

REPUBLIC OF SOUTH AFRICA  
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*Regulation Gazette*

**No. 10566**

*Regulasiekoerant*

**Vol. 608**

**19**

**February  
Februarie**

**2016**

**No. 39715**







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**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS**

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**DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

NO. R. 2

19 FEBRUARY 2016

**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 type 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, R. 5 of 9 January 2015, R. 32 of 23 January 2015, R. 33 of 23 January 2015, R. 318 of 17 April 2015 and R. 545 of 30 June 2015.

**Amendment of rule 12 of the Rules**

2. Rule 12 of the Rules is hereby amended –

(a) by the substitution for sub-rule (1), of the following sub-rule:

“(1)(a) If a defendant has failed to deliver the notice of intention to defend within the time stated in the summons or before the lodgement of the request provided for in this paragraph, and has not consented to judgment, the plaintiff may lodge with the registrar or clerk of the court a request in writing similar to Form 5 of Annexure 1, in duplicate, together with the original summons and the return of service, for judgment against such defendant for-

- (i) any sum not exceeding the sum claimed in the summons or for other relief so claimed;
- (ii) the costs of the action; and
- (iii) interest at the rate specified in the summons to the date of payment or, if no rate is specified, at the rate prescribed under section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act No. 55 of 1975).

“(b) When the defendant has been barred in terms of rule 21B(3) from delivering a plea, the plaintiff may lodge with the registrar or clerk of the court a request in writing for judgment in the same manner as when the defendant has failed to deliver the notice of intention to defend.”.

(c) When the defendant has failed to deliver the notice of intention to defend or, having delivered such notice, has **[failed to deliver a plea within the period specified in the notice delivered to him or her in terms of paragraph (b)]** been barred in terms of rule 21B(3) from delivering a plea and the plaintiff has in either case lodged a request for judgment, the registrar or clerk of the court shall process the request in terms of the provisions of sub-rules (2), (3), (4), (5), (6), (6A) and (7), and notify the plaintiff of the outcome of



the request by returning the duplicate copy duly endorsed as to the result and the date thereof.

(d) When a defendant has delivered the notice of intention to defend but has **[failed to deliver a plea within the period specified in the notice delivered to him or her in terms of paragraph (b)]** been barred in terms of rule 21B(3) from delivering a plea and the registrar or clerk of the court has entered judgment in terms of a request lodged by the plaintiff, costs shall be taxed as if it had been a defended action.

(e) If the original summons cannot be filed together with the request for judgment as required by paragraph (a), the plaintiff may-

- (i) file with the registrar or clerk of the court a copy or duplicate original of the summons and a copy of the signed return of service received from the sheriff; and
- (ii) file an affidavit together with the documents mentioned in subparagraph (i) stating the reasons why the original summons and return of service cannot be filed: Provided that in divorce actions or actions for nullity of marriage rule 22(5) shall apply.”;

(b) by the substitution for sub-rule (2), of the following sub-rule:

“(2) (a) If it appears to the registrar or clerk of the court that the defendant intends to defend the action but that his or her notice of intention to defend is defective, in that the notice-

- (i) has not been properly delivered; or
- (ii) has not been properly signed; or
- (iii) does not set out the postal address of the person signing it or an address for service as provided in rule 13; or
- (iv) exhibits any two or more of such defects or any other defect of form,

he or she **[shall] must** not enter judgment against the defendant unless the plaintiff has delivered notice in writing to the defendant calling upon him or her

to deliver [a] the notice of intention to defend in due form within 5 days of the receipt of such notice.

(b) The notice provided for in sub-rule (2)(a) [**shall**] must set out in what respect the defendant's notice of intention to defend is defective.

(c) On failure of the defendant to deliver [a] the notice of intention to defend as provided in paragraph (a), the plaintiff may lodge with the registrar or clerk of the court a written request for judgment in default of due notice of intention to defend: Provided that in divorce actions or actions for nullity of marriage rule 22(5) shall apply.”;

(c) by the substitution for sub-rule (3), of the following sub-rule:

“(3) Judgment in default of [**appearance**] the notice of intention to defend [**shall**] must not be entered in an action in which the summons has been served by registered post unless the acknowledgement of receipt referred to in rule 9(13)(a) has been filed by the sheriff with his or her return of service.”;

(d) by the substitution for sub-rule (3A), of the following sub-rule:

“(3A) When a claim is for a debt or liquidated amount in money and the defendant has failed to deliver the notice of intention to defend or, having delivered the notice of intention to defend, has failed to deliver a plea within the period specified in the notice delivered in terms of [**sub-rule (1)(b)(i)]** rule 21B(2) and the plaintiff has in either case lodged a request for judgment, the registrar or clerk of the court may, subject to the provisions of sub-rules (2), (4), (5), (6) and (6A) grant judgment or refer the matter to the court in terms of sub-rule (7).”;

(e) by the substitution for sub-rule (5), of the following sub-rule:

“(5) The registrar or clerk of the court [**shall**] must refer to the court any request for judgment on a claim founded on any cause of action arising out of or

based on an agreement governed by the National Credit Act, 2005 or the Credit Agreements Act, 1980 (Act No. 75 of 1980), and the court shall thereupon make such order or give such judgment as it may deem fit.”.

#### **Amendment of rule 15 of the Rules**

3. Rule 15 of the Rules is hereby amended –

(a) by the deletion of sub-rule (4); and

(b) by the substitution of sub-rule (5) of the following sub-rule:

“(5) Where a plaintiff has been barred in terms of rule 21B(3) from delivering a declaration, the defendant may set the action down for hearing upon not less than 10 days’ notice to the defaulting plaintiff, and apply for absolution from the instance or, after adducing evidence, for judgment, and the court may make such order thereon as it deems fit.”.

#### **Substitution of rule 21B of the Rules**

4. The following rule is hereby substituted for rule 21B of the Rules:

##### **“Failure to deliver pleadings - barring**

21B.(1) Any party who fails to deliver a replication or subsequent pleading within the time stated in rule 21 shall be automatically barred.

(2) If any party fails to deliver any other pleading within the time laid down in these rules or within any extended time allowed in terms thereof, any other party may deliver a notice in writing calling upon that party to deliver such pleading within five days of receipt of such notice.

(3) Any party failing to deliver the pleading referred to in the notice mentioned in sub-rule (2) within the time therein required or within such further period as

may be agreed between the parties, shall be in default of filing such pleading and automatically barred: Provided that for the purposes of this rule the days from 16 December to 15 January, both inclusive, shall not be counted in the time allowed for the delivery of any pleading.".

#### **Amendment of rule 22 of the Rules**

5. Rule 22 of the Rules is hereby amended –

(a) by the substitution for sub-rule (2) of the following sub-rule:

"(2) The delivery of notice of trial shall [*ipso facto*] automatically operate to set down for trial at the same time any claim in reconvention made by the defendant.";

(b) by the substitution for sub-rule (5) of the following sub-rule:

"(5) In divorce actions or actions for nullity of marriage, notwithstanding anything in this rule contained, the registrar of the court shall at the written request of the plaintiff set the action down for hearing at the time and place and on a date to be fixed by the registrar of the court, if the defendant has-

- (a) failed to deliver the notice of intention to defend; or
- (b) failed to deliver a plea after receiving a notice in terms of rule [12(1)(b)] 21B(2); or
- (c) given written notice to the plaintiff and the registrar or clerk of the court that he or she does not intend defending the action, but no notice of such request or set down need be served on the defendant."

#### **Amendment of Annexure 2 to the Rules**

6. Table A of Annexure 2 to the Rules is hereby amended by the substitution for Part III of the part contained in the Annexure to this Schedule.

**Commencement**

7. These rules come into operation on **22 March 2016**.

**ANNEXURE****"TABLE A****COSTS****PART III****DEFENDED ACTIONS (AND INTERPLEADER PROCEEDINGS)**

<b>Item</b>	<b>Scale A R</b>	<b>Scale B R</b>	<b>Scale C R</b>	<b>Scale D R</b>
1 Instructions to sue or defend or to counterclaim or defend a counterclaim, perusal of all documentation and consideration of merits and all necessary consultations to issue summons	R487,00	R647,50	R778,00	R1011,50
2 Summons	R244,50	R340,00	R406,50	R528,00
2A Particulars of Claim or Declaration	R244,50	R340,00	R406,50	R528,00
3 Appearance	R41,00	R41,00	R49,50	R64,00
4 Notice under rules [12(1)(b) and (2)] 12(2) and 21B(2)	R41,00	R41,00	R49,50	R64,00
5 Plea	R244,00	R340,00	R406,50	R528,00
6 Claim in reconvention	R244,00	R340,00	R406,50	R528,00
7 Reply, if necessary	R244,00	R340,00	R406,50	R528,00
8 Drawing up of all documents not specifically mentioned, including request for further particulars, schedule of documents, all affidavits, subpoenas, any notice not otherwise provided for and drawing up of statements by witnesses	-	-	-	-
9 Production of documents for inspection, or inspecting documents, per quarter of an hour or part thereof of the time spent	R144,50	R144,50	R182,50	R235,50
10 Each copy of service, per page	R3,50	R3,50	R3,50	R3,50
11 The recording of statements by witnesses, per quarter of an hour or	R144,50	R144,50	R182,50	

part thereof				R235,50
12 Notice of trial or reinstatement	R41,00	R41,00	R49,50	R64,00
13 Preparing for trial (if counsel not employed)	R810,00	R1 102,00	R1 322,00	R1 719,00
14 Attendance at settlement negotiations, for each quarter of an hour or part thereof actually spent in such negotiations	R144,50	R144,50	R182,50	R235,00
15 Attending court during trial, or at an on-the-spot inspection, or at postponement or examination on commission, for each quarter of an hour or part thereof spent in court while the case is actually being heard-				
(a) if counsel not employed	R144,50	R144,50	R182,50	R235,50
(b) if counsel employed	Nil	R58,50	R70,00	R91,00
16 Attending pre-trial conference, for each quarter of an hour or part thereof actually spent in such conference	R144,50	R144,50	R182,50	R235,50
17 Attending court to hear reserved judgment, per quarter of an hour or part thereof	R28,50	R28,50	R35,00	R45,50
18 Correspondence-				
(a) for each necessary letter or telegram, per folio	R23,50	R23,50	R28,50	R37,00
(b) for each letter or telegram received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for	R15,00	R23,50	R28,50	R37,00
19 Attendances: For each necessary attendance not otherwise provided for, per attendance	R15,00	R23,50	R28,50	R37,00
20 Necessary formal telephone calls, per call	R15,00	R23,50	R28,50	R37,00
21 Telephone consultations: For every 5 minutes or part thereof, subject to a maximum fee per consultation of R140,00 for Scales A to C and R 181,00 for Scale D	R41,00	R41,00	R49,50	R64,00
22 Each necessary consultation, per quarter of an hour or part thereof	R144,50	R144,50	R182,50	R235,50

