

SUPREME COURT ACT

Act 59 of 1959.

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE NORTHERN CAPE DIVISION OF THE SUPREME COURT OF SOUTH AFRICA

[Updated to 1 August 2003]

GoN R973, G. 13213 c.i.o (3 May 1991),
GoN R765, G. 18043 (c.i.o 6 June 1997),
GoN R651, G. 20101 (c.i.o 18 July 1999),
GoN R889, G. 20299 (c.i.o from the commencement of the first term of 2000),
GoN R1204, G. 25354 (c.i.o 1 August 2003).

The Judge President of the Northern Cape Division of the Supreme Court of South Africa has, in terms of section 43(2)(b) of the Supreme Court Act, 1959 (Act 59 of 1959), made the rules regulating the conduct of proceedings of the Northern Cape Division of the Supreme Court of South Africa, as contained in the Schedule hereto.

SCHEDULE

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 indicates otherwise—

“**court**” means the Northern Cape Division of the Supreme Court of South Africa;

“**Judge President**” means the Judge President of the Northern Cape Division of the Supreme Court of South Africa or, in his absence, the next senior available judge of that Division;

“**uniform rules**” means 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 R48 of 12 January 1965.

2. Sittings of the court and recesses

- (1) There shall be four terms of court in each year for the dispatch of civil and criminal business. 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.

[R 2(1) subs by GoN R765 in G. 18043 wef 6 June 1997.]

- (2) The rest of the year shall be recess: Provided that—
- (a) the Judge President may constitute such court or courts as seem to him desirable to sit during recess;
 - (b) no court shall sit during the period 24 December to 2 January, both dates inclusive, save that urgent applications will be heard by the duty judge in chambers; and
 - (c) subject to the provisions of these Rules, opposed matters or applications shall be heard during recess only with the leave of the Judge President.

3. Motion court

- (1) The motion court shall sit at 10:00 on every Friday of the year except the Friday between Christmas Day and New Year's Day, unless a particular Friday is a public holiday, in which event the motion court shall sit on the next succeeding court day.
- (2) Trial dates in respect of opposed applications shall be allocated by the registrar on the basis—
- (a) that not more than three shall be heard on any one day;
 - (b) that the exact number determined by the registrar shall depend upon the expected duration of arguments and the length of the papers; and
 - (c) that if the registrar has doubts concerning the number of opposed applications to be enrolled for a particular day, or if a party is dissatisfied with the registrar's decision in that regard, the Judge President shall be approached for a ruling.
- (3) If there are valid reasons why a particular opposed application should be heard sooner than the first available motion court day, the parties may approach the Judge President through the registrar for the allocation of another available court day for the hearing of that application.
- (4) In respect of each opposed application heads of argument shall be filed with the registrar and served on the opposing party—
- (a) before 12:00 on the Monday preceding the trial date on behalf of the applicant; and

(b) before 12:00 on the Wednesday preceding the trial date on behalf of the respondent:

Provided that in respect of long or complicated applications the heads of argument shall be filed and served at least six and four court days, respectively, before the trial date.

- (5) "Heads of arguments" means full heads of argument with references, where appropriate, to the record and to the authorities relied upon, together with a list of such authorities.
- (6) If it is the parties' intention that an opposed application be heard on the day for which it is enrolled, the applicant's attorney shall notify the registrar accordingly in writing before 12:00 on the preceding Wednesday. In the absence of such notice the trial judge shall assume that the matter will not be heard.
- (7) For the purposes of these Rules an opposed application under rule 43 of the uniform rules shall not be regarded as an opposed application, and the registrar shall not enrol more than three such applications for any one day.

4. Civil trials

- (1) Civil cases shall be heard every day from Monday to Friday during the terms of court.
- (2) The plaintiff in an action shall, as soon as possible after the close of pleadings make written application to the registrar for a trial date and notify the defendant thereof in writing: Provided that if the plaintiff fails to make such application within 21 days after the close of pleadings, the defendant may do so, in which event he shall notify the plaintiff thereof in writing.
- (3) The registrar shall compile a list of all actions in respect of which trial dates have been applied for in the order in which such applications are received by him.
- (4) A conference for the enrolment of cases to be heard during each term of court shall be held during the preceding term of court on a date fixed by the Judge President: Provided that at such conference cases may, in the discretion of the Judge President, be enrolled for dates further ahead than the ensuing terms.

[R 4(4) subs by GoN R765 in G. 18043 wef 6 June 1997.]
- (5) Except in exceptional circumstances, a case is enrolled only if the minute referred to in rule 37(1)(c) of the uniform rules has already been filed with the registrar.

