

RULES OF THE SUPREME COURT OF APPEAL

[Updated to 19 June 2023]

GoN R1523, G. 19507 (c.i.o 28 December 1998),
GoN R979, G. 33689 (c.i.o 24 December 2010),
GoN R191, G. 34073 (c.i.o 15 April 2011),
GoN R113, G. 36157 (c.i.o 22 March 2013),
GoN R1055, G. 41142 (c.i.o 1 November 2017),
GoN R1318, G. 42064 (c.i.o 10 January 2019),
GoN R842, G. 42497 (c.i.o 1 July 2019),
GoN R858, G. 43592 (c.i.o 11 September 2020),
GoN R1158, G. 43856 (c.i.o 1 December 2020),
GoN R1602, G. 45645 (c.i.o 1 February 2022),
GoN R2135, G. 46475 (c.i.o 8 July 2022),
GoN R3059, G. 48067 (c.i.o. 24 March 2023),
GoN R3398, G. 48571 (c.i.o 19 June 2023).

RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule.

SCHEDULE

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[Table of Contents subs by GoN R979 in G. 33689 wef 24 December 2010.]

1. Definitions

- (1) In these Rules, unless inconsistent with the context—

“Act” means the Superior Courts Act, 2013 (Act 10 of 2013);

[“Act” ins by GoN R842 in G. 42497 wef 1 July 2019.]

“apply” means apply on notice of motion on the prescribed form in the Annexure, and **“application”** has a corresponding meaning;

“Court” means the Supreme Court of Appeal as referred to in section 5 of the Act;

[“Court” subs by GoN R842 in G. 42497 wef 1 July 2019.]

“court day” means a business day as defined in the Act;

[“court day” subs by GoN R842 in G. 42497 wef 1 July 2019.]

“Judge” means a judge or an acting judge of the Court sitting otherwise than in open court;

“lodging of documents with the registrar” means the lodging of documents with the registrar through an attorney practising in Bloemfontein or, if a party is not represented by an attorney, by registered post or by that party personally, after prior service of copies of such documents on any other party;

“party” or any other reference to a litigant in terms includes a legal practitioner appearing on behalf of a party, as the context may require;

“President” means the President of the Court and, in the absence of the President, includes the Deputy President of the Court;

[“President” ins by GoN R979 in G. 33689 wef 24 December 2010; subs by GoN R842 in G. 42497 wef 1 July 2019.]

“registrar” means the registrar of the Court and includes any acting or assistant registrar of the Court.

(2)

- (a) Only court days shall be included in the computation of any time expressed in days prescribed by these Rules or fixed by any order of the Court.
- (b) The period between 16 December and 15 January (both dates inclusive) shall not be taken into account in the calculation of any period in terms of these Rules.

2. Court terms

Terms

(1) There shall be four terms in each year as follows—

15 February to 31 March, inclusive;

1 May to 31 May, inclusive;

15 August to 30 September, inclusive;

1 November to 30 November, inclusive.

Hearing case out of term

(2) A matter may be heard out of term if the President so directs.

Commencement of term

- (3) If the day fixed for the commencement of a term is not a court day, the term shall commence on the next succeeding court day and, if the day fixed for the end of a term is not a court day, the term shall end on the business day preceding.

[R 2 subs by GoN R979 in G. 33689 wef 24 December 2010.]

3. Registrar's office hours

Hours

[Rule subheading ins by GoN R979 in G. 33689 wef 24 December 2010.]

- (1) The office of the registrar shall be open on court days from 08:30 to 13:00 and from 14:00 to 15:30, save that no documents shall be lodged after 15:00.

Exceptional cases

[Rule subheading ins by GoN R979 in G. 33689 wef 24 December 2010.]

- (2) The registrar may in exceptional cases accept documents at any time, and shall do so when directed by a judge.

4. General powers and duties of registrar

Filing of documents

- (1)
- (a) The registrar may refuse to accept any document tendered for lodging if, in the registrar's opinion, it does not comply with these Rules: Provided that if proper copies of the rejected documents are submitted within 10 days of rejection, such lodging shall not be deemed untimely.
 - (b) The registrar may provisionally accept, *in lieu* of the original document tendered for lodging, a copy (including a facsimile or other electronic copy) thereof, but the original shall be filed within 10 days thereafter.
 - (c) The registrar may not accept documents in relation to an appeal on the date of the hearing of that appeal.

Maintaining of court records

(2)

- (a) A notice of appeal or the first application in an intended appeal shall be numbered by the registrar with a consecutive number for the year during which it is filed.
- (b) Every document lodged afterwards in such a case shall be marked with that number by the party lodging it and shall not be received by the registrar until so marked.
- (c) All the documents delivered to the registrar to be filed in a case shall be filed by a registrar in a case file under the number of such case.
- (d) The registrar shall maintain the Court's records and shall not permit any of them to be removed from the court building, except as authorised by the registrar.
- (e) Any document lodged with the registrar and made part of the Court's records shall not thereafter be withdrawn permanently from the official court files.

Inspection and copying

(3)

- (a) Documents filed for Court purposes are public documents and may be inspected by any person in the presence of the registrar.
- (b) Copies of any document forming part of the Court's records may be made by any person in the presence of the registrar.
- (c) The registrar shall, at the request of a party, make a copy of a recorded order, settlement or judgment on payment of the prescribed court fees and the registrar shall certify that copy or photocopy to be a true copy of the original.

