

## SUPREME COURT ACT

Act 59 of 1959.

### **RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE TRANSVAAL PROVINCIAL DIVISION AND WITWATERSRAND LOCAL DIVISION OF THE HIGH COURT OF SOUTH AFRICA AND THE VENDA HIGH COURT**

[Updated to 9 November 2007]

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GoN R485, G. 758 (c.i.o 3 April 1964),  
GoN R48, G. 999 (c.i.o 12 January 1965),  
GoN 1482, G. 1240 (c.i.o 1 October 1965),  
GoN 266, G. 1672 (c.i.o 3 March 1967),  
GoN R899, G. 3522 (c.i.o 26 May 1972),  
GoN R1313, G. 5654 (c.i.o 15 July 1977),  
GoN R662, G. 5967 (c.i.o 7 April 1978),  
GoN R1612, G. 7688 (c.i.o 31 July 1981),  
GoN R1802, G. 9892 (c.i.o 16 August 1985),  
GoN R276, G. 10607 (c.i.o 13 February 1987),  
GoN R2799, G. 4442 (c.i.o 22 December 1989),  
GoN 7, G. 12241 (c.i.o 5 January 1990),  
GoN 731, G. 13148 (c.i.o 5 April 1991),  
GoN R2324, G. 14223 (c.i.o 14 August 1992),  
GoN R901, G. 15716 (c.i.o 13 May 1994),  
GoN R1459, G. 16686 (c.i.o 29 September 1995),  
GoN R766, G. 18043 (c.i.o 6 June 1997),  
GoN R448, G. 19930 (c.i.o 16 April 1999),  
GoN R1371, G. 22940 (c.i.o 14 December 2001),  
GoN R191, G. 23124 (c.i.o 15 February 2002),  
GoN 827, G. 27892 (c.i.o 19 August 2005),  
GenN 1629, G. 30455 (c.i.o 9 November 2007).

The following rules regulating the conduct of the proceedings of the Transvaal Provincial Division and Witwatersrand Local Division of the Supreme Court of South Africa have, in terms of section 43(2)(b) of the Supreme Court Act, 1959 (Act 59 of 1959), been made by the Judge President of that division.

## **ARRANGEMENT OF RULES**

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### SCHEDULE D(1)

#### **1. Terms**

In the Transvaal Provincial Division and the Witwatersrand Local Division and the Venda High Court the terms for the dispatch of civil and criminal business shall be as follows—

- (1) For the year 2009
  - (a) The first term shall be from 2 February to 3 April 2009, inclusive;
  - (b) The second term shall be from 13 April to 19 June 2009, inclusive;
  - (c) The third term shall be from 27 July to 25 September 2009, inclusive; and
  - (d) The fourth term shall be from 5 October to 11 December 2009, inclusive.
- (2) For the year 2010
  - (a) The first term shall be from 1 February to 2 April 2010, inclusive;
  - (b) The second term shall be from 12 April to 18 June 2010, inclusive;
  - (c) The third term shall be from 26 July to 24 September 2010, inclusive;

(d) The fourth term shall be from 4 October to 10 December 2010, inclusive.

(3) For the year 2011

(a) The first term shall be from 31 January to 1 April 2011, inclusive;

(b) The second term shall be from 11 April to 17 June 2011, inclusive;

(c) The third term shall be from 25 July to 23 September 2011, inclusive;

(d) The fourth term shall be from 3 October to 9 December 2011, inclusive.

[R 1 subs by GoN R899 in G. 3522 wef 26 May 1972, GoN R2799 in G. 4442 wef 22 December 1989, GoN 731 in G. 13148 wef 5 April 1991, GoN R2324 in G. 14223 wef 14 August 1992, GoN R901 in G. 15716 wef 13 May 1994, GoN R1459 in G. 16686 wef 29 September 1995, GoN R766 in G. 18043 wef 6 June 1997, GoN R448 in G. 19930 wef 16 April 1999, GoN R1371 in G. 22940 wef 14 December 2001, GoN 827 in G. 27892 wef 19 August 2005, GenN 1629 in G. 30455 wef 9 November 2007.]

