RULES REGULATING MATTERS IN RESPECT OF SMALL CLAIMS COURTS

Act

Published under

GN R1893 in *GG* 9909 of 30 August 1985

as amended by

GN R851 in *GG* 13178 of 19 April 1991

The Minister of Justice has under and by virtue of the powers vested in him by section 25(1) of the Small Claims Courts Act, 1984 (Act 61 of 1984), made the rules contained in the Annexure hereto regulating matters in respect of Small Claims Courts, with effect from 1 October 1985.

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1 Definitions

In these Rules and in the forms annexed hereto, unless the context otherwise indicates, a word to which a meaning has been assigned in the Act bears that meaning; and-

'clerk of the court' means a clerk of the court appointed under section 11 of the Act and includes an assistant clerk of the court so appointed;

'deliver' (except in rules 8 and 13) means to file with the clerk of the court and serve a copy on the opposite party and **'delivery'** and **'delivered'** and **'delivering'** have a corresponding meaning;

'property' includes everything animate or inanimate, corporeal or incorporeal, movable or immovable, capable of being subject to ownership;

'the Act' means the Small Claims Courts Act, 1984 (Act 61 of 1984).

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2 Advisory Board

(1) *(a)* The Minister may establish a board as contemplated in section 25(1) *(d)* of the Act for a district or area and may appoint as many members to such board as he deems fit.

(aA) A member of such a board shall hold office during the Minister's pleasure.
[Rule 2(1) *(a)(aA)* inserted by GN R851 of 19 April 1991]

(b) The Minister shall appoint the chairman and vice-chairman of the said board.

(c) If the chairman and vice-chairman are not available, a chairman shall be appointed by the members present.

(2) The Minister may at any time dissolve the board.
[Rule 2(2) amended by GN R851 of 19 April 1991]

(3) The board may advise the Minister in regard to-

(a) the appointment of suitable persons as commissioners, in the case of an attorney, after consultation with the president of the law society of which the attorney is a member and, in the case of an advocate, after consultation with the chairman of the bar council for the division of the Supreme Court of South Africa where the advocate practises;

[Rule 2(3) *(a)* substituted by GN R851 of 19 April 1991]

(b) the recruitment and utilisation of persons as commissioners, clerks, assistant clerks, interpreters, legal assistants and such other persons as may be necessary;

(c) suitable court and office accommodation;

(d) the times for the holding of court; and

(e) any other matter which may be necessary for the proper functioning of the court.

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3 Duties of the clerk of the court

(1) The summons filed in a case shall be numbered by the clerk of the court with a consecutive number for the year and recorded in a register.

(2) Every document afterwards served or delivered in such case shall be marked with such number by the party delivering it and shall not be received by the clerk of the court until so marked.

(3) All process delivered to the clerk of the court to be filed of record and any process of the court shall be filed of record under the number of the respective action.

(4) Copies of such records may be made by any person in the presence of the clerk of the court.

(5) It shall be the duty of the clerk of the court to sign (manually or by facsimile of his signature), date and issue all such process of the court as may be sued out by any person entitled thereto.

[Rule 3(5) amended by GN R851 of 19 April 1991]

(6) Any act or notice to be performed or signed by the clerk of the court in terms of these Rules may be performed or signed by a legal assistant or a commissioner except that no commissioner shall write out a statement or process for any party.

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4 Sheriff

[Heading of Rule 4 substituted by GN R851 of 19 April 1991]

(1) Subject to the provisions of section 29(2) of the Act, all process of the court shall be served or executed through the sheriff. The sheriff shall be, under an obligation to render a service only if the party who desires the service has remunerated him beforehand for the said service.

[Rule 4(1) amended by GN R851 of 19 April 1991]

(2) Service or execution of process of the court shall, after payment of the remuneration, be effected without any avoidable delay, and the sheriff shall, in any case where resistance to the due service or execution of the process of the court has been met with or is reasonably expected, have power to call upon any member of the Force as defined in section 1 of the Police Act, 1958 (Act 7 of 1958), to render him aid.

[Rule 4(2) amended by GN R851 of 19 April 1991]

(3) The sheriff to whom process is entrusted for service or execution shall-

[Rule 4(3) amended by GN R851 of 19 April 1991]

(a) in writing notify the clerk of the court and the party who sued out the process that service or execution has been duly effected, stating the date and manner of service of the result of execution, and return the said process to the clerk of the court; or

(b) in writing notify the party who sued out the process that he has been unable to effect service or execution, and of the reason for such inability, and return the said process to such party, and shall keep a record of any process so returned.

