

SUPREME COURT ACT

Act 59 of 1959.

CIRCUIT COURT RULES

[Updated to 7 May 1976]

GoN R1055, G. 2749 (c.i.o 3 July 1970),

GoN R767, G. 5108 (c.i.o 7 May 1976).

The Chief Justice, after consultation with the judges president of the several divisions of the Supreme Court of South Africa, has, in terms of section 43(2)(a) of the Supreme Court Act, 1959 (Act 59 of 1959), with the approval of the State President, made, under GoN R1055 of 3 July 1970, with effect from 15 July 1970, the rules contained in the Annexure regulating the conduct of the proceedings of the provincial and local divisions of the Supreme Court of South Africa.

ARRANGEMENT OF RULES

Rule

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ANNEXURE

1. Definitions

In these Rules any word or expression to which a meaning has been assigned in the uniform rules shall bear that meaning and unless the context otherwise indicates—

“**Act**” shall mean the Supreme Court Act, 1959 (Act 59 of 1959);

“**circuit court**” shall mean any court referred to in section 7 of the Act, held within the area of jurisdiction of the provincial or local division;

“seat of the circuit court” shall mean any place determined in terms of section 7(2) of the Act; and

“uniform rules” shall mean the rules of court promulgated by Government Notice R48, dated 12 January 1965.

2. Application of Rules to circuit courts

- (1) Subject to the provisions of these Rules, the rules of court, including the uniform rules, and practice in force in relation to civil proceedings before a provincial or local division, shall, in so far as they are appropriate and can be applied, *mutatis mutandis* apply to all civil proceedings before any circuit court.
- (2) Whenever a circuit court gives any judgment which, had it been given by a court of the provincial or local division, could have been set aside by a court of the said division, such judgment may be set aside by a court of the provincial or local division.
- (3) The pleadings in any civil proceeding before a circuit court may be signed by an attorney or advocate alone or, if no attorney or advocate is acting, by the party concerned in person.
- (4) Subrule (3) and rules 5, 6 and 7 shall not apply to matters coming before the Port Elizabeth or East London circuit local divisions, which divisions shall, in accordance with subrule (1), be, as far as practicable and *mutatis mutandis*, regulated by the rules and practice of the Eastern Cape Division, and any function assigned in accordance with such rules and practice to the registrar may be performed by the circuit registrar, the assistant registrar at Port Elizabeth or the clerk of the magistrate’s court for the District of East London, as the case may be.

3. Issue of process

- (1) Any summons calling upon any person to appear as a defendant in any civil proceedings before a circuit court or a subpoena calling upon any person to appear as a witness in such proceedings may at any time, whether or not the date for the holding of such court has been appointed, be issued by the registrar or by the clerk of the magistrate’s court for the district in which the defendant resides or in which the cause of action arose. If the summons or subpoena is issued before the said date has been appointed, the person issuing the summons or subpoena shall as soon as possible notify the defendant or witness, as the case may be, of the date and place appointed for the holding of such court.

- (2) The clerk of the judge who conducts the circuit court shall act as registrar of such court and in the absence of the registrar the clerk of the magistrate's court of the magisterial district where the circuit court is held, shall act as registrar of such circuit court.

4. Arrest

- (1) Any process of a circuit court whereby any person is arrested or held to bail in order to ensure his appearance in civil proceedings to answer any claim and to abide the judgment of such court thereon, or any warrant for the attachment of any property, in respect of any action which has been or is intended to be brought before such court, may be issued by a judge or the magistrate for the magisterial district in which the circuit court concerned is held.
- (2) When any person has been arrested, or any property has been attached in terms of any process of any circuit court, the person so arrested, or any person having any interest in the property so attached, may at any time, if the circuit court concerned is not sitting, apply to any judge of the division in which the circuit district is situated for his release or the release of such property and such judge may make such order as he may deem fit.

5. Summons

- (1) Any summons, other than a summons for provisional sentence, calling upon any person to appear as a defendant in any civil proceedings before a circuit court shall be a combined summons and as near as may be in accordance with Form 10 in the First Schedule to the uniform rules.
- (2) A summons for provisional sentence shall be as near as may be in accordance with Form 3 in the First Schedule to the uniform rules.
- (3) Any summons signed by an attorney acting for the plaintiff shall bear the address of an attorney practising within the township in which is situated the office of the clerk of the magistrate's court to whom the summons is made returnable, or, if no attorney is acting and the summons is signed by the plaintiff, it shall bear an address within such township at which the plaintiff will accept service of all subsequent documents in the suit.
- (4) A defendant against whom a provisional sentence has been granted by a circuit court and who is entitled and wishes to enter into the principal case may, subject to the provisions of rule 8(11) of the uniform rules, give notice to the registrar of the provincial or local division in which the circuit district is situated of his intention to do so and thereafter the case shall be deemed to be pending in a court of the provincial or local division.

6. Notice of intention to defend

- (1) Subject to the provisions of section 27 of the Act, a defendant in any civil proceedings in a circuit court shall be allowed to deliver, either personally or through his attorney, a notice of intention to defend—
 - (a) within 10 days of the service of the summons on him if he resides within 80 kilometres from the office of the clerk of the magistrate's court to whom the summons is made returnable; or
[R 6(1)(a) subs by GoN R767 in G. 5108 wef 7 May 1976.]
 - (b) within 21 days of such service if he resides more than 80 kilometres from such office.
[R 6(1)(b) subs by GoN R767 in G. 5108 wef 7 May 1976.]
- (2) The provisions of rule 5(3) shall *mutatis mutandis* apply to a notice of intention to defend.

7. Further pleading

The circuit court may before or at the hearing of any civil proceedings, upon good cause shown, allow any pleading forthwith to be recorded although such pleading has not been delivered within the prescribed time.

8. Circuit court records

- (1) All process, pleadings and documents in any civil proceedings to be adjudicated upon by a circuit court and in the custody of the clerk of a magistrate's court other than the magistrate's court at the seat of the circuit court shall be transmitted by such clerk of the court to the clerk of the magistrate's court at such seat so that such process, pleadings and documents shall reach the latter clerk of the court not later than the day before the day appointed for the holding of the circuit court.
- (2) The clerk of the magistrate's court at the seat of the circuit court shall on arrival of the registrar of the circuit court deliver to him all circuit court records in his custody whereupon all such records shall form part of the records of such circuit court.
- (3) Upon the termination of a sitting of a circuit court, the registrar of such court shall deliver all records relating to civil proceedings, the further hearing of which have been postponed until the sitting of the next circuit court, to the clerk of the magistrate's court at the seat of such circuit court for custody.

9. Repeal

The Government Notices specified in the Schedule hereto are hereby repealed to the extent set out in the third column thereof.

Schedule

No. and year of Government Notice	Title or subject matter	Extent of repeal
678 of August 1905	Circuit Court Rules (Transvaal Provincial Division)	Rules 1-26.
221 of 23 July 1902, as amended	Circuit Court Rules (Orange Free State Provincial Division)	Rules 107-124.
41 of 13 January 1938, as amended	Circuit Court Rules (Cape of Good Hope Provincial Division)	Rules 52, 54-63.
79 of February 1907, as amended	Circuit Court Rules (Natal Provincial Division)	Order XXXIV - The whole.
103 of 15 June 1939, as amended	Circuit Court Rules (South-West Africa Division)	Rules 52, 54-63.
1639 of 25 October 1957	Circuit Court Rules (Eastern Cape Division)	Rule 2(n).
R981 of 30 May 1968	Rules Regulating the Conduct of the Proceedings on Circuit of the Griqualand-West Local Division of the Supreme Court of South Africa	The whole.