



Church Square Association of Advocates
Church Square Bar

Kerkplein Vereniging van Advokate
Kerkplein Balie

20 January 2015

NOTICE

PLEASE TAKE NOTE THAT:

GOVERNMENT NOTICE NO. 5 PROMULGATED IN GOVERNMENT GAZETTE NO. 38380, DATED 9 JANUARY 2015, the RULES BOARD FOR COURTS OF LAW has amended Rules 27 and 55 of the Rules regulating the conduct of the proceedings of the Magistrates' Courts of South Africa with effect from 13 February 2015.

Same is available on our website at www.churchsquarebar.co.za under legal amendments.

Should you not have internet access, same is available at our Chambers, Suite 410, Standard Bank Chambers, Pretoria, for your perusal.

MEMBERS ARE URGED to take note thereof and to comply with the said amendments in order to avoid embarrassment.



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GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

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

No. R. 5

9 January 2015

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)

**AMENDMENT OF RULES REGULATING THE CONDUCT OF THE
PROCEEDINGS OF THE MAGISTRATES' COURTS 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 and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words or expressions in bold typed in square brackets indicate omissions from existing rules.

____ Words or expressions underlined with a solid line indicate insertions in existing rules.

Definition

1. In this schedule “the Rules” means the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa published under Government Notice No. R. 740 of 23 August 2010, as amended by Government Notice Nos. R. 1222 of 24 December 2010, R. 611 of 29 July 2011, R. 1085 of 30 December 2011, R. 685 of 31 August 2012, R. 115 of 15 February 2013, R. 263 of 12 April 2013, R. 760 of 11 October 2013, R. 183 of 18 March 2014, R. 215 of 28 March 2014 and R. 507 of 27 June 2014.

Amendment of rule 27 of the Rules

2. Rule 27 of the Rules is hereby amended by the substitution for sub-rules (5), (6), (7) and (8) of the following sub-rules:

“(5) If in any proceedings a settlement or an agreement to postpone or withdraw is reached, the attorney for the plaintiff or applicant shall inform the registrar or clerk of the court and other parties **[to the action]** thereto by delivering a notice accordingly.

(6)(a) Application may be made to the court by any party at any time **[after delivery of notice of intention to defend and]** before judgment to record the terms of any settlement **[of an action]** agreed to by the parties to a proceeding without entry of judgment: Provided that if the terms of settlement so provide, the court may make such settlement an order of court.

(b) Where any party to a settlement agreement is not present at the time when the terms of a settlement agreement are recorded or made an order of court, the presiding Magistrate may call for the verification of the authenticity of any signature of a party to a settlement agreement before recording the terms thereof or recording same as an order of court or granting judgment in terms thereof.

(7) An application referred to in sub-rule (6) shall be on notice, except when the application is made in court during the hearing of any proceeding **[in the action]** at which the other party is represented or when a written waiver (which may be included in the statement of the terms of settlement) by such other party of notice of the application is produced to the court.

(8) At the hearing of an application referred to in sub-rule (6) the applicant shall lodge with the court a statement of the terms of settlement signed by all parties to the **[action] proceeding** and, if no objection thereto be made by any other party, the court shall note that the **[action] proceeding** has been settled on the terms set out in the statement and thereupon all further proceedings **[in the action]** shall, save as provided in sub-rules (9) and (10), be stayed.”

Amendment of rule 55 of the Rules

3. Rule 55 of the Rules is hereby amended by the insertion of the following sub-rule (10):

“(10) Rules 28 and 28A shall apply equally to all applications.”

Commencement

4. These rules shall come into operation on **13 February 2015**.

ISAZISO SASEBURHULUMENTENI**KUMNYANGO WEZOMTHETHO KUNYE NOPHULISO LOMGAQO-SISEKO**

No. R. 5

9-1-2015

**IMIGAQO YEBHODI YEENKUNDLA ZOMTHETHO, KA-1985 (UMTHETHO
NOM. 107 KA-1985)****UHLENGAHLENIGISO LWEMIGAQO EKHOKHELA INKQUBO
YOKUQHUBEKA KWENKUNDLA ZIKAMANTYI WOMZANTSI AFRIKA**

ImiGaqo yeQumrhu yeeNkundla zoMthetho zine-, phantsi kwecandelo lesi-6 yemiGaqo yeQumrhu yeeNkundla zoMthetho, ka1985 (Umthetho Nom. 107 ka1985), ngemvume woMphathiswa wezoMthetho kunye Neenkozo zesiSele, benze imigaqo kwiShedyuli.

ISHEDYULI**ISAZISI ESICACISA JIKELELE:**

[] Amagama okanye iimboniso ezibhalwe ngqingqwa kwisikweri zibonisa ukhupho kwimigaqo ekhona.