23 The court may, on request made at the hearing, allow in addition to the fee prescribed in item 13 above a refresher fee in postponed or partly heard trials	R504,00	R713,50	R856,00	R1 112,00
24 Time spent waiting at court (owing to no court being available) per quarter of an hour or part thereof	R97,50	R97,50	R117,50	R153,00
25 Travelling time [subject to the provisions of rule 33(9)] per quarter of an hour or part thereof	R97,50	R97,50	R117,50	R153,00
26 Subsistence and travelling expenses as laid down in rule 33(9)	The actual reasonable subsistence and travelling expenses as laid down in rule 33(9)			

“ ”

NO. R. 2

19 FEBRUARY 2016

**ISIHLOKOMISO SIKARHULUMENTE**  
**ISEBE LOBULUNGISA NOPHULISO LOMGAQO-SISEKO**

**I-RULES BOARD FOR COURTS OF LAW ACT 107 KA-1985**

**KWENZIWA UTSHINTSHO KWIMIGAQO ELAWULA UKUQHUTYWA KWAMATYALA  
KWIINKUNDLA ZEEMANTYI ZASEMZANTSI-AFRIKA**

Ngokwegunya lesiqendu 6 se*Rules Board for Courts of Law Act 107 ka-1985*, iBhodi YeMigaqo YeeNkundla ZoMthetho ithe, ngemvume yoMphathiswa Wobulungisa Neenkonzolungiso-similo, yenza imigaqo kwiShedyuli.

**ISHEDYULI**

**INKCAZELO GABALALA:**

[ ] Amagama okanye amabinzana abhalwe ngqindilili kwizibiyeli ezisisikweri abonisa okukhutshiweyo kwimigaqo ekhoyo.

\_\_\_ Amagama okanye amabinzana akwelwe umgca ngaphantsi abonisa okufakelweyo kwimigaqo ekhoyo.

**Ukuchazwa kwegama**

1. Kule shedyuli elithi "iMigaqo" lithetha Elawula Ukuqhutywa Kwamatyala EeNkundla ZeeMantyi ZaseMzantsi-Afrika epapashwe kwiSihlokomiso SikaRhulumente esinguNombolo R. 740 sika-August 23, 2010, saza senziwa utshintsho ziZihlokomiso ZikaRhulumente ezilandelayo: R. 1222 sikaDisemba 24, 2010; R. 611 sikaJulayi 29, 2011; R. 1085 sikaDisemba 30, 2011; R. 685 sika-Agasti 31, 2012; R. 115 sikaFebruwari 15, 2013; R. 263 sika-Aprili 12, 2013; R. 760 sikaOktobha 11, 2013; R. 183 sikaMatshi 18, 2014; R. 215 sikaMatshi 28, 2014; R. 507 sikaJuni 27, 2014; R. 5 sikaJanuwari 9, 2015; R. 32 sikaJanuwari 23, 2015; R. 33 sikaJanuwari 23, 2015; R. 318 sika-Aprili 17, 2015; nesinguNombolo R. 545 sikaJuni 30, 2015.



**Kwenziwa utshintsho kuMgaqo 12****2. Kwenziwa utshintsho kuMgaqo 12—**

- (a) ngokuthi umgaqwana (1) uthatyathelw' indawo ngumgaqwana olandelayo:  
 "(1)(a) Ukuba ummangalelwa akasithumelanga isaziso sokuba uzimisele ukuzithethelela ngexesha elixelwe kwisamani okanye singekafakwa isicelo esixelwe kwesi siqendu, abe kananjalo engavumanga ukunkqanyangelwa sisigwebo senkundla, ummangali unokuthi angenise kumgcini-zifayile okanye kumabhalane wenkundla isicelo esibhaliweyo esikwimo yeFomu 5 yeSongezelelo 1, sibe ziikopi ezimbini, kwakunye nesamani yantlandlolo nobungqina bokuba isiwe emntwini, ecela ukuba inkundla ikhuphele ummangalelwa umyalelo wokuba—
- (i) ahlawule isixa-mali esingengaphezulu kweso sifunwa kwisamani okanye enze okunye okufunwayo;
  - (ii) ahlawule iindleko zesi simangalo; kwaye
  - (iii) ahlawule inzala ngomlinganiselo oxelwe kwisamani ukuza kuthi ga kumhla ahlawula ngawo okanye, ukuba awuxelwanga umlinganiselo wenzala, kube ngumlinganiselo oxelwe kwisiqendu 1(2) se*Prescribed Rate of Interest Act* 55 ka-1975.
- (b) Xa ummangalelwa ethe wavalwa ukuba angabi saphendula ngokomgaqo 21B(3), ummangali unokuthi angenise kumgcini-zifayile okanye kumabhalane wenkundla isicelo esibhaliweyo sokuba inkundla ikhuphe umyalelo njengaxa ummangalelwa ovisakele ukukhupha isaziso sokuba uzimisele ukuzithethelela.
- (c) Xa ummangalelwa engasikhuphanga isaziso sokuba uzimisele ukuzithethelela okanye, athi esikhuphile, **[angayithumeli impendulo ngexesha elixelwe kwisaziso asithunyelelweyo ngokwesiqendu (b)]** avalwe ukuba angabi saphendula ngokomgaqo 21B3 abe ummangali efake isicelo sokuba inkundla ikhuphe umyalelo, umgcini-zifayile okanye umabhalane wenkundla makasiqhubele phambili isicelo ngokomgaqwana (2), (3), (4), (5), (6), (6A) nowesi-(7), aze azise ummangali ngesiphumo sesicelo ngokubuyisa ikopi eyidyuplikheyithi etyikityiweyo ebonisa isiphumo nomhla waso.
- (d) Xa ummangalelwa esithumele isaziso sokuba uzimisele ukuzithethelela kodwa **[angayithumeli impendulo ngexesha elixelwe kwisaziso**

**asithunyelelweyo ngokwesiqendu (b)]** avalwe ukuba angabi saphendula ngokomgaqo 21B3 abe umgcini-zifayile okanye umabhalane wenkundla ebhale umyalelo ngokwesicelo esifakwe ngummangali, iindleko ziza kubalwa njengaxa ummangalelwa ebeye wazithethelela etyaleni.

(e) Ukuba isamani yantlandlolo ayinakufayilwa kunye nesicelo somyalelo njengoko kufunwa sisiqendu (a), ummangali unokuthi—

- (i) anike umgcini-zifayile okanye umabhalane wenkundla ikopi okanye iorijinali yesamani nekopi yobungqina obuvela kunothimba bokuba ihanjisiwe isamani; aze
- (ii) angenise inkcazelo ebhaliweyo efungelweyo kunye namaxwebhu akhankanywe kwisiqendwana (i) echaza izizathu zokuba isamani yantlandlolo nobungqina bokuba ihanjisiwe zibe azinakufayilwa, kodwa ke kumatyala oqhawulo-mtshato okanye kumatyala okuwuphuthisa umtshato kuza kusebenza umgaqo 22(5).”;

(b) ngokuthi umgaqwana (2) uthatyathelw’ indawo ngumgaqwana olandelayo:

“(2) (a) Ukuba umgcini-zifayile okanye umabhalane wenkundla uphawula ukuba ummangalelwa uzimisele ukuzithethelela kwityala kodwa isaziso sakhe sokuba uzimisele ukuzithethelela sinempazamo, enjengokuthi—

- (i) asithunyelwanga kakuhle;
- (ii) asityikitywanga kakuhle;
- (iii) asiyixeli idilesi yomntu osityikityileyo okanye idilesi emasisiwe kuyo njengoko kufunwa ngumgaqo 13; okanye
- (iv) sineempazamo ezimbini kwezi zingentla okanye ezingaphezu koko okanye naluphi na olunye uhlobo lwempazamo,

**[akayi]** makangabhali myalelo onxamnye nommangalelwa ngaphandle kokuba ummangali uthumele isaziso esibhaliweyo kummangalelwa emxelela ukuba athumele isaziso sokuzimisela kwakhe ukuzithethelela ngendlela efanelekileyo ekwenza oko zingekapheli iintsuku ezi-5 esifumene isaziso.

(b) Isaziso esixelwe kumgaqwana (2)(a) **[siza]** masixele ukuba isaziso sommangalelwa sokuzimisela ukuzithethelela sinempazamo njani.