(4) Although a sheriff shall be under an obligation to render a service only if he has been remunerated for the said service beforehand, he shall nevertheless, after service or attempted service of any process, specify the total amount of his charges on the original and all copies thereof and the amount of each of his charges separately on the return of service.

[Rule 4(4) amended by GN R851 of 19 April 1991]

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5 Duties of the legal assistant

(1) The legal assistant shall render to any person who has so requested him advice in regard to any action which falls within the jurisdiction of the court.

(2) If he is so requested, the legal assistant shall render assistance with the drafting of the process of court.

(3) Any act to be performed by the legal assistant in terms of these Rules may be performed by the clerk of the court.

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6 Oath of office of interpreters

(1) Every interpreter shall upon entrance into office, in writing, take an oath or make an affirmation subscribed by him before a magistrate or commissioner in the form set out below:

'I,.....(full name), do hereby swear/truly affirm that whenever I may be called upon to perform the functions of an interpreter in any proceedings in any small claims court I shall truly and correctly to the best of my ability interpret from the language I may be called upon to interpret into either of the official languages and *vice versa* .'.

(2) Such oath or affirmation shall be taken or made and administered in the manner prescribed

for the taking or making and administration of an oath or affirmation.

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7 Oath of witnesses

(1) *(a)* The oath in terms of section 28 of the Act shall be administered in the following form:

'I swear that the evidence that I shall give shall be the truth, the whole truth and nothing but the truth, so help me God.'.

(b) Any person who is or may be required to take the oath and-

(i) who objects to taking the oath;

(ii) who objects to taking the oath in the prescribed form;

(iii) who does not consider the oath in the prescribed form to be binding on his conscience; or

(iv) who informs the commissioner that he has no religious belief or that the taking of the oath is contrary to his religious belief,

shall make an affirmation in the following words at the direction of the commissioner:

'I solemnly affirm that the evidence that I shall give, shall be the truth, the whole truth and nothing but the truth.'.

(2) Such affirmation shall have the same legal force and effect as if the person making it had taken the oath.

(3) The validity of an oath duly taken by a witness shall not be affected if such witness does not on any of the grounds referred to in subsection (1) *(b)* decline to take the oath.

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8 Contents of letter of demand

(a) The letter of demand referred to in section 29(1) of the Act shall at least contain particulars of the facts upon which the claim is based and the amount.

(b) The plaintiff shall prove by means of an affidavit or by a registered post receipt that the letter of demand referred to in section 29(1) of the Act has been delivered to the defendant.

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9 Summons commencing action

(1) The summons shall be served on the defendant not less than 10 days before the date of trial.

(2) The summons shall be signed by the clerk of the court and shall bear the date of issue by him.

(3) The summons shall conform or be as close as possible to Form 1 of Annexure 1.

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10 Contents of summons

(1) The summons shall before issue be endorsed with particulars of claim and shall include-

(a) a form of consent to judgment; and

(b) a notice drawing the defendant's attention to the provisions of sections 29(3), 35, 38, 39, 40 and 43 of the Act.

(2) *(a)* The summons shall be signed by the plaintiff.

(b) The full address of the plaintiff shall be given in the summons.

(c) The address given for service shall not be that of the clerk of the court or that of the sheriff.

[Rule 10(2) *(c)* amended by GN R851 of 19 April 1991]

(3) *(a)* The particulars of claim shall show the nature and amount of the claim or claims, as the case may be.

(b) The particulars shall also show any abandonment of part of the claim under section 18 of the Act and any set-off under section 19 of the Act.

(c) Where the summons contains more than one claim, the particulars of each claim and the relief sought in respect of each claim shall be stated separately.

(4) The summons shall also-

(a) show the surname of the defendant by which he is known to the plaintiff, the defendant's sex and residence or place of business, and, where known, his first name or initials, and, in the case of a woman, her marital status; and, in the case of a legal person, partnership, club, association, business, church or syndicate it shall be summoned under the name by which it is known to the plaintiff;

(b) show the first name, surname, sex and the residence or place of business of the plaintiff.

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11 Amendment of summons

(1) Subject to the provisions of this rule, a summons may before service be amended by the plaintiff as he thinks fit.

