

Magistrates' Courts Rules

Annexure 1

FORM 24

Subpoena

[Form 24 – Subpoena 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.]

ANNEXURE

***No. 24 – Subpoena**

***For use in the District Court**

In the Magistrates' Court for the District of
held at Case No. of 20.....

In the matter between
..... Plaintiff
and
..... Defendant

To: the Sheriff/Deputy Sheriff:

INFORM:

- (1) of
- (2) of
- (3) of
- (4) of

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

(1) that each of them is hereby required to appear in person before this court at court number..... on the day of, 20....., at..... (time) [in the above-mentioned action] and thereafter to remain in attendance until excused by the court, in order to give evidence or to produce [books, papers or] any document or thing [documents] on behalf of the [.....] above-named Plaintiff/Defendant and, where [(Where documents) any document or thing is [are] required to be produced, [add:] and] inform such person to bring [with each one of them] and then produce to the court [the deeds, documents, books, writings, tape, electronic, digital or other form of recordings (hereinafter referred to as "documents")] the document or thing[s] specified in the list hereunder[.];

[Payment] (2) that payment of the witness fees for [the witnesses] each of them as provided for and allowed under section 51bis of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), as amended, is hereby tendered by the Plaintiff/Defendant; and[.]

(3) further inform each of the said persons of the following:

- (a) If any person, being duly subpoenaed to give evidence or to produce any [books, papers or] document[s] or thing in his or her possession or

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

(b) [If privilege is claimed in respect of any document or thing, the party that caused the subpoena to be issued shall be informed within five days of receipt of the subpoena of the nature of the privilege claimed; and](i) At the hearing of the matter the said person may claim privilege when called to testify in respect of evidence to be given or the document or thing to be produced, but such document or thing listed herein must be brought to court and be in such person's possession pending the determination of any claim of privilege.

(ii) Such person may waive privilege, but if the person intends claiming privilege in respect of the production of any document or thing, the said person must inform the party that caused the subpoena to be issued, as soon as is practicable prior to the hearing date, of the nature of privilege being claimed.

(c) Such person is entitled to the return of the document or thing after the inspection, [or] photocopying or photographing thereof by the parties.

Dated at this day of, 20

.....
Clerk of the Court

.....
Plaintiff/Defendant/Attorney"

LIST OF DOCUMENTS OR THINGS TO BE PRODUCED

Date	Description	Original or Copy
.....
.....
.....

(See back.)
[Print on back, paragraphs (a) and (b) of section 51(2) of the Act]

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

In the Regional Court for the Regional Division of
held at Case No. of 20.....

In the matter between

..... Plaintiff
and

..... Defendant

To: the Sheriff/Deputy Sheriff:

INFORM:

(1) of

(2) of

(3) of

(4) of

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

(1) that each of them is hereby required to appear in person before this court at court number..... on the day of, 20....., at..... (time) **[in the above-mentioned action]** and thereafter to remain in attendance until excused by the court, in order to give evidence or to produce **[books, papers or] any document or thing [documents]** on behalf of the [.....] above-named Plaintiff/Defendant and, where **[(Where documents)] any document or thing is [are]** required to be produced, **[add:] and** inform such person to bring **[with each one of them]** and then produce to the court **[the deeds, documents, books, writings, tape, electronic, digital or other form of recordings (hereinafter referred to as “documents”)]** the document or thing[s] specified in the list hereunder[.];

[Payment] (2) that payment of the witness fees for **[the witnesses] each of them** as provided for and allowed under section 51*bis* of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), as amended, is hereby tendered by the Plaintiff/Defendant; **and[.]**

(3) further inform each of the said persons of the following:

- (a) If any person, being duly subpoenaed to give evidence or to produce any **[books, papers or] document[s] or thing** in his or her possession or under his or her control, which the party requiring the witness(es)' attendance desires to show in evidence, fails, without lawful excuse, to attend or to give evidence or to produce

that [those books, papers or] document[s] or thing according to the subpoena or, unless duly excused, fails to remain in attendance throughout the trial, the court may, upon being satisfied on oath or by the return of the messenger that such person has been duly subpoenaed and that such person's reasonable expenses, calculated in accordance with the tariff prescribed under section 51bis, have been paid or offered to such person, impose upon the said person a fine not exceeding R300,00, and in default of payment, imprisonment for a period not exceeding three months.

(b) [If privilege is claimed in respect of any document or thing, the party that caused the subpoena to be issued shall be informed within five days of receipt of the subpoena of the nature of the privilege claimed; and](i) At the hearing of the matter the said person may claim privilege when called to testify in respect of evidence to be given or the document or thing to be produced, but such document or thing listed herein must be brought to court and be in such person's possession pending the determination of any claim of privilege.

(ii) Such person may waive privilege, but if the person intends claiming privilege in respect of the production of any document or thing, the said person must inform the party that caused the subpoena to be issued, as soon as is practicable prior to the hearing date, of the nature of privilege being claimed.

(c) Such person is entitled to the return of the document or thing after the inspection, [or] photocopying or photographing thereof by the parties.

Dated at this day of, 20

.....
Registrar of the Court

.....
Plaintiff/Defendant/Attorney"

LIST OF DOCUMENTS OR THINGS TO BE PRODUCED

Date	Description	Original or Copy
.....
.....
.....
.....

(See back.)

[Print on back, paragraphs (a) and (b) of section 51(2) of the Act]"