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## GOVERNMENT NOTICE

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### DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R. 1085

30 December 2011

#### MAGISTRATES' COURTS: AMENDMENT OF THE RULES OF COURT

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 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 and R. 611 of 29 July 2011.

##### Substitution of rule 69 of the Rules

2. The following rule is hereby substituted for rule 69 of the Rules:

**“Repeal of rules and transitional provisions**

**69. [(a) (1)]** Subject to the provisions of **[paragraph (b)] sub-rules (3) and (4)**, the rules published under Government Notice No. R. 1108 of 21 June 1968, as amended by Government Notices Nos. R. 3002 of 25 July 1969, R. 490 of 26 March 1970, R. 947 of 2 June 1972, R. 1115 of 25 June 1974, R. 1285 of 19 July 1974, R. 689 of 23 April 1976, R. 261 of 25 February 1977, R. 2221 of 28 October 1977, R. 327 of 24 February 1978, R. 2222 of 10 November 1978, R. 1449 of 29 June 1979, R. 1314 of 27 June 1980, R. 1800 of 28 August 1981, R. 1139 of 11 June 1982, R. 1689 of 29 July 1983, R. 1946 of 9 September 1983, R. 1338 of 29 June 1984, R. 1994 of 7 September 1984, R. 2083 of 21 September 1984, R. 391 of 7 March 1986, R. 2165 of 2 October 1987, R. 1451 of 22 July 1988, R. 1765 of 26 August 1988, R. 211 of 10 February 1989, R. 607 of 31 March 1989, R. 2629 of 1 December 1989, R. 186 of 2 February 1990, R. 1887 of 8 August 1990, R. 1928 of 10 August 1990, R. 1990 of 17 August 1990, R. 1261 of 30 May 1991, R. 2407 of 27 September 1991, R. 2409 of 30 September 1991, R. 405 of 7 February 1992, R. 1510 of 29 May 1992, R. 1882 of 3 July 1992, R. 871 of 21 May 1993, R. 959 of 28 May 1993, R. 1134 of 25 June 1993, R. 1355 of 30 July 1993, R. 1844 of 1 October 1993, R. 2530 of 31 December 1993, R. 150 of 28 January 1994, R. 180 of 28 January 1994, R. 498 of 11 March 1994, R. 625 of 28 March 1994, R. 710 of 12 April 1994, R. 1062 of 28 June 1996, R. 1130 of 5 July 1996, R. 419 of 14 March 1997, R. 492 of 27 March 1997, R. 570 of 18 April 1997, R. 790 of 6 June 1997, R. 797 of 13 June 1997, R. 784 of 5 June 1998, R. 910 of 3 July 1998, R. 1025 of 7 August 1998, R. 1126 of 4 September 1998, R. 569 of 30 April 1999, R. 501 of 19 May 2000, R. 1087 of 26 October 2001, R. 37 of 18 January 2002, R. 38 of 18 January 2002, R. 1299 of 18 October 2002, R. 228 of 20 February 2004, R. 295 of 5 March 2004, R. 880 of 23 July 2004, R. 1294 of 5 December 2008, R. 1341 of 12 December 2008, R. 1342 of 12 December 2008, R. 1344 of 12 December 2008, R. 515 of 8 May 2009, R. 517 of 8 May 2009, R. 499 of 11 June 2010 and R. 592 of 9 July 2010 are hereby repealed.

**[(b) For a period of 12 months from the date upon which these rules come into operation the use of the forms contained in the First Annexure to the rules published under Government Notice No. R. 1108 dated 21 June 1968, as amended, and repealed by paragraph (a), may, with the necessary variations as circumstances may require, be continued.]**

(2) These rules shall apply to all proceedings instituted on or after the commencement date provided for in rule 70.

(3) (a) These rules shall apply to all proceedings instituted before the commencement date provided for in rule 70, unless:

(i) this would cause prejudice to a party, in which case the applicable rules in force as at the date of institution of the proceedings shall apply; or

(ii) the parties agree that the applicable rules in force as at the date of institution of the proceedings should apply.

(b) In instances where:

(i) there is a dispute between the parties as to which rules should apply; or

(ii) the parties fail to agree as contemplated in paragraph (a) subparagraph (ii);

then any party to the proceedings may apply to court in terms of rule 55(4)(a) for a ruling, as the court directs.

(4) In respect of proceedings instituted prior to the commencement of these rules, subject to sub-rule (3), the use of the forms contained in the First Annexure to the rules published under Government Notice No. R. 1108 dated 21 June 1968, as amended, and repealed by sub-rule (1), may, with the necessary variations as circumstances may require, be continued."

### **Commencement**

**3. These rules shall come into operation on 3 February 2012.**