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GOVERNMENT NOTICE GOEWERMENSKENNISGEWING

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 1299

18 October 2002

MAGISTRATES' COURTS: AMENDMENT OF THE RULES OF COURT

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 for Justice and Constitutional Development, made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules "the rules" means the rules published under Government Notice No. R.1108 of 21 June 1968, as amended by Government Notices Nos. R.3002 of 25 July 1969, R.490 of 26 March 1970, R.947 of 2 June 1972, R.1115 of 25 June 1974, R.1285 of 19 July 1974, R.689 of 23 April 1976, R.261 of 25 February 1977, R.2221 of 28 October 1977, R.327 of 24 February 1978, R.2222 of 10 November 1978, R.1449 of 29 June 1979, R.1314 of 27 June 1980, R.1800 of 28 August 1981, R.1139 of 11 June 1982, R.1689 of 29 July 1983, R.1946 of 9 September 1983, R.1338 of 29 June 1984, R.1994 of 7 September 1984, R.2083 of 21 September 1984, R.391 of 7 March 1986, R.2165 of 2 October 1987, R.1451 of 22 July 1988, R.1765 of 26 August 1988, R.211 of 10 February 1989, R.607 of 31 March 1989, R.2629 of 1 December 1989, R.186 of 2 February 1990, R.1887 of 8 August 1990, R.1928 of 10 August 1990, R.1990 of 17 August 1990, R.1261 of 30 May 1991, R.2407 of 27 September 1991, R.2409 of 30 September 1991, R.405 of 7 February 1992, R.1510 of 29 May 1992, R.1882 of 3 July 1992, R.871 of 21 May 1993, R.959 of 28 May 1993, R.1134 of 25 June 1993, R.1355 of 30 July 1993, R.1844 of 1 October 1993, R.2530 of 31 December 1993, R.150 of 28 January 1994, R.180 of 28 January 1994, R.498 of 11 March 1994, R.625 of 28 March 1994, R.710 of 12 April 1994, R.1062 of 28 June 1996, R.1130 of 5 July 1996, R.419 of 14 March 1997, R.492 of 27 March 1997, R.570 of 18 April 1997, R.790 of 6 June 1997, R.797 of 13 June 1997, R.784 of 5 June 1998, R.910 of 3 July 1998, R.1025 of 7 August 1998, R.1126 of 4 September 1998, R.569 of 30 April 1999, R.501 of 19 May 2000, R.1087 of 26 October 2001, R.37 of 18 January 2002 and R.38 of 18 January 2002.

GENERAL EXPLANATORY NOTE:

- [] Expressions in bold type in square brackets indicate omissions from existing rules.
___ Expressions underlined with a solid line indicate insertions in existing rules.

Amendment of Form 2A of Annexure 1 to the Rules

2. Form 2A of Annexure 1 to the Rules is hereby amended by the substitution for the expression “[Costs, if the action is undefended, will be as follows:

	Summons R	Judgment R
Attorney’s charges.....
Court fees.....
Sheriff’s fees.....
Sheriff’s fees on re-issue of the summons.....
Totals	R.....	R.....
Total		R.....]

of the expression “Costs, if the action is undefended, will be as follows:

Attorney’s charges:

(i) <u>Issue of summons.....</u> <u>(Item 2 of Part II of Table A)</u>	<u>R.....</u>
(ii) <u>Attending court.....</u> <u>(Item 7 of Part II of Table A)</u>	<u>R.....</u>
(iii) <u>Judgment fees.....</u> <u>(Item 3 of Part II of Table A)</u>	<u>R.....</u>
<u>Court fees.....</u>	<u>R.....</u>
<u>Sheriff’s fees.....</u>	<u>R.....</u>
<u>Sheriff’s fees on re-issue of summons.....</u>	<u>R.....</u>
<u>Total</u>	<u>R.....”</u>

Insertion of Item 16 in Part I of Table A of Annexure 2 to the Rules

3. The following item is hereby inserted after item 15 in Part I of Table A of Annexure 2 to the Rules:

“16. Any amount necessarily and actually disbursed in tracing the debtor.”.

Amendment of Part II of Table A of Annexure 2 to the Rules

4. Part II of Table A of Annexure 2 to the Rules is hereby amended by the amendment of item 7 as follows:

“Item 7 – Attending court at the request of the magistrate when claim is referred to court for judgment or to obtain provisional sentence when claim is undefended..... as allowed under item 15 on the scale for defended actions.”.

Amendment of Part IV of Table A of Annexure 2 to the Rules

5. Part IV of Table A of Annexure 2 to the Rules is hereby amended –

(a) by the insertion in the heading "OTHER MATTERS" of the following:
 "Exceptions, applications to strike out, applications for summary judgment, appearance to obtain provisional sentence when claim is defended, interlocutory applications, arrest, interdict, *ex parte* applications under rule 27(9), applications to review judgment, order or taxation, applications for the liquidation of close corporations and applications in terms of section 65J of the Act."; and

(b) by the amendment of items 21 to 26 inclusive as follows:

"21.	With brief to argue exception or application..... Note: A fee to counsel on application shall be allowed only where the court certifies that the briefing of counsel was warranted.	[275, 00]	<u>330, 00</u>
22.	With trial brief for the first day, not exceeding....	[781, 00]	<u>937, 00</u>
23.	In any court held more than 30 km from the nearest town where a provincial or local division (other than a Circuit Court) of the [Supreme] High Court sits, a travelling allowance (in addition to the fee on brief) may be allowed by special order of the court at.....	[1, 25]	<u>1, 50</u>
	per km		
24.	Each necessary consultation, per quarter of an hour.....	[56, 00]	<u>67, 00</u>
25.	For every day exceeding one on which evidence is taken or arguments heard, a refresher not exceeding.....	[469, 00]	<u>563, 00</u>
26.	Drawing up pleadings.....	[125, 00]	<u>150, 00</u>

Notes:

- (a) In regard to items 22 and 25 a fee in lieu of the fee for the first day's hearing shall be allowed as follows when the case is settled or withdrawn or postponed at the instance of any party on or before the date of hearing:
- (i) not more than two days prior to the date of hearing: The fee otherwise allowable on taxation for the first day's hearing;
 - (ii) not less than three days and not more than seven days prior to the date of hearing: Two thirds of the fee under (i); and

- (iii) not less than eight days and not more than 21 days prior to the date of hearing: Half of the fee under (i).
- (b) The court may on request allow a higher fee for counsel in regard to items 22, 24, 25 and 26.
- (c) A fee for travelling time by counsel shall be allowed at the same rate as for attorneys under rule 33(9)."

Commencement

6. These rules shall come into operation on **18 November 2002.**