___ Amagama okanye iimboniso ezikrwelelwe ngomgca ongqingqwa zibonisa ufako kwimigaqo ekhona.

Ingcaciso

1. Kule shedyuli “imiGaqo” ithetha imiGaqo ekhokhela imeko yokuqhubeka kweNkundla kaMantyi epapashwe eMzantsi Afrika phantsi kweSaziso sikaRhulumente iNombolo. R. 740 ka23 Agasti ku2010, ngokuhlengahlengiswe siSaziso sikaRhulumente Nos. R. 1222 ye24 kaDisemba ku2010, R. 611 ye29 kaJulayi ku2011, R.1085 ye30 kaDesemba ku2011, R. 685 ye31 kaAgasti ku2012, R. 115 ye15 kaFebhuwari ku2013, R. 263 ye12 kaApreli ku2013, R. 760 ye11 kaOkthobha ku2013, R. 183 ye18 Matshi 2014, R. 215 ye28 kaMatshi ku2014 neR. 507 ye27 kaJuni ku2014.

Uhlengahlengiso lomgaqo wesi- 27 wemiGaqo

2. Umgaqo wama-5 wemiGaqo uhlehlengiswa ngokuthathelwa indawo wemithetho ongaphantsi weenombolo (5), (6), (7) nowe (8) walo womthemtho ongaphantsi olandelayo:

“(5) Ukuba neyiphi inkqubo yovalo tyala okanye isivumelwano sokuyibekela elinye ixesha okanye ukurhoxa kufikwe kuko, igqwetha lomngali okanye ummangalelwa bazakwazisa umbhalisi okanye iklaka yenkundla kunye namanye amalungu **[kwinyathelo]** ukuba apho ngokuzisa isilumkiso ngendlela.

(6)(a) Isicelo singenziwa kwinkundla naleliph i qela nangaliph i xesha **[emveni kokuba kuziswe isilumkiso senjongo zokuzivikela kwaye]** ngaphambi kwesigwebo kushicilelwe imimmiselo yendlela neyiphi yokuvala ityala **[yenyathelo]** ekuvunyelene ngayo ngamagela kwinkqubo yetyala ngaphandle kokuba bangene esigwebeni: Kuxhomekeka ukuba imimmiselo yokuvala ityala itsho njalo, inkundla ingenza ol valo lwetyala umyalelo enkundleni.

(b) Apho neliphi iqela elingekhoyo kwisivumelwano sokuvala ityala ngexesha xa imimmiselo yesivumelwani sokuvala ityala ishicilelwa okanye isenziwa umyalelo wenkundla, uMantyi oqhubayo angabiza ubungqina nogunyaziso wotyikityo sandla weqela naliphi kwisivumelwano sokuvala ityala ngaphambi kokuba kushicilelwe imimmiselo apho okanye ishicilele okufanayo nomyalelo wetyala okanye inikeza isigwebo kuleyo mimmiselo.

(7) Isicelo ekubhekiselwa kuso kumgaqo ongaphantsi u(6) uza kuba kwisilumkiso, ngaphandle kokuba isicelo senziwe enkundleni ngexesha kuyomanyelwa neyiphi inkqubo yetyala [kwinyathelo] apho elinye iqela limelweyo okanye kukhona into ebhaliwe (leyo engaqukwa kwisisteyithimenti semimmiselo yokuvala ityala) yenziwe oko lelinye iqela lesilumkiso lwesicelo iye ivezwe enkundleni.

(8) Xa kuviwa ufako sicelo ekubhekiselwa kuso kumgaqo ongaphantsi ko(6) umfaki sicelo uza kukhupha nenkundla isiteyithimenti semimmiselo sovalo tyala sityikitywe ngamaqela onke kwi- [inyathelo] inkqubo yetyala kwaye, ukuba akukho chaso apho olwenziwe lelinye iqela, inkuza iza kuqaphela ukuba [inyathelo] inkqubo yetyala ifikelele kwisigqibo kwimimmiselo ebekwe kwisisteyithimenti apho yonke inkqubo ethe vetshe [kwinyathelo] iza, kugcina ngokunikeziwe kwimigaqo engaphantsi ye-(9) neye (10), ibihlalelwe.”

Uhlengahlengiso lomgaqo wama-55 wemiGaqo

3. Umgaqo wama-55 wemiGaqo upha ulungiswe ngokkufaka lomthetho ongaphantsi olandelayo wesi (10).

“(10) Imigaqo yama- 28 neyama-28A iza kufakwa ngokulinganayo kwiinkqubo zonke.”

Ukuqalisa ukusebenza

4. Le migaqo iqalisa ukusebenza ngowe-13 Februwari 2015.