 with effect from 1 July 2019.]

(b) The notice of motion in every application brought *ex parte* must correspond substantially with Form 1 of Annexure 1.

[Rule 55(3)(b) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

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

[Rule 55(3)(c) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(d) Any person against whom an order is granted *ex parte* may anticipate the return day upon delivery of not less than 24 hours' notice.

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

[Rule 55(3)(e) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

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

[Rule 55(3)(f) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(g) Any order made *ex parte* may be confirmed, discharged or varied by the court on cause shown by any person affected thereby and on such terms as to costs as the court may deem fit.

(h) *Ex parte* applications may be heard in chambers.

(4)

(a)

(i) Interlocutory and other applications incidental to pending proceedings must be brought on notice corresponding substantially with Form 1C of Annexure 1, indicating a date assigned by a registrar or clerk of the court or as directed by a magistrate before whom the matter is to be heard.

(ii) The notice must be supported by affidavits if facts need to be placed before the court.

(iii) Copies of the notice and all annexures thereto must be served upon every party to whom notice is to be given.

[Rule 55(4)(a) substituted by GNR 632 in G. 41723 with effect from 1 August 2018.]

(b) Applications to the court for authority to institute proceedings or directions as to procedure or service of documents may be made *ex parte* where the giving of notice of such application is not appropriate or not necessary.

(5)

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

[Rule 55(5)(a) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(b) An application brought as a matter of urgency must be supported by an affidavit which sets out explicitly the circumstances which the applicant avers render the matter urgent and the reasons why the applicant claims that he or she could not be accorded substantial redress at a hearing in due course.

(c) A person against whom an order was granted in his or her absence in an urgent application may by notice set down the matter for reconsideration of the order.

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

[Rule 55(6) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(7) 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.

(8)

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

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

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

[Rule 55(8) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(9)

(a) 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 between attorney and client.

(b) The court may not grant an application referred to in paragraph (a) unless it is satisfied that the applicant will be prejudiced if the application is not granted.

[Rule 55(9)(b) substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

(10) The provisions of rules 28 and 28A apply equally to all applications.

[Rule 55(10) inserted by GNR 5 in G. 38380 with effect from 13 February 2015; substituted by GNR 842 in G. 42497 with effect from 1 July 2019.]

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

[Rule 55(11) inserted by GNR 842 in G. 42497 with effect from 1 July 2019.]

55A. Amendment of pleadings

(1)

(a) Any party desiring to amend a pleading or document other than an affidavit, filed in connection with any proceedings, shall notify all other parties of his or her intention to amend and shall furnish the particulars of the amendment.

(b) Unless the court otherwise directs, in actions for divorce or nullity of marriage, where summons had been served personally on the defendant, who remains unrepresented, the notice of amendment in terms of subparagraph (a) shall be effected by way of personal service on such defendant by the sheriff.

[Rule 55A(1) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(2) The notice referred to in subrule (1) shall state that unless written objection to the proposed amendment is delivered within 10 days of delivery of the notice of amendment, the amendment will be effected.

(3) An objection to a proposed amendment shall clearly and concisely state the grounds upon which the objection is founded.

(4) If an objection which complies with subrule (3) is delivered within the period referred to in subrule (2), the party wishing to amend may, within 10 days, lodge an application for leave to amend.

(5) If no objection is delivered as contemplated in subrule (4), every party who received the notice of the proposed amendment shall be deemed to have consented to the amendment and the party who gave notice of the proposed amendment may, within 10 days after the expiration of the period mentioned in subrule (2), effect the amendment as contemplated in subrule (7).

(6) Unless the court otherwise directs, an amendment authorised by an order of the court may not be effected later than 10 days after such authorisation.

(7)

(a) Unless the court otherwise directs, a party who is entitled to amend shall effect the amendment by delivering each relevant page in its amended form.

(b) Unless the court otherwise directs, in actions for divorce or nullity of marriage, where summons had been served personally on the defendant, who remains unrepresented, the relevant page or pages in an amended form shall be served personally on such defendant by the sheriff.

[Rule 55A(7) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

(8) Any party affected by an amendment may, within 15 days after the amendment has been effected or within such period as the court may determine, make any consequential adjustment to the documents filed by him or her, and may also take the steps contemplated in rule 19.

(9) A party giving notice of amendment in terms of subrule (1) shall, unless the court otherwise directs, be liable for the costs thereby occasioned to any other party.

(10) The court may, notwithstanding anything to the contrary in this rule, at any stage before judgment, grant leave to amend any pleading or document on such other terms as to costs or other matters as it deems fit.

56. Interdicts, attachments to secure claims and *mandamenten van spolie*

(1) Application to the court for an order of an interdict or attachment or for a *mandament van spolie* shall be made in terms of rule 55.

(2) Every application referred to in subrule (1) shall be accompanied by an affidavit stating the facts upon which the application is made and the nature of the order applied for.

(3) The court may, before granting an order upon an application referred to in subrule (1), require the applicant to give security for any damages which may be caused by such order and may require such additional evidence as it may think fit.

(4) Unless otherwise ordered by a court, an order for the attachment of goods shall ipso facto be discharged upon security being given by the respondent to the sheriff for the amount to which the order relates, together with costs.

(5) The security contemplated in subrule (4) may be given to abide the result of the action instituted or to be instituted; and may be assigned by the respondent to part only of the order and shall in that event operate to discharge the order as to that part only.

[Rule 56(5) substituted by GNR 507 in G. 37769 with effect from 28 July 2014.]

[Rule 56 substituted by GNR 611 in G. 34479 with effect from 2 September 2011.]

57. Attachment of property to found or confirm jurisdiction

(1) Any application to the court for an order of attachment of property under section 30*bis* of the Act may be made *ex parte*.

(2)

(a) Any application for an order of attachment of property under section 30bis of the Act shall be supported by an affidavit in which is stated—

(i) the name, address, occupation and place of residence of the applicant;

(ii) the name, and, if known, the address, occupation and place of residence of the respondent;

(iii) the amount of the claim or the value of the matter in dispute and facts from which it is apparent that the action to be instituted against the respondent is within the jurisdiction of the court and that the attachment is necessary;

(iv) whether the attachment is intended to found or confirm jurisdiction;

(v) details of the property, including its ownership, value and situation;

(vi) such other information as may be necessary to secure an order; and

(vii) the terms of the order applied for.

(b) An affidavit contemplated in paragraph (a) shall be made by the applicant or, if thereto authorised, by someone on his or her behalf and shall state whether the deponent knows of his or her own knowledge the facts to which he or she deposes: Provided that where the facts are not known to the deponent of his or her own knowledge but are alleged to be true to the best of his or her information and belief, it shall be stated how the information was obtained or on what grounds he or she bases his or her belief.

(c) Any application for an order in regard to service of any process in any action referred to in section 30bis of the Act may be combined with any application for attachment referred to in paragraph (a).

(3) The court may, before granting an order of attachment of property under subrule (2) require the applicant to give security for any damages which may be caused by such order and may, in regard to any application under subrule (2), require such additional evidence as it may deem fit.

(4)

(a) Any order of attachment under subrule (2) shall call upon the respondent to show cause at a time and on a date stated in the order why such order should not be confirmed.

(b) The return date for an order of attachment under subrule (2) may be anticipated by the respondent upon 12 hours' notice to the applicant.

(c) Where the respondent appears to show cause against an order of attachment under subrule (2), the court may order the applicant or deponent to the affidavit or the respondent to attend for examination or cross-examination and may confirm, discharge or vary such order on such terms as to costs as it may deem fit.

(5) The minutes of any order referred to in this rule which are required for service or execution shall be prepared by the applicant and approved and signed by the registrar or clerk of the court and shall state that the return date may be anticipated by the respondent upon 12 hours' notice to the applicant and that the applicant may obtain release of his or her property upon security being given as hereinafter provided.

(6)

(a) Upon receipt of the minutes of the order and of a copy of the affidavit on which it was made the sheriff shall proceed to attach the property specified therein.

(b) Subject to paragraph (c), the rules relating to the powers and duties of the sheriff in regard to the method of attachment in execution against movable and immovable property shall, in so far as those rules are appropriate and can be applied, *mutatis mutandis* apply to an attachment of property under this rule.

(c) Subject to any order of the court, the sheriff shall where movable property is attached under this rule, remove such property to a place of security or, if such property be inconvenient to remove, shall leave such property upon the premises in the charge and custody of some person acting on his or her behalf.

(d) Any expense incurred in removing property attached under this rule to a place of security or for the storage of such property or in leaving such property in the charge or custody of some person acting on behalf of the sheriff, shall be borne by the applicant and shall, subject to any order of the court, be costs in the cause.

(7) Unless the court shall otherwise order, any property attached as provided in this rule shall, upon security being given to the satisfaction of the sheriff of the court for the amount of the applicant's claim and the costs of the application for attachment, be released from attachment.

(8) An order made for the attachment of property under subrule (1) shall ipso facto be discharged upon security being given by the respondent as provided in subrule (7).

58. Interim relief in 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) interim maintenance;

(b) a contribution towards the costs of a pending matrimonial action;

(c) interim care of any child; or

(d) interim contact with any child.

(2)

(a) An applicant for any relief contemplated in subrule (1) shall deliver a sworn or an affirmed statement in the nature of a declaration, setting out the relief claimed and the grounds therefor, together with a notice to the respondent which shall substantially correspond with Form 42 of Annexure 1.

(b) The applicant or his or her attorney shall sign the notice referred to in paragraph (a), and shall indicate in the notice if the applicant prefers to be served with all documents in the application at a physical (residential or business), postal, an electronic mail address, or by facsimile, and give full details of such address: Provided that if a physical address is preferred for the purpose of service, that address shall, in places where there are three or more attorneys or firms of attorneys practicing independently of one another, be within 15 kilometres of the courthouse.

(c)

(i) In the case of an unrepresented respondent, the statement and notice referred to in paragraph (a) shall be served by the sheriff on the respondent personally, unless the court orders otherwise.

(ii) Where the respondent is represented by an attorney of record, service may be effected on such attorney by the applicant, the applicant's attorney or the sheriff, unless the court orders otherwise.

(3)

(a) The respondent shall deliver a sworn or affirmed reply in the nature of a plea within 10 days after receiving the statement and notice contemplated in subrule (2).

(b) The respondent shall indicate in the reply referred to in paragraph (a) if he or she prefers to be served with all documents in the application at a physical (residential or business), postal, an electronic mail address, or by facsimile and give full details of such address: Provided that if a physical address is preferred for the purpose of such service, that address shall, in places where there are three or more attorneys or firms of attorneys practicing independently of one another, be within 15 kilometres of the courthouse.

(4) As soon as possible after the 10 days period referred to in subrule (3)(a) has expired, either of the parties may set the matter down for summary hearing on 10 days' notice to all the parties.

(5) The court may hear such evidence as is considered necessary and may dismiss the application or make such order as it deems fit to ensure a just and expeditious decision.

(6) The court may, on the same procedure, vary a decision referred to in subrule (5) 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.

[Rule 58 amended by GNR 263 in G. 36338 with effect from 17 May 2013, GNR 507 in G. 37769 with effect from 28 July 2014; substituted by GNR 1055 in G. 41142 with effect from 1 November 2017.]

59. Assessors

(1) The court may from time to time frame a list of persons who, having regard to the nature of the business of the court and to their ability and reputation, appear to be qualified and willing to act as assessors under section 34 of the Act upon reasonable notice and upon payment of the fees prescribed in Table D of Annexure 2.