Settlement of disputes with registrar

- (4) If a dispute arises as to the correctness of any ruling by the registrar, the registrar shall refer the dispute to a judge for a final ruling.

Communications with judges

- (5) Any communication directed to the President or any Judge must be done through the office of the registrar.

[R 4 subs by GoN R979 in G. 33689 wef 24 December 2010.]

5. Power of attorney

When required

- (1) A power of attorney need not be filed, but the authority of a legal practitioner to act on behalf of any party may, within 10 days after it has come to the notice of any other party that the legal practitioner is so acting, or with the leave of the Court on good cause shown at any time before judgment, be disputed by notice, whereafter upon expiry of 10 days after service of the notice the legal practitioner shall no longer so act, unless a power of attorney is lodged with the registrar within that period.

Format

- (2) Every power of attorney shall be signed by or on behalf of the party giving it, and shall otherwise be executed according to law.

Exemptions

- (3) No power of attorney shall be required to be filed by—
- (a) the National Prosecuting Authority;
 - (b) a legal practitioner acting *pro deo* or *amicus curiae*; or
 - (c) the State Attorney, any deputy state attorney or any professional assistant to the State Attorney, or any attorney instructed in writing or by telegram or facsimile by or on behalf of the State Attorney or a deputy state attorney in any matter in which the State Attorney or deputy state attorney is acting as such by virtue of any statute.

[R 5 subs by GoN R979 in G. 33689 wef 24 December 2010.]

6. Application for leave to appeal

Filing of application

- (1) In every matter where leave to appeal is by law required of the Court, an application therefor shall be lodged in triplicate with the registrar within the time limits prescribed by that law.

Annexures required

- (2) Every such application shall be accompanied by—
 - (a) a copy of the order of the court *a quo* appealed against;
 - (b) where leave to appeal has been refused by that court, a copy of that order;
 - (c) a copy of the judgment delivered by the court *a quo*; and
 - (d) where leave to appeal has been refused by that court, a copy of the judgment refusing such leave:

Provided that the registrar may, on written request, extend the period for the filing of a copy of the judgment or judgments for a period not exceeding one month.

Answer

- (3) Every affidavit in answer to an application for leave to appeal shall be lodged in triplicate within one month after service of the application on the respondent.

Reply

- (4) An applicant who applied for leave to appeal shall, within 10 days after an affidavit referred to in subrule (3) has been received, be entitled to lodge an affidavit in reply dealing strictly only with new matters raised in the answer.

Format of application, answer and reply

- (5) Every application, answer and reply—
 - (a) shall—

- (i) be clear and succinct and to the point;
 - (ii) furnish fairly all such information as may be necessary to enable the Court to decide the application;
 - (iii) deal with the merits of the case only in so far as is necessary for the purpose of explaining and supporting the particular grounds upon which leave to appeal is sought or opposed;
 - (iv) be properly and separately paginated; and
- (b) shall not—
- (i) be accompanied by the record,
 - (ii) traverse extraneous matters; or
 - (iii) exceed, for the founding affidavit and answer 30 pages each and for the reply 10 pages.

Request for further documents

- (6) The judges considering the application may call for—
- (a) submissions or further affidavits;
 - (b) the record or portions of it; and
 - (c) additional copies of the application.

Time for filing further documents

- (7) The party concerned shall lodge the required documents within the period prescribed by the registrar.

Failure to comply

- (8) If the party concerned fails to comply with a direction by the registrar or fails to cure the defects in the application within the period directed, the application shall lapse.

Application and referral for reconsideration

- (9) Notwithstanding the provisions of this rule, an application to the President and a referral by the President, for reconsideration of a decision in terms of section 17(2)(f) of the Act, shall be conducted in accordance with directives issued by the President.

[R 6 subs by GoN R979 in G. 33689 dated 24 December 2010; r 6(9) ins by GoN R842 in G. 42497 dated 1 July 2019.]

7. Notice of appeal

- (1) An appellant shall lodge a notice of appeal with the registrar and the registrar of the court *a quo* within one month after the date of—

- (a) the granting of the judgment or order appealed against where leave to appeal is not required;
- (b) the granting of leave to appeal where leave to appeal is required; or
- (c) the setting aside of a direction of a court of a Division in terms of section 17(6) of the Act or section 315(2)(b) of the Criminal Procedure Act, 1977 (Act 51 of 1977).

[R 7(1)(c) subs by GoN R842 in G. 42497 wef 1 July 2019.]

- (2) A respondent in a civil appeal who intends to cross-appeal shall, within one month after receipt of the appellant's notice of appeal, lodge a notice of the cross-appeal with the registrar and with the registrar of the court *a quo*.

- (3) Every notice of appeal and cross-appeal shall—

- (a) state what part of the judgment or order is appealed against;
- (b) state the particular respect in which the variation of the judgment or order is sought; and
- (c) be accompanied by a certified copy of the order (if any) granting leave to appeal or to cross-appeal.

- (4) The time limit for lodging of the notice of appeal may be extended by written agreement of all the parties to the appeal for a period not exceeding a further month.

- (5) Notwithstanding the provisions of this rule, an appeal in terms of section 18(4)(ii) of the Act shall be conducted in accordance with directives issued by the President.