(2) Any alteration or amendment of a summons before service and whether before or after issue, shall, before the summons is served, be initialled by the clerk of the court on the original summons, and until so initialled such alterations and amendments shall have no effect.

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12 Service of a summons by a plaintiff

(1) The plaintiff shall make as many copies of the summons as there are persons to be served.

(2) On demand, the original of the summons, shall be exhibited to the person upon or against whom the summons is served.

(3) Where the person to be served keeps his residence or place of business closed and thus prevents the plaintiff from serving the summons, the plaintiff shall be authorised to call upon the sheriff to serve the summons.

[Rule 12(3) amended by GN R851 of 19 April 1991]

(4) The plaintiff shall deliver the original summons and the return of service to the clerk of the court as soon as possible.

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13 Service of process by sheriff

[Heading of Rule 13 amended by GN R851 of 19 April 1991]

(1) A party requiring service of any process to be made by the sheriff shall deliver to him the original of such process, together with as many copies thereof as there are persons to be served.

[Rule 13(1) amended by GN R851 of 19 April 1991]

(2) All process shall, subject to the provisions of this rule, be served upon the person affected thereby by delivery of a copy thereof in one of the following manners:

(a) To the said person personally or to his duly authorised agent;

(b) at the said person's residence or place of business to some person apparently not less than 16 years of age and apparently residing or employed there: Provided that for the purpose of this paragraph, when a building is occupied by more than one person or family, 'residence' means that portion of the building occupied by the defendant;

(c) at the said person's place of employment to some person apparently not less than 16 years of age and apparently in authority over him or, in the absence of such person in authority, to a person apparently not less than 16 years of age and apparently in charge at the said person's place of employment;

(d) if the person to be served has chosen a *domicilium citandi* at the *domicilium* so chosen;

(e) in the case of a body corporate at its local office or principal place of business within the area of jurisdiction of the court concerned to a responsible employee thereof or in any other lawful manner;

(f) by registered post: Provided that where such service has been effected in the manner prescribed by paragraphs *(b)* , *(c)* or *(e)* , the sheriff shall indicate in the return of service of the process the name of the person to whom it has been delivered and the capacity in which such person stands in relation to the person, body corporate or institution affected by the process, and where such service has been effected in the manner prescribed by paragraphs *(b)* , *(c)* or *(f)* , the court may, if there is reason to

doubt whether the process served has come to the actual knowledge of the person to be served, and in the absence of satisfactory evidence, treat such service as invalid.

[Rule 13(2) *(f)* amended by GN R851 of 19 April 1991]

(3) The sheriff shall, on demand by the person upon or against whom process is served, exhibit to him the original of the process except where service has been effected by post, in which case the original may be inspected where it is filed of record.

[Rule 13(3) amended by GN R851 of 19 April 1991]

(4) Where the person to be served keeps his residence or place of business closed and thus prevents the sheriff from serving the process, it shall be sufficient service to affix a copy thereof to the outer or principal door of such residence or place of business.

[Rule 13(4) amended by GN R851 of 19 April 1991]

(5) Where the sheriff is unable after diligent search to find at the residence or *domicilium citandi* of the person to be served either that person or a person referred to in subrule (2) *(b)* or, in the case of a body corporate referred to in subrule (2) *(e)* , a responsible employee, it shall be sufficient service to affix a copy of the process to the outer or principal door of such residence, local office or principal place of business or to leave a copy of the process at such *domicilium* .

[Rule 13(5) amended by GN R851 of 19 April 1991]

(6) If it comes to the sheriff's knowledge that the person on whom service must be made has a new residential address, the sheriff shall serve the process on the person at his new address.

[Rule 13(6) amended by GN R851 of 19 April 1991]

(7) Where the relief claimed in any action is limited to an order for ejectment from certain premises or land or a judgment for the rent thereof and for the cost of such proceedings and it is not possible to effect service in the manner, prescribed in subrule (2), service of process may be effected by affixing a copy thereof to the outer or principal door of such premises or on some other conspicuous part of the premises or land in question.

(8) Where two or more persons are to be served with the same process, service shall be effected upon each, except-

(a) in the case of a partnership, when service may be effected by delivery at the office or place of business of such partnership, or if there be none such, then by service on any member of such partnership in any manner hereinbefore prescribed;

(b) in the case of two or more persons sued in their capacity as trustees of an insolvent estate, liquidators of a company, executors, curators or guardians, when service may be effected by delivery to any one of them in any manner hereinbefore prescribed;

(c) in the case of a syndicate, unincorporated company, club, society or church, when service may be effected by delivery at the local office or place of business of such body or, if there be none such, by service on the chairman or secretary or similar officer thereof in any manner hereinbefore prescribed.