(c) Xa ummangalelwa engasithumeli isaziso sokuzimisela ukuzithethela njengoko kuxelwe kwisiqendu (a), ummangali unokuthi angenise kumgcini-zifayile okanye

kumabhalane wenkundla isicelo esibhaliweyo sokuba kukhutshwe isigqibo njengoko singekho isaziso sokuzimisela ukuzithethelela, kodwa ke kumatyala oqhawulo-mtshato okanye kumatyala okucela ukuba kuphuthiswe umtshato kuza kusebenza umgaqo 22(5).”;

(c) ngokuthi umgaqwana (3) uthatyathelw' indawo ngumgaqwana olandelayo:

“(3) Isigqibo esikhutshwa xa [engavelanga] singekho isaziso sokuzimisela ukuzithethelela [asiyi] masingabhalwa kwityala apho isamani ithunyelwe ngeposi erejistiweyo ngaphandle kokuba ummangalelwa uyavuma ukuba uyifumene njengoko kuxelwe kumgaqo 9(13)(a) kwaza oko kwangqinwa ngunothimba kwingxelo yakhe.”;

(d) ngokuthi umgaqwana (3A) uthatyathelw' indawo ngumgaqwana olandelayo:

“(3A) Xa ibango ileletyala okanye ilelesixa semali esaziwayo ubungakanani baso abe ummangalelwa engasithumelanga isaziso sokuba uzimisele ukuzithethelela okanye, athi esithumele isaziso sokuba uzimisele ukuzithethelela, angayithumeli impendulo ngexesha elixelwe kwisaziso [esingokomgaqwana (1)(b)(l)] esingokomgaqo 21B(2) abe ummangali efake isicelo somyalelo, umgcini-zifayile okanye umabhalane wenkundla unokuthi, ngokulawulwa koko kutshiwo ngumgaqwana (2), (4), (5), (6) nowesi-(6A) akhuphe umyalelo okanye awubhekise umcimbi enkundleni ngokomgaqwana (7).”

(e) ngokuthi umgaqwana (5) uthatyathelw' indawo ngumgaqwana olandelayo:

“(5) Umgcini-zifayile okanye umabhalane wenkundla [uza] makabhekise enkundleni nasiphi na isicelo somyalelo kwibango elisuselwa kwisivumelwano esilawulwa yi*National Credit Act* ka-2005 okanye yi*Credits Agreement Act 75* ka-1980; iya kuthi ke inkundla ikhuphe umyalelo okanye yenze isigqibo esibona sifanelekile.”.

### **Kwenziwa utshintso kuMgaqo 15**

#### **3. Kwenziwa utshintsho kuMgaqo 15—**

- (a) ngokuthi kucinywe umgaqwana (4); nangokuthi
- (b) umgaqwana (5) uthatyathelw' indawo ngumgaqwana (5):

“(5) Xa ummangali evaliwe ngokomgaqo 21B(3) ukuba angabi saphendula, ummangalelwa unokuthi afun' umhla elinokuthi liphulaphulwe ngawo ityala

akuba emnike iintsuku ezingekho ngaphantsi kwe-10 zokuba azi ummmangali ongaphendulanga, aze acele ukuba akhululwe kweso simangalo okanye, emva kokuba enike ubungqina yena mmangalelwa, acele ukuba inkunlida igwebe ngecala lakhe, inokuthi ke inkundla ikhuphe nawuphi na umyalelo ewubona ifanelekile.”.

#### **UMgaqo 21B uthatyathelw' indawo ngomnye**

4. Umgaqo olandelayo uthatyathelw' indawo nguMgaqo 21B:

#### **“Ukungazithumeli iimpendulo — ukuvalwa**

21B.(1) Nawuphi na umntu ongayithumeliyo impendulo ngexesha elixelwe kumgaqo 21 uza kuvalwa ngokuzenzekelayo.

(2) Ukuba umntu akayithumeli impendulo nokuba yeyiphi na ngexesha elixelwe kule migaqo okanye ngexesha eloluliweyo elivunyelwa yimigaqo, lowo ofanele athunyelelwe impendulo unokuthi athumelele lowo ongaphendulanga isaziso esithi makayithumele zingaphelanga iintsuku ezintlanu esifumene isaziso eso.

(3) Nawuphi na umntu ongayithumeliyo impendulo ekuthethwe ngayo kwisaziso esixelwe kumgaqwana (2) ngexesha elixelwe apho okanye ngexesha eloluliweyo ekunokuthi kuvunyelwane ngalo ngabo babambeneyo, uya kuthathwa ngokuthi akayithumelanga impendulo aze avalwe ngokuzenzekelayo, kodwa ke ngenjongo yokusebenza kwalo mgqo, iintsuku ezigalela kumhla we-16 kuDisemba ukuya kowe-15 kuJanuwari, azibalwa kwixesha elivunyelweyo lokuthumela impendulo.”.

#### **Kwenziwa utshintsho kuMgaqo 22**

5. Kwenziwa utshintsho kuMgaqo 22—

(a) ngokuthi umgaqwana (2) uthatyathelw' indawo ngumgaqwana olandelayo:

“(2) Ukuthunyelwa kwesaziso sokuxoxwa kwetyala lommmangali kuya kuthi ngokuzenzekelayo kusebenze injongo yokuba kunike umhla wokuxoxwa kwetyala elifakwa ngummangalelwa.”;

(b) ngokuthi umgaqwana (5) uthatyathelw' indawo ngumgaqwana olandelayo:

“(5) Kumatyala oqhawulo-mtshato okanye kumatyala okuphuthisa umtshato, kungakhathaliseki ukuba kuthiwani na kwenye indawo kulo mgaqo, umgcini-zifayile wenkundla uya kuthi ngokucelwa ngummangali ngencwadi amisele umhla wokuxoxwa kwetyala ngexesha nakwindawo nangomhla oya kuthi ugqitywe ngumgcini-zifayile wenkundla, ukuba ummangalelwa—

- (a) akasithumelanga isaziso sokuba uzimisele ukuzithethelela;
- (b) akayithumelanga impendulo emva kokuba efumene isaziso ngokomgaqo [12(1)(b)] 21B(2); okanye
- (c) umnike isaziso esibhaliweyo ummangali nomgcini-zifayile okanye umabhalane wenkundla sokuba akazimiselanga kuzithethelela, kodwa kube kungekho mfuneko yokuba anikwe isaziso seso sicelo okanye sokumiselwa komhla ummangalelwa.”.

#### **Kwenziwa utshintsho kwiSongezelelo 2 seMigaqo**

6. Kwenziwa utshintsho kwiSicangca A seSongezelelo 2 seMigaqo ngokuthi iNxalenye III yenxalenye ekwiSongezelelo sale Shedyuli ithatyathelw' indawo.

#### **Ukuqalisa kwayo ukusebenza**

7. Le migaqo iqalisa ukusebenza ngowama-22 kuMatshi 2016.

**ISONGEZELELO**

"ISICANGCA A

IINDLEKO

INXALENYE III

KUMATYALA OKUZITHETHELELA (NALAPHO KUBANGWA UBUNIKAZI)

<b>Umsebenzi</b>	<b>Intlawuliso A R</b>	<b>Intlawuliso B R</b>	<b>Intlawuliso C R</b>	<b>Intlawuliso D R</b>
1 Xa uyalelwe ukuba umangalele okanye uthethelele okanye ufake isimangalo esiphiklsana nesinye okanye uthethelele kuso, kananjalo ufunde onke amaxwebhu, uqwalasele nobunjani betyala, kwaye nibonisane, ukhuphe nesamani	R487,00	R647,50	R778,00	R1011,50
2 Isamanl	R244,50	R340,00	R406,50	R528,00
2A Iinkcukacha zebango	R244,50	R340,00	R406,50	R528,00
3 Ukuvela enkundleni	R41,00	R41,00	R49,50	R64,00
4 Isaziso esingokomgaqo [12(1)(b) no- (2)] 12(2) no-21B(2)	R41,00	R41,00	R49,50	R64,00
5 Impendulo	R244,00	R340,00	R406,50	R528,00
6 Ibango eliphikisana nelinye	R244,00	R340,00	R406,50	R528,00
7 Impendulo, xa iyimfuneko	R244,00	R340,00	R406,50	R528,00
8 Ukubhalwa kwawo onke amaxwebhu angakhankanywanga ngagama, nokucela ezinye iinkcukacha, uluhlu lwamaxwebhu, zonke iinkcazelo ezibhaliweyo ezifungelweyo, isinyanzelisi sokuba uze noxwebhu oluthile, nasiphi na isaziso esingaxelwanga, nokubhala phantsi inkcazelo oyinikwe ngamangqina	-	-	-	-
9 Ukuveliswa kwamaxwebhu ukuze ahlolwe, okanye ukuhlola amaxwebhu, ngekota nganye yeyure okanye inxalenye yayo kwixesha elisetyenzisiweyo	R144,50	R144,50	R182,50	R235,50
10 Ikopi nganye yokwenziweyo, ikhasi ngalinye	R3,50	R3,50	R3,50	R3,50

11 Ukubhalwa kweenkcazelo ngamangqina, ngekota nganye yeyure okanye inxalenye yayo	R144,50	R144,50	R182,50	R235,50
12 Isaziso sokuxoxwa kwetyala okanye ukubuyiselwa kwalo	R41,00	R41,00	R49,50	R64,00
13 Ukulungiselela ukuxoxwa kwetyala (xa kungafunwanga gqwetha lejaji)	R810,00	R1 102,00	R1 322,00	R1 719,00
14 Ukubakho xa kuboniswana ngembuyekezo emakuvunyelwane ngayo, ngekota nganye yeyure okanye inxalenye yayo echithwe koko kubonisana	R144,50	R144,50	R182,50	R235,00
15 Ukubakho enkundleni xa kuxoxwa ityala, okanye xa kuhlolwa indawo ekwenzeke kuyo isiganeko, okanye xa llrhoxiselwa omnye umhla ityala, okanye xa kubuzwa imibuzo emayiphendulwe ngembalelwano, ngekota nganye yeyure okanye inxalenye yayo echithwe enkundleni xa kuphulaphulwe ityala				
(a) xa kungafunwanga gqwetha lejaji	R144,50	R144,50	R182,50	R235,50
(b) xa kufunwe igqwetha lejaji	Akukho mali	R58,50	R70,00	R91,00
16 Ukubakho kwintlanganiso yangaphambi kokuya kwetyala enkundleni, ngekota nganye yeyure okanye inxalenye yayo echithwe kuloo ntlanganiso	R144,50	R144,50	R182,50	R235,50
17 Ukuya enkundleni ukuya kuva isigqibo senkundla ebesinkonylwe, ngekota nganye yeyure okanye inxalenye yayo	R28,50	R28,50	R35,00	R45,50
18 Imbalelwano—				
(a) ngeleta nganye eyimfuneko okanye itelegram, ngefoliyo nganye	R23,50	R23,50	R28,50	R37,00
(b) ngeleta nganye okanye itelegram nganye efunyenweyo, kodwa ke akuvumelekanga ukubiza imali ngokuyifunda xa ubize nale mali exelwe apha	R15,00	R23,50	R28,50	R37,00
19 Ukubakho: ukubakho nakwintoni na ekuyimfuneko ukubakho kuyo engaxelwanga apha, xa ngalinye othe wabakho	R15,00	R23,50	R28,50	R37,00

