

SUPREME COURT ACT

Act 59 of 1959.

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE NATAL PROVINCIAL DIVISION OF THE SUPREME COURT OF SOUTH AFRICA

[Updated to 5 September 2003]

GoN R1665, G. 6133 (c.i.o 18 August 1978),
GoN 454, G. 9299 (c.i.o 6 July 1984),
GoN R1350, G. 11397 (c.i.o 8 July 1988),
GoN 925, G. 12033 (c.i.o 4 August 1989),
GenN 2283, G. 25394 (c.i.o 5 September 2003).

Notice is hereby given that the rules regulating the conduct of the proceedings of the Natal Provincial Division and the Durban and Coast Local Division of the Supreme Court of South Africa, published under Government Notice R3291 dated 12 September 1969, as amended by Government Notice R1399, dated 25 July 1975, have in terms of section 43(2)(b) of the Supreme Court Act, 1959 (Act 59 of 1959), been repealed by the Judge President of the Natal Provincial Division of the Supreme Court of South Africa and replaced by the following.

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—

“**court**” shall mean the Natal Provincial Division of the Supreme Court of South Africa and the Durban and Coast Local Division of the Supreme Court of South Africa, or one or other of the said divisions, as the context may require;

“**Judge President**” shall mean the Judge President of the Natal Provincial Division of the Supreme Court of South Africa or, in his absence, the next senior available judge of that division;

“**Registrar**” shall mean and include the Registrar and Assistant Registrar of the Natal Provincial Division and of the Durban and Coast Local Division, the Registrar of any circuit court, and any person duly appointed to act for any such registrar or assistant registrar, except where the Registrar of the Natal Provincial Division or the Registrar of the Durban and Coast Local Division is specially indicated;

“uniform rules” shall mean the rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa, promulgated by Government Notice R.48 dated 12 January 1965.

2. **Sittings of the court and vacations**

- (1) For the dispatch of civil and criminal business of the court there shall be four terms in the year. The Judge President shall, by notice in the *Government Gazette* published not later than 30 September of each year, fix the dates of such terms in respect of the ensuing calendar year.

The rest of the year shall be recess, save that the Judge President may constitute such court or courts as to him seem desirable to sit during recess: Provided that during the period 24 December to 2 January, both dates inclusive, and on Good Friday, no court shall sit in either division.

[R 2(1) subs by GoN 925 in G. 12033 wef 4 August 1989; am by GenN 2283 in G. 25394 wef 5 September 2003.]

- (2) Subject to the provisions of these Rules, opposed matters may be heard during vacation only with the leave of the Judge President.

(3)

(a) On Tuesdays and Thursdays in term precedence over other matters in the Provincial Division will be given to criminal appeals and on Mondays and Fridays to civil appeals.

(b) In terms of the provisions of rule 51(4) of the uniform rules of court the appellant shall not less than 20 days before the appeal is heard deliver a concise statement of the main points (without elaboration) which he intends to argue on appeal, as well as a list of authorities to be tendered in support of each point, and not later than seven days before the appeal is heard the respondent shall deliver a similar statement. Three additional copies shall in each case be filed with the Registrar.

[R 2(3)(b) ins by GN R1350 in G. 11397 wef 8 July 1988.]

(4)

(a) The cause list shall be arranged by the Registrar after consultation with the Judge President.

(b) Applications by way of motion or petition or on summons for provisional sentence or trial cases in which the defendant is in default may be set down throughout the year for hearing in the Provincial Division on Mondays, Tuesdays, Wednesdays and Thursdays and on Fridays during vacation at 09h30 and shall be enrolled before noon two days before the day of the hearing: Provided that the Registrar shall not set down more than

20 matters on any single day except with the leave of the Judge President or in his absence the senior judge on duty.

