

IN THE MAGISTRATE'S CIVIL COURT OF VANDERBIJLPARK

UPDATED PRACTISE NOTE: DEBT REVIEWS

The previous practise notes on debt reviews are cancelled.

1. ENROLLING OF OPPOSED AND UNOPPOSED MATTERS

- 1.1 Applicants should obtain a court date, falling on a Friday, for the unopposed debt review roll from the clerk of the court. This may be done orally.
- 1.2 There must be compliance with Rule 55 (e) (iii): "If no notification to oppose is given in writing, the application will be set down for hearing on a stated day." Thus, the date obtained from the Clerk of the court should be inserted as "stated date."
- 1.3 If no notice to oppose is received, the application has to be enrolled in terms of Rule 55 (f), for the Friday, on the stated date at 8h30.
- 1.4 The completed check list should be filed together with the application.
- 1.5 The application is to be enrolled in terms of Rule 55 (f), that is at least five working days before the hearing date. In other words, the application is to be enrolled not later than the Friday before the hearing date.
- 1.6 If notice to oppose is received, the process will continue in terms of Rule 55 (g).
- 1.7 The application to the clerk for an allocation of a date for the hearing of the opposed application in terms of Rule 55 (j) (i), should be in writing.
- 1.8 The opposed debt review matters will be heard on a Thursday, in the Opposed Motion Court.

2. CHECK LISTS AND INDEX

- 2.1 Kindly note that the format of the check list has been changed.
- 2.2 A copy of the check list can be obtained from the Vanderbijlpark Civil Court
Web site: www.justice.gov.za. Follow Courts, Vanderbijlpark.
Shortcut: <http://www.justice.gov.za.mc.vdbp/mcvdbp.html>

3. UNIFORMITY OF APPLICATION

3.1 DEBT COUNCILLOR'S AFFIDAVIT & FORM 16

See example / roneo on the Web site.

- 3.1.1 Certificate of Registration as Debt Councillor: to be attached.
- 3.1.2 Do not attach Forms 17.1 and 17.2.
- 3.1.3 Form 16: To be attached. See example / roneo on the Web site, making provision for extra detail, for instance number of dependants and ages.
- 3.1.4 Certificate of Balances, with interest rates as per original agreement, to be attached.
- 3.1.5 Agreement/consent to change in interest rates to be attached.
- 3.1.6 Agreement/consent to interest rates as per proposal: to be attached.
- 3.1.7 If there was no reaction on the request for a certificate of balance/if the contractual interest rate is unknown: The debt counsellor may propose a 0 interest rate.
- 3.1.8 Take care not to attach unnecessary correspondence, demands, and other irrelevant documents.

3.2 CONSUMER'S AFFIDAVIT(S):

Confirmatory affidavit by consumer (2) to be attached. (Applies to spouses married within community of property.)

3.2 DRAFT COURT ORDER

- 3.2.1 A roneo of the court order may be obtained from the Web site.
- 3.2.2 The proposal document should not be annexed to the court order as it contains information that does not form part of the court order.
- 3.2.3 The certificate of registration of a paying distribution agent should be attached, where applicable.
- 3.2.4 The information on the annexure to the court order shall contain
 - a) the particulars of the credit provider in the same sequence as per the citing on the application,
 - b) The contract numbers;
 - c) The rescheduled interest rates;
 - d) The rescheduled monthly instalment.
 - e) The rescheduled terms of payment

Practice Note 4 revised: 9 June 2016.

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MAGISTRATE: VANDERBIJLPARK