20 Ukutsal' umnxeba okuyimfuneko, xa ngalinye uthe watsal' umnxeba	R15,00	R23,50	R28,50	R37,00
21 Ukubonisana emnxebeni: Qho ngemizuzu emi-5 okanye inxalenye yayo, kodwa ke ingadluli kwimali yesihlandlo ngasinye sokubonisana eyl-R140,00 kwiNtlawuliso A ukuya ku-C ne-R181,00 kwiNtlawuliso D	R41,00	R41,00	R49,50	R64,00
22 Isihlandlo ngasinye sokubonisana, ngekota nganye yeyure okanye inxalenye yayo	R144,50	R144,50	R182,50	R235,50
23 Xa kwenziwe isicelo esenziwe ekuxoxweni kwetyala, inkundla inokuvumela intlawulo ephindwayo xa ityala lihlehliiselwe elinye ixesha okanye lixoxwe alagqitywa, ikwenza oko ukongezelela kwintlawulo exelwe kumsebenzi 13	R504,00	R713,50	R856,00	R112,00
24 Ixesha olichithe ulindle enkundleni (ngenxa yokungafumaneki kwenkundla) ngekota nganye yeyure okanye inxalenye yayo	R97,50	R97,50	R117,50	R153,00
25 Ixesha lokuhamba [kodwa ke lilawulwa koko kutshiwo ngumgaqo 33(9)] ngekota nganye yeyure okanye inxalenye yayo	R97,50	R97,50	R117,50	R153,00
26 Iindleko zokutya nezohambo njengoko ziboniswe kumgaqo 33(9)	Eyona mali odleke yona kanye- kanye yokutya nohambo enolwazelelelo 33(9)			



## DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

NO. R. 3

19 FEBRUARY 2016

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

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE  
PROCEEDINGS OF THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE  
HIGH COURT 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:

Expressions in square brackets in bold [ ] represent omissions from existing text

Expressions with solid underline represent insertions into existing text

## Definition

1. In this Schedule the "Rules" means the Rules Regulating the Conduct of the Proceedings of the Several Provincial and Local Divisions of the High Court of South Africa published under Government Notice No. R. 48 of 12 January 1965, as amended by Government Notices Nos. R. 235 of 18 February 1966, R. 2004 of 15 December 1967, R. 3553 of 17 October 1969, R. 2021 of 5 November 1971, R. 1985 of 3

November 1972, R. 480 of 30 March 1973, R. 639 of 4 April 1975, R. 1816 of 8 October 1976, R. 1975 of 29 October 1976, R. 2477 of 17 December 1976, R. 2365 of 18 November 1977, R. 1546 of 28 July 1978, R. 1577 of 20 July 1979, R. 1535 of 25 July 1980, R. 2527 of 5 December 1980, R. 500 of 12 March 1982, R. 773 of 23 April 1982, R. 775 of 23 April 1982, R. 1873 of 3 September 1982, R. 2171 of 6 October 1982, R. 645 of 25 March 1983, R. 841 of 22 April 1983, R. 1077 of 20 May 1983, R. 1996 of 7 September 1984, R. 2094 of 13 September 1985, R. 810 of 2 May 1986, R. 2164 of 2 October 1987, R. 2642 of 27 November 1987, R. 1421 of 15 July 1988, R. 210 of 10 February 1989, R. 608 of 31 March 1989, R. 2628 of 1 December 1989, R. 185 of 2 February 1990, R. 1929 of 10 August 1990, R. 1262 of 30 May 1991, R. 2410 of 30 September 1991, R. 2845 of 29 November 1991, R. 406 of 7 February 1992, R. 1883 of 3 July 1992, R. 109 of 22 January 1993, R. 960 of 28 May 1993, R. 974 of 1 June 1993, R. 1356 of 30 July 1993, R. 1843 of 1 October 1993, R. 2365 of 10 December 1993, R. 2529 of 31 December 1993, R. 181 of 28 January 1994, R. 411 of 11 March 1994, R. 873 of 31 May 1996, R. 1063 of 28 June 1996, R. 1557 of 20 September 1996, R. 1746 of 25 October 1996, R. 2047 of 13 December 1996, R. 417 of 14 March 1997, R. 491 of 27 March 1997, R. 700 of 16 May 1997, R. 798 of 13 June 1997, R. 1352 of 10 October 1997, R. 785 of 5 June 1998, R. 881 of 26 June 1998, R. 1024 of 7 August 1998, R. 1723 of 30 December 1998, R. 315 of 12 March 1999, R. 568 of 30 April 1999, R. 1084 of 10 September 1999, R. 1299 of 29 October 1999, R. 502 of 19 May 2000, R. 849 of 25 August 2000, R. 373 of 30 April 2001, R. 1088 of 26 October 2001, R. 1755 of 5 December 2003, R. 229 of 20 February 2004, R. 1343 of 12 December 2008, R. 1345 of 12 December 2008, R. 516 of 8 May 2009, R. 518 of 8 May 2009, R. 86 of 12 February 2010, R. 87 of 12 February 2010, R. 88 of 12 February 2010, R. 89 of 12 February 2010, R. 90 of 12 February 2010, R. 500 of 11 June 2010, R. 591 of 09 July 2010, R. 980 of 19 November 2010, R. 981 of 19 November 2010, R. 464 of 22 June 2012, R. 992 of 7 December 2012, R. 114 of 15 February 2013, R. 262 of 12 April 2013, R. 471 of 12 July 2013, R. 472 of 12 July 2013, R. 759 of 11 October 2013, R. 212 of 28 March 2014, R. 213 of 28 March 2014, R. 214 of 28 March 2014, R. 30 of 23 January 2015, R. 31 of 23 January 2015, R. 317 of 17 April 2015 and R. 781 of 31 August 2015.

#### **Substitution of rule 6 of the Rules**

2. The following rule is hereby substituted for rule 6 of the Rules:

##### **"6 Applications**

(1) Save where proceedings by way of petition are prescribed by law, every application [**shall**] must be brought on notice of motion supported by an affidavit as to the facts upon which the applicant relies for relief.

(2) When relief is claimed against any person, or where it is necessary or proper to give any person notice of such application, the notice of motion [**shall**] must be

addressed to both the registrar and such person, otherwise it **[shall] must** be addressed to the registrar only.

(3) Every petition **[shall] must** conclude with the form of order prayed and be verified upon oath by or on behalf of the petitioner.

(4) (a) Every application brought *ex parte* (whether by way of petition or upon notice to the registrar supported by an affidavit as aforesaid) **[shall] must** be filed with the registrar and set down, before noon on the court day but one preceding the day upon which it is to be heard. If brought upon notice to the registrar, such notice **[shall] must** set forth the form of order sought, specify the affidavit filed in support thereof, request **[him] the registrar** to place the matter on the roll for hearing, and be as near as may be in accordance with Form 2 of the First Schedule.

(b) Any person having an interest which may be affected by a decision on an application being brought *ex parte*, may deliver notice of an application **[by him]** for leave to oppose, supported by an affidavit setting forth the nature of such interest and the ground upon which **[he] such person** desires to be heard, whereupon the registrar **[shall] must** set such application down for hearing at the same time as the initial application **[first mentioned]**.

(c) At the hearing the court may grant or dismiss either of or both such applications as the case may require, or may adjourn the same upon such terms as to the filing of further affidavits by either applicant or otherwise as **[to it seems meet] it deems fit**.

(5) (a) Every application other than one brought *ex parte* **[shall] must** be brought on notice of motion as near as may be in accordance with Form 2 (a) of the First Schedule and true copies of the notice, and all annexures thereto, **[shall] must** be served upon every party to whom notice thereof is to be given.

(b) In a notice of motion the applicant **[shall] must**—

- (i) appoint an address within 15 kilometres of the office of the registrar, at which applicant will accept notice and service of all documents in such proceedings;
- (ii) state the applicant's postal, facsimile or electronic mail addresses where available; and
- (iii) **[subject to the provisions of section 27 of the Act,]** set forth a day, not less than five days after service thereof on the respondent, on or before which such respondent is required to notify the applicant, in writing, whether

respondent intends to oppose such application, and [shall] must further state that if no such notification is given the application will be set down for hearing on a stated day, not being less than 10 days after service on the said respondent of the said notice.

(c) If the respondent does not, on or before the day mentioned for that purpose in such notice, notify the applicant of [his] an intention to oppose, the applicant may place the matter on the roll for hearing by giving the registrar notice of set down before noon on the court day but one preceding the day upon which the same is to be heard.

(d) Any person opposing the grant of an order sought in the notice of motion [shall] must-

- (i) within the time stated in the said notice, give applicant notice, in writing, that he or she intends to oppose the application, and in such notice appoint an address within 15 kilometres of the office of the registrar, at which such person will accept notice and service of all documents, as well as such person's postal, facsimile or electronic mail addresses where available;
- (ii) within fifteen days of notifying the applicant of his or her intention to oppose the application, deliver his or her answering affidavit, if any, together with any relevant documents; and
- (iii) if he or she intends to raise any question of law only, he or she [shall] must deliver notice of his or her intention to do so, within the time stated in the preceding sub-paragraph, setting forth such question.

(e) Within 10 days of the service upon [him] the respondent of the affidavit and documents referred to in sub-paragraph (ii) of paragraph (d) of subrule (5) the applicant may deliver a replying affidavit. The court may in its discretion permit the filing of further affidavits.