## **2. Administrative recesses**

(1) The administrative recesses for the year 2009 shall be as follows—

(a) from 4 April to 12 April 2009, inclusive;

(b) from 20 June to 26 July 2009, inclusive;

(c) from 26 September to 4 October 2009, inclusive; and

(d) from 12 December 2009 to 31 January 2010, inclusive.

(2) The administrative recesses for the year 2010 shall be as follows—

(a) from 3 April to 11 April 2010, inclusive;

(b) from 19 June to 25 July 2010, inclusive;

(c) from 25 September to 3 October 2010, inclusive; and

(d) from 11 December 2010 to 30 January 2011, inclusive.

- (3) The administrative recesses for the year 2011 shall be as follows—
- (a) from 2 April to 10 April 2011, inclusive;
  - (b) from 18 June to 24 July 2011, inclusive;
  - (c) from 24 September to 2 October 2011, inclusive; and
  - (d) from 10 December 2011 to 29 January 2012, inclusive.
- (4) The Judge President shall determine prior to the commencement of the recesses referred to in subrules (1), (2) and (3) how many and which judges are to perform the functions in the said divisions during the recesses.
- (5) No civil or criminal business shall be heard or placed on the roll for hearing during the following terms unless a judge on duty, as referred to in subrule (4), is of the opinion that the business is urgent—
- (a) from 19 December 2009 to 3 January 2010, inclusive;
  - (b) from 18 December 2010 to 2 January 2011, inclusive; and
  - (c) from 24 December 2011 to 8 January 2012, inclusive.

[R 2 subs by GoN 266 in G. 1672 wef 3 March 1967, GoN R899 in G. 3522 wef 26 May 1972, GoN R2799 in G. 4442 wef 22 December 1989, GoN 731 in G. 13148 wef 5 April 1991, GoN R2324 in G. 14223 wef 14 August 1992, GoN R901 in G. 15716 wef 13 May 1994, GoN R1459 in G. 16686 wef 29 September 1995, GoN R766 in G. 18043 wef 6 June 1997, GoN R448 in G. 19930 wef 16 April 1999, GoN R1371 in G. 22940 wef 14 December 2001, GoN 827 in G. 27892 wef 19 August 2005, GenN 1629 in G. 30455 wef 9 November 2007.]

### **3. Motion court**

- (1)
- (a) In the Transvaal Provincial Division applications in terms of rule 43 and applications for summary judgment shall be set down for hearing on Mondays and, if a Monday is a public holiday, on the following court day.
  - (b) All other motion court matters shall be set down for hearing on Tuesdays and, if a Tuesday is a public holiday, on the following court day.

- (2) In the Witwatersrand Local Division all motion court matters shall be set down for hearing on Tuesdays and, if a Tuesday is a public holiday, on the following court day.
- (3) If any of the cases referred to in subrules (1) and (2) are not disposed of on the day for which such cases have been set down, they shall be heard at a later stage in accordance with the directions of the presiding judge.

[R 3 rep by GoN R48 in G. 999 wef 12 January 1965; ins by GoN 266 in G. 1672 wef 3 March 1967; subs by GoN R1459 in G. 16686 wef 29 September 1995.]

#### **4. Undefended trial cases for divorce**

- (1) In the Transvaal Provincial Division undefended trial cases for divorce shall be set down for hearing on Fridays. The Judge President shall decide from time to time how many divorce cases may be set down for hearing on a Friday. If a Friday is a public holiday, the cases may be set down for hearing on the preceding court day.
- (2) In the Witwatersrand Local Division undefended trial cases for divorce shall be set down for hearing on Thursdays and Fridays. The Judge President shall decide from time to time how many divorce cases may be set down for hearing on a Friday. Should more cases than have been determined be set down for hearing on a Friday, they shall be set down for hearing on the Thursday of the following week. If a Friday or a Thursday is a public holiday, the cases may be set down for hearing on the preceding court day.

[R 4 rep by GoN R48 in G. 999 wef 12 January 1965; ins by GoN 266 in G. 1672 wef 3 March 1967; subs by GoN 276 in G. 10607 wef 13 February 1987, GoN R1459 in G. 16686 wef 29 September 1995.]