- (c) Opposed applications, defended provisional sentence cases, exceptions and stated cases may be set down for hearing in the Provincial Division on Fridays at 09h30 during term and shall be enrolled before noon on the Wednesday preceding the day of the hearing.
 - (d) Matters which become opposed after being set down initially as unopposed in the Provincial Division will be adjourned to a convenient Friday or to any other court day on the directions of the Judge President or the senior judge on duty.
- (5) The Provincial Division will sit on Tuesdays in vacation to hear criminal appeals.
- (6) Applications for the admission of legal practitioners will be dealt with in the Provincial Division on Mondays during term and on Tuesdays during vacation by a court consisting of two judges.
- (7)
- (a) Applications by way of motion or petition or on summons for provisional sentence or trial cases in which the defendant is in default may be set down throughout the year for hearing in the Local Division on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays at 09h30 and shall be enrolled before noon two days before the day of the hearing: Provided that the Registrar shall not set down more than 40 matters on any single day except with the leave of the Judge President or the senior judge on duty.
 - (b) Opposed applications, defended provisional sentence cases, exceptions and stated cases may be set down for hearing in the Local Division during term in Chamber Court on Mondays, Tuesdays, Wednesdays, Thursdays and Fridays immediately after the disposal of the unopposed matters appearing on the roll and shall be enrolled before noon two days before the day of the hearing.
- (8) Any application which is of an urgent nature and certified by counsel as such and which cannot be conveniently made at a time when a judge is sitting for the disposal of civil business may be made to a judge privately, after communication with the Registrar of the Provincial or the Local Division, as the case may be.
- (9)
- (a) Whenever a day prescribed by any of the preceding subrules for the commencement of a term falls upon a day which is not a court day, such rule shall be interpreted as referring to that court day which is next after the day so prescribed.

- (b) Whenever a day prescribed by any of the preceding subrules for the termination of a term falls upon a day which is not a court day, such term shall end on the court day preceding such day.

(10) Notwithstanding anything to the contrary in this rule contained—

- (a) the Judge President may, if he deems it necessary, appoint any day during a vacation as a day on which a court may sit; and
- (b) any judge may sit beyond a day prescribed by any of these Rules for the completion of business already set down or specially authorised to be set down or may make a special order, if the circumstances so require, varying any day or time prescribed for the sitting of the court or a judge, as the case may be.

[R 2 subs by GoN 454 in G. 9299 wef 6 July 1984.]

3. Setting down of defended cases in the provincial and local divisions

(1) Whenever in a case not proceeding by default the pleadings have been closed, the plaintiff or, if he fails to do so within 21 days of the close of pleadings, any party may request that the case be set down on the roll for trial in the manner set forth in subrule (2).

(2) A party requesting that a case be set down for trial shall—

- (a) enter in a register kept by the Registrar in the form set out in the Schedule hereto such particulars as may be required; and
- (b) give notice in writing to the other party or parties that he has done so.

(3) The Registrar shall compile and publish a list of the cases to be tried which shall be called the Weekly List. Save as is hereinafter provided, such cases shall be entered on the Weekly List in the chronological order in which they appear in the aforesaid register, and they shall be tried in such order.

(4) The Weekly List shall—

- (a) be compiled and published in respect of each week during term;
- (b) contain the list of cases to be tried during the week to which the List relates;

- (c) indicate what case or cases the Registrar has set down for trial on what specific day or days in such week;
 - (d) be published on a Friday which shall not be less than six weeks before the date of trial of the first case appearing in such List: Provided that whenever such Friday is not a court day, publication shall take place on the court day preceding it; and
 - (e) be published by the Registrar by—
 - (i) placing it on the notice board at his office; and
 - (ii) posting by registered post on the same day a copy thereof to each of the attorneys on record in the cases appearing on the List or, where there is no attorney on record, to the party himself at the most recent address provided by himself or his attorney to the Registrar.
- (5) Notwithstanding anything to the contrary in this rule provided—
- (a) the Judge President or the senior judge on duty may order that the cases set down in any Weekly List shall be heard in an order different from that appearing on the List, or be postponed either *sine die* or to some specified date or dates;
 - (b) the Judge President or the senior judge on duty may order that any case be set down for trial on a specified date or dates;
 - (c) subject to the provisions of paragraphs (a) and (b) hereof, a case which has not been reached on the date on which it has been set down for trial shall be tried at the conclusion of the trial of the case appearing immediately before it on the Weekly List: Provided that if the case is not reached before the end of the week in which it has been set down, it shall be given such preference in some other week as shall be ordered by the court or, with the consent of the parties to such case, as may be arranged by the Registrar;
 - (d) the Registrar may, in the event of the withdrawal of any case appearing on a Weekly List, set down one or more additional cases with the consent of the parties thereto or when so directed by the Judge President or the senior judge on duty.
- (6)
- (a) The Registrar, when so requested in writing by all the parties to a case, shall withdraw such case from the Weekly List. Any party to a case so withdrawn may request that the