(2)

(a) Every person for the time being named in the list of qualified and willing assessors shall be an assessor for the purposes of this rule and shall continue to be an assessor until a new list has been framed or until he or she gives to the registrar or clerk of the court his or her resignation in writing.

(b) Upon receipt of such resignation as an assessor the registrar or clerk of the court shall remove the name of such assessor from the list of qualified and willing assessors.

(c) An assessor summoned to act as such in any action may not, without the leave of the court, resign during the trial of the action.

(3) Nothing in this rule shall prevent the court from summoning, with the consent of all parties to the action, persons not on the list of qualified and willing assessors to act as assessors in any particular action.

(4) The number and names of the assessors to sit in any case shall be decided by consent of the parties or, where they are unable to agree, by the court: Provided that not more than two assessors shall sit in any case.

(5)

(a) A party who desires the trial to take place with assessors shall deliver notice of application for assessors, if he or she is the plaintiff, with the notice of trial, and if he or she is the defendant not more than five days after receiving notice of trial.

(b) A notice contemplated in paragraph (a) shall contain either a consent by the other party or a notice setting down the application for hearing.

(6)

(a) The party who desires a trial to take place with assessors shall, at the time of delivering the notice of application, deposit with the registrar or clerk of the court the amount prescribed in Table D of Annexure 2 for each assessor applied for and shall be liable for any further sum becoming due to the assessors for fees.

(b) The fees and expenses of assessors shall, unless otherwise ordered by the court, be costs in the action.

(7) If an application for a trial to take place with assessors is consented to or granted, the registrar or clerk of the court shall summon the assessors named in the consent or selected by the court by having a summons served upon each of them in the manner provided for the service of a summons commencing an action.

(8) If at the time and place appointed for the trial either of the assessors summoned does not attend, the court may either proceed to try the action with the assistance of the assessor, if any, who is in attendance, or without assistance, if none attended, or may adjourn the trial.

(9) Where a trial is postponed or adjourned due to the absence of an assessor, the party who applied for assessors shall, after the order for postponement or adjournment, pay to the registrar or clerk of the court, in addition to the deposit mentioned in subrule (6), the fees due up to the hour of postponement or adjournment to such assessors as have attended.

(10) Where the payment required under subrule (9) is not made the court may stay the action until it be made or may continue the trial without the assistance of assessors or may make such order as it may deem fit.

(11) Every assessor acting in a case shall be entitled to the fees set out in Table D of Annexure 2.

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

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

(2) Where a party fails to comply with any provision of these Rules or with a request made or notice given pursuant thereto or with an order or direction made by a court or at a judicial case management process or a pre-trial conference convened in terms of section 54 of the Act, any other party may notify the defaulting party that he or she intends, after the lapse of 10 days from the date of delivery of such notification, to apply for an order—

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

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

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

(4) The court may on an application under subrule (3) order such stay of proceedings as may be necessary.

(5)

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

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

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

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

(6)

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

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

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

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

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

[Rule 60 amended by GNR 507 in G. 37769 with effect from 28 July 2014, by GNR 318 in G. 386914 with effect from 22 May 2015, substituted by GNR 1604 in G. 45645 with effect from 1 February 2022.]

60A. Irregular proceedings

(1) A party to a cause in which an irregular step has been taken by any other party may apply to court to set it aside.

(2) An application in terms of subrule (1) shall be on notice to all parties specifying particulars of the irregularity or impropriety alleged, and may be made only if—

(a) the applicant has not himself or herself taken a further step in the cause with knowledge of the irregularity;

(b) the applicant has, within 10 days of becoming aware of the step, by written notice afforded his or her opponent an opportunity of removing the cause of complaint within 10 days; and

(c) the application is delivered within 15 days after the expiry of the second period mentioned in subrule (2)(b).

(3) If at the hearing of an application in terms of subrule (1) 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 it deems fit.

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

61. Records, entries or documents as evidence in civil matters

(1) Where it is necessary to give in evidence in the court any record, entry or document of the same court in another action, the registrar or clerk of the court shall, on reasonable notice, produce and show the original thereof, and the cost of copies shall not be allowed.

(2) Where it is necessary to give in evidence in another court any record, entry or document of a court, a copy thereof certified by the registrar or clerk of the court may be given in evidence in that other court without production of the original.

62. 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 only the amount of security demanded under subrule (1) is contested the registrar or clerk of the court shall determine the amount to be given and his or her decision shall be final.

(3) If a party from whom security is demanded under subrule (1) contests his or her liability to give security or fails or refuses to furnish security in the amount demanded or the amount fixed by the registrar or clerk within 10 days of the demand or the registrar's or clerk'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 demanded is 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 it deems fit.

(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 or clerk of the court.

(6) The registrar or clerk of the court may, upon written request of the party in whose favour security is to be provided and on notice to interested parties, increase the amount thereof if he or she is satisfied that the amount originally furnished is no longer sufficient; and his or her decision shall be final.

63. Filing, preparation and inspection of documents

(1)

(a) All documents filed with the court, other than exhibits or facsimiles thereof, shall be clearly and legibly printed or typewritten in permanent black or blue-black ink on one side only of paper of good quality and of A4 standard size.

(b) 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.

(2) Stated cases, affidavits, grounds of appeal and the like shall be divided into concise paragraphs which shall be consecutively numbered.

(3) In defended actions or opposed applications the plaintiff or applicant, as the case may be, shall not later than 10 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.

(4) Every affidavit filed with the registrar or clerk of the court by or on behalf of a respondent shall, if he or she is represented, on the first page thereof bear the name and address of the attorney filing it.

(5) The registrar or clerk of the court may reject any document which does not comply with the requirements of this rule.

(6) Any person, with leave of the registrar or clerk of the court and on good cause shown, may examine and make copies of all documents in a court file at the office of the registrar or clerk of the court.

64. Procedure for securing the attendance of witnesses in criminal cases

(1) The process for securing the attendance of any person before the court to give evidence in any criminal case or to produce any books, papers or documents, shall be by subpoena prepared by the party desiring the attendance of that person and issued by the registrar or clerk of the court.

(2) The subpoena for a witness shall be delivered to the sheriff, a member of the police service or other person authorised to serve subpoenas in terms of section 15(2), (3) or (4) of the Act, as the case may be.

[Rule 64(2) substituted by GNR 3399 in G. 48571 with effect from 19 June 2023.]

(3) The subpoena shall be served upon the witness—

(a) personally;

(b) at his or her residence or place of business or employment by delivering it to some person who is apparently not less than 16 years of age and apparently residing at that residence or employed at that place of business or employment;

(c) to his or her electronic mail address; or

(d) to his or her cellphone.

[Rule 64(3) substituted by GNR 3399 in G. 48571 with effect from 19 June 2023.]

(4) If the person to be served with a subpoena keeps his or her residence or place of business closed and thus prevents the service of the subpoena, it shall be sufficient service to affix the subpoena to the outer or principal door of such residence or place of business.

[Rule 64(4) substituted by GNR 3399 in G. 48571 with effect from 19 June 2023.]

(5) …

[Rule 64(5) deleted by GNR 3399 in G. 48571 with effect from 19 June 2023.]

(6)

(a) The person serving a subpoena shall make a return of service specifying the manner in which the subpoena was served, and shall file the return of service in the case docket or with the registrar or clerk of the court out of whose office it was issued.

(b) If the subpoena was served in terms of sub-rule (3)(a) or (b), or sub-rule (4), the return of service must contain the details and the circumstances under which such service was effected.

(c) If the subpoena was served at an electronic mail address, the delivery notice must be attached to the return of service.

(d) If the subpoena was served through a witness' cellphone, a screenshot of such communication must be attached to the return of service.

[Rule 64(6) substituted by GNR 3399 in G. 48571 with effect from 19 June 2023.]

(7) The subpoena must contain the following information:

(a) The unique court allocated reference number and the case number;

(b) the date and time of appearance, the physical address of the court and the court room number in which the witness is to testify;

(c) the provisions of section 158 of the Criminal Procedure Act, 1977;

(d) the contact details of the person with whom to arrange for audiovisual[sic] testimony if it will be a suitable option for the witness;

(e) the name and contact details of the prosecutor; and

(f) the consequences of not complying with the subpoena.

[Rule 64(7) inserted by GNR 3399 in G. 48571 with effect from 19 June 2023.]

(8)

(a) In the case of an audiovisual[sic] hearing, the link for the audiovisual[sic] testimony must be sent to the witness.

(b) If the witness fails to attend the hearing via the audio-visual hearing link, proof that the link was sent to the witness, and any response to the message containing the link, must be submitted to court.

[Rule 64(8) inserted by GNR 3399 in G. 48571 with effect from 19 June 2023.]

65. Criminal record book

(1) The registrar or clerk of the court shall keep a book to be styled the “criminal record book” in which he or she shall daily enter particulars of every criminal case coming before the court on that day.

(2) Where the court has issued a warrant in terms of the provisions of section 55 or section 56 of the Criminal Procedure Act, 1977, and the prosecutor subsequently withdraws the charge, it shall not be necessary to again enter particulars of such case in the criminal record book: Provided that if such particulars are not entered in the criminal record book a separate register shall be kept by the registrar or clerk of the court of all warrants issued in terms of the aforesaid sections and at each successive stage he or she shall enter therein particulars of the date of issue of the warrant, the case number, the name of the accused, the date upon which the warrant was forwarded to the police for execution, the fact that the case has been withdrawn and any other particulars that circumstances may require.

(3) The charge sheet in a criminal case or, when the matter comes before the court by way of preparatory examination, the covering sheet, shall, when the matter first comes before the court, be numbered by him or her with a consecutive number for the year and the case shall then be entered in the criminal record book under that number.

(4) The particulars recorded in the criminal record book shall include—

(a) the date of hearing;

(b) the case number;

(c) the name of the accused;

(d) the crime charged;

(e) the verdict;

(f) the sentence or other mode of disposal; and

(g) any remarks (including the date and effect of any order of the High Court of South Africa varying the verdict or sentence on review or appeal).

(5) The judicial officer presiding at a criminal hearing shall himself or herself record in the criminal record book any sentence imposed or other order of disposal made by him or her including acquittal, or other discharge, postponement of sentence, adjournment, remand to another court or committal for trial.

66. Records of criminal cases

(1) The plea and explanation or statement, if any, of the accused, the evidence orally given, any exception or objection taken in the course of the proceedings, the rulings and judgment of the court and any other portion of criminal proceedings, may be noted in shorthand (also in this rule referred to as "shorthand notes") either verbatim or in narrative form or recorded by mechanical means.

(2) Every person employed for the taking of shorthand notes in terms of subrule (1) or for the transcription of notes so taken by another person shall be deemed to be an officer of the court and shall before entering on his or her duties in writing take an oath or make an affirmation before a judicial officer as provided in rule 30(5).

(3)

(a) Shorthand notes taken in the course of criminal proceedings shall be certified as correct by the shorthand writer and filed with the record of the case by the registrar or clerk of the court.

(b) Subject to the provisions of subrule (4) and rule 67(3), (8) and (10), no such shorthand notes shall be transcribed unless a judicial officer so directs.

(c) The transcript of any shorthand notes transcribed under paragraph (b) shall be certified as correct by the person making such transcript and shall be filed with the record.

(4)

(a) In any case in which no transcription was directed in terms of subrule (3), any person may, on notice to the registrar or clerk of the court, request a transcription of any shorthand note taken by virtue of a direction given under subrule (1) and shall, in respect of proceedings made by mechanical means, save in the case of the State, pay the full cost thereof as predetermined by agreement between the contractor concerned and the State for such transcript.