(f) (i) Where no answering affidavit, or notice in terms of sub-paragraph (iii) of paragraph (d), is delivered within the period referred to in sub-paragraph (ii) of paragraph (d) the applicant may within five days of the expiry thereof apply to the registrar to allocate a date for the hearing of the application.

(ii) Where an answering affidavit is delivered the applicant may apply for such allocation within five days of the delivery of [his] a replying affidavit or, if no replying affidavit is delivered, within five days of the expiry of the period referred to in paragraph

(e) and where such notice is delivered the applicant may apply for such allocation within five days after delivery of such notice.

(iii) If the applicant fails so to apply within the appropriate period aforesaid, the respondent may do so immediately upon the expiry thereof. Notice in writing of the date allocated by the registrar [**shall forthwith**] must be given by the applicant or respondent, as the case may be, to the opposite party within five days of notification from the registrar.

(g) Where an application cannot properly be decided on affidavit the court may dismiss the application or make such order as [**to it seems meet**] it deems fit with a view to ensuring a just and expeditious decision. In particular, but without affecting the generality of the foregoing, it may direct that oral evidence be heard on specified issues with a view to resolving any dispute of fact and to that end may order any deponent to appear personally or grant leave for [**him**] such deponent or any other person to be subpoenaed to appear and be examined and cross-examined as a witness or it may refer the matter to trial with appropriate directions as to pleadings or definition of issues, or otherwise.

(h) The provisions of paragraphs (c) and (f) [**shall *mutatis mutandis***] apply to petitions subject to the necessary changes.

(6) The court, after hearing an application whether brought *ex parte* or otherwise, may make no order thereon (save as to costs if any) but grant leave to the applicant to renew the application on the same papers supplemented by such further affidavits as the case may require.

(7) (a) Any party to any application proceedings may bring a counter-application or may join any party to the same extent as would be competent if the party wishing to bring such counter-application or join such party were a defendant in an action and the other parties to the application were parties to such action. In the latter event the provisions of rule 10 [shall] will apply [*mutatis mutandis*].

(b) The periods prescribed with regard to applications [**shall**] apply [***mutatis mutandis***] to counter-applications: Provided that the court may on good cause shown postpone the hearing of the application.

(8) Any person against whom an order is granted *ex parte* may anticipate the return day upon delivery of not less than twenty-four hours' notice.

(9) A copy of every application to court in connection with the estate of any person deceased, or alleged to be a prodigal, or under any legal disability, mental or otherwise, **[shall] must**, before such application is filed with the registrar, be submitted to the Master for consideration and report; and if any person is to be suggested to the court for appointment as curator to property, such suggestion **[shall] must** likewise be submitted to the Master for report. Provided that the provisions of this subrule **[shall] do** not apply to any application under rule 57 except where that rule otherwise provides.

(10) The provisions of subrule (9) **[shall]** further apply to all applications for the appointment of administrators and trustees under deeds or contracts relating to trust funds or to the administration of trusts set up by testamentary disposition.

(11) Notwithstanding the foregoing subrules, interlocutory and other applications incidental to pending proceedings may be brought on notice supported by such affidavits as the case may require and set down at a time assigned by the registrar or as directed by a judge.

(12) (a) In urgent applications the court or a judge may dispense with the forms and service provided for in these rules and may dispose of such matter at such time and place and in such manner and in accordance with such procedure (which shall as far as practicable be in terms of these rules) as **[to it seems meet] it deems fit**.

(b) In every affidavit or petition filed in support of any application under paragraph (a) of this subrule, the applicant **[shall] must** set forth explicitly the circumstances which **[he avers] is averred** render the matter urgent and the reasons why **[he] the applicant** claims that **[he] applicant** could not be afforded substantial redress at a hearing in due course.

(c) A person against whom an order was granted in **[his] such person's** absence in an urgent application may by notice set down the matter for reconsideration of the order.

(13) In any application against any Minister, Deputy Minister, **[Administrator] Member of an Executive Council**, officer or servant of the State, in **[his] such** capacity **[as such]**, the State or the administration of any province, the respective periods referred to in paragraph (b) of subrule (5), or for the return of a rule *nisi*, **[shall not] must** be **not** less than 15 days after the service of the notice of motion, or the rule *nisi*, as the case may be, unless the court has specially authorized a shorter period.

(14) The provisions of rules [Rules] 10, 11, 12, 13 and 14 **[shall mutatis mutandis]** apply to all applications.

(15) The court may on application order to be struck out from any affidavit any matter which is scandalous, vexatious or irrelevant, with an appropriate order as to costs, including costs as between attorney and client. The court [shall] may not grant the application unless it is satisfied that the applicant will be prejudiced [In his case if it be] if the application is not granted."

**Substitution of Form 2 of the First Schedule of the Rules**

3. The following Form is hereby substituted for Form 2 of the First Schedule in the Rules:

**"FORM 2**

**NOTICE OF MOTION**

(To Registrar)

IN THE [SUPREME] HIGH COURT OF SOUTH AFRICA  
(..... DIVISION)

In the matter:

.....

Applicant

TAKE NOTICE that application will be made on behalf of the above-named applicant on the ..... day of ..... at 10:00 or as soon thereafter as counsel may be heard for an order in the following terms:

(a) .....

(b) .....

(c) .....

and that the affidavit of ..... annexed hereto will be used in support thereof.

Kindly place the matter on the roll for hearing accordingly.

DATED at .....

.....  
.....  
Applicant's Attorney

To the Registrar of the above-named Court".

**Substitution of Form 2(a) of the First Schedule of the Rules**

4. The following Form is hereby substituted for Form 2(a) of the First Schedule of the Rules:

**"FORM 2(a)**

NOTICE OF MOTION

(TO REGISTRAR AND RESPONDENT)

IN THE [SUPREME] HIGH COURT OF SOUTH AFRICA  
(..... DIVISION)

In the matter between:

Applicant

and

Respondent

TAKE NOTICE that ..... (hereinafter called the applicant) intends to make application to this Court for an order

(a) .....  
.....

(b) .....  
.....

(c) .....



(here set forth the form of order prayed) and that the accompanying affidavit of ..... (or petition where required by law) will be used in support thereof.

TAKE NOTICE FURTHER that the applicant has appointed ..... (here set forth an address referred to in rule 6(5)(b)) at which he will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER that if you intend opposing this application you are required (a) to notify applicant's attorney in writing on or before the ..... (b) and within fifteen days after you have so given notice of your intention to

oppose the application, to file your answering affidavits, if any; and further that you are required to appoint in such notification an address referred to in rule 6(5)(b) at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose be given, the application will be made on the ..... at ..... (time).

DATED at ..... this ..... day of .....[19]20.....

.....  
 Applicant or his/her Attorney  
 (address)

To:

(1) C.D.

(Address),

RESPONDENT.

(2) The Registrar of the above Court,

.....”

**Commencement**

5. These rules shall come into operation on 22 March 2016.

## DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

NO. R. 3

19 FEBRUARIE 2016

## WET OP DIE REËLSRAAD VIR GEREESHOWE, 1985 (WET NO. 107 VAN 1985)

WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGS VAN DIE  
VERSKILLENDE PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE  
HOOGGEREGSHOF VAN SUID-AFRIKA GEREËL WORD

Die Reëlsraad vir Gereeshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Gereeshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister van Justisie en Staatkundige Ontwikkeling, die reëls in die Bylae gemaak.

## BYLAE

## ALGEMENE VERDUIDELIKENDE NOTA:

Uitdrukings in vierkantige hakies in vetdruk [ ] verteenwoordig skrappings uit bestaande teks

Uitdrukings met 'n volstreep verteenwoordig invoegings in bestaande teks

## Woordomskrywing

1. In hierdie Bylae beteken die "Reëls" die "Reëls waarby die verrigtings van die verskillende provinsiale en plaaslike afdelings van die Hooggeregshof van Suid-Afrika gereël word", gepubliseer kragtens Goewermentskennisgewing No. R. 48 van 12 Januarie 1965, soos gewysig deur Goewermentskennisgewings No's. R. 235 van 18

Februarie 1966, R. 2004 van 15 Desember 1967, R. 3553 van 17 Oktober 1969, R. 2021 van 5 November 1971, R. 1985 van 3 November 1972, R. 480 van 30 Maart 1973, R. 639 van 4 April 1975, R. 1816 van 8 Oktober 1976, R. 1975 van 29 Oktober 1976, R. 2477 van 17 Desember 1976, R. 2365 van 18 November 1977, R. 1546 van 28 Julie 1978, R. 1577 van 20 Julie 1979, R. 1535 van 25 Julie 1980, R. 2527 van 5 Desember 1980, R. 500 van 12 Maart 1982, R. 773 van 23 April 1982, R. 775 van 23 April 1982, R. 1873 van 3 September 1982, R. 2171 van 6 Oktober 1982, R. 645 van 25 Maart 1983, R. 841 van 22 April 1983, R. 1077 van 20 Mei 1983, R. 1996 van 7 September 1984, R. 2094 van 13 September 1985, R. 810 van 2 Mei 1986, R. 2164 van 2 Oktober 1987, R. 2642 van 27 November 1987, R. 1421 van 15 Julie 1988, R. 210 van 10 Februarie 1989, R. 608 van 31 Maart 1989, R. 2628 van 1 Desember 1989, R. 185 van 2 Februarie 1990, R. 1929 van 10 Augustus 1990, R. 1262 van 30 Mei 1991, R. 2410 van 30 September 1991, R. 2845 van 29 November 1991, R. 406 van 7 Februarie 1992, R. 1883 van 3 Julie 1992, R. 109 van 22 Januarie 1993, R. 960 van 28 Mei 1993, R. 974 van 1 Junie 1993, R. 1356 van 30 Julie 1993, R. 1843 van 1 Oktober 1993, R. 2365 van 10 Desember 1993, R. 2529 van 31 Desember 1993, R. 181 van 28 Januarie 1994, R. 411 van 11 Maart 1994, R. 873 van 31 Mei 1996, R. 1063 van 28 Junie 1996, R. 1557 van 20 September 1996, R. 1746 van 25 Oktober 1996, R. 2047 van 13 Desember 1996, R. 417 van 14 Maart 1997, R. 491 van 27 Maart 1997, R. 700 van 16 Mei 1997, R. 798 van 13 Junie 1997, R. 1352 van 10 Oktober 1997, R. 785 van 5 Junie 1998, R. 881 van 26 Junie 1998, R. 1024 van 7 Augustus 1998, R. 1723 van 30 Desember 1998, R. 315 van 12 Maart 1999, R. 568 van 30 April 1999, R. 1084 van 10 September 1999, R. 1299 van 29 Oktober 1999, R. 502 van 19 Mei 2000, R. 849 van 25 Augustus 2000, R. 373 van 30 April 2001, R. 1088 van 26 Oktober 2001, R. 1755 van 5 Desember 2003, R. 229 van 20 Februarie 2004, R. 1343 van 12 Desember 2008, R. 1345 van 12 Desember 2008, R. 516 van 8 Mei 2009, R. 518 van 8 Mei 2009, R. 86 van 12 Februarie 2010, R. 87 van 12 Februarie 2010, R. 88 van 12 Februarie 2010, R. 89 van 12 Februarie 2010, R. 90 van 12 Februarie 2010, R. 500 van 11 Junie 2010, R. 591 van 09 Julie 2010, R. 980 van 19 November 2010, R. 981 van 19 November 2010, R. 464 van 22 Junie 2012, R. 992 van 7 Desember 2012, R. 114 van 15 Februarie 2013, R. 262 van 12 April 2013, R. 471 van 12 Julie 2013, R. 472 van 12 Julie 2013, R. 759 van 11 Oktober 2013, R. 212 van 28 Maart 2014, R. 213 van 28 Maart 2014, R. 214 van 28 Maart 2014, R. 30 van 23 Januarie 2015, R. 31 van 23 Januarie 2015, R. 317 van 17 April 2015 en R. 781 van 31 Augustus 2015.