(9) Where the court is satisfied that service cannot be effected in any manner hereinbefore prescribed and that the action is within its jurisdiction, it may make an order allowing service to be effected by the person and in the manner specified in such order.

(10) *(a)* Where service of process may be effected by registered post such service shall, unless otherwise provided, be effected by the sheriff placing a copy of such process in an envelope and addressing and posting it by prepaid registered letter to the address of the party to be served and making application at the time of registration for an acknowledgment by the addressee of the receipt thereof as provided in regulation 44(5) of the regulations published under Government Notice R550 of 14 April 1960.

[Rule 13(10) *(a)* amended by GN R851 of 19 April 1991]

(b) A receipt form completed as provided in regulation 44(8) of the said regulations shall be a sufficient acknowledgment of receipt for the purposes hereof.

(c) If no such acknowledgment be received the sheriff shall state the fact in his return of service of the process.

[Rule 13(10) *(c)* amended by GN R851 of 19 April 1991]

(d) Every such letter shall have on the envelope a printed or typewritten notice in the following terms:

'This letter must not be readdressed. If delivery is not effected before..... 19....., this letter must be delivered to the sheriff of the small claims court at.....'.

[Rule 13(10) *(d)* amended by GN R851 of 19 April 1991]

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14 Written statement of defence

(1) A statement in terms of section 29(3) of the Act shall be signed by the defendant.

(2) For the purposes of this rule 'defendant' includes any person upon whom a summons has been served and who alleges that he is not the defendant cited in the summons and enters appearance to defend on that ground.

(3) A claim in reconvention shall be made by stating in the written statement of defence such particulars of the claim in reconvention as are required in terms of rule 10 in respect of a claim.

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15 Consent to judgment

(1) A defendant who after summons has been served upon him has admitted liability and consented to judgment in writing shall-

(a) sign the form of consent endorsed on the original summons; or

(b) lodge with the clerk of the court the copy of the summons served on him with the form of consent endorsed thereon duly signed by him.

(2) It the defendant's consent to judgment is for less than the amount claimed in the summons, he may still enter a written statement of defence in respect of the balance of the claim. Notwithstanding a judgment upon such consent, the action may proceed in respect of such

balance and shall be in all subsequent respects an action for such balance.

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16 Amendment of a written statement of defence or other document

A party who desires to lodge a statement of defence or another document in regard to the action, may before delivery amend the statement of defence or other document as he deems fit.

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17 Process in execution

(1) The process for the execution of any judgment, for the surrender of property whether movable or immovable, or for ejectment shall be by warrant issued and signed by the clerk of the court and addressed to the sheriff.

[Rule 17(1) amended by GN R851 of 19 April 1991]

(2) Such process may be sued out by any person in whose favour any such judgment shall have been given if such judgment is not then satisfied, stayed or suspended.

(3) Such process may at any time, on payment of the fees incurred, be withdrawn or suspended by notice to the sheriff by the party who has sued out such process. A request in writing made from time to time by such party to defer execution of such process for a definite period not being longer than one month shall not be deemed to be a suspension.

[Rule 17(3) amended by GN R851 of 19 April 1991]

(4) Any alterations in such process shall be initialled by the clerk of the court before it is issued by him.

(5) The clerk of the court shall at the request of the party entitled thereto reissue process referred to in subrule (1) without the court having sanctioned the reissue.

(6) Any such process shall be invalid if a wrong person is named therein as a party, but no such process shall be invalid merely by reason of the misspelling of any name therein, or of any error in respect of date.

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18 Second or further warrants

(1) Where any warrant has been lost or mislaid, the clerk of the court may upon the written application of any interested party issue a second or further warrant on such conditions as he may determine.

(2) The provisions of subrules (1) to (6), inclusive, of rule 17 shall *mutatis mutandis* apply to any such warrant issued by the clerk of the court and in addition such warrant shall clearly be endorsed as follows:

'This second or further warrant ..... (describe nature of warrant) was

issued by the clerk of the small claims court on ..... (date) and replaces any warrant ..... (described nature of warrant) instead of which it is issued or reissued.'.