(b) One copy of the transcript of such shorthand notes shall be supplied, free of charge, to the person at whose request the transcription was made.

(c) The original copy of the transcript of any shorthand notes referred to in paragraph (a), shall be certified as correct by the person making such copy and shall be filed with the record of the case.

(d) A sum sufficient to cover the approximate fee payable under paragraph (a) shall be deposited with the registrar or clerk of the court in advance.

(5) Subject to the provisions of subrule (6), any shorthand notes and any transcript thereof, certified as correct, shall be deemed to be correct and shall form part of the record of the proceedings in question.

(6) The prosecutor or the accused may, not later than 10 days after judgment or where the proceedings have been taken down in shorthand or by mechanical means, within 10 days after the transcription thereof has been completed, apply to the court to correct any error in the record or the certified transcript thereof and the court may correct any such error.

(7) Subject to subrule (4)(b), a copy of any transcript made simultaneously with the transcription of proceedings made by mechanical means may, upon application to the registrar or clerk of the court be supplied to any person upon payment, save in the case of the State, of the full cost thereof as predetermined by agreement between the contractor concerned and the State, in the case of a copy of a transcript referred to in subrules (3) and (4)(a).

(8) Any reference in this rule to shorthand notes or to a transcription or transcript of such notes or to a copy of such transcript, or to a person employed for the taking of such notes, or to a person transcribing such notes, shall be construed as a reference to a record of proceedings made by mechanical means, to a transcription or transcript of such record, or to a copy of such transcript, to a person employed for the making of such mechanical record, or to a person transcribing such record as the case may be.

(9) Where a magistrate or the court is satisfied that an accused is unable to pay the costs of obtaining a copy of any record or of any transcript thereof or is able to pay only part of such costs, such magistrate or court may, at the request of the accused, direct the registrar or clerk of the court to deliver a copy of such record or transcript to the accused free of charge or at such reduced charge as the magistrate or court may determine.

67. Criminal appeals

(1)

(a) An appellant, other than a person who applies orally for leave to appeal immediately after the passing of the sentence or order as contemplated in section 309B(3)(b) of the Criminal Procedure Act, 1977 who wishes to apply for leave to appeal in terms of section 309B(1) of that Act, shall do so in writing to the registrar or clerk of the court and shall also send a copy of the application to the director of public prosecutions concerned, or, in a case in which the prosecution was not at the public instance, to the prosecutor concerned.

(b) An appellant who wishes to apply for condonation as contemplated in section 309B(1)(b)(ii) of the Criminal Procedure Act, 1977, or an appellant who wishes to apply for leave to adduce further evidence as contemplated in section 309B(5)(a) of that Act, shall do so in writing to the registrar or clerk of the court and shall also send a copy of the application to the director of public prosecutions concerned, or, in a case in which the prosecution was not at the public instance, to the prosecutor concerned.

(2)

(a) Where an application for leave to appeal is made in writing, notice in terms of section 309B(2)(d) of the Criminal Procedure Act, 1977, shall be given by the registrar or clerk of the court at least 10 days before the date fixed for the hearing of the application for leave to appeal, unless the appellant or his or her legal representative and the director of public prosecutions or a person designated by him or her or in a case in which the prosecution was not at the public instance, the other prosecutor concerned have agreed to a shorter period, and shall correspond substantially to Form 57 of Annexure 1.

(b) The notice referred to in paragraph (a) shall—

(i) be handed to the appellant or his or her legal representative and the director of public prosecutions or a person designated by him or her or other prosecutor concerned and proof of receipt of such notice shall be indicated on a copy of the notice, which shall be kept by the registrar or clerk of the court; or

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

[Rule 67(2)(b)(ii) substituted by GNR 2134, in G. 46475 with effect from 8 July 2022, by GNR 2434, G. 46839 with effect from 8 July 2022.]

(3)

(a) A legal representative appearing on behalf of an appellant, shall simultaneously with the lodging of the application for leave to appeal lodge a power of attorney authorising him or her to act on behalf of the appellant, or if a legal representative is employed after an application for leave to appeal has been lodged, after such appointment.

(b) An appellant shall state in the application for leave to appeal referred to in subrule (1) a postal address where any notice may be served on him or her by registered post if he or she is not represented by a legal representative or if he or she ceases to be represented by a legal representative.

(4) If the appellant is unable, owing to illiteracy or physical defect, to write out an application for leave to appeal or notice of appeal, the clerk of the court shall, upon his or her request, do so.

(5) Upon an application for leave to appeal being granted the registrar or clerk of the court shall prepare a copy of the record of the case, including a transcript thereof if it was recorded in accordance with the provisions of rule 66(1), and place such copy before the judicial officer who shall within 15 days thereafter furnish to the registrar or clerk of the court a statement in writing showing—

(a) the facts he or she found to be proved;

(b) his or her reasons for any finding of fact specified in the appellant's statement of grounds of appeal; and

(c) his or her reasons for any ruling on any question of law or as to the admission or rejection of evidence so specified as appealed against.

(5A)

(a)

(i) A person contemplated in the first proviso of section 309(1)(a) of the Criminal Procedure Act, 1977, who wishes to appeal against his or her conviction or sentence or order, shall do so in writing to the registrar or clerk of the court within 10 days after the passing of the sentence or order following on the conviction and shall also send a copy of such notice of appeal to the director of public prosecutions concerned

or in a case in which the prosecution was not at the public instance, to the prosecutor concerned.

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

[Rule 67(5A)(a) substituted by GNR 2134, in G. 46475 with effect from 8 July 2022, by GNR 2434, G. 46839 with effect from 8 July 2022.]

(b) The notice of appeal contemplated in paragraph (a) shall set forth clearly and specifically the grounds upon which such person wishes to appeal.

(c) The provisions of subrules (3) to (8) and (14) and (15) shall apply further with any changes required by the context.

(6) The registrar or clerk of the court shall upon receipt of the judicial officer's statement contemplated in subrule (5) forthwith inform the appellant that the statement has been furnished.

(7) Within 15 days after the appellant has been informed in terms of subrule (6), he or she may by notice to the registrar or clerk of the court amend his or her statement of grounds of appeal and the judicial officer may, in his or her discretion, within 10 days thereafter furnish to the registrar or clerk of the court a further or amended statement of his or her findings of fact and reasons for judgment.

(8) When an appeal is noted in a case in which the prosecution was not at the public instance any amended statement provided for in subrule (7) shall be served by the appellant also upon the prosecutor.

(9) A director of public prosecutions or other prosecutor desiring to appeal under section 310 of the Criminal Procedure Act, 1977, against the dismissal of a summons or charge shall, within 20 days after such dismissal, deliver a notice of appeal.

(10) Upon an appeal being noted as provided in subrule (9) the registrar or clerk of the court shall prepare a copy of the record of the case, including a transcript thereof if it was recorded in accordance with the provisions of rule 66(1), and then place the record before the judicial officer who shall within 15 days thereafter furnish to the registrar or clerk of the court a statement in writing of his or her reasons for dismissing the summons or charge.

(11) A director of public prosecutions or other prosecutor who contemplates an appeal under section 310 of the Criminal Procedure Act, 1977, shall, within 20 days after the conclusion of the criminal proceedings, in writing request the judicial officer to state a case.

(12)

(a) Upon receipt of the request referred to in subrule (11), the registrar or clerk of the court shall prepare a copy of the record of the case, including a transcript thereof if it was recorded in accordance with the provisions of rule 66(1), and then place the record before the judicial officer who shall within 15 days thereafter furnish a stated case to the registrar or clerk of the court who shall transmit a copy thereof to the director of public prosecutions or other prosecutor, as the case may be.

(b) The stated case contemplated in paragraph (a) shall be divided into paragraphs numbered consecutively and shall be arranged in the following order—

(i) The judicial officer's findings of fact in so far as they are material to the questions of law on which decision in favour of the appellant was given;

(ii) questions of law; and

(iii) the judicial officer's decision on such questions and his or her reasons therefor.

(13) The director of public prosecutions or other prosecutor may, within 15 days after the receipt by him or her of the stated case, deliver notice of appeal against the decision on questions of law.

(14) Every notice of appeal, statement of grounds of appeal, judicial officer's statement and stated case filed of record with or furnished to the registrar or clerk of the court under this rule shall become part of the record.

(15)

(a) The registrar or clerk of the court shall within 10 days after receipt by him or her of the statement referred to in subrule (7) or (10) or of the notice of appeal delivered in terms of subrule (13), as the case may be, transmit to the registrar of the court of appeal the record of the criminal proceedings or the stated case, together with three copies thereof.

(b) When the prosecution is at the public instance he or she shall also transmit one such copy to the director of public prosecutions: Provided that if the appellant has not amended his or her statement of grounds of appeal as provided in subrule (7), the registrar or clerk of the court shall so transmit the record without delay after the period allowed for an amendment of the statement of grounds of appeal has lapsed.

68. Oath of office of interpreter

[Rule 68 heading substituted by GNR 1343 in G. 42773 with effect from 22 November 2019.]

(1) Every interpreter shall upon entrance into office, in writing, take an oath or make an affirmation subscribed by him or her before a judicial officer in the form set out below, namely—

"I, ..., (full name) do hereby swear/truly affirm that whenever I may be called upon to perform the functions of an interpreter in any proceedings in any magistrate's court I shall truly and correctly to the best of my knowledge and ability interpret from the language I may be called upon to interpret into an official language of the Republic of South Africa and vice versa."

(1A) …

[Rule 68(1A) deleted by GNR 1343 in G. 42773 with effect from 22 November 2019.]

(2) The oath or affirmation shall be taken or made or administered in the manner prescribed for the taking or making or administration of an oath or affirmation.

[Rule 68 substituted by GNR 1318 in G. 42064 with effect from 10 January 2019.]

69. Repeal of rules and transitional provisions

(1) Subject to the provisions of subrules (3) and (4), the rules published under Government Notice R1108 of 21 June 1968, as amended by Government Notices R3002 of 25 July 1969, R490 of 26 March 1970, R947 of 2 June 1972, R1115 of 25 June 1974, R1285 of 19 July 1974, R689 of 23 April 1976, R261 of 25 February 1977, R2221 of 28 October 1977, R327 of 24 February 1978, R2222 of 10 November 1978, R1449 of 29 June 1979, R1314 of 27 June 1980, R1800 of 28 August 1981, R1139 of 11 June 1982, R1689 of 29 July 1983, R1946 of 9 September 1983, R1338 of 29 June 1984, R1994 of 7 September 1984, R2083 of 21 September 1984, R391 of 7 March 1986, R2165 of 2 October 1987, R1451 of 22 July 1988, R1765 of 26 August 1988, R211 of 10 February 1989, R607 of 31 March 1989, R2629 of 1 December 1989, R186 of 2 February 1990, R1887 of 8 August 1990, R1928 of 10 August 1990, R1990 of 17 August 1990, R1261 of 30 May 1991, R2407 of 27 September 1991, R2409 of 30 September 1991, R405 of 7 February 1992, R1510 of 29 May 1992, R1882 of 3 July 1992, R871 of 21 May 1993, R959 of 28 May 1993, R1134 of 25 June 1993, R1355 of 30 July 1993, R1844 of 1 October 1993, R2530 of 31 December 1993, R150 of 28 January 1994, R180 of 28 January 1994, R498 of 11 March 1994, R625 of 28 March 1994, R710 of 12 April 1994, R1062 of 28 June 1996, R1130 of 5 July 1996, R419 of 14 March 1997, R492 of 27 March 1997, R570 of 18 April 1997, R790 of 6 June 1997, R797 of 13 June 1997, R784 of 5 June 1998, R910 of 3 July 1998, R1025 of 7 August 1998, R1126 of 4 September 1998, R569 of 30 April 1999, R501 of 19 May 2000, R1087 of 26 October

2001, R37 of 18 January 2002, R38 of 18 January 2002, R1299 of 18 October 2002, R228 of 20 February 2004, R295 of 5 March 2004, R880 of 23 July 2004, R1294 of 5 December 2008, R1341 of 12 December 2008, R1342 of 12 December 2008, R1344 of 12 December 2008, R515 of 8 May 2009, R517 of 8 May 2009, R499 of 11 June 2010 and R592 of 9 July 2010 are hereby repealed.