[R 7(5) ins by GoN R842 in G. 42497 wef 1 July 2019.]

[R 7 subs by GoN R191 in G. 34073 wef 15 April 2011.]

8. Record

- (1) An appellant shall within three months of the lodging of the notice of appeal lodge with the registrar six copies of the record of the proceedings in the court *a quo* and deliver to each respondent such number of copies as may be considered necessary or as may reasonably be requested by the respondent.

- (2) The time limit for lodging of the record may be extended—

(a) by written agreement of all the parties to the appeal; or

(b) by the registrar upon written request with notice to all the parties to the appeal:

Provided that the registrar shall not be entitled to extend the period for more than two months.

- (3) If the appellant fails to lodge the record within the prescribed period or within the extended period, the appeal shall lapse.

- (4)

(a) If an appeal is withdrawn or has lapsed and no record has been lodged with the registrar, a respondent who has noted a cross-appeal may, within one month from such withdrawal or lapsing of the appeal, notify the registrar in writing that such respondent desires to prosecute the cross-appeal.

[R 8(4)(a) subs by GoN R1602 in G. 45645 wef 1 February 2022.]

(b) Such respondent shall thereupon be deemed to be the appellant and the period prescribed in subrule (1) shall be calculated from the date on which the appellant withdrew the appeal or the appeal lapsed.

- (5) One of the copies of the record lodged with the registrar shall be certified correct by the registrar of the court *a quo*.

- (6)

(a) The copies of the record shall be clearly typed on stout A4 standard paper in double-spacing in black record ink, on one side of the paper only: Provided that where such copies are more than 10 pages in length, they shall be typed on both sides of the paper.

[R 8(6)(a) subs by GoN R1602 in G. 45645 wef 1 February 2022.]

- (b) Legible documents that were typed or printed in the original, including all processes in the court *a quo* forming part of the record on appeal, and documents such as typed or printed contracts and cheques (whether handwritten, typed or printed) and the like shall not be retyped and a clear photocopy shall be provided instead.
- (c) The pages shall be numbered clearly and consecutively, and every tenth line on each page shall be numbered and the pagination used in the court *a quo* shall be retained where possible.
- (d)
 - (i) At the top of each page containing evidence, the name of the witness and, at the top of each page containing exhibits, the number of the exhibit, shall appear.
 - (ii) All references in the record to page numbers of exhibits shall be transposed to reflect the page numbers of such exhibits in the appeal record.
- (e) The record shall be divided into separate conveniently-sized volumes of approximately 200 pages or 100 sheets each.

[R 8(6)(e) subs by GoN R1602 in G. 45645 wef 1 February 2022.]
- (f) The record shall be securely bound in suitable covers disclosing—
 - (i) the case number;
 - (ii) the names of the parties;
 - (iii) the volume number and the numbers of the pages contained in that volume;
 - (iv) the total number of volumes in the record;
 - (v) the court appealed from; and
 - (vi) the names and addresses of all the parties for service.
- (g)
 - (i) The volume number and the numbers of the pages contained in a volume shall also appear on the upper third of the spine of the volume.

(ii) Each volume shall be so bound that upon being eased open it will lie open without any manual or other restraint and upon being so opened and thereafter repeatedly closed, the binding shall not fail.

(h) The—

(i) judgment and order appealed against;

(ii) judgment and order granting leave to appeal; and

(iii) notice of appeal,

shall if the record consists of more than one volume, be contained in a separate volume.

(i) The record, in the first or in a separate volume, shall contain a correct and complete index of the evidence, documents and exhibits in the case, the nature of the documents and exhibits being briefly stated therein.

(j) Unless it is essential for the determination of the appeal and the parties agree thereto in writing, the record shall not contain—

(i) argument and opening address;

(ii) formal documents;

(iii) discovery affidavits and the like;

(iv) identical duplicates of any document; or

(v) documents not proved or admitted,

(vi) colour photographs, and

the registrar shall of own accord disallow the costs, also between attorney and own client, of such documents and photographs.

[R 8(6)(j) subs by GoN R1602 in G. 45645 wef 1 February 2022.]

(7)

(a) A core bundle of documents shall be prepared if to do so is appropriate to the appeal.

- (b) The core bundle shall consist of the material documents of the case in a proper, preferably chronological, sequence.
- (c) Documents contained in the core bundle shall be omitted from the record, but the record shall indicate where each such document is to be found in the core bundle.

(8)

- (a) Whenever the decision of an appeal is likely to hinge exclusively on a specific issue or issues of law and / or fact, the appellant shall, within 10 days of the noting of the appeal, request the respondent's consent to submit such issue or issues to the Court, failing which the respondent shall, within 10 days thereafter, make a similar request to the appellant.
- (b) The respondent or the appellant, as the case may be, shall within 10 days agree thereto or state the reasons for not agreeing to the request.
- (c) The request and the response shall form part of the record.
- (d) The Court may make a special order of costs if no request was made or if either of the parties was unreasonable in this regard.
- (e) If the parties reach agreement as referred to in paragraph (a), only those parts of the record of the proceedings in the court *a quo* as may be agreed upon shall be contained in the record lodged with the registrar: Provided that the Court may call for the full record and may order full argument of the whole case.