(3) *(a)* When any warrant which has been replaced by a warrant issued in terms of subrule (1) becomes available it shall immediately be cancelled by the clerk of the court by endorsing across the face thereof between two parallel transverse lines the words:

' *Cancelled* . Fresh warrant ..... (describe nature of warrant) issued by the clerk of the court dated .....'.

(b) Such endorsement shall be signed and dated by the clerk of the court.

(4) The fact that a second or further warrant has been issued and the date thereof, shall be endorsed on the summons with which the action was instituted.

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19 Execution against movable property

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[Rule 19 repealed by GN R851 of 19 April 1991]

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20 Execution against immovable property

.....

[Rule 20 repealed by GN R851 of 19 April 1991]

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21 General provisions regarding execution

.....

[Rule 21 repealed by GN R851 of 19 April 1991]

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22 Withdrawal of an action

The withdrawal of an action or a decree of absolution from the instance shall not be a defence to any subsequent action.

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23 Representation of parties

(1) It shall not be necessary for any person to file a power of attorney to act on behalf of a legal entity, but the authority of any person acting for such a party may be challenged by the other party during the proceedings after he has noticed that such person is so acting and thereupon such person may not without the leave of the court so act further until he has satisfied the court during the proceedings that he has authority so to act.

(2) If a party dies or becomes incompetent to continue an action the action shall thereby be stayed until such time as an executor, trustee, guardian or other competent person has been appointed in his place or until such incompetence shall cease to exist.

(3) Where an executor, trustee, guardian or other competent person has been so appointed, the court may, on verbal application, order that he be substituted in the place of the party who has so died or become incompetent.

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24 Non-compliance with rules, including time limits and errors

(1) Except where otherwise provided in these Rules, failure to comply with these Rules or with any request made in pursuance thereof shall not be ground for the giving of judgment against the party in default.

(2) Where any provision of these Rules or any request made in pursuance of any such provision has not been fully complied with the court may on application order compliance therewith within a stated time.

(3) Where any order so made is not fully complied with within the time so stated, the court may forthwith give judgment in the action against the party so in default.

(4) No process shall be invalid by reason of any obvious error in spelling or in figures or of date.

(5) If any party has in fact been misled by any such error in any process served upon him, the court may on verbal application grant him such relief as may be deemed just and may for that purpose set aside the process and rescind any default judgment given thereon.

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25 Costs

Where a judgment or order of costs is made against two or more persons it shall, unless the contrary is stated, have effect against such persons severally as well as jointly.

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26 Fees of the sheriff

[Heading of Rule 26 amended by GN R851 of 19 April 1991]

The fees and travelling expenses to be taken by a sheriff shall be those prescribed in Part II of Annexure 2.

[Rule 26 amended by GN R851 of 19 April 1991]

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27 Actions by and against partners, a person carrying on business in a name or style other than his own name, syndicate or assocation

(1) Any person carrying on business in a name or style other than his own name or two or more persons who are co-partners may be sued in such name or style or in the name of the partnership.

(2) The provisions of this rule shall also *mutatis mutandis* apply to an unincorporated company, syndicate or association.

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ANNEXURE 1
FORMS

NUMERICAL ORDER

Form No.

Description

1. Summons commencing action
2. Warrant for the surrender of goods
3. .....

[Form 3 deleted by GN R851 of 19 April 1991]

4. Warrant of ejectment

ALPHABETICAL ORDER

Description	***Form No.***
Summons commencing action.....	1
Warrant for delivery of goods.....	2
Warrant of ejectment.....	4
..... [Form 3 deleted by GN R851 of 19 April 1991]	3

Issued by..... Case No. .....

..... Date.....

Clerk of the Small Claims Court

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No. 1
SUMMONS COMMENCING ACTION
[Form 1 amended by GN R851 of 19 April 1991]

Name and address of plaintiff:

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

.....
Signature of Plaintiff

In the Small Claims Court for the Area of.....
held at.....
between

..... Plaintiff

.....(sex)

and

..... Defendant

.....(sex and if female also marital state)

To:

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

1 You are hereby summoned to appear personally before this court on the .....day of.....19..... at .....h..... to admit or deny your liability for the undermentioned claim.

2 If you deny liability, you may at any time before the trial deliver to the clerk of the court at .....
.....
(address) a written statement setting out the nature of your defence and the particulars upon which it is based and a copy of the statement must then be delivered to the plaintiff.

3 *Particulars of claim:*

Plaintiff's claim is for-

(a) payment of the sum/balance of R .....for
.....
.....
.....