(2) These Rules shall apply to all proceedings instituted on or after the commencement date provided for in rule 70.

(3)

(a) These Rules shall apply to all proceedings instituted before the commencement date provided for in rule 70, unless—

(i) this would cause prejudice to a party, in which case the applicable rules in force as at the date of institution of the proceedings shall apply; or

(ii) the parties agree that the applicable rules in force as at the date of institution of the proceedings should apply.

(b) In instances where—

(i) there is a dispute between the parties as to which rules should apply; or

(ii) the parties fail to agree as contemplated in paragraph (a) subparagraph (ii),

then any party to the proceedings may apply to court in terms of rule 55(4)(a) for a ruling, as the court directs.

(4) In respect of proceedings instituted prior to the commencement of these Rules, subject to subrule (3), the use of the forms contained in the First Annexure to the rules published under Government Notice R1108 dated 21 June 1968, as amended, and repealed by subrule (1), may, with the necessary variations as circumstances may require, be continued.

[Rule 69 substituted by GNR 1085 in G. 34892 with effect from 3 February 2012.]

CHAPTER 2 (rules 70-88)

[Chapter 2 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; amended by GNR 3371 in G. 48518 with effect from 9 June 2023.]

70. Purpose of rules

The purpose of the rules in this Chapter is—

(a) to provide for the parties to litigation the opportunity to submit the dispute to mediation, either of their own accord or upon enquiry by the court;

(b) to regulate the referral to mediation where parties agree to submit the dispute to mediation; and

(c) to regulate the further conduct of litigation where the dispute is referred to mediation.

[Rule 70 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

71. Definitions

For the purposes of this Chapter—

"action" means litigation commenced by the issue of summons;

"application" means litigation commenced by notice of motion;

"dispute" means the subject matter of litigation between parties, or an aspect thereof;

"litigation" means court proceedings commenced by action or application proceedings;

"mediation" means a voluntary process entered into by agreement between the parties to a dispute, in which an impartial and independent person, the mediator, assists the parties to either resolve the dispute between them, or identify issues upon which agreement can be reached, or explore areas of compromise, or generate options to resolve the dispute, or clarify priorities, by facilitating discussions between the parties and assisting them in their negotiations to resolve the dispute.

[Rule 71 inserted by GN R183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

72. Notice agreeing to or opposing mediation

(1) In every new action or application, the plaintiff or applicant shall, together with the summons or combined summons or notice of motion, serve on each defendant or respondent a notice indicating whether such plaintiff or applicant agrees to or opposes referral of the dispute to mediation.

(2) A defendant or respondent shall, when delivering a notice of intention to defend or a notice of intention to oppose, or at any time thereafter, but not later than the delivery of a plea of answering affidavit, serve on each plaintiff or applicant or the plaintiff's or applicant's attorneys, a notice indicating whether such defendant or respondent agrees to or opposes referral of the dispute to mediation.

(3) The notices referred to in subrules (1) and (2) shall be substantially in accordance with Form 60A and Form 60B of Annexure 1 and shall clearly and concisely indicate the reasons for such party's belief that the dispute is or is not capable of being mediated.

(4) Subject to the provisions of rule 79, the notices referred to in this rule shall be of a without prejudice nature and shall not be filed with the clerk or registrar of the court.

[Rule 72 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

73. Referral to mediation

(1) Notwithstanding the provisions of rule 72, the parties may, at any stage before judgment, agree to refer the dispute between them to mediation: Provided that where the trial or opposed application has commenced, the parties shall first obtain the leave of the court.

(2) A judicial officer or the court may at any stage before judgment enquire into and allow the parties to consider mediation, whereupon the parties may, if they agree, refer the dispute to mediation.

(3) Where the parties agree to refer the dispute to mediation, either upon delivery of the notices referred to in rule 72, or in terms of this rule, the parties shall—

(a) deliver a joint signed minute recording their election to refer the dispute to mediation; and

(b) enter into an agreement to mediate, prior to the commencement of mediation proceedings.

[Rule 73 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

74. Time limits

(1) The time limits prescribed by the rules in Chapter 1 for the delivery of pleadings and notices and the filing of affidavits or the taking of any step shall be suspended for every party to the litigation, from the date of signature of the minute referred to in rule 73(3)(a), to the time of conclusion of mediation: Provided that any party to the litigation who considers that the suspension of the prescribed time limits is being abused, may apply to the court for the upliftment of the suspension of the prescribed time limits.

(2) The process of mediation shall be concluded within 30 days from the date of signature of the minute referred to in rule 73(3)(a): Provided that a judicial officer or the court may, on good cause shown by the parties, extend such time period for completion of the mediation process.

(3) The application of these Rules is subject to the provisions of any other law and the procedure provided for in any other law, for the mediation of disputes between parties to litigation.

[Rule 74 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

75. Multiple parties and issues

(1) Where there are multiple parties to the litigation, some of whom are agreeable to mediation and some of whom are not, parties who are agreeable to mediation may proceed to mediation notwithstanding any other party's refusal to mediate.

(2) The time limits prescribed for the delivery of pleadings and notices and the filing of affidavits or the taking of any step, as prescribed by the Rules in Chapter 1, shall be suspended for every party, from the date of signature of the minute referred to in rule 74(1) to the time of conclusion of mediation by the parties who have elected to mediate: Provided that any party to the litigation who considers that such suspension of time limits is being abused, may apply to the court for the upliftment of such suspension.

(3) In any matter where there are multiple issues, the parties may agree that some issues be referred to mediation and that the issues remaining in dispute may proceed to litigation.

(4) If any issue remains in dispute after mediation, the parties may proceed to litigation or such issue in dispute.

[Rule 75 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

76. Confidentiality and admissibility

Except as provided by law or discoverable in terms of the rules in Chapter 1 or as agreed between the parties, all communications and disclosures, whether oral or written, made at mediation proceedings, shall be confidential and inadmissible in evidence.

[Rule 76 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; amended by GNR 1156 in G. 43856 with effect from 1 December 2020; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

77. Conclusion of mediation

(1) Upon conclusion of mediation, the parties who engaged in mediation shall, by notice inform the clerk or registrar of the court and all other parties that mediation has been completed.

(2) Notwithstanding the failure of parties who have engaged in mediation to deliver the notice referred to in subrule (1), the suspension of the time limits referred to in rule 74(1) shall lapse, unless a judicial officer or a court, upon application, extends any time limit and notice thereof has been given to all parties to the litigation within five days of the grant of such extension.

(3) Subject to rule 74(2), mediation shall be deemed to be completed within 30 days from the date of signature of the joint minute referred to in rule 73(3)(a), from which date the suspension of the time limits prescribed for the delivery of pleadings and notices and the filing of affidavits or the taking of any step referred to in rule 74(1) shall lapse: Provided that where mediation is completed before the aforesaid period of 30 days, the parties who engaged in mediation shall deliver a notice, contemplated in subrule (1), indicating that mediation has been completed.

(4) The parties who engaged in mediation and the mediator who conducted the mediation shall, within five days of the conclusion of mediation, issue a joint minute indicating—

(a) whether full or partial settlement was reached or whether mediation was not successful; and

(b) the issues upon which agreement was reached and which do not require hearing by the court.

(5) It shall be the joint responsibility of the parties who engaged in mediation to file with the clerk or registrar of the court, the minute referred to in subrule (4).

(6) No offer or tender made without prejudice in terms of this rule shall be disclosed to the court at any time before judgment has been given.

(7) Where the parties have reached settlement at mediation proceedings, the provisions of rule 27 in Chapter 1 shall apply *mutatis mutandis*.

[Rule 77 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

78. Fees of mediator

Unless the parties agree otherwise, liability for the fees of mediator shall be borne equally by the parties participating in mediation.

[Rule 78 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

79. Costs

When an order for costs of the action or application is considered, the court may have regard to the notices referred to in rules 72(1) and 72(2) or to any offer or tender referred to in rule 77(6) and any party shall be entitled to bring such notices or offer or tender to the attention of the court.

[Rule 79 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; substituted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

80. …

[Rule 80 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

81. …

[Rule 81 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

82. …

[Rule 82 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

83. …

[Rule 83 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

84. ...

[Rule 84 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; amended by GNR 1156 in G. 43856 with effect from 1 December 2020; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

85. …

[Rule 85 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

86. …

[Rule 86 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 1156 in G. 43856 with effect from 1 December 2020.]

87. …

[Rule 87 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

88. …

[Rule 88, formerly 70, renumbered by GNR 183 in G. 37448 with effect from 1 December 2014; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

ANNEXURE 1

[For Forms – see PDFs]

FORMS

[Annex 1 substituted by GNR 507 in G. 37769 with effect from 28 July 2014; amended by GNR 318 in G. 386914 with effect from 22 May 2015, GNR 545 in G. 38914 with effect from 31 July 2015, GNR 1055 in G. 41142 with effect from 1 November 2017, GNR 1272 in G. 41257 with effect from 22 December 2017, GNR 632 in G. 41723 with effect from 1 August 2018, GNR 107 in G. 43000 with effect from 9 March 2020, GNR 2134 in G. 46475 with effect from 8 July 2022, GNR 2434, G. 46839 with effect from 8 July 2022, GNR 3371 in G. 48518 with effect from 9 June 2023.]

NUMERICAL LIST

[Numerical List substituted by GNR 1272 in G. 41257 with effect from 22 December 2017.]

Form No.

1 Notice of Motion (Short Form)

1A Notice of Motion (Long Form)

1B Notice of application to declare immovable property executable in terms of rule 43A

1C Notice of Motion (Short Form, for Interlocutory or other applications incidental to pending proceedings)

2 Simple Summons

2A Summons: Provisional Sentence

2B Combined Summons

2C Combined Summons (Divorce Matters)

3 Summons (in which is included an automatic rent interdict)

4 Edictal citation/substituted service: short form of process

5 Request for default judgment

5A Request for Judgment where the defendant has admitted liability and undertaken to pay the debt in instalments or otherwise - Section 57 of the Act

5B Request for Judgment where the defendant has consented to judgment - Section 58 of the Act

5C Application for rescission of judgment in terms of section 36(3) of the Magistrates' Courts Act, 1944 (Act 32 of 1944)

6 Notice of Withdrawal of action or application

7 Notice of application for summary judgment

8 …

9 Affidavit under section 32 of the Act

10 Security under section 32 of the Act

11 Order under section 32 of the Act

12 Consent to sale of goods attached under section 32 of the Act

13 Discovery - form of affidavit

14 Notice in terms of rule 23(5)

15 Discovery - notice to produce

15A Discovery - notice to inspect documents

15B Discovery - notice to produce documents in pleadings, etc

16 Order for interdict obtained *ex parte*

17 …

[Form 17 - Order for Arrest of Person *suspectus de fugal* – omitted by GNR 507 in G. 37769 with effect from 28 July 2014.]