(9)

- (a) Whenever the decision of an appeal is likely to hinge exclusively on part of the record in the court *a quo*, the appellant shall, within 10 days of the noting of the appeal, request the respondent's consent to—
 - (i) omit the unnecessary parts from the record; and
 - (ii) include colour photographs where considered necessary, and

should the appellant fail to do so, the respondent shall, within 10 days thereafter, make a similar request to the appellant.

[R 9(a) subs by GoN R1602 in G. 45645 wef 1 February 2022.]

- (b) The respondent or the appellant, as the case may be, shall within 10 days of the request agree thereto or state the reasons for not agreeing to the request.

[R 9(b) subs by GoN R1602 in G. 45645 wef 1 February 2022.]

- (c) The request and the respondent's response shall form part of the record.
- (d) The Court may make a special order of costs if no request was made or if either of the parties was unreasonable in this regard.
- (e) If the parties agree to limit the record, only those parts of the record of the proceedings in the court *a quo* as are agreed upon shall be contained in the record lodged with the registrar: Provided that the Court may call for the full record and may order full argument of the whole case.

(10) Any person convicted of any offence who intends to appeal to the Court and—

- (a) has the right to appeal; or
- (b) intends to make application to the Court for leave to appeal,

shall be entitled, upon request, to obtain from the registrar of the court from which that person intends to appeal, such number of copies of the record or extracts from it as may be necessary, on payment of the prescribed fees:

Provided that—

- (i) if such a person is unable to pay the prescribed fee; and
- (ii) the copies are necessary for the aforesaid purposes,

that person shall be entitled to obtain the same without payment of any fees.

(11)

- (a) Any question arising as to the inability of a person referred to in subrule (10) to pay the prescribed fees or as to the number of copies or as to what extracts are necessary shall be decided by the registrar of the court *a quo*.
- (b) If the registrar's decision is confirmed by a judge of that court, it shall be final.

9. Security

When required

[R 9(1) subheading ins by GoN R979 in G. 33689 wef 24 December 2010.]

- (1) If the court which grants leave to appeal orders the appellant to provide security for the respondent's costs of appeal, the appellant shall, before lodging the record with the registrar, enter into sufficient security for the respondent's costs of appeal and shall inform the registrar accordingly.

Form or amount of security

[R 9(2) subheading ins by GoN R979 in G. 33689 wef 24 December 2010.]

- (2) If the form or amount of security is contested, the registrar of the court *a quo* shall determine the issue and this decision shall be final.

10. Heads of argument

Filing

- (1) Unless the President otherwise directs—
 - (a) the appellant shall lodge with the registrar six copies of his or her main heads of argument within six weeks from the lodging of the record; and
 - (b) the respondent shall lodge with the registrar six copies of his or her main heads of argument within one month from the receipt of the appellant's heads of argument.

Urgency

- (2) When the lodging of an application or record of appeal with the registrar does not allow the heads of argument to be lodged and served in terms of subrule (1), the applicant or appellant, as the case may be, shall file the same without delay and the respondent shall thereafter file the argument in answer as soon as possible.

Failure to file

- (2A)
 - (a) If the appellant fails to lodge heads of argument within the prescribed period or within the extended period, the appeal shall lapse.

- (b) If, after the appellant has filed heads of argument, the respondent fails to lodge heads of argument within the prescribed period or within the extended period, the appeal shall be enrolled for hearing and the Court may at the hearing in the absence of the defaulting party, and after hearing argument, make such order as it deems fit.

Format

(3)

- (a)
 - (i) The heads of argument shall be clear, succinct and without unnecessary elaboration.
 - (ii) Each point should be numbered and be stated as concisely as the nature of the case allows and must be followed by a reference to the record or an authority in support of the point.
- (b)
 - (i) The heads of argument shall not contain lengthy quotations from the record or authorities.
 - (ii) The heads of argument must state, in respect of each authority cited, the proposition of law that the authority states, and if more than one authority is cited for a proposition the reason for citing the additional authorities must be stated.
- (c) References to authorities and the record shall not be general but to specific pages and paragraphs.
- (d)
 - (i) The heads of argument of the appellant shall be accompanied by a chronology table, duly cross-referenced, without argument.
 - (ii) If the respondent disputes the correctness of the chronology table in a material respect, the respondent's heads of argument shall be accompanied by the respondent's version of the chronology table.
- (e)
 - (i) The heads of argument shall be accompanied by a list of the authorities to be quoted in support of the argument and shall indicate with an asterisk the

authorities to which particular reference will be made during the course of argument.

- (ii) If any such authority is not readily available, copies of the text relied upon shall accompany the heads of argument in a separate volume.
- (iii) The heads of argument shall define the form of order sought from the Court.
- (f) A photocopy, or a printout from an electronic database, of those provisions of any statute, regulation, rule, ordinance or by-law directly at issue, shall accompany the heads of argument in a separate volume, where a separate volume is appropriate.
[R 10(3)(f) subs by GoN R1602 in G. 45645 wef 1 February 2022.]
- (g) The heads of argument of any appellant or respondent shall not exceed 40 pages, unless a judge, on request, otherwise orders.