### **Vervanging van reël 6 van die Reëls**

2. Reël 6 van die Reëls word hierby deur die volgende reël vervang:

**"6 Aansoeke**

(1) Behalwe waar 'n petisie by wet voorgeskryf is, **[geskied]** moet 'n aansoek geskied by kennisgewing van mosie, gesteun deur 'n beëdigde verklaring wat die feite bevat waarop die aansoek berus.

(2) Wanneer regshulp teen iemand geëis word of waar dit nodig of wenslik is om iemand kennis van 'n aansoek te gee, **[word]** moet die kennisgewing van mosie aan sowel die griffier as die betrokke persoon gerig word; anders net aan die griffier.

(3) Elke petisie moet eindig met die vorm van bevel wat gevra word en **[word]** moet deur of namens die petitioner onder eed bevestig word.

(4) (a) Elke aansoek wat *ex parte* gedoen word (hetsy by wyse van petisie of by kennisgewing aan die griffier gesteun deur 'n beëdigde verklaring soos voormeld), **[word]** moet voor middag van die tweede hofdag voor die dag waarop dit aangehoor moet word, by die griffier ingedien en ter rolle geplaas word. As dit by kennisgewing aan die griffier geskied, moet die kennisgewing die vorm van die bevel wat aangevra word, bevat en die beëdigde verklaring waarop gesteun word noem, en die griffier moet daarin gevra word om die saak vir beregting ter rolle te plaas, so na moontlik soos Vorm 2 in die Eerste Bylae.

(b) Iemand wat 'n belang het wat geraak kan word deur die beslissing van 'n aansoek *ex parte*, kan 'n kennisgewing aflewer van 'n aansoek om verlof om te bestry, gesteun deur 'n beëdigde verklaring waarin **[hy]** die persoon die aard van sy belang en die gronde waarop **[hy]** die persoon verlang om aangehoor te word, uiteensit, waarop die griffier die aansoek ter rolle moet plaas vir beregting saam met **[eersgenoemde]** die aanvanklike aansoek.

(c) Die hof kan by die verhoor die aansoeke onderskeidelik toestaan of afwys, of uitstel op sodanige voorwaardes betreffende die indiening van verdere beëdigde verklarings deur enigeen van die applikante of andersins as wat **[hy]** die hof goeddink.

(5) (a) Elke aansoek wat nie 'n *ex parte*-aansoek is nie, moet geskied by kennisgewing van mosie so na moontlik bewoord soos Vorm 2 (a) van die Eerste Bylae, en juiste afskrifte van die kennisgewing en alle aanhangsels daartoe **[word]** moet aan elke party aan wie kennis daarvan gegee moet word, beteken word.

(b) In 'n kennisgewing van mosie moet die applikant —

(i) 'n adres binne 15 kilometer van die kantoor van die griffier noem waar die applikant kennisgewing en betekening van alle dokumente in sodanige geding sal aanvaar;

(ii) die applikant se pos-, faksimilee- of elektroniese posadresse Indien beskikbaar, verskaf; en

(iii) **[behoudens die bepalings van artikel 27 van die Wet.]** 'n dag vermeld, minstens vyf dae na betekening daarvan aan die respondent, waarbinne die respondent na betekening skriftelik die applikant kennis moet gee of die respondent van voorneme is om die aansoek te bestry, en moet verder meld dat as kennis nie aldus gegee word nie, die aansoek op 'n bepaalde dag, minstens 10 dae na betekening van die kennisgewing aan die respondent, vir beregting ter rolle geplaas sal word.

(c) As die respondent nie binne die in die kennisgewing vasgestelde tyd kennis gee van **[sy] die** voorneme om te bestry nie, kan die applikant die saak vir beregting ter rolle plaas deur die griffier voor middag op die tweede hofdag voor die dienende dag kennis van terrolleplasing te gee.

(d) Iemand wat die toestaan van 'n bevel in die kennisgewing van mosie aangevra, bestry, moet-

(i) binne die tyd in die kennisgewing vermeld, die applikant skriftelik kennis gee dat hy of sy van voorneme is om die aansoek te bestry, en in sodanige kennisgewing 'n adres vermeld binne 15 kilometer van die kantoor van die griffier, waar sodanige persoon kennisgewing en betekening van alle dokumente sal aanvaar, asook sodanige persoon se pos-, faksimilee- of elektroniese posadresse indien beskikbaar;

(ii) binne vyftien dae na kennisgewing aan die applikant van sy of haar voorneme om die aansoek teen te staan, sy of haar antwoordende beëdigde verklaring, indien enige, aflewer saam met enige desbetreffende dokumente indien; en

(iii) as hy of sy van voorneme is om enige regspunt te opper, moet hy of sy 'n kennisgewing aflewer van sy of haar voorneme om so te doen, binne die tydperk vermeld in die voorafgaande subparagraaf, en sodanige regspunt vermeld.

(e) Die applikant kan binne 10 dae na betekening aan **[hom] die respondent** van die in subparagraaf (ii) van paragraaf (d) bedoelde beëdigde verklaring en dokumente 'n

repliserende beëdigde verklaring aflewer. Die hof kan na goeëdunke die indiening van verdere beëdigde verklarings toelaat.

(f) (i) As geen antwoordende verklaring of kennisgewing van 'n regspunt binne die in subparagraaf (ii) van paragraaf (d) voorgeskrewe tyd afgelewer word nie, kan die applikant binne vyf dae na die verstryking daarvan by die griffier 'n verhoordatum aanvra.

(ii) As so 'n verklaring wel afgelewer word, kan die applikant binne vyf dae na die aflewering van [sy] 'n repliserende beëdigde verklaring, of as hy nie een indien nie, binne vyf dae na die verstryking van die in paragraaf (e) genoemde tydperk 'n datum aanvra en as so 'n kennisgewing afgelewer word, kan die applikant so 'n datum binne vyf dae na aflewering van so 'n kennisgewing aanvra.

(iii) As [hy] die aansoeker nie binne die betrokke tyd 'n datum aanvra nie, kan die respondent dit onmiddellik by verstryking doen. Skriftelike kennisgewing van die toegewese datum [word onverwyld] moet deur die applikant of respondent, na gelang van die geval, aan die teenparty gegee word binne vyf dae vanaf kennisgewing van die griffier.

(g) As 'n aansoek nie behoorlik op beëdigde verklaring beslis kan word nie, kan die hof die aansoek van die hand wys of na goeëdunke 'n bevel gee om 'n regverdige en spoedige beslissing te verseker. In die besonder, maar sonder om die omvang van die voorgaande in te kort, kan hy bevel dat mondelinge getuienis aangehoor word ten einde 'n bepaalde feitegeskil te beslis en kan hy vir daardie doel 'n deponent bevel om persoonlik te verskyn of kan hy verlof gee dat [hy] die deponent of enigiemand anders gedagvaar word om te verskyn en ondervra en gekruisvra te word as 'n getuie, of hy kan die saak vir verhoor verwys met gepaste voorskrifte betreffende pleitstukke, die omskrywing van geskilpunte, of iets anders.

(h) Die bepalinge van paragrafe (c) en (f) is [*mutatis mutandis*] behoudens die nodige veranderinge op petisies van toepassing.

(6) Die hof kan na aanhoring van 'n aansoek, hetsy *ex parte* of andersins, 'n bevel weier (behalwe betreffende koste, as daar is) maar die applikant verlof gee om die aansoek op dieselfde stukke, aangevul met sodanige verdere beëdigde verklarings as wat nodig mag wees, te hernieu.

(7) (a) 'n Party tot enige aansoek kan 'n teenaansoek doen of kan enige party daarby voeg soos hy dit sou kon gedoen het as hy verweerder in 'n aksie was en die ander

partye tot die aansoek partye tot so 'n aksie was. **[Reël]** Die bepalinge van reël 10 sal dan geld [dan *mutatis mutandis*].

(b) Die tydperke ten opsigte van aansoeke voorgeskryf is [*mutatis mutandis*] van toepassing op teenaansoeke: Met dien verstande dat die hof indien goeie gronde aangevoer word, die beregting van die aansoek kan uitstel.