18 Order for attachment of property to found or confirm jurisdiction

19 Direction to attend pre-trial conference

20 Order - pre-Trial conference

21 Application for trial with assessors

22 Summons to assessor

23 Commissions *de bene esse*

24 Subpoena

[Form 24 substituted by GNR 1604 in G.45645 with effect from 1 February 2022, GNR 3371 in G. 48518 with effect from 9 June 2023, GNR 5127 in G. 51056 with effect from 20 September 2024.]

24A Subpoena *duces tecum*

[Form 24A substituted GNR 5127 in G. 51056 with effect from 20 September 2024.]

25 Warrant for payment of fine or arrest of witness in default

26 Warrant for the arrest of a witness in default

27 Security on attachment or interdict *ex parte*

28 Security when execution is stayed pending appeal

29 Security when execution is allowed pending appeal

30 Warrant of ejectment

31 Warrant for delivery of goods

32 Warrant for execution against property

33 Notice of attachment in execution

33A Conditions of sale in execution of immovable property

[Form 33A substituted GNR 5127 in G. 51056 with effect from 20 September 2024.]

33B Notice to cancel sale of immovable property in terms of rule 43(11)(a)

34 Notice in terms of rule 43(5)(a) [section 66(2)(a) of the Act]

35 Interpleader summons [section 69(1) of the Act]

36 Interpleader summons [section 69(2) of the Act]

37 Security under rule 38

38 Emoluments Attachment Order - Section 65J of the Act

38A Notice of intention to issue an Emoluments Attachment Order - Section 65J(2A) of the Act

39 Garnishee order

40 Notice to appear in court in terms of section 65A(1) of the Act

40A Warrant of arrest in terms of section 65A(6) of the Act

40B Notice to appear in Court in terms of section 65A(8)(b) of the Act

41 Notice of set-down of postponed proceedings under section 65E(3) of the Act

42 Notice in terms of rule 58(2)(a)

43 Notice to Third Party

44 Application for an administration order under section 74(1) of the Act

45 Statement of affairs of debtor in an application for an administration order in terms of section 65I(2) or 74A of the Act

46 Certificate of service of foreign process

47 Notice to debtor that an additional creditor has lodged a claim against him or her for a debt owing before the making of the administration order

48 Notice to debtor that a creditor has lodged a claim for a debt accruing after granting of the administration order

49 Notice to add an additional creditor to the list of creditors of a person under administration

50 Notice to creditor that his or her name has been added to the list of creditors of a person under administration

51 Administration order

52 Distribution account in terms of section 74J(5) of the Act

52A Rescission of administration order

53 Notice of abandonment of specified claim, exception or defence

54 Agreement not to appeal

55 Request to inspect record

56 Criminal record book

57 Notice in terms of section 309B(2)(d) of the Criminal Procedure Act, 1977 (Act 51 of 1977)

58 Notice of intention to tax bill of costs in terms of rule 33(15)(b)

59 Notice to alleged member, partner or proprietor

60A Notice of agreement or opposition to mediation in terms of rule 72(3)

[Form 60A inserted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

60B Notice of agreement or opposition to mediation in terms of rule 72(3)

[Form 60B inserted by GNR 3371 in G. 48518 with effect from 9 June 2023.]

ANNEXURE 2

SCALE OF COSTS AND FEES

[Annex 2 amended by GNR 1222 in G. 33897 with effect from 28 January 2011, by GNR 115 in G. 36157 with effect from 22 March 2013, GNR 760 in G. 36913 with effect from 15 November 2013, GNR 32 in G. 38399 with effect from 24 February 2015, GNR 33 in G. 38399 with effect from 24 February 2015, GNR 2 in G. 39715 with effect from 22 March 2016, GNR 1055 in G. 41142 with effect from 1 November 2017, GNR 1318 in G. 42064 with effect from 10 January 2019, GNR 842 in G. 42497 with effect from 1 July 2019, GNR 858 in G. 43592 with effect from 11 September 2020, GNR 1156 in G. 43856 with effect from 1 December 2020, GNR 2134, in G. 46475 with effect from 8 July 2022, GNR 2434, G. 46839 with effect from 8 July 2022, GNR 2298 in G. 47055 with effect from 24 August 2022, GNR 2414 in G. 46789 with effect from 1 October 2022, GNR 3399 in G. 48571 with effect from 19 June 2023, GNR 4476 in G. 50272 with effect from 12 April 2024, GNR 5127 in G. 51056 with effect from 20 September 2024.]

Table A	**Costs**
Part I	General provisions
Part II	Undefended actions
Part III	Defended actions (and interpleader proceedings)
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Table B	**Costs (continued)**
Part I	General provisions in respect of proceedings in terms of sections 65 and 65A to 65M of the Act. Tariff.

Part II	General provisions in respect of proceedings in terms of section 72 of the Act. Tariff.
Part III	General provisions in respect of proceedings in terms of section 74 of the Act. Tariff.
Table C	**General provisions and tariff of fees (Sheriffs)**
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Part II	Sheriffs who are not officers of the Public Service
Table D	**Fees payable to assessors**
Table E	**Tariff of fees payable to intermediaries in proceedings other than criminal proceedings**

TABLE A

COSTS

[Table A amended by GNR 1222 in G. 33897 with effect from 28 January 2011; substituted by GNR 760 in G. 36913 with effect from 15 November 2013, GNR 33, 23 January 2015, with effect from 24 February 2015; amended by GNR 2 in G. 39715 with effect from 22 March 2016; substituted by GNR 1055 in G. 41142 with effect from 1 November 2017; amended by GNR 1318 in G. 42064 with effect from 10 January 2019, GNR 842 in G. 42497 with effect from 1 July 2019; substituted by GNR 858 in G. 43592 with effect from 11 September 2020; amended by GNR 1156 in G. 43856 with effect from 1 December 2020, GNR 2134 in G. 46475 with effect from 8 July 2022, GNR 2434 in G. 46839 with effect from 8 July 2022, GNR 3399 in G. 48571 with effect from 19 June 2023, amended by GNR 4476 in G. 50272 with effect from 12 April 2024, GNR 5127 in G. 51056 with effect from 20 September 2024.]

PART I

GENERAL PROVISIONS

[Part I amended by GNR 1156 in G. 43856 with effect from 1 December 2020, GNR 2298, G. 47055 with effect from 24 August 2022, GNR 3399 in G. 48571 with effect from 19 June 2023, GNR 4476 in G. 50272 with effect from 12 April 2024, GNR 5127 in G. 51056 with effect from 20 September 2024.]

1 When the amount in dispute is less than or equal to R50 000, costs shall be taxed on Scale B; when the amount in dispute exceeds R50 000, but is less than or equal to the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts, costs shall be taxed on Scale C; when the amount in dispute exceeds the maximum jurisdictional amount so determined by the Minister in respect of magistrates' courts

for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act, costs shall be taxed on Scale D.

2

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

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

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

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

unless the court orders otherwise.

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

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

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

6 …

[Part I(6) substituted by GNR 1156 in G. 43856 with effect from 1 December 2020, repealed by GNR 2298, G. 47055 with effect from 24 August 2022.]

7 Where the amount allowed for an item is specified, the amount shall be inclusive of all necessary attendances and services (other than services by the sheriff for the magistrate's court) in connection therewith save that for the necessary filing of documents at court a charge shall be allowed at R39.00 per document.

8 Where the amount allowed for an item is left blank—

(a) the drawing of documents (not pleadings) shall be allowed at R39.00 for each folio;

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

(c) R39.00 shall be allowed for each necessary service;

(d) R39.00 shall be allowed per document for the necessary filing of documents at court.

9

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

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

10

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

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

11

(a) Unless otherwise provided, a charge for perusal shall be allowed at R15,00 per folio in respect of any document or pleading necessarily perused.

(b) For necessary copies, including photocopies, of any document or papers not already provided for in this tariff, per A4 size page R7.00.

12 Where there are more defendants than one, R24,00 shall be added in respect of each additional defendant for each of items 2, 2A, 2B and 3 of Part II and items 2 and 7 of Part III.

13 Where the judgment debt is payable in instalments in terms of the judgment or an agreement, a fee of 10% on each instalment collected in redemption of the capital, costs and interest shall be allowed, subject to a maximum of R583,00 on each instalment. No additional fee shall be charged for any attendance in connection with the receipt or payment of any instalment.

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

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

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

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

18 Fees to advocates referred to in section 34(2)(a)(i) of the Legal Practice Act, 2014 (Act 28 of 2014) shall be allowed on taxation only for items 21 to 26 of Part IV.

[Annex 2, Table A, Part I, item18 inserted by GNR 1156 in G. 43856 with effect from 1 December 2020.]

19 The fees in Part IV shall be increased by 15% in accordance with any costs order made in terms of rule 33(1)(b) and as allowed at taxation.

[Annex 2, Table A, Part I, item19 inserted by GNR 4476 in G. 50272 with effect from 12 April 2024.]

PART II

UNDEFENDED ACTIONS

[Part II amended by GNR 2298, G. 47055 with effect from 24 August 2022, GNR 3399 in G. 48571 with effect from 19 June 2023, GNR 5127 in G. 51056 with effect from 20 September 2024.]

		R
Item 1 - Registered letter of demand in terms of section 56 of the Act		
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R56,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to	R78,00

time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division	
Item 2 - Summons (simple or combined), inclusive of a letter of demand other than the letter of demand referred to in item 1, where the aggregate amount of the claim or claims does not exceed R10 000.00	R908,00
(a)	
(b)	
(c)	
(d)	
Item 2A - Simple summons, inclusive of a letter of demand other than the letter of demand referred to in item 1:	
(a) Claim or claims where the aggregate amount of the claim or claims exceeds R10 000.00 but does not exceed R50 000.00	R1317,00
(b) Claim or claims where the aggregate of the claim or claims exceeds R50 000 but does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R1583,00
(c) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act	R2054,00
Item 2B - Combined summons, inclusive of a letter of demand other than the letter of demand referred to in item 1:regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act	
(a) Claim or claims where the aggregate amount of the claim or claims exceeds R10 000.00 but does not exceed R50 000.00	R1770,50
(b) Claim or claims where the aggregate of the claim or claims exceeds R50 000 but does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R2125,00
(c) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued	R2758,00

	out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act	
Item 3 - Judgment:		
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the amount in 2	R182,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds R10 000,00 but is not more than R50 000,00	R487,00
(c)	Claim or claims where the aggregate of the claim or claims exceeds R50 000 but does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R795,00
(d)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)*(a)* of the Act	R1032,00
Item 4 - Notice in terms of rule 12(2)		
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R91,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division or when the matter is in respect of a cause of action in terms of section 29(1B)(a) of the Act.	R118,00
Item 5 - Notice in terms of rule 54(1)		
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R91,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R118,00
Item 6 - Affidavit or certificate		-

Item 7 - Attending court at the request of the magistrate when claim is referred to court for judgment or to obtain provisional sentence when claim is undefended.	as allowed under item 15 on the scale for defended actions
Item 8 - For each registered letter forwarded to the debtor in terms of section 57(1) or (3) or section 58(2), of the Act by the creditor or his or her attorney, including copies	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R60,00
(b) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R79,00
Item 9 - Admission of liability and undertaking to pay debt in instalments or otherwise (section 57 of the Act)	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R153,00
(b) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R198,00
Item 10 - Consent to judgment or to judgment and an order for the payment of judgment debt in instalments (section 58 of the Act)	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts.	R153,00
(b) Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division.	R198,00

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

PART III

DEFENDED ACTIONS (AND INTERPLEADER PROCEEDINGS)

[Part III amended by GNR 1156 in G. 43856 with effect from 1 December 2020, GNR 2298, G. 47055 with effect from 24 August 2022, GNR 3399 in G. 48571 with effect from 19 June 2023, GNR 5127 in G. 51056 with effect from 20 September 2024.]