Form

- (4)
 - (a) The heads of argument shall be clearly typed on stout A4 standard paper in double-spacing in black record ink, on one side of the paper only:
Provided that where such heads are more than 10 pages in length, they shall be typed on both sides of the paper.
[R 10(4)(a) subs by GoN R1602 in G. 45645 wef 1 February 2022.]
 - (b) All annexures to the heads of argument shall be bound separately, where a separate volume is appropriate.
[R 10(4)(b) subs by GoN R1602 in G. 45645 wef 1 February 2022.]
 - (c) Heads of argument and annexures thereto shall be bound with plastic comb binders and card covers, white for the appellant and blue for the respondent.

Cross-appeals

- (5) Cross-appeals do not require a separate set of heads of argument. In all cases where there is an appeal and a cross-appeal, the appellant's main heads of argument under rule 10(1)(b) shall follow the same pattern.
[R 10 subs by GoN R979 in G. 33689 wef 24 December 2010.]

10A. Practice note

Contents

The heads of argument of each party must be accompanied by—

- (a) a brief typed note indicating—
 - (i) the name and number of the matter;
 - (ii) the nature of the appeal;
 - (iii) a concise statement of the basis for jurisdiction in this Court, including the statutory provisions and time factors on which jurisdiction rests;
 - (iv) if that party wishes to raise a constitutional question relating to the constitutional validity or the constitutional applicability of any law or the constitutional validity or applicability or extension of a common law rule, a concise definition of the question;
 - (v) the issues on appeal succinctly stated (for example “negligence in MVA case”, “admissibility of a confession”, “interpretation of...”);
 - (vi) an estimate of the duration of the argument;
 - (vii) if more than one day is required for argument, the reasons for the request;
 - (viii) which portions or pages of the record are in a language other than English;
 - (ix) a list reflecting those parts of the record that, in the opinion of counsel, are necessary for the determination of the appeal;
 - (x) a summary of the argument, not exceeding 100 words;
 - (xi) if a core bundle is not appropriate for the appeal, the reasons for the conclusion;
 - (xii) that there was due and timeous compliance with rule 8(8) and (9), and if not, why not; and

- (b) a certificate signed by the legal practitioner responsible for preparing the heads of argument that rules 10 and 10A(a) have been complied with.

[R 10A(b) subs by GoN R3059 in G. 48067 wef 24 March 2023; R 10A ins by GoN R979 in G. 33689 wef 24 December 2010.]

11. Powers of the President or the Court

Powers

- (1) The President or the Court may of own accord, on request or application—
[Words preceding r 11(1)(a) subs by GoN R1158 in G. 43856 wef 1 December 2020.]
- (a) extend or reduce any time period prescribed in these Rules and may condone non-compliance with these Rules;
- (b) give such directions in matters of practice, procedure and the disposal of any appeal, application or interlocutory matter as the President or the Court may consider just and expedient.

Delegation

- (2) Any power or authority vesting in the President in terms of these Rules may be exercised by a judge or judges designated by the President for that purpose.

[R 11 subs by GoN R979 in G. 33689 wef 24 December 2010.]

11A. Non-compliance with rules

The Court may make an order for costs to be borne personally by any party or attorney or counsel if the hearing of the appeal is adversely affected by the failure of that party or his or her legal representative to comply with these Rules.

[R 11A ins by GoN R979 in G. 33689 wef 24 December 2010.]

12. Application for condonation

Filing

- (1) In every matter where condonation is sought, the application shall be lodged in triplicate with the registrar.

Answer

- (2) Every affidavit in answer to an application for condonation shall be lodged in triplicate with the registrar within one month after service of the application on the respondent.

Reply

- (3) The applicant shall lodge with the registrar any reply in triplicate within 10 days of receipt of the answering affidavit.

Form

- (4) Every application, answer or reply shall—
- (a) be clear and succinct and to the point;
 - (b) furnish fairly all such information as may be necessary to enable the Court to decide the application; and
 - (c) deal with the merits of the case only in so far as is necessary for the purpose of explaining and supporting the particular grounds upon which the application is sought or opposed.

Request for further documents

- (5) The judges considering the application may call for—
- (a) submissions or further affidavits;
 - (b) the record or portions of it; and
 - (c) additional copies of the application,

and the party concerned shall lodge with the registrar the required documents within the period prescribed.

Failure to comply

- (6) If the applicant fails to comply with a direction by the Court or the registrar or to complete the application within the period prescribed, the application shall lapse.

[R 12 subs by GoN R979 in G. 33689 wef 24 December 2010.]

13. Set-down

Notification

- (1) The registrar shall, subject to the directions of the President, notify each party electronically of the date of hearing: Provided that where electronic notification is not possible the registrar shall notify the party concerned, by registered letter.

[R 13(1) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

Address

(2)

- (a) Where notification in terms of subrule (1) is given electronically, the provisions of Chapter III, Part 2 of the Electronic Communications and Transactions Act, 2002 (Act 25 of 2002) shall apply.

- (b) A registered letter sent to a party's last known address shall be deemed to be sufficient notice of the date of the hearing.

[R 13(2) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

Non-appearance

- (3) If the applicant or appellant fails to appear at the date thus notified, the application or appeal shall be dismissed for non-prosecution, unless the Court otherwise directs.

Unavailability of counsel

- (4) Where a pending appeal is awaiting enrolment the registrar must be informed immediately—

- (a) if counsel for either party is due to be unavailable in the next ensuing term; and

- (b) if enrolment may clash with religious holidays which any of the legal representatives or parties in the case wish to observe.