#### **5. Criminal sessions**

- (1) A party who receives notice from the registrar of the trial date shall without delay inform every other party to the action of the trial date, except a party who is represented by the same attorney.
- (2) The preceding subrule applies *mutatis mutandis* to a party who receives notice from the registrar of the date on which a matter has been set down for the hearing of oral evidence in an application.

- (3) The notice shall be forwarded by registered post but delivery of a written notice by other means shall be adequate if it is proven that a written receipt was delivered at or an electronically created receipt was generated in the office of the addressee.

[R 5 rep by GoN R48 in G. 999 wef 12 January 1965; ins by GoN R899 in G. 3522 wef 26 May 1972; subs by GoN R1459 in G. 16686 wef 29 September 1995, GoN R766 in G. 18043 wef 6 June 1997.]

## **6. Civil appeals from Magistrates' Courts**

- (1) In rule 50(1) of the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the Supreme Court of South Africa, the period of 60 days shall be extended to 14 weeks in respect of the Transvaal Provincial Division and the Witwatersrand Local Division.
- (2) In rule 50(4) of the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the Supreme Court of South Africa, the period of 40 days shall be extended to 12 weeks and the period of 60 days shall be extended to 14 weeks in respect of the Transvaal Provincial Division and the Witwatersrand Local Division.
- (3) Where in rule 50(7) of the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the Supreme Court of South Africa it is stipulated that two copies of the record shall be filed with the registrar no less than 14 days prior to the date assigned for the hearing of the appeal and that two copies of the record shall be served upon the other party, it is stipulated in respect of the Transvaal Provincial Division and the Witwatersrand Local Division that—
- (a) the two copies of the record to be filed with the registrar shall be filed simultaneously with the application for a date of hearing in accordance with the provisions of rule 50(4), as adjusted in respect of the Transvaal Provincial Division and the Witwatersrand Local Division: Provided that the registrar may accept an application for a date of hearing of an appeal without the necessary copies of the record if—
- (i) the application is accompanied by a written agreement between the parties to the effect that copies of the record may be filed late; or
- (ii) in the absence of such an agreement, the appellant delivers a sworn declaration together with the application in which the reasons for his omission to file the copies of the record in time are set forth and in which it is indicated that an application for condonation will be made at the hearing of the appeal;

- (b) the two copies of the record to be served upon the other party in terms of rule 50(7)(d) of the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the Supreme Court of South Africa shall be served upon the other party simultaneously with the filing of the abovementioned two copies with the registrar;
  - (c) after the copies of the record have been delivered, the registrar shall assign a date of hearing for the appeal or for the application for condonation and appeal, as the case may be;
  - (d) if the party that requested a date for the hearing of an appeal neglects or omits to file or deliver the abovementioned copies of the record within two months of the application for a date of hearing for the appeal having been accepted by the registrar in terms of the proviso to paragraph (a), the other party may approach the court for an order to the effect that the appeal has lapsed.
- (4) The appellant shall not later than 14 days before the hearing of the appeal deliver a concise and succinct statement of the main points (without elaboration thereon) which he intends to argue on appeal. Not later than seven days before such hearing the respondent shall deliver a like statement of the main points he intends to argue. Two additional copies shall, in each case, be filed with the registrar.
- (5) In this rule the word “deliver” shall have the same meaning as in the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the Supreme Court of South Africa.

[R 6 rep by GoN R48 in G. 999 wef 12 January 1965; ins by GoN 1313 in G. 5654 wef 15 July 1977; am by GoN R662 in G. 5967 wef 7 April 1978; subs by GoN R1612 in G. 7688 wef 31 July 1981; rep by GoN R1802 in G. 9892 wef 16 August 1985; ins by GoN R1459 in G. 16686 wef 29 September 1995.]

## **7. Set down of civil cases**

- (1) When the pleadings in any trial action have been closed the plaintiff or, if he fails to do so within six weeks after the close of pleadings, the defendant may set down the case on the roll by entering the required particulars in the register kept by the registrar in the form set out in Schedule D(1), and such a plaintiff or defendant or his attorney shall forthwith give the other party written notice that this has been done. If the party concerned is represented by an attorney, the entry shall be effected by such attorney or a candidate attorney of such attorney.