Item		**Scale A** …	**Scale B** R	**Scale C** R	**Scale D** R
1	Instructions to sue or defend or to counterclaim or defend a counterclaim, perusal of all documentation and consideration of merits and all necessary consultations to issue summons		R1019,00	R1277,00	R1597,00
2	Summons		R536,00	R642.00	R831,00
2A	Particulars of Claim or Declaration		R536,00	R642.00	R831,00
3	Appearance		R64,00	R80,00	R103,00
4	Notice under rules 12(2) and 21B(2)		R64,00	R80,00	R103,00
5	Plea		R536,00	R642.00	R831,00
6	Claim in reconvention		R536,00	R642.00	R831,00
7	Reply, if necessary		R536,00	R642.00	R831,00
8	Drawing up of all documents not specifically mentioned, including request for further particulars, schedule of documents, all affidavits, subpoenas, any notice not otherwise provided for and drawing up of statements by witnesses		-	-	-
9	Production of documents for inspection, or inspecting documents, per quarter of an hour or part thereof of the time spent		R229,00	R286,00	R371,00
10	…		-	-	-
10A	Pagination and indexing of pleadings per quarter of an hour or part thereof:		R153,00	R188,00	R242,00
11	The recording of statements by witnesses, per quarter of an hour or part thereof		R229,00	R286,00	R371,00
12	Notice of trial or reinstatement		R64,00	R80,00	R104,00
13	Preparing for trial (if counsel not employed)		R1713,00	R2085,00	R2708 00

14	Attendance at settlement negotiations, for each quarter of an hour or part thereof actually spent in such negotiations		R229,00	R286,00	R371,00
14A	Drawing up heads of argument per quarter of an hour or part thereof:		R229,00	R286,00	R371,00
15	Attending court during trial, or at an on the-spot inspection, or at postponement or examination on commission, for each quarter of an hour or part thereof spent in court while the case is actually being heard—				
(a)	if an advocate is not employed		R229,00	R286,00	R371,00
(b)	if an advocate is employed		R91,00	R109.00	R144,00
16	Attending pre-trial conference, for each quarter of an hour or part thereof actually spent in such conference		R229,00	R286,00	R371,00
17	Attending court to hear reserved judgment, per quarter of an hour or part thereof		R46,00	R56,00	R74,00
18	Correspondence—				
(a)	for each necessary letter or telegram, per folio		R36,00	R46,00	R58,00
(b)	for each letter or telegram received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for		R36,00	R46,00	R58,00
19	Attendances: For each necessary attendance not otherwise provided for, per attendance		R36,00	R46,00	R58,00
20	Necessary formal telephone calls, per call		R36,00	R46,00	R58,00
21	Telephone consultations: For every 5 minutes or part thereof, subject to a maximum fee per consultation of R206,50 for Scales B to C and R267,00 for Scale D		R64,00	R80,00	R104,00
22	Each necessary consultation, per quarter of an hour or part thereof		R229,00	R286,00	R371,00
23	The court may, on request made at the hearing, allow in addition to the fee prescribed in item 13 above a refresher fee in postponed or partly heard trials		R1126,00	R1349,00	R1752,00

24	Time spent waiting at court (owing to no court being available) per quarter of an hour or part thereof		R154,00	R188,00	R242,00
25	Travelling time [subject to the provisions of rule 33(9)] per quarter of an hour or part thereof		R154,00	R188,00	R242,00
26	Subsistence and travelling expenses as laid down in rule 33(9)	The actual reasonable subsistence and travelling expenses as laid down in rule 33(9)			

PART IV

OTHER MATTERS

[Part IV amended by GNR 1156 in G. 43856 with effect from 1 December 2020, GNR 2298, G. 47055 with effect from 24 August 2022, GNR 3399 in G. 48571 with effect from 19 June 2023, NR 5127 in G. 51056 with effect from 20 September 2024.]

Exceptions, applications to strike out, applications for summary judgment, appearance to obtain provisional sentence when claim is defended, interlocutory applications, arrest, interdict, applications under rule 27(9), applications to review judgment, order or taxation, applications for liquidation of close corporations and applications in terms of section 65J of the Act, applications under rule 58 and any other applications.

Item		**Scale A** …	**Scale B** **R**	**Scale C** **R**	**Scale D** **R**
1	(a) Instructions to make application or to oppose or to show cause (the court may on request allow a higher amount)		R386,00	R459,00	R597,00
(b)	Instructions to make application for liquidation of close corporation, perusal of all documentation and consideration of merits, and all necessary consultations		R942,00	R1130,00	R1469,00
2	Drawing up of all documents, affidavits, applications and notices, orders, etc		-	-	-
3	Attending court on hearing—				
(a)	If unopposed or opposed (if an advocate is not employed), for each		R229,00	R286,00	R371,00

	quarter of an hour or part thereof actually spent in court				
(b)	If opposed (if an advocate is employed), for each quarter of an hour actually spent in court or part thereof		R91,00	R112.00	R144,00
4	(a) Fee for preparation for argument when opposed		R938,00	R1130,00	R1469,00
(b)	Fee for preparation for trial where proceedings are referred to trial or oral evidence		R938,00	R1130,00	R1469,00
4A.	Drawing up heads of argument for opposed applications, per quarter of an hour or part thereof:		R196,00	R246,00	R318,00
5	Consultations and settlement negotiations - when opposed, per quarter of an hour or part thereof		R229,00	R286,00	R371,00

Item		**Scale**
TAXATION OF COSTS In connection with a bill of costs for services rendered by an attorney, the attorney shall be entitled to charge.		R
6	For drawing the bill of costs, making the necessary copies and attending settlement, 11 per cent of the attorney's fees, either as charged in the bill, if not taxed, or as allowed on taxation.	
7	In addition to the fees charged under item 6, if recourse is had to taxation for arranging and attending taxation, and obtaining consent to taxation, 11 per cent on the first R10 000,00 or portion thereof, 6 per cent on the next R10 000,00 or portion thereof and 3 per cent on the balance of the total amount of the bill	
8	Attending on review of taxation, for each quarter of an hour or part thereof in court while review is actually being heard	R229,00
9	Notice of application for review of taxation and service	-
10	Affidavit, where necessary	-

EXECUTION		
11	(a) Issue of warrant of execution, ejectment, and delivery up of possession	R154,00
(b)	For each reissue thereof	R64,00

12	Inclusive fee for work done in connection with releasing of immovable property attached	R192,00
13	Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work in respect of which fees are already provided for elsewhere and the drawing up of the conditions of sale)	R488,00
14	(a) Drawing up of notice of sale in terms of rule 41(8) or rule 43(6), or conditions of sale in terms of rule 43(7)	-
(b)	For all other work done and papers and documents supplied to the sheriff of the magistrate's court in connection with a sale in execution of movable property, an inclusive fee of	R333,00
15	Security for restitution, where necessary	R128,00
WHERE AN ADVOCATE IS EMPLOYED		
16	Instructions for exception or application, where allowed	
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R229,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division	R298,00
17	Instructions on trial	
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R293,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division	R368,00
18	Drawing brief on exception or application, where allowed	-
19	Drawing brief on trial	-
20	Attending each necessary consultation with an advocate, per quarter of an hour or part thereof	
(a)	Claim or claims where the aggregate of the claim or claims does not exceed the maximum jurisdictional amount determined by the Minister from time to time in respect of magistrates' courts for districts	R95,00
(b)	Claim or claims where the aggregate of the claim or claims exceeds the maximum jurisdictional amount determined by the Minister from time to time in	R120,00

respect of magistrates' courts for districts and the process is issued out of a magistrate's court for a regional division	

FEES TO ADVOOCATES	
21 (a) Appearances in court for unopposed applications, per quarter of an hour or part thereof, subject to a minimum of one hour:	
Scale B	R196,00
Scale C	R246,00
Scale D	R318,00
(b) Appearances in court for unopposed applications, an inclusive fee which includes preparation, consultation and appearance on that same day:	
Scale B	R6272,00
Scale C	R7872,00
Scale D	R10 176,00
(c) Drawing up heads of argument for an opposed application, per quarter of an hour or part thereof:	
Scale B	R196,00
Scale C	R246,00
Scale D	R318,00
(d) For preparation prior to the day of argument, where opposed:	
Scale B	R874,00
Scale C	R1053,00
Scale D	R1369,00
22 (a) Appearances in court for trial matters including part heard and postponed trial matters, an inclusive day fee which includes preparation, consultation and appearance on that same day:	
Scale B	R6272,00
Scale C	R7872,00
Scale D	R10 176,00
(b) Drawing up heads of argument for defended actions, per quarter of an hour or part thereof:	
Scale B	R196,00
Scale C	R246,00
Scale D	R318,00
(c) For preparation prior to the day of trial:	
Scale B	R1619,00

Scale C Scale D		R1943,00 R2524,00
23	In any court held more than 30 km from the nearest town where a provincial or local division (other than a Circuit Court) of the High Court sits, a travelling allowance (in addition to the fee on brief) may be allowed by special order of the court at	R8,00 per km
24	Each necessary consultation, per quarter of an hour	R229,00
25	…	…
26	Drawing up pleadings	R514,00
Notes:		
(a)	In the event that a trial is postponed, settled or withdrawn at the instance of any party on the day of hearing or before the first day's hearing, and a charge for the cancellation of the reservation of any day is levied, a reservation fee may be allowed as follows:	
	(i) If postponed, settled or withdrawn on the day of set down or two days before that, a full day fee; or	
	(ii) If postponed, settled or withdrawn three to seven days before the day of set down, two thirds of a day fee: Provided that no reservation fee will be allowed if a matter is postponed, settled or withdrawn more than seven days before the day of set down.	
	(iii) …	
(b)	The court may allow a higher fee for an advocate in regard to items 21, 22, 24, and 26	
(c)	A fee for travelling time by an advocate shall be allowed at the same rate as for attorneys under rule 33(9).	

MISCELLANEOUS		
27	Obtaining certified copy of judgment	R115,00
28	Obtaining payment in terms of rule 18(4)	R80,00
29	Request for security in terms of rule 62(1)	-
30	Furnishing security in terms of rule 62(1)	-

TABLE B

COSTS

[Table B substituted by GNR 760 in G. 36913 with effect from 15 November 2013, GNR 33 in G. 38399 with effect from 24 February 2015, GNR 1055 in G. 41142 with effect from 1 November 2017; amended by GNR 842 in G. 42497 with effect from 1 July 2019; substituted by GNR 858 in G. 43592 with effect from 11 September 2020, GNR 2134, in G. 46475 with effect from 8 July 2022, GNR 2434, G. 46839 with effect from 8 July 2022, GNR 3399 in G. 48571 with effect from 19 June 2023, GNR 5127 in G. 51056 with effect from 20 September 2024.]