[R 13 subs by GoN R979 in G. 33689 wef 24 December 2010.]

14. Oral argument

Time limits

[R 14(1) subheading ins by GoN R979 in G. 33689 wef 24 December 2010.]

- (1) If a matter has been set down for one day, subject to the presiding judge's directions, the time for argument shall not exceed—
 - (a) two hours for the applicant or appellant's main argument;
 - (b) two hours for the argument in answer; and
 - (c) a quarter of an hour for the argument in reply.

Language

[R 14(2) subheading ins by GoN R979 in G. 33689 wef 24 December 2010.]

- (2) If a party intends to argue a matter in an official language which differs from that in which the heads of argument are drawn, the party shall inform the registrar accordingly in writing at least three weeks before the hearing of the matter.

15. Legal assistance to indigent persons

[Heading of R 15 subs by GoN R2135 in G. 46475 wef 8 July 2022.]

- (1)
 - (a) Any party who is a natural person, who is of the opinion that he or she is indigent, and who does not qualify for legal aid, or who requires to continue as an indigent litigant in an appeal already commenced may request the registrar for leave to prosecute or defend an appeal as an indigent litigant, and if it appears to the registrar that such person is as contemplated by subrule (2), the registrar shall refer such person to an attorney and an advocate.
 - (b) Where a person applies to continue as an indigent litigant in an appeal already commenced, such person may do so by proceeding in terms of the provisions of this rule but in addition, he or she shall—

- (i) set out the alteration in his or her circumstances which renders it necessary to continue to prosecute or defend an appeal as an indigent litigant; and
 - (ii) give notice of the application to the opposite party.
- (c) In the event of the opposite party raising an objection to the granting of such an application, the applicant must apply formally to the court for such leave, after giving proper notice to the other side.
- [\[R 15\(1\) subs by GoN R2135 in G. 46475 wef 8 July 2022.\]](#)
- (2) A party shall be deemed to be indigent if that party can satisfy the registrar that, except for household goods, wearing apparel and tools of trade such party is not possessed of property to the amount of R640 000 and will not be able within a reasonable time to provide such sum from own earnings or obtain legal aid.
- [\[R 15\(2\) subs by GoN R2135 in G. 46475 wef 8 July 2022.\]](#)
- (3) No such request shall be lodged with the registrar unless the opposite party has been asked and has failed or refused to consent to the applicant proceeding as an indigent litigant within one month thereafter.
- [\[R 15\(3\) subs by GoN R2135 in G. 46475 wef 8 July 2022.\]](#)
- (4) Any party dissatisfied with a ruling of the registrar under this rule may apply to the President for a revision in chambers.
- [\[R 15\(4\) subs by GoN R979 in G. 33689 wef 24 December 2010.\]](#)
- (5) Whenever a party obtains leave to prosecute or defend an appeal as an indigent litigant that party shall not be required to lodge security in terms of these Rules for the costs of the opposite party notwithstanding the existence of any order referred to in rule 9(1).
- [\[R 15\(5\) subs by GoN R2135 in G. 46475 wef 8 July 2022.\]](#)

16. *Amicus curiae* submissions

Admission as amicus

- (1) Subject to this rule, any person interested in any matter before the Court may, with the written consent of all the parties in the matter before the Court given not later than the time specified in subrule (5), be admitted therein as an *amicus curiae* upon such terms and conditions and with such rights and privileges as may be agreed upon in writing with all the parties before the Court or as may be directed by the President in terms of subrule (3).

Admission by consent

- (2) The written consent referred to in subrule (1) shall, within 10 days of it having been obtained, be lodged with the registrar and the *amicus curiae* shall, in addition to any other provision, comply with the times agreed upon for the lodging of written argument.

Amendment of consent

- (3) The President may amend the terms, conditions, rights and privileges agreed upon in terms of subrule (1).

Application to be admitted

- (4) If the written consent referred to in subrule (1) has not been secured, any person who has an interest in any matter before the Court may apply to the President to be admitted therein as an *amicus curiae*, and the President may grant such application upon such terms and conditions and with such rights and privileges as he or she may determine.

Time for application

- (5) An application pursuant to the provisions of subrule (4) shall be made within one month after the record has been lodged with the registrar.

Format

- (6) An application to be admitted as an *amicus curiae* shall—
 - (a) briefly describe the interest of the *amicus curiae* in the proceedings;
 - (b) briefly identify the position to be adopted by the *amicus curiae* in the proceedings;
 - (c) set out the submissions to be advanced by the *amicus curiae*, their relevance to the proceedings and his or her reasons for believing that the submissions will be useful to the Court and different from those of the other parties.

Argument

- (7)
 - (a) An *amicus curiae* shall have the right to lodge written argument, provided that such

written argument does not repeat any matter set forth in the argument of the other parties and raises new contentions which may be useful to the Court.

- (b) The heads of argument of an *amicus curiae* shall not exceed 20 pages unless a judge, on request, otherwise orders.

Limitations

- (8) An *amicus curiae* shall be limited to the record on appeal and may not add thereto and, unless otherwise ordered by the Court, shall not present oral argument.

Filing of heads

- (9) An order granting leave to be admitted as an *amicus curiae* shall specify the date of lodging the written argument of the *amicus curiae* or any other relevant matter.