- (2) The registrar shall set down as many cases for hearing on any court day as he considers can be tried on that day, in the chronological order in which the entries are made in terms of subrule (1).
- (3) The registrar shall notify each party or his attorney of the date on which the action is set down for hearing. Notice shall be given by registered post dispatched to the address given as the address for service of pleadings. If a party or his attorney gave a telefax number the notice may be sent by telefax, provided that the telefax equipment used for the purpose indicates that the notice was received.
- (4) The registrar may set down further cases for hearing on any court day if so authorised by the Judge President or a deputy judge president, or if he deems it advisable owing to the withdrawal or postponements of cases which have already been set down.
- (5) Every party to an action who receives notice of the trial date shall forthwith, and in any event not later than seven days after receipt of such a notice, give notice in writing to every other party or his or her attorney of the date which was allocated by the registrar for the hearing: Provided that the party receiving notice from the registrar need not give such notice to a party who is represented by the same attorney as the party who is so obliged to give notice.

[R 7(5) subs by GoN R191 in G. 23124 wef 15 February 2002.]
- (6) Any case not reached on the day for which it was set down shall be tried on completion of the case immediately preceding it, but always subject to the direction of the court, the Judge President or a deputy judge president.
- (7) If any trial case which has been set down for hearing is settled or if the parties agree that the case be postponed, the party who caused the matter to be set down, or his attorney, shall forthwith notify the registrar thereof, and forthwith cause a notice of removal or postponement to be filed.
- (8)
  - (a) A case which has been set down may be withdrawn from the roll on such conditions as may be agreed upon by the parties by means of a written notice to the registrar signed by all the parties or their attorneys.
  - (b) Subject to the provisions of paragraph (a) a case may be withdrawn from the roll only with the leave of the court and on such conditions as the court deems fit.

[R 7 rep by GoN R48 in G. 999 wef 12 January 1965; ins by GoN 1313 in G. 5654 wef 15 July 1977; am by GoN R662 in G. 5967 wef 7 April 1978, GoN R1612 in G. 7688 wef 31 July 1981; subs by GoN R1802 in G. 9892 wef 16 August 1985, GoN R1459 in G. 16686 wef 29 September 1995.]



## **8. Criminal appeals**

- (1) Whenever the attorney-general, in terms of rule 51(1) of the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the Supreme Court of South Africa and promulgated by Government Notice No. R. 48 of 12 January 1965, gives notice of set down of a criminal appeal, he may in his discretion notify the appellant that heads of argument are required when the appeal is heard. When such notice is given the appellant shall, at least one month before the serving day of the appeal or, if short notice of the hearing of the appeal is given, as soon as possible, deliver a concise and succinct statement of the main points he intends to argue on appeal to the attorney-general and two copies thereof to the registrar.
- (2) The attorney-general shall no less than seven days prior to the hearing of the appeal deliver his heads of argument to the appellant and file two copies thereof with the registrar or, where short notice of the hearing of the appeal was given and it was not possible for the appellant to deliver the points of argument at least one month prior to the serving day of the appeal, as soon as possible thereafter.
- (3) The attorney-general shall deliver two copies of the notice of set down of every such criminal appeal to the registrar, who shall attach such copies to the record to be furnished to the judges hearing the appeal.

[R 8 rep by GoN R48 in G. 999 wef 12 January 1965; ins by GoN R1459 in G. 16686 wef 29 September 1995.]

## **9. – 46. ...**

[Rules 9 to 46 rep by GoN R48 in G. 999 wef 12 January 1965.]

## **47. ...**

[R 47 subs by GoN R485 in G. 758 wef 3 April 1964; rep by GoN R1459 in G. 16686 wef 29 September 1995.]

## **47bis. ...**

[R 47bis ins by GoN 1482 in G. 1240 wef 1 October 1965; am by GoN R1612 in G. 7688 wef 31 July 1981; rep by GoN R1459 in G. 16686 wef 29 September 1995.]

## **47ter. ...**

[Rule 47ter ins by GoN 1482 in G. 1240 wef 1 October 1965; rep by GoN R1459 in G. 16686 wef 29 September 1995.]