PART I

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

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

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

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

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

(b) A fee of 10% on each instalment collected in redemption of the capital and costs of the action, subject to a maximum amount of R583.00 on every instalment. Where the amount is payable in instalments the collection fees shall be recoverable only on payment of every instalment. Such fees shall be in substitution for and not in addition to the collection fees prescribed in paragraph 13 of Part 1 of Table A.

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

(d) Any amount necessarily and actually disbursed in tracing the judgment debtor, where the capital amount of the debt at the time the tracing agent was employed was not less than R637.00. The total amount to be allowed for each tracing shall not exceed R487.00.

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

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

TARIFF		
		R
(a)	Where the claim does not exceed the amount of R1 000.00	R321.00
(b)	Where the claim exceeds the amount of R1 000.00 but is not more than R2 000.00	R487.00
(c)	Where the claim exceeds the amount of R2 000.00	R574.00
(d)	Warrant of arrest (Form 40A)	R127.00
(e)	(i) Emoluments attachment order (Form 38)	R254.00
	(ii) Reissue (Certificates included)	R204.00
(f)	Application for costs on notice (including appearance in court)	R127.00
(g)	Obtaining a certified copy of a judgment	R127,00
(h)	Affidavit or certificate by the judgment creditor or his or her attorney	R90.00
(i)	For each registered letter forwarded to the debtor in terms of sections 65A(2), 65E(6) or 65J(2) of the Act by the creditor or his or her attorney	R58.00
(j)	Affidavit or affirmation by debtor (Rule 45(7))	R152.00
(k)	Request for an order under section 65 of the Act	R90.00
(l)	Attending postponed proceedings in terms of section 65E(3) of the Act or attending proceedings at court pursuant to the arrest of a judgment debtor, director or officer or pursuant to a notice referred to in 65A(8)(b)	R127.00
(m)	Subpoena—	
	(i) Drawing up of subpoena, per folio	R36.00
	(ii) Every necessary attendance, per attendance	R26.00

(n)	(i)	Correspondence: For every necessary letter or telegram written or received, including copy to retain, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for, per folio	R36.00
	(ii)	Attendances: For each necessary attendance not otherwise provided for, per attendance	R36.00
	(iii)	Necessary formal telephone calls, per call	R36.00

PART II

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

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

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

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

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

TARIFF		
(a)	Where the claim does not exceed R200.00	R192.00
(b)	Where the claim exceeds R200.00	R410.00
(c)	Obtaining certified copy of a judgment	R115.00
(d)	Application for an order of execution against the garnishee	R115.00
(e)	Garnishee order (Form 39)	R152.00

PART III

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

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

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

   (b) In addition to the fees stated below, the administrator shall be entitled to a fee of 10% on each instalment collected for the redemption of capital and costs, which amount is included in the 12.5% in terms of section 74L(2) of the Act.

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

TARIFF			
Item	One to ten creditors	Eleven to twenty creditors	Twenty -one or more creditors
1. Instructions to apply for administration order, including the necessary perusal of summonses, demands, etc, and ascertaining the amount of assets and liabilities, including all attendances and correspondence necessary in connection therewith	R229,00	R321,00	R512,00
2. Instructions on application under section 74Q(1) or to oppose such application or the granting of administration order	R182,00	R182,00	R182,00
3. Drawing up application for administration order or review thereof and affidavit, including all annexures thereto and all attendances, excluding attendance in court	R319,00	R319,00	R319,00
4. Making copies of application, affidavit and annexures for creditors, per page	R7,00	R7,00	R7,00
5. Perusal of application and other documents served, if any, per folio. Note: The fees under this item are only claimed by the attorney or an opposing party.	R15,00	R15,00	R15,00
6. Attending court—			

(a)	On postponement or setting aside, if not occasioned by the attorney or his or her client;	R86,00	R86,00	R86,00
(b)	On any other hearing	R182,00	R343,00	R343,00
7.	For furnishing to a creditor by the administrator of the information referred to in section 74M(a) of the Act, per application	R25,00	R25,00	R25,00
8.	For furnishing of a copy of the debtor's statement of affairs referred to in sections 74 and 74A(1) of the Act by the administrator in terms of section 74M(b) or of a list or account referred to in section 74G(1) or 74J of the Act or of the debtor's statement of affairs referred to in section 65I(2) of the Act, per page	R7,00	R7,00	R7,00
9.	Correspondence and attendances	R38,00	R38,00	R38,00

TABLE C

GENERAL PROVISIONS AND TARIFF OF FEES (SHERIFFS)

[Table C amended by GNR 115 in G. 36157 with effect from 22 March 2013, GNR 32 in G. 38399 with effect from 24 February 2015, GNR 1055 in G. 41142 with effect from 1 November 2017, GNR 1318 in G. 42064 with effect from 10 January 2019, GNR 842 in G. 42497 with effect from 1 July 2019, GNR 858 of 7 August 2020, with effect from 11 September 2020, GNR 2134, in G. 46475 with effect from 8 July 2022, GNR 2434, G. 46839 with effect from 8 July 2022, GNR 4476 in G. 50272 with effect from 12 April 2024, GNR 5127 in G. 51056 with effect from 20 September 2024.]

PART I

SHERIFFS WHO ARE OFFICERS OF THE PUBLIC SERVICE

(1) For each service or execution or attempted service of any process or document: R7,00.

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

PART II

SHERIFFS WHO ARE NOT OFFICERS OF THE PUBLIC SERVICE

[Part II substituted by GNR 115 in G. 36157 with effect from 22 March 2013, GNR 32 in G. 38399 with effect from 24 February 2015, GNR 1055 in G. 41142 with effect from 1 November 2017; amended by GNR 1318 in G. 42064 with effect from 10 January 2019; substituted by GNR 842 in G. 42497 with effect from 1 July 2019; amended by GNR 1343 in G. 42773 with effect from 22 November 2019; substituted by GNR 858 in G. 43592 with effect from 11 September 2020, GNR 2134, in G. 46475 with effect from 8 July 2022, GNR 2434, G. 46839 with effect from 8 July 2022, amended by GNR 4476 in G. 50272 with effect from 12 April 2024, GNR 5127 in G. 51056 with effect from 20 September 2024.]

1A. For registration of any document for service or execution upon receipt thereof: R14.00

1B.

(a) For the service of a summons, subpoena, notice, order or other document not being a document mentioned in item 2: R90,00.

(i) …

(ii) …

(iii) …

(iv) ...

(b) For the attempted service of the documents mentioned in paragraph (a): R56,00.

(i) …

(ii) …

(iii) …

(iv) ...

(c)

(i) Where a document must be served together with a process of the court and is mentioned in such process or is an Annexure thereto, no additional fees shall be

charged for service of the document, otherwise R14.00 may be charged for every separate document served;

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

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

(iv) Where a mandator instructs the sheriff, in writing, to serve or execute a document referred to in item 1B(a) or (2)(a) on an urgent basis or after hours, the sheriff shall charge an additional fee of R300,00 for such service irrespective of whether the service or execution was successful, which additional fee shall be paid by the mandator, save where the court orders otherwise;

(v) For the purpose of subparagraph (iv)—

(aa) **"urgent**" means on the same day or within twenty-four hours of the written instruction; and

(bb) **"after hours"** means any time—

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

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

2.

(a) For the execution of a warrant (other than against immovable property), interdict, garnishee order or emoluments attachment order: R113.

(i) …

(ii) …

(iii) …

(iv) ...

(b) For the attempted execution of the documents mentioned in paragraph (a): R81,00.

(i) …

(ii) …

(iii) ….

(iv) ...

(c)

(i) For the ejectment of a defendant from the premises referred to in the warrant of ejectment: R273,00 for the first hour or part thereof and thereafter R126,00 per every half hour or part thereof (except extraordinary expenses necessarily incurred);

(ii) A further fee of R32,00 shall be paid after execution for every person over and above the person named or referred to in the process of ejectment, in fact ejected from separate premises: Provided that where service on any person other than the judgment debtor, respondent or garnishee is necessary in order to complete the execution, the fee laid down in item 1B(a) may be charged in respect of each such service.

(d) For the execution of any writ against immovable property—

(i) for execution, including service of notice of attachment upon the owner of the immovable property and upon the registrar of deeds or other office charged with the registration of such property, and if the property is in occupation of some other person other than the owner, also upon such occupier: R266,00;

(ii) for notice of attachment to a single lessee or occupier: R24,00;

(iii) identical notices where there are several lessees, occupiers or owners, for each after the first: R9,00;

(iv) for making valuation report for purposes of sale, per half hour or part thereof: R64,00;

(v) when a sheriff has been authorised to sell property and the property is not sold by reason of the fact that the attachment is withdrawn or stayed, all the necessary notice for the withdrawal or stay of the attachment: R266,00; Upliftment of judicial attachment on immovable property: R266,00;

(vi) for ascertaining and recording what bonds or other encumbrances are registered against the property, together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered including any correspondence in connection therewith (in addition to reasonable expenses necessarily incurred): R134.00;

(vii) for notifying the execution creditor of such bonds or other encumbrances and of the names and addresses of the persons in whose favour such bonds or other encumbrances are registered: R23.00;

(viii) for consideration of proof that a preferent creditor has complied with the requirements of rule 43(5)(a): R14.00;

(ix) for notice referred to in rule 43(6): R24.00;

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

for verifying that notice of sale has been published in the newspapers indicated and in the *Gazette*, inclusive fee for such consideration and verification: R134.00;

(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: R24.00;

(xii) for affixing a copy of the notice of sale to the notice board of the magistrates' court referred to in rule 43(7)(e) and at or as near as may be to the place where the sale is actually to take place, an inclusive fee of R57.00 and travelling costs referred to in item 4(a);

(xiii) for considering the conditions of sale prepared by execution creditor; for considering further or amended conditions of sale submitted by interested party; settling of conditions of sale: R134.00 for each attendance;

(xiv) for all necessary attendances prescribed by any law related to auctions, in particular the Consumer Protection Act, 2008 (Act 68 of 2008): R401.00;

(xv) for the conducting of an auction, save that this fee may not be charged if commission is claimed in terms of items 2(d)(xvi) and (xvii): R266.00;

(xvi) on the sale of immovable property by the sheriff as auctioneer, 6 per cent on the first R100 000.00, 3.5 per cent on R100 001.00 to R400 000.00 and 1.5 per cent on the balance of the proceeds of the sale, subject to a maximum commission of R40 000.00, in total, and a minimum of R3 000.00 (inclusive in all instances of the sheriffs bank charges and other expenses incurred in paying the proceeds into his or her trust account), which commission shall be paid by the purchaser;

(xvii) if an auctioneer is employed as provided in rule 43(10), 3 per cent on the first R100 000.00, 2 per cent on R100 001.00 to R400 000.00 and 1 per cent on the balance thereof, subject to a maximum commission of R22 850.00, in total, and a minimum of R3 000.00 (inclusive in all instances of the sheriff's bank charges and other expenses incurred in paying the proceeds into his or her trust account), which commission shall be paid by the purchaser;

(xviii) for written notice to the purchaser who has failed to comply with the conditions of sale: R67.00;

(xix) for any report referred to in rule 43(11): R67.00;

(xx) for informing judgment debtor of the cancellation referred to in rule 43(11)(a)(iii): R24.00;

(xxi) for giving notice referred to in rule 43(11)(c): R22.50;

(xxii) for giving transfer to the purchaser: R32.00;

(xxiii) for receipt of certificate referred to in rule 43(14)(a): R24.00;

(xxiv) for preparing a plan of distribution of the proceeds (including necessary copies) and for forwarding a copy to the registrar: R134.00;

(xxv) for giving notice to all parties who have lodged writs and to the execution debtor that the plan of distribution will lie for inspection, for every notice: R24.00;

(xxvi) for the report referred to in rule 43A(9)(d): R67.00.