- (6) Attorneys and advocates who are involved in cases appearing in the list referred to in subrule (3) shall be given written notice by the registrar of the time and date of such conference, and a copy of that list shall be annexed to such notice.
- (7) It is expected of attorneys and advocates who are involved in cases appearing on such list to attend the conference.
- (8) The Judge President, or another judge appointed by him, shall preside at the conference, and he shall allocate trial dates to the cases appearing on such list.
- (9) If, once trial dates have been allocated to all the cases appearing on such list, certain trial dates are still available, such dates may, subject to the provisions of subrule (5), be sought for cases not appearing on that list.
- (10) The presiding judge shall determine the number of cases to be enrolled for a particular day.
- (11) All cases in respect of which trial dates are sought after the date of such conference and in respect of which a minute as referred to in rule 37(1)(c) of the uniform rules has been filed with the registrar, shall be placed on a contingency roll by the registrar, and if trial dates become available, he shall approach attorneys involved in cases on that roll with the object of enrolling such cases for trial on those days at short notice.
- (12) The registrar may give preference to a case not appearing on the contingency roll, provided that he is satisfied that there are valid grounds for such preference.
- (13) In order to ensure the efficient administration of subrules (11) and (12), it is expected of attorneys to advise the registrar at the earliest possible opportunity of cases appearing on the trial roll but which will not proceed.
- (14) There shall be a Circuit Division for the hearing of civil matters to be called The Namaqualand Civil Circuit Division, which shall sit in Springbok and Calvinia, as the case may be, for such period or periods in every term as may be determined by the Judge President.

[\[R 4\(14\) ins by GoN R1204 in G. 25354 wef 1 August 2003.\]](#)
- (15) The Judge President may *mero motu* or at the request of a party establish such other permanent or *ad hoc* civil or criminal circuit courts for the hearing of civil and criminal matters at such venues in this Division as may appear to him or her to be necessary or convenient.

[\[R 4\(15\) ins by GoN R1204 in G. 25354 wef 1 August 2003.\]](#)

5. Criminal trials

Criminal trials shall be heard every day from Monday to Friday during terms of court.

[R 5 subs by GoN R651 in G. 20101 wef 18 July 1999.]

6. Civil appeals

- (1) Civil appeals shall be heard on the third Monday of every month during terms of court.
- (2) Heads of argument in civil appeals to the full court and in civil appeals from the magistrate's court shall be delivered in accordance with the provisions of rules 49(15) and 50(9), respectively, of the uniform rules.
- (3) With regard to the concept of "heads of argument", the provisions of rule 3(5) shall apply, and such heads of argument shall be in addition to or in substitution of the "concise and succinct statement" referred to in rules 49(15) and 50(9) of the uniform rules.

7. Criminal appeals

- (1) Criminal appeals shall be heard every Monday during terms of court, with the exception of the third Monday of every month.
- (2) If it is warranted by the circumstances, criminal appeals shall, on the instructions of the Judge President, be heard on any other available court day, including a day during recess.
- (3) If, on a day reserved for the hearing of civil appeals, no civil appeals have been enrolled for hearing, the Attorney-General may use that day for the hearing of criminal appeals.
- (4) Heads of argument in criminal appeals to the full court shall be delivered in accordance with the provisions of rule 49A of the uniform rules.
- (5)
 - (a) Heads of argument in criminal appeals from an inferior court, as referred to in rule 51(4) of the uniform rules, shall be delivered on behalf of the appellant 15 court days before the date of hearing of the appeal, and on behalf of the respondent 10 court days before that date, if the appeal record comprises less than 300 pages.

- (b) If the appeal record comprises 300 or more pages, and in all full bench appeals, heads of argument on behalf of the appellant shall be delivered 20 court days before the date of hearing of the appeal, and those on behalf of the respondent 15 court days before that date.
- (c) In the notice of placement on the roll of the appeal, the Director of Public Prosecutions informs the appellant of the relevant provisions of paragraphs (a) and (b): Provided that he or she may, in the case of lengthy appeals, determine longer periods than those prescribed in paragraphs (a) and (b), if he or she deems it expedient.

[R 7(5) subs by GoN R889 in G. 20299 wef the commencement of the first term of 2000.]

- (6) With regard to the concept of “heads of argument”, the provisions of rule 3(5) shall apply, and such heads of argument shall be in addition to or in substitution of the “concise and succinct statement” referred to in rules 49A and 51(4) of the uniform rules.

8. General

- (1) Failure by an appellant to comply with rules 49(15), 49A (3), 50(9) and 51(4) of the uniform rules, read with rules 6(2), 6(3), 7(4), 7(5) and 7(6) hereof, will result in the appeal being struck off the roll, and failure by a respondent to comply with such provisions will result in the court making such order as it deems fit: Provided that such failure may be condoned upon good cause being shown by way of a written application.
- (2) The provisions of rule 8(1) shall apply *mutatis mutandis* to the failure to deliver the heads of argument required by rule 3(4).
- (3) In respect of all appeals “deliver”, used in relation to heads of argument, shall mean filing with the registrar and serving upon the opposing party.
- (4) The Judge President may, if he considers it expedient, authorise any departure from these Rules.

9. Repeal

Government Notice R526 of 1 April 1966, as amended by Government Notices R564 of 14 April 1972 and R2798 of 22 December 1989, is hereby repealed.