(b) (i) for arrears of rent due in respect of the defendant's tenancy of.....
.....

Date	*Period*	*Amount* R
.....	.....	.....
.....	.....	.....
.....	.....	.....
.....	.....	.....

and

(ii) for ejectment:

Particulars.....
.....

(c) Notice of * abandonment of part of claim/deduction of admitted debt.

Take notice that the plaintiff hereby * abandons the undermentioned part of the claim/deducts the admitted debt set up by him in this summons.

Particulars: .....
.....
.....
.....

Dated at.....this.....
day of....., 19.....

.....
Plaintiff

4 *(a)* Take notice that if you fail to appear in Court on the trial date after a summons has been served on you, judgment may be obtained against you by the plaintiff unless you have previously admitted liability to the plaintiff.

(b) Money payable in terms of a judgment or order of court shall be paid directly to the judgment creditor.

(c) If you admit the claim and wish to consent to judgment or wish to undertake to pay the claim in instalments or otherwise, you may approach the plaintiff.

5 Take notice that you and all other persons are hereby interdicted from removing or causing or suffering to be removed any of the furniture or effects in or on the premises described in the particulars of claim endorsed hereon which are subject to the plaintiffs hypothec for rent until an order relative thereto shall have been made by the court.

6 *Notice:*

If any person against whom a judgment for the payment of money has been given or an order for the payment of money in instalments has been made fails to satisfy the judgment or order-

(a) such judgment or order may be enforced against movables and, if the movables are found to be insufficient then against the immovables of the party against whom the judgment or order has been issued;

(b) execution may be taken against the whole judgment debt and costs which have not yet been paid in default of an instalment being paid;

(c) such a person is liable to notify the judgment creditor fully and correctly, within 14 days after he has changed his place of residence, business or employment of his new place of residence, business or employment;

(d) and if he has let it be known that he is not in a position to comply with the judgment, the court may in chambers institute an investigation into the judgment debtor's financial position and his ability to pay the judgment debt and costs.

7 The sheriff's fees are.....R.....
[Item 7 amended by GN R851 of 19 April 1991]

8 *Consent to judgment:*

I admit that I am liable to the plaintiff as alleged in this summons (or to the amount of R..... and costs to date) and I accordingly consent to judgment.

Dated at.....this.....
day of....., 19.....

.....
Defendant

.....
Date

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No. 2

WARRANT FOR THE SURRENDER OF GOODS

[Form 2 amended by GN R851 of 19 April 1991]

In the Small Claims Court for the Area of.....

held at.....

Case No. ..... 19.....

In the matter between:

..... Plaintiff

and

..... Defendant

To the Sheriff:

Whereas in this action the court ordered that the defendant surrender to the plaintiff a certain..... (describe the thing to be surrendered);

You are hereby authorised and required to take the said..... ..... (describe the thing) from the defendant and place the plaintiff in possession thereof, for which this shall be your warrant;

And return to this court what you have done by virtue hereof.

Dated this.....day of....., 19.....

By Order of the Court

....

Plaintiff *Clerk of the Court*

Address:

.....

.....

.....

.....

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No. 3
WARRANT OF EXECUTION AGAINST PROPERTY
[Form 3 deleted by GN R851 of 19 April 1991]

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No. 4
WARRANT FOR EJECTMENT
[Form 4 amended by GN R851 of 19 April 1991]

In the Small Claims Court for the Area of .....

held at.....

Case No. ..... of 19.....

In the matter between:

..... Plaintiff

and

..... Defendant.

To the Sheriff:

Whereas in this action the said plaintiff on the ..... day of ....., 19..... obtained judgment for the ejectment of the said defendant from the premises or land known as .....;

You are hereby authorised and required to put the said plaintiff in possession of the said premises or land by removing the said defendant therefrom, for which this shall be your warrant;

And return to this court what you have done by virtue hereof.

Dated this.....day of....., 19.....

By Order of the Court

.....
Clerk of the Court

.....

Plaintiff

Address:

.....

.....

.....

.....

.....

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ANNEXURE 2
COSTS

PART I
COURT FEES

For a copy of a record made by the clerk of the court-

(a) for every 100 typed words or part thereof: R1,00;

(b) for every photocopy of an A4 size page or part thereof: R0,50.