(8) Iemand teen wie 'n bevel *ex parte* toegestaan is, kan die keerdatum vervoeg met vier-en-twintig uur kennisgewing.

(9) 'n Afskrif van elke aansoek in verband met die boedel van 'n gestorwene of van iemand wat beweer word 'n verkwister te wees, of wat handelsonbevoegd is op geestelike of ander gronde, **[word]** moet, voor so 'n aansoek by die griffier ingedien word, aan die Meester vir oorweging en verslag voorgelê word; en as iemand by die hof aanbeveel staan te word vir aanstelling as kurator van eiendom, **[word]** moet so 'n aanbeveling ook aan die Meester vir verslag voorgelê word: Met dien verstande dat die bepalinge van hierdie subreël nie op enige aansoek ingevolge reël 57 van toepassing is nie, tensy die teendeel uit daardie reël blyk.

(10) Die bepalinge van subreël (9) geld ook vir alle aansoeke om aanstelling van administrateurs en trustees ingevolge aktes of kontrakte betreffende trustfondse of vir die administrasie van trusts wat by testamentêre beskikking geskep is.

(11) Ondanks die voorgaande subreëls, kan interlokutoriese aansoeke en aansoeke wat betrekking het op hangende gedinge, geskied by kennisgewing, gesteun deur desbetreffende beëdigde verklarings, en ter rolle geplaas word vir 'n tyd deur die griffier toegewys of deur 'n regter vasgestel.

(12) (a) By dringende aansoeke kan die hof of 'n regter afsien van die vorms en betekening wat die reël voorskryf en kan hy so 'n aangeleentheid afhandel waar en wanneer en soos **[hy]** die hof goeddink, maar sover moontlik in ooreenstemming met die reëls.

(b) In elke beëdigde verklaring of petisie wat ter ondersteuning van 'n aansoek ingevolge paragraaf (a) van hierdie subreël ingedien word, moet die applikant uitdruklik die omstandighede vermeld wat **[volgens hom]** na bewering die aangeleentheid dringend maak en die redes waarom **[hy]** die aansoeker beweer dat **[hy]** die aansoeker nie mettertyd wesenlike verhaal by gewone beregting sal kry nie.

(c) Iemand teen wie 'n bevel in 'n dringende aansoek in **[sy]** die persoon se afwesigheid toegestaan is, kan by kennisgewing die saak ter rolle plaas vir heroorweging van die bevel.

(13) By 'n aansoek ampshalwe teen 'n Minister, Adjunk-minister, [Administrateur] Lid van 'n Uitvoerende Raad, amptenaar of werknemer van die Staat, teen die Staat of teen die administrasie van 'n provinsie is die onderskeie tydperke bepaal in paragraaf (b) van subreël (5), of vir die keerdatum van 'n bevel *nisi*, minstens 15 dae na die betekening van die kennisgewing van mosie of die bevel *nisi*, na gelang van die geval, tensy die hof spesiaal 'n korter tydperk gemagtig het.

(14) [Reëls] Die bepalings van reëls 10, 11, 12, 13 en 14 geld [*mutatis mutandis*] vir alle aansoeke.

(15) Die hof kan op aansoek beveel dat bewerings wat aanstootlik, kwelsustig of irrelevant is uit 'n beëdigde verklaring geskrap word, met 'n gepaste bevel betreffende koste, insluitende koste tussen prokureur en kliënt. Die hof [staan] mag nie die aansoek [toe] toestaan nie tensy hy oortuig is dat die applikant [in sy saak] benadeel sal word as [dit] die aansoek nie toegestaan word nie."

### Vervanging van Vorm 2 van die Eerste Bylae tot die Reëls

3. Vorm 2 van die Eerste Bylae tot die Reëls word hierby deur die volgende vorm vervang:

#### "VORM 2

#### KENNISGEWING VAN MOSIE

(Aan Griffier)

IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

(..... AFDELING)

In die saak van:

.....

Applikant

NEEM KENNIS dat aansoek namens bogenoemde applikant op die ..... dag van ..... [19] 20 ..... om 10:00 of so spoedig daarna as wat die advokaat aangehoor kan word, gedoen sal word om 'n bevel met die volgende bepalings:

(a) .....



(b) .....

(c) .....

en dat die beëdigde verklaring van ..... hierby aangeheg gebruik sal word ter ondersteuning daarvan.

Geliewe die saak dienooreenkomstig vir verhoor ter rolle te plaas.

GEDATEER te

.....

.....  
 Applikant se Prokureur

Aan die Griffier van bogenoemde Hof.

#### **Vervanging van Vorm 2(a) van die Eerste Bylae tot die Reëls**

4. Vorm 2(a) van die Eerste Bylae tot die Reëls word hierby deur die volgende Vorm vervang:

**“VORM 2(a)**

**KENNISGEWING VAN MOSIE**

**(AAN GRIFFIER EN RESPONDENT)**

**IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA**

**(..... AFDELING)**

In die saak tussen:

Applikant

en

Respondent

**NEEM KENNIS** dat ..... (hierna die applikant genoem) voornemens is

om by hierdie hof aansoek te doen om 'n bevel

(a).....

(b) .....

(c).....

(sit hier die vorm van die aangevraagde bevel uiteen) en dat die bygaande beëdigde verklaring van ..... (of petisie waar regtens vereis) gebruik sal word ter ondersteuning daarvan.

NEEM VERDER KENNIS dat die applikant ..... (meld hier 'n adres soos in reël 6(5)(b) bedoel) aangewys het waar hy kennisgewings en die betekening van alle prosesstukke in hierdie verrigtinge sal aanvaar.

NEEM VERDER KENNIS dat indien u voornemens is om hierdie aansoek te bestry, u (a) die applikant se prokureur op of voor die ..... skriftelik daarvan in kennis moet stel en (b) binne vyftien dae nadat u aldus kennis gegee het van u voorneme om die aansoek te bestry, u antwoordende beëdigde verklarings, as u het, moet indien; en verder dat u in die kennisgewing 'n adres soos in reël 6(5)(b) bedoel moet aangee waar u kennisgewings en die betekening van alle dokumente in hierdie verrigtings sal aanvaar.

Indien geen kennis van voorneme om te bestry gegee word nie, sal die aansoek op ..... om .....(tyd) gedoen word.

GEDATEER te ..... hierdie .....dag van .....[19] 20.....

.....  
Applikant se Prokureur  
(adres)

Aan:

(1) C.D.

(adres),

RESPONDENT.

(2) Die Griffier van bogenoemde Hof,

....."

**Inwerkingtreding**

5. Hierdie reëls tree in werking op 22 Maart 2016.

## DEPARTMENT OF LABOUR

NO. R. 4

19 FEBRUARY 2016

LABOUR RELATIONS ACT, 1995  
REGISTRATION OF A TRADE UNION

I, Malixole Ntleki, Acting Registrar of Labour Relations, hereby notify, in terms of section 109(2) of the Labour Relations Act, 1995, that **South African Revolutionary Allied Workers Union (SARAWU)** has been registered as a trade union with effect from 10/02/2016.....

  
ACTING REGISTRAR OF LABOUR RELATIONS10/02/2016

## DEPARTMENT OF LABOUR

NO. R. 5

19 FEBRUARY 2016

DEPARTMENT OF LABOUR  
LABOUR RELATIONS ACT, 1995  
REGISTRATION OF A TRADE UNION

I, Malixole Ntleki, the Acting Registrar of Labour Relations, hereby notify, in terms of section 109(2) of the Labour Relations Act, 1995, that **National Trade Union Congress (NTUC), LR 2/6/2/2439** has been registered as a trade union with effect from 10/02/2016.....

  
ACTING REGISTRAR OF LABOUR RELATIONS10/02/2016

## DEPARTMENT OF LABOUR

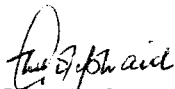
NO. R. 6

19 FEBRUARY 2016

## LABOUR RELATIONS ACT, 1995

**BARGAINING COUNCIL FOR CIVIL ENGINEERING INDUSTRY:  
EXTENSION OF CONSTRUCTION INDUSTRY RETIREMENT BENEFIT  
FUND COLLECTIVE AGREEMENT TO NON-PARTIES**

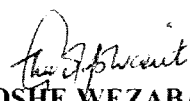
I, **NELISIWE MILDRED OLIPHANT**, Minister of Labour hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the Construction Industry Retirement Benefit Fund Collective Amending Agreement which appears in the Schedule hereto, which was concluded in the **Bargaining Council for Civil Engineering Industry** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Collective Agreement, shall be binding on the other employers and employees in that Industry, with effect from the second Monday after date of publication of this notice and for the period ending 28 February 2019.

  
**MINISTER OF LABOUR**  
04/02/2016

**UMNYANGO WEZABASEBENZI****UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995**

**UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI  
EMBONINI YONIJNIYELA BEZOKWAKHIWA KWEMIGWAQO NAMABHULUHO:  
UKWELULWA KWESIVUMELWANO SESIKHWAMA SOMHLALAPHANSI EMBONINI  
YEZOKWAKHA SELULELWA KULABO ABANGEYONA INGXENYE  
YESIVUMELWANO**

Mina, **MILDRED NELISIWE OLIPHANT**, onguNgqongqoshe Wezabasebenzi, ngokwesigaba-32(2) soMthetho Wobudlelwano Kwezabasebenzi, ka-1995, ngazisa ukuthi isivumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa **uMkhandlu Wokuxoxisana phakatbi Kwabaqasbi Nabasebenzi Embonini Yonjiniyela Bezokwaxhiwa Kwemigwaqo Namabbulobo**, futhi ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi, ka-1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi keleyomboni, kusukela ngomSombuluko wesibili emva kokushicilelwa kwalesisaziso kuze kube mhlaka 28 kuNhlolanja 2019.