Costs

- (10) An order of the Court dealing with costs may make provision for the payment of costs incurred by or as a result of the intervention of the *amicus curiae*.

[R 16 subs by GoN R979 in G. 33689 wef 24 December 2010.]

16A. Withdrawal or settlement

- (1) The appellant shall inform the registrar immediately it becomes known that an appeal is to be postponed or has been settled.
- (2) An attorney who wishes to withdraw as attorney of record must comply with the procedure prescribed by Uniform rule 16(4).

[R 16A ins by GoN R979 in G. 33689 wef 24 December 2010.]

17. Taxation of costs

Taxation

- (1) The costs incurred in any appeal or application shall be taxed by the registrar who, when exercising this function, shall be called the taxing master, but the taxation shall be subject to review in terms of subrule (3).

[R 17(1) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

VAT

- (2) Value-added tax may be added to all costs, fees, disbursements and tariffs in respect of which value-added tax is chargeable.

Statement of case

- (3) Any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to or disallowed by the taxing master of own accord, may within 20 days of the amount taxed and allowed require the taxing master to state a case for the decision of the President, which case shall set out each item or part of an item together with the grounds of objection advanced at the taxation, and shall embody any relevant findings of facts by the taxing master.

[R 17(3) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

Contentions of parties

- (4) The taxing master shall supply a copy of the stated case to each of the parties, who may within 15 days of receipt of the copy submit contentions in writing thereon, including grounds of objection not advanced at the taxation, in respect of any item or part of an item which was objected to before the taxing master or disallowed by the taxing master of own accord.

[R 17(4) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

Report

- (5) Thereafter the taxing master shall frame a report and supply a copy thereof to each of the parties and shall forthwith lay the case, together with the contentions of the parties thereon and such report, before the President.

[R 17(5) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

Hearing of review

- (6)
 - (a) The President or a judge or judges designated by the President may—
 - (i) decide the matter upon the merits of the case and submissions so submitted;
 - (ii) require any further information from the taxing master;
 - (iii) if deemed fit, hear the parties or their advocates or attorneys in chambers; or

(iv) refer the case for decision to the Court.

[R 17(6)(a) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

(b) Any further information to be supplied by the taxing master to the judge or judges must also be supplied to the parties who may within 10 days after receipt thereof, make written submissions thereon to the taxing master, who shall forthwith lay such information together with any submissions of the parties thereon before the judge or judges.

Costs orders

(7) The judge, judges or Court deciding the matter may make such order as to costs of the case as deemed fit, including an order that the unsuccessful party pay to the successful party the costs of review in a sum fixed by the judge, the judges or the Court.

[R 17 subs by GoN R979 in G. 33689 wef 24 December 2010; r 17(7) subs by GoN R1158 in G. 43856 wef 1 December 2020.]

18. Attorneys' fees

The following fees shall be allowed to attorneys conducting appeals or other matters before the Court—

A - TAKING INSTRUCTIONS

			R.c
1.	(a)	To note an appeal or cross-appeal when leave to appeal is not required per quarter of an hour	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
	(b)	To prosecute or defend an appeal, including continuation of a cross-appeal per quarter of an hour	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
	(c)	To make or oppose an application per quarter of an hour	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
2.		To draft any application or affidavit per page	155.50

B - PREPARATION OF RECORDS

1.		Making, for the purpose of preparing copies of the record on appeal (except where a charge is made under paragraph 5 hereof), a copy of such particulars of the record as were not in the possession of the appellant or his or her attorney at the time when the order appealed from was made, per page	6.00
2.		Arranging record for printing or typing, excluding unnecessary documents therefrom, and preparing an index and list of documents not included in the record on appeal, per quarter of an hour or part thereof	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
3.		Correcting typed copy, per quarter of an hour or part thereof	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
4.		Attending at the office of the registrar or officer of the court appealed from to peruse or authenticate the record, per quarter of an hour or part thereof	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
5.		Making copies of record on appeal and heads of arguments, per page	6.00

C - PERUSAL

1.	(a)	Perusing judgment of court <i>a quo</i> when taking instructions for the continuation of an appeal or cross-appeal, where leave to appeal is not required, per page	78.50
	(b)	Perusing record on appeal, for each page	9.50
	(c)	Perusing judgment of court <i>a quo</i> by which leave to appeal was denied, when taking instructions to apply for leave to appeal to the Court, per page	9.50
2.		Perusing any plan, diagram, photograph or other annexure to the record to which the remuneration hereinbefore set out cannot be applied per page	78.50
3.	(a)	Attendance on and perusal of any application or affidavit	78.50

		or any other document not elsewhere provided for, per page	
	(b)	Attendance on and perusal of any annexure to an application and answering affidavit, per page	9.50
	(c)	Attendance on and perusal of an application or affidavit composed or corrected by counsel, per page	20.00
4.		Attendance on and perusal of heads of argument, excluding annexures for example unreported judgments of court or copies of publications attached as confirmation of heads of arguments, per page	78.50