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PART II
FEES AND TRAVELLING EXPENSES OF SHERIFFS

1 *(a)* For the service of a summons, including the registration of the summons on receipt thereof for service, for the journey to and from the place of service of the summons and for a return or notification in terms of rule 4(3) to the party who has sued out process-

(i) within a distance of 6 kilometres from the court-house of the magisterial district within which the summons shall be served: R10,00;

(ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the magisterial district within which the summons shall be served: R12,00;

(iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the magisterial district within which the summons shall be served: R15,00.

(b) For the attempted service of a summons, including the registration of the summons on receipt thereof for service, for the journey to and from the place of attempted service of the summons and for a return or notification in terms of rule 4(3) to the party who has sued out process-

(i) within a distance of 6 kilometres from the court-house of the magisterial district within which the summons shall be served: R8,00;

(ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the magisterial district within which the summons shall be served: R10,00;

(iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the magisterial district within which the summons shall be served: R12,00.

2 *(a)* For the execution of a warrant, including the registration of the warrant on receipt thereof for execution and bank commission paid by the sheriff, for the journey to and from the place of execution of the warrant and for a return or notification in terms of rule 4(3) to the party who has sued out process-

(i) within a distance of 6 kilometres from the court-house of the magisterial district within which the warrant shall be executed: R13,00;

(ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the magisterial district within which the warrant shall be executed: R16,00;

(iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the magisterial district within which the warrant shall be executed: R20,00.

(b) For the attempted execution of the warrant, including the registration of the warrant on receipt thereof for execution, for the journey to and from the place of attempted execution of the warrant and for a return or notification in terms of rule 4(3) to the party who has sued out process-

(i) within a distance of 6 kilometres from the court-house of the magisterial district within which the warrant shall be executed: R11,00;

(ii) within a distance of 12 kilometres but further than 6 kilometres from the court-house of the magisterial district within which the warrant shall be executed: R13,00;

(iii) within a distance of 20 kilometres but further than 12 kilometres from the court-house of the magisterial district within which the warrant shall be executed: R16,00.

(c) Where the warrant is one for ejectment, a further fee of R5,00 shall be paid after the execution thereof for each person over and above the person named or referred to in the warrant of ejectment in fact ejected from separate premises: Provided that where service on any person other than the judgment debtor is necessary in order to complete the execution, the fees mentioned in item 1 *(a)* may be charged for each such service.

3 If it is necessary for the sheriff to travel further than 20 kilometres from the court-house of the magisterial district within which a process must be served or executed, a travelling allowance of 70c per kilometre for each kilometre or part thereof travelled further than the aforesaid distance to and from the place of service or execution shall be allowed in addition to the fees mentioned in item 1 *(a)* (iii), 1 *(b)* (iii), 2 *(a)* (iii) or 2 *(b)* (iii), as the case may be.

4 *(a)* In respect of the discharge of any official duties other than those mentioned in items 1 and 2, a travelling allowance of 70c per kilometre for each kilometre or part thereof shall be payable to the sheriff for the forward and return journey, which shall be calculated from the court-house of the magisterial district within which the official duty is to be performed.

(b) A travelling allowance shall include all the expenses incurred in travelling, including train fares.

(c) A travelling allowance shall be calculated in respect of each separate service, except that-

(i) where more services than one can be done on the same journey beyond a radius of 20

kilometres from the court-house concerned, the distance of the radius of 20 kilometres to the first place of service may be taken into account only once and shall be apportioned equally to the respective services, and the distance from the first place of service to the remaining places of service shall likewise be apportioned equally to the remaining services; and

(ii) where service of the same process has to be effected on more than one person by a sheriff within the area served by him, only one charge for travelling shall be made.

5 For the ejectment of a defendant from the premises mentioned in the warrant of ejectment: R5 for the first 30 minutes and thereafter R15 per hour or part thereof.

6 In addition to the fees prescribed, the sheriff shall be entitled to charge the amount paid by him for telephone calls.

7 For the writing of a necessary letter to an interested party in the matter: R2.

8 For the copying of the necessary documents relevant to a process handled by the sheriff: 50c per A4 size copy.

9 If it is necessary for the sheriff to return to the mandator a process received by him for service or execution because-

(a) the address of service which appears on the process does not fall within his jurisdiction;

(b) the mandator requests, before an attempted service or execution of the process, that it be returned to him: an amount of R2,50.

10 In addition to the fees prescribed in this Annexure, the sheriff shall be entitled to the amount he actually disbursed for postage.

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