  
**UNGQONGQOSHE WEZABASEBENZI**

04/02/2016

## SCHEDULE

**BARGAINING COUNCIL FOR THE CIVIL ENGINEERING INDUSTRY**  
**CONSTRUCTION INDUSTRY RETIREMENT BENEFIT FUND COLLECTIVE AGREEMENT FOR THE CIVIL**  
**ENGINEERING INDUSTRY**

In accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the –

**Employer Organisation**

*South African Forum of Civil Engineering Contractors (SAFCEC)*

(Hereinafter referred to as the “employer” or the “employers’ organisation”) of the one part and the –

**Trade Unions**

*National Union of Mine Workers (NUM)*

*Building, Construction and Allied Workers’ Union (BCAWU)*

(Hereinafter referred to as the “employees” or the “trade unions”) of the other part, being the parties to the Bargaining Council for the Civil Engineering Industry)

**1. Scope of the Civil Engineering Industry**

- 1.1 The Civil Engineering Industry means the industry in which employers (other than local authorities) and employees that are associated for the purposes of carrying out work of a civil engineering character normally associated with the Civil Engineering industry and includes such work in connection with any one or more of the following activities:
- 1.1.1 The construction of aerodrome runways or aprons; aqueducts; bins or bunkers; bridges; cable ducts; caissons; rafts or other marine structures; canals; cooling, water or other towers; dams; docks; harbors; quays or wharves; earthworks; encasements; housing or supports for plant, machinery or equipment; factory or works chimneys; filter beds; land or sea defense works; mine headgear; pipelines; piers; railways; reservoirs; river works; roads or streets; sewerage works; sewers; shafts or tunnels; silos; sports fields or grounds; swimming baths; viaducts or water treatment plants’ and/or
  - 1.1.2 Excavation and bulk earthworks; bush clearing and de-stumping; topsoil stripping; drilling and blasting; preparation of bench areas, drilling pre-split holes and blast holes, blasting and/or cast blasting ; secondary blasting; loading, hauling and dumping of mineralized and/or waste material to waste dumps or processing plant feed (ROM Pad) stockpiles; production dozing of top soil, inter burden or waste material; pumping and dewatering of storm and/or contaminated water, construction and maintenance of; access and haul roads; ramps; waste and processing plant feed (ROM Pad) areas; safety beams; high walls; benches; storm water systems, catch drains, bund walls, surge dams, trimming, scaling or chain dragging of batters, heap-leach pads, tailings dams; dust suppression of loading areas, haul roads and dumping areas; rehabilitation of earth work areas or waste dumps; topsoil spreading, hydro-seeding and watering; and/or
  - 1.1.3 Excavation work or the construction of foundations, lift shafts, piling, retaining walls, stairwells, underground parking garages or other underground structures; and/or
  - 1.1.4 The asphaltting, concreting, gravelling, leveling or paving of parking areas, pavements, roads, streets, aerodrome runways or aprons, premises or sites; and further includes –

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- (i) Any work of a similar nature or work incidental to or consequent on any of the aforesaid activities; and
- (ii) The making, repairing, checking or overhauling of tools, vehicles, plant, machinery or equipment in workshops which are conducted by employers engaged in any of the activities referred to in sub clauses 2.1.1 to 2.1.4(i) and (ii) inclusive;

Excluding the following:

- a) Work in connection with any one or more of the activities specified in sub-clause 2.1.3 where such work, when undertaken in connection with the erection of structures having the general character of buildings and irrespective of whether or not such work involves problems of a civil engineering character, is carried out by the employers erecting such structures;
- b) Work in connection with any one or more of the activities specified in sub-clause 2.1.3 when undertaken as an incidental operation in connection with the erection of structures having the general character of buildings or when undertaken by the employers erecting such structures;
- c) Any work falling within the scope of any other industry, and
- d) The Mining Industry which is defined as the industry where employers and employees are associated for the purpose, directly or indirectly, for the winning, extracting, processing and refining of a mineral in, on or under the earth or water or from any residue stockpile or residue deposit.

## 2. Period of operation of agreement

This Agreement shall come into operation on such date as may be fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until **28 February 2019**.

## 3. Independent Exemptions Appeal Policy

### Chapter I – Introductory Provisions

#### Clause 3: Application of the Policy

##### (1) Application of the Policy

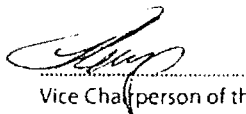
The amendment to Clause 3 that shall now read as follows:

This policy applies to all exemption appeals except to the extent that a collective agreement sets out a different procedure for the hearing of exemption appeals in respect of an application to be exempt from any provision of that particular collective agreement. Exemption appeals shall be dealt with within 30 days of receipt thereof.



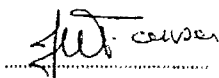
Chairperson of the BCCEI – Strike Makutu

Date: 3 November 2015



Vice Chairperson of the BCCEI – Muller Uys

Date: 3 November 2015



General Secretary of the BCCEI – JN Faasen

Date: 3 November 2015

## DEPARTMENT OF LABOUR


NO. R. 7

19 FEBRUARY 2016

## LABOUR RELATIONS ACT, 1995

**BARGAINING COUNCIL FOR CIVIL ENGINEERING INDUSTRY:  
EXTENSION OF DISPUTE RESOLUTION COLLECTIVE AMENDING  
AGREEMENT TO NON-PARTIES**

I, **NELISIWE MILDRED OLIPHANT**, Minister of Labour hereby in terms of section 32(2) of the Labour Relations Act, 1995, declare that the Dispute Resolution Collective Amending Agreement which appears in the Schedule hereto, which was concluded in the **Bargaining Council for Civil Engineering Industry** and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Dispute Resolution Collective Agreement, shall be binding on the other employers and employees in that Industry, with effect from the second Monday after date of publication of this notice and for the period ending 31 March 2020.

  
**MINISTER OF LABOUR**  
04/02/2016



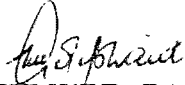
NO. R. 7

19 FEBRUARY 2016

**UMNYANGO WEZABASEBENZI****UMTHETHO WOBUDLELWANO KWEZABASEBENZI KA-1995**

**UMKHANDLU WOKUXOXISANA PHAKATHI KWABAQASHI NABASEBENZI  
EMBONINI YONJINIYELA BEZOKWAKHIWA KWEMIGWAQO NAMABHULOHO:  
UKWELULWA KWESIVUMELWANO SEZINXAZULULO ZEZIMPIKISWANO  
ZEMISEBENZI, SELULELWA KULABO ABANGEYONA INGXYENYE YESIVUMELWANO**

Mina, **MILDRED NELISIWE OLIPHANT**, onguNgqongqoshe Wezabasebenzi, ngokwesigaba-32(2) soMthetho Wobudlelwano Kwezabasebenzi, ka-1995, ngazisa ukuthi isivumelwano sabaqashi nabasebenzi esitholakala kwiSheduli yesiNgisi exhunywe lapha, esenziwa **uMkhandlu Wokuxoxisana phakathi Kwabaqashi Nabasebenzi Embonini Yonjiniyela Bezokwaxhiwa Kwemigwaqo Namabhuloho**, futhi ngokwesigaba 31 soMthetho Wobudlelwano Kwezabasebenzi, ka-1995 esibopha labo abasenzayo, sizobopha bonke abanye abaqashi nabasebenzi kuleyomboni, kusukela ngomSombuluko wesibili emva kokushicilelwa kwalesisaziso kuze kube mhlaka 31 kuNdasa 2020.

  
**UNGOQONGQOSHE WEZABASEBENZI**  
04/02/2016

**BARGAINING COUNCIL FOR THE CIVIL ENGINEERING INDUSTRY**  
**DISPUTE RESOLUTION COLLECTIVE AGREEMENT**

In accordance with the provisions of the Labour Relations Act, 1995, made and entered into by and between the

**South African Forum of Civil Engineering Contractors (SAFCEC)**

(Hereinafter referred to as the 'employer' or the "employers' organisation"), of the one part,

and the

**Building Construction and Allied Workers Union (BCAWU)**

**National Union of Mine Workers (NUM)**

(Hereinafter referred to as the 'employees' or the 'trade unions'), of the other part, being the parties to the Bargaining Council for the Civil Engineering Industry.

**APPLICATION AND SCOPE OF AGREEMENT**

**1. Scope of Application of Agreement**

1.1 This Agreement binds -

- (a) All employers in the civil engineering industry that are members of the employers organisations that are party to this agreement; and
- (b) All employees in the bargaining unit, employed in the civil engineering industry who are members of the trade union that are party to this Agreement.

1.2 Clause 1.1 shall lapse should this collective agreement be extended to non-parties in terms of section 32 of the Act.

1.3 This Agreement must be applied in the Bargaining Council for the Civil Engineering Industry throughout the Republic of South Africa.

1.4 Notwithstanding the provisions of sub-clause 1.1, the terms of this Agreement shall apply to –

- (a) apprentices or learners only to the extent to which they are not inconsistent with the provisions of the Skills Development Act, No.97 of 1998, or any contract entered into or any conditions fixed hereunder; and
- (b) trainees under training in terms of Section 19 of the Skills Development Act, No.97 of 1998, only in so far as they are not inconsistent with the provisions of the Act or any conditions fixed there under.

1.5 The provisions of this Agreement do not apply to those employers registered as a CIDB Grade 1-3 employer, or any employee employed by an employer who is registered as a CIDB Grade 1-3.

## 2. Period of Operation of Agreement


2.1 This Agreement shall come into operation on such date signed by the parties to this agreement, or as fixed by the Honorable Minister of Labour in terms of section 32 of the Act, and shall remain in force until 31 March 2020.

## 3. CHAPTER 1


### APPLICATION AND SCOPE OF AGREEMENT

#### Clause 1.5:

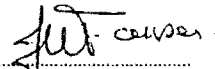
Delete Clause 1.5

  
.....  
Chairperson of the BCCEI – Strike Makutu

Date: 3 November 2015

  
.....  
Vice Chairperson of the BCCEI – Muller Uys

Date: 3 November 2015

  
.....  
General Secretary of the BCCEI – JN Faasen

Date: 3 November 2015