D - ATTENDANCE

1.		Any formal attendance on an acknowledgement, receipt, etc.	78.50
2.	(a)	Attendance on any letter or document	78.50
	(b)	Necessary telephone calls made, the actual cost thereof, plus for every five minutes or part thereof	
	(i)	by an attorney	130.00
	(ii)	by a candidate attorney	40.00
	(c)	Attendance on telephone calls, the actual costs thereof, plus for every five minutes or part thereof	
	(i)	by an attorney	130.00
	(ii)	by a candidate attorney	40.00
3.	(a)	Attendance at office of registrar to deliver a letter or document, or to uplift an order, etc. per quarter of an hour or part thereof	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
	(b)	Attendance on business other than formal business, per quarter of an hour or part thereof	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
4.	(a)	Attendance at any consultation with counsel or client	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
	(b)	A comprehensive fee for attendance, obtaining and payment of counsel for noting of judgment per quarter of an hour	
	(i)	by an attorney	388.50
	(ii)	by a candidate attorney	121.00
5.		Attendance at court to note judgment per quarter of an hour	

	(a)	by an attorney	388.50
	(b)	by a candidate attorney	121.00
6.		Attendance at court on hearing of appeal or application, per quarter of an hour or part thereof	
	(a)	by an attorney	388.50
	(b)	by a candidate attorney	121.00

E - DRAWING UP OF DOCUMENTS

1.		Any application or affidavit, per page	155.50
2.		Instructions to counsel	
	(a)	on appeal per page	155.50
	(b)	on application per page	155.50
	(c)	in justifiable cases, for the drawing up or correcting of application or affidavit for an application for leave to appeal or disputing thereof per page	155.50
3.		Drawing up of notice of appeal or other necessary notices, per page	155.50
4.		Letters per page, including copy to keep	155.50
5.		Drawing up power of attorney, per page	155.50
6.		Drawing up short brief to counsel, per page	155.50
7.		Drawing up bond of security, per page	155.50

F - COPYING

Other documents not specially provided for, per page	6.00
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G - BILLS OF COSTS

In connection with a bill of costs for work done or services rendered by an attorney, such attorney shall be entitled to charge the following—

1. For drawing up the bill of costs, making the necessary copies and attending settlement, 11 per cent of the attorney's fees, either as charged in the bill, if not taxed or as allowed on taxation.
2. In addition to the fees charged under paragraph 1, if recourse is had to taxation for arranging and attending taxation, and obtaining consent to taxation, 11 per cent on the first R10 000 or portion thereof, six per cent on the next R10 000 or portion thereof and three per cent on the balance of the total amount of the bill.

[R 18 subs by GoN R113 in G. 36157 wef 22 March 2013, GoN R1055 in G. 41142 wef 1 November 2017; am by GoN R1318 in G. 42064 wef 10 January 2019; subs by GoN R858 in G. 43592 wef 11 September 2020, by GoN R2135 in G. 46475 wef 8 July 2022, by GoN GN R3398 in G. 48571 wef 19 June 2023.]

19. Fees of the court

The following shall be the fees of the court—

	R
Lodging of any application.....	10,00
Lodging of an answering affidavit (each).....	10,00
Lodging of a notice of appeal or cross-appeal (each).....	10,00
Order of the court granting leave to appeal.....	10,00
For the registrar's certificate on certified copies of documents (each).....	2,00
For each copy of any document made by the registrar (per page).....	1,00
Taxing fee with regard to appeals	25,00
Taxing fee with regard to applications	25,00

20. Repeal of rules

The rules of the Supreme Court of Appeal published under Government Notice R1207 of 15 December 1961, as amended by Government Notices R980 of 22 June 1962, R120 of 31 January 1969, R679 of 30 April 1971, R1815 of 8 October 1976, R2476 of 17 December 1976, R1547 of 28 July 1978, R248 of 8 February 1980, R1120 of 30 May 1980, 2170 of 6 October 1982, R644 of 25 March 1983, R840 of 22 April 1983, R1995 of 7 September 1984, R2093 of 13 September 1985, R2137 of 20 September 1985, R2643 of 12 December 1986, R1766 of 2 September 1988, R1930 of 10 August 1990, R2408 of 30 September 1991, R407 of 7 February 1992, R1884 of 3 July 1992, R872 of 21 May 1993, R410 of 11 March 1994, R418 of 14 March 1997, R490 of 27 March 1997, R799 of 13 June 1997 and R783 of 5 June 1998 are hereby repealed: Provided that any proceedings already commenced under the repealed rules may continue thereunder, save in so far as the rules herein contained may be applicable thereto without injustice or increased costs to any of the parties.

21. Short title

These Rules shall be called the Rules of the Supreme Court of Appeal.

ANNEXURE

Form 1

Notice of motion in the Supreme Court of Appeal of South Africa

In the matter between—

..... Appellant / Applicant*

and

..... Respondent

Take notice that (hereinafter called the Appellant / Applicant*) hereby applies to this Court / the Chief Justice* for an order in the following terms—

1 * Leave to appeal against the judgment [state particulars]

.....
.....
.....

2 * Condonation for the failure to [state particulars]

.....
.....
.....

3 * Any other matter [state particulars]

.....
.....
.....

The accompanying affidavit of is annexed in support of the application.

If you intend to oppose this application, you are required to lodge your affidavit in support of your opposition, after prior service upon the Appellant / Applicant*, with the registrar of this Court within one month after service of this application upon you.

DATED at this day of

.....

Applicant / Appellant / Attorney*

Address

.....
.....
.....

To:

1 (Respondent)

Address

.....
.....
.....

2 The Registrar of the Court,
Bloemfontein

* Delete what is inapplicable