

No. R. 90 12 February 2010

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

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Expressions in bold type in square brackets indicate omissions from existing rules.

_____ Expressions underlined with a solid line indicate insertions into existing rules.

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. 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 and R. 1343 of 12 December 2008, R. 1345 of 12 December 2008, R. 516 of 8 May 2009 and R. 518 of 8 May 2009.

Amendment of Rule 70 of the Rules

2. Rule 70 of the Rules is hereby amended -

(a) by the insertion of the following subrule after subrule (3A):

"(3B) Prior to enrolling a matter for taxation, the party who has been awarded an order for costs shall, by notice as near as may be in accordance with Form 26 of the First Schedule -

(a) afford the party liable to pay costs at the time therein stated, and for a period of ten (10) days thereafter, by prior arrangement, during normal business hours and on any one or more such days, the opportunity to inspect such documents or notes pertaining to any item on the bill of costs; and

(b) require the party to whom notice is given, to deliver to the party giving the notice within twenty (20) days, a written notice of opposition, specifying the items on the bill of costs objected to, and a brief summary of the reason for such objection.";

(b) by the substitution for subrule (4) of the following subrule:

"4. The taxing master shall not proceed to the taxation of any bill of costs unless he or she is satisfied that the party liable to pay the same has -

(a) received due notice in terms of subrule (3B); and

(b) received due notice as to the time and place of such taxation and notice that he or she is entitled to be present thereat: Provided that such notice shall not be necessary -

[(a) if the party against whom costs have been awarded has not appeared at the hearing either in person or through his legal representative;]

[(b)] (i) if the [person] party liable to pay costs has consented in writing to taxation in his or her

Absence; **[and]**

(ii) if the party liable to pay costs failed to give notice of intention to oppose in terms of subrule 3B; or

[(c)] (iii) for the taxation of writ and post-writ bills:

Provided further that, if any party fails to appear after having given notice of opposition in terms of subrule (3B)(b), the taxation may proceed in their absence."

Insertion of Form 26 in the First Schedule to the Rules

3. The First Schedule to the Rules is hereby amended by the insertion of the following Form after Form 25:

"Form 26

NOTICE OF INTENTION TO TAX BILL OF COSTS

IN THE HIGH COURT OF SOUTH AFRICA

(____DIVISION)

CASE NO ____

In the matter between

Plaintiff/ Applicant

and

Defendant/Respondent

TAKE NOTICE THAT (party) intends submitting the attached bill of costs to the taxing master at (place) for taxation.

You may inspect the documents or notes pertaining to any item on the bill of costs at (address) between the hours of (business hours) for a period of ten (10) days after receipt of this notice.

You may furthermore file a notice of intention to oppose the taxation within twenty (20) days after receipt of this notice.

In your notice of intention to oppose you shall list all the items on the bill of costs to

which you object, and a brief summary of the reason for your objection.

Should you fail to file your notice of intention to oppose within the time specified, the bill of costs will be submitted to the taxing master for taxation without further notice to you.

If you do give notice of intention to oppose within the specified time, you may at the taxation object to the items specified in your notice of opposition.

DATED at _____ on this _____ day of _____ 20 _____

Attorney for _____

(Address)

To:

Attorney for _____

(Address)"

Commencement

4. These rules shall come into operation on **12 March 2010**.