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GOEWERMENSKENNISGEWING

DEPARTEMENT VAN JUSTISIE

No. R. 1510

29 Mei 1992

LANDDROSHOWE: WYSIGING VAN DIE REËLS VAN DIE HOF

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

BYLAE

Woordomskrywing

1. In hierdie Bylae beteken "die Reëls" die reëls afgekondig by Goewermenskennisgewing No. R. 1108 van 21 Junie 1968, soos gewysig by Goewermenskennisgewings Nos. R. 3002 van 25 Julie 1969, R. 490 van 26 Maart 1970, R. 947 van 2 Junie 1972, R. 1115 van 28 Junie 1974, R. 1285 van 19 Julie 1974, R. 689 van 23 April 1976, R. 261 van 25 Februarie 1977, R. 2221 van 28 Oktober 1977, R. 327 van 24 Februarie 1978, R. 2222 van 10 November 1978, R. 1449 van 29 Junie 1979, R. 1314 van 27 Junie 1980, R. 1800 van 28 Augustus 1981, R. 1139 van 11 Junie 1982, R. 1689 van 29 Julie 1983, R. 1946 van 9 September 1983, 1338 van 29 Junie 1984, R. 1994 van 7 September 1984, R. 2083 van 21 September 1984, R. 391 van 7 Maart 1986, R. 2165 van 2 Oktober 1987, R. 1451 van 22 Julie 1988, R. 1765 van 26 Augustus 1988, R. 211 van 10 Februarie 1989, R. 607 van 31 Maart 1989, R. 2629 van 1 Desember 1989, R. 186 van 2 Februarie 1990, R. 1887 van 8 Augustus 1990, R. 1928 van 10 Augustus 1990, R. 1967 van 17 Augustus 1990, R. 1261 van 30 Mei 1991, R. 2407 van 27 September 1991, R. 2409 van 30 September 1991 en R. 405 van 7 Februarie 1992.

GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE

No. R. 1510

29 May 1992

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 of Justice, made the rules in the Schedule.

SCHEDULE

Definition

1. In this Schedule "the Rules" means 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 28 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, 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. 1967 of 17 August 1990, R. 1261 of 30 May 1991, R. 2407 of 27 September 1991, R. 2409 of 30 September 1991 and R. 405 of 7 February 1992.

Amendment of the Table of Contents, the Index (Alphabetical) and rule 21 of the Rules

Wysiging van die Inhoudsopgawe, die Inhoudsopgawe (Alfabeties) en reël 21 van die Reëls

2. Die Inhoudsopgawe, die Inhoudsopgawe (Alfabeties) en reël 21 van die Reëls word hierby gewysig deur die uitdrukking "Antwoord" teenoor reëlnommer 21 oral waar dit voorkom, deur die uitdrukking "Antwoord op verweerskrif" te vervang.

Wysiging van reël 45 van die Reëls

3. Reël 45 van die Reëls word hierby gewysig deur die volgende voorbehoudsbepaling by subreël (4) te voeg:

"Met dien verstande voorts dat die tydperk waartydens 'n vonnisskuldenaar aan 'n administrasiebevel onderhewig is, nie in ag geneem word by die berekening van enige van die tydperke waarna in hierdie reël verwys word nie."

Wysiging van reël 49 van die Reëls

4. Reël 49 van die Reëls word hierby gewysig—

(a) deur subreël (1) deur die volgende subreël te vervang:

"(1) 'n Verweerder in 'n aksie of verrigtinge waarin 'n vonnis by verstek gegee is, kan binne 20 dae nadat so 'n vonnis tot sy kennis gekom het, met kennisgewing aan die eiser by die hof aansoek doen om tersydestelling daarvan en die hof kan as goeie redes aangevoer is en, behalwe waar verlof verleen is om as 'n *pro Deo*-gedingvoerder kragtens reël 53 te verdedig, mits die verweerder aan die eiser sekerheid gestel het vir die koste tot en met die verstekvonnis en van so 'n aansoek, in 'n bedrag van R100, die verstekvonnis tersyde stel met sodanige bepalinge as wat hy goedvind: Met dien verstande dat die vonnisskuldeiser by skriftelike toestemming by die klerk van die hof ingedien, van die vereiste van sekerheidstelling kan afsien."

(b) deur subreël (2) deur die volgende subreël te vervang:

"(2) Sodanige aansoek geskied by wyse van beëdigde verklaring waarin die redes vir sy afwesigheid of versuim om 'n kennisgewing van voorneme om te verdedig of 'n verweerskrif af te lewer, asook die gronde van verweer teen die aksie of verrigtinge waarin die vonnis gegee is, kortliks vermeld word."

(c) deur die skraping van subreël (3);

(d) deur die skraping van subreël (7); en

(e) deur in subreël (13) die uitdrukking "(1) tot en met (9)" deur die uitdrukking "(2), (4), (5), (6), (8) en (9)" te vervang.

Wysiging van reël 62 van die Reëls

5. Reël 62 van die Reëls word hierby gewysig—

(a) deur in paragraaf (a) van subreël (1) die uitdrukking "of werksaam" na die uitdrukking "woonagtig" in te voeg; en

2. The Table of Contents, the Index (Alphabetical) and rule 21 of the Rules is hereby amended by the substitution for the expression "Reply" opposite rule number 