3. Compilation of any return in terms of rule 8, in duplicate: R24.00.

4.

(a) The Sheriff shall, in addition to the fees mentioned in items 1B(a), 1B(b), 2(a) and 2(b), but subject to item 4(b) and (c), be allowed a travelling allowance of R7.50 per kilometre, or part thereof, for the shortest possible forward and return journey from the office of the Sheriff to the place of service or execution and back.

(b) The travelling allowance mentioned in items 4(a), 5(a) and 5(c)(i) shall be calculated on the distance reckoned from the office of the sheriff if—

(i) the sheriff's office is situated within the area of jurisdiction allocated to the sheriff by the Minister; and

(ii) the distance from the sheriff's office is less than the distance reckoned from the court-house closest to the address for service.

(c) If the requirement in item 4(b) is not met, then the travelling allowance mentioned in items 4(a), 5(a) and 5(c)(i) shall be calculated on the distance reckoned from the court-house closest to the address for service.

5.

(a) In respect of the discharge of any official duty other than those mentioned in items 1 and 2, but subject to item 4(b) and (c), a travelling allowance of R7.50 per kilometre for every kilometre, or part thereof, shall be payable to the sheriff for going and returning.

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

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

(i) where more services than one can be done on the same journey, the distance from the sheriff's office to the first place of service may be taken into account only once, and shall be apportioned equally to the respective services, and the distance from the first place of service to the remaining places of service shall similarly be apportioned equally to the remaining services; and

(ii) where service of the same process has to be effected by a sheriff on more than one person at the same service address, only one charge for travelling shall be allowed.

(d) When it is necessary for the sheriff to convey any person under arrest, an allowance of R7.50 per kilometre in respect of that portion of his or her journey on which he or she was necessarily accompanied by such person shall be allowed.

6.

(a) Making an inventory, including the making of all necessary copies and time spent on stock-taking: R48,00 per half hour or part thereof.

(b) For assistance, if necessary, with the making of an inventory: R48,00 per half hour or part thereof.

(c) For the Attendances referred to in rule 41(11): R52,50.

7. The perusing, drawing up and completing of a bail bond, deed of suretyship or indemnity bond: R14.00.

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

(a)

(i) For each officer necessarily left in possession, a reasonable inclusive amount not exceeding R166.00 per day.

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

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

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

9.

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

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

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

10.

(a)

(i) Where a garnishee order is paid in full or in part, to the sheriff, 9 per cent on the amount paid with a minimum fee of R90.00 and a maximum of R880.00.

(ii) For the execution of any warrant against movable property—

(aa) when a warrant is paid in full or in part on presentation to the sheriff, 9 per cent on the amount so paid with a minimum fee of R90.00, and a maximum of R890.00;

(bb) when a warrant is paid in full or in part to the sheriff after attachment but before sale, 9 per cent on the amount so paid with a minimum fee of R90.00 and a maximum of R880.00; or

(cc) when moneys are taken in execution, 9 per cent of the amount so taken, but subject to a maximum of R880.00.

(b) Notice of attachment to defendant and to each person to be notified: R14.00.

11.

(a) Where property is released from attachment in terms of rule 41(18)(a), or the warrant of execution is withdrawn or stayed, or the judgment debtor's estate is sequestrated after the attachment, but before the sale, 2.3 per cent of the value of the goods attached, subject to a maximum of R266.00: Provided that if a sale subsequently takes place in consequence of the said attachment, the amount so paid shall be deducted from the commission payable under item 12.

(b) Commission referred to in item 11(a) shall not be chargeable against a judgment debtor on the value of movable property attached and subsequently released pursuant to a claim by a third party, unless notwithstanding a claim by a third party, the removal of such property is done at the express direction of the judgment creditor, in writing, in which event the judgment creditor shall be liable to the sheriff for commission at a rate of 2.3% of the value of the goods and costs.

12. Where the warrant of execution against movables is completed by sale, 9 per cent for the first R15 000.00 or part thereof, and thereafter 6 per cent, with a maximum of R11 721.00.

13. For the insurance of attached property, if deemed necessary, and on written instructions of the judgment creditor to the sheriff, in addition to the premium to be paid, an all-inclusive amount of R48.00.

14. …

15. When immovable property has been attached in execution and the attachment lapses, as referred to in section 66(4) of the Act: R81.00.

16. …

17. In addition to the fees allowed by items 10 to 13, both inclusive, there shall be allowed—

(a) the sum actually and reasonably paid by the sheriff or the auctioneer for printing, advertising and giving publicity to any sale or intended sale in execution.

(b) ...

18. Where the sheriff is in possession under more than one warrant of execution, he or she may charge fees for only one possession, and such possession shall, as far as possible, be apportioned equally to the several warrants issued during the same period: Provided that each

execution creditor shall be jointly and severally liable for such possession to an amount not exceeding what would have been due under his or her execution if it had stood alone.

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

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

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

    (a) the address of service which appears on the process does not fall within his or her jurisdiction; or

    (b) the mandator requested, before an attempted service or execution of the process, that it be returned to him or her, an amount of R14.00 shall be payable.

22. For the conveyance of any person arrested by the sheriff or committed to his or her custody from the place of custody to the court on a day subsequent to the day of arrest: R48.00 per journey and R90.00 per hour, or part thereof, for attending at court.

23. For the examination of indicated newspapers and the *Gazette* in which the notice of sale has been published, as referred to in rule 41(19)(c): R14.00.

24. ….

25. For affixing a copy of the notice of sale on the notice board or door of the court-house or other public building and at or as near as may be to the place where the said sale is actually to take place referred to in rule 41(19)(b): R33.00 and travelling costs, referred to in item 5(a).

26. For interpleaders referred to in Magistrates' Courts rule 44: R245.00.

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

28. For the writing of each necessary letter, facsimile or electronic mail, excluding formal letters accompanying process or returns: R24.00.

29. Each necessary attendance by telephone: R23.00.

30. Sending and receiving of each necessary facsimile or electronic mail per page (in addition to telephone charges): R9.00.

31. …

32. For the making of all necessary copies of documents: R7.00, per A4 size page.

33.

(a) A request to tax an account of a sheriff shall be made in writing within 20 days after the date on which the account of which the fees are disputed, has been rendered.

(b) For the drawing up of the bill for taxation and attendance of the taxation by the sheriff: R90.00.

34. Bank charges: Actual costs incurred relating to bank charges.

35.

(a) Drafting of notice to the judgment debtor in terms of section 65A(8)(b) of the Act: R24.00.

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

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

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

36.

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

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

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

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

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

(ii) Travelling costs from place of arrest to place of handing over to the relevant authority, referred to in paragraph (b), per kilometre or part thereof: R7.50.

(iii) Waiting time in regard to handing over the judgment debtor to the relevant authority, referred to in paragraph (b): R48.00, per half hour or part thereof, with a maximum of R177.00.

TABLE D
FEES PAYABLE TO ASSESSORS

(1) For every attendance when the case is wholly or partly heard: R70 for each hour or part of an hour of such attendance, but not to be less than R140 or more than R350 for every such attendance.

(2) For every attendance when the case is not heard but is postponed or settled, at the above rate, but the minimum to be R70.

(3) Attendance to be reckoned from the hour for which the assessor is summoned to the hour at which judgment is given or reserved, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.

(4) When the case is adjourned, postponed or settled, attendances to be reckoned from the hour for which the assessor is summoned to the hour at which the case is adjourned, postponed or settled, or to the hour at which the assessor is expressly released by the court from further attendance, whichever shall be the earlier.

(5) An assessor shall be entitled to the following travelling allowance for each journey actually and necessarily taken between the court house and his or her residence or place of business—

(a) R1.10 per kilometre in the case of a motorcar with an engine swept volume of 2 150 cm3 or less;

(b) R1.14 per kilometre in the case of a motorcar with an engine swept volume of 2 151 cm3 up to and including 2 500 cm3;

(c) R1.27 per kilometre in the case of a motorcar with an engine swept volume of 2 501 cm3 up to and including 3 500 cm3;

(d) R1.42 in the case of a motorcar with an engine swept volume of more than 3 500 cm3.

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

TABLE E

TARIFF OF FEES PAYABLE TO INTERMEDIARIES IN PROCEEDINGS OTHER THAN CRIMINAL PROCEEDINGS

[Table E inserted by GNR 2414, G. 46789 with effect from 1 October 2022.]

1 Fee for appearing in court

(a) An intermediary appointed to render assistance to a witness in proceedings other than criminal proceedings, shall be entitled to the following fees for appearing in court—

(i) for appearing, including time spent in a District Court: R150.00 per hour or part thereof, subject to a maximum of R1 200.00 per day; or

(ii) for appearing, including time spent in a Regional Court of a Regional Division: R180.00 per hour or part thereof, subject to a maximum of R1 440.00 per day.

(b) The fees contemplated in paragraph (a) shall be calculated from the beginning of the hour at which the intermediary is required to appear in court to the end of the hour at which the intermediary is excused from court.

2 Transport, travelling and parking or toll allowances

An intermediary appointed to render assistance to a witness in proceedings other than criminal proceedings, shall be entitled—

(a) to the following transport and travelling expenses for each journey actually and necessarily taken between the court house and his or her residence or place of business:

(i) For use of public transport, an amount equal to the fare for the least expensive transport along the shortest route; or

(ii) For use of private transport, an allowance, as prescribed from time to time for the Public Service: Provided that the maximum amount allowed shall not exceed that permitted for a 1551-1750 cc petrol or diesel engine capacity; and

(b) upon satisfactory proof having been produced to the court manager or registrar or clerk of the court, to the reimbursement for his or her reasonable actual expenses incurred in respect of parking and toll fees:

Provided that, for an intermediary who resides and carries on business at different physical locations, the transport or travelling allowance shall be calculated from the place of residence or place of business, whichever is closer to the court house, or such other place to which the intermediary is summoned, as the court may direct in terms of section 51A(3) of the Act.

3 Subsistence allowance

(a) Subject to paragraphs (b), (c) and (d), an intermediary who is, for the purpose of rendering intermediary services to a witness, absent from his or her residence and—

(i) is obliged to be absent from his or her residence for 24 hours or longer, shall be entitled to claim such allowances as prescribed from time to time for the Public Service; or

(ii) is obliged to be absent from his or her residence for less than 24 hours, shall be entitled to claim the reasonable actual expenses incurred:

Provided that the claim is accompanied by the necessary corroborative documents to support the expenses, as prescribed from time to time for the Public Service, or to the satisfaction of the court manager or registrar or clerk of the court.

(b) The allowances provided for in paragraph (a) are payable for the full period for which the intermediary is absent from his or her residence for purposes of appearing in court.

(c) In calculating the period of absence for purposes of paragraph (a), an intermediary is allowed 24 hours for each distance of 600 kilometres or part thereof travelled.

(d) The allowance provided for in paragraph (a) is not payable if the fare of an intermediary includes the cost of meals

ANNEXURE 3

…

[Annex 3 inserted by GNR 183 in G. 37448 with effect from 1 December 2014; amended by GNR 1156 in G. 43856 with effect from 1 December 2020; repealed by GNR 3371 in G. 48518 with effect from 9 June 2023.]

APPENDIX A

…

[Appendix A repealed by GNR 1318 in G. 42064 with effect from 10 January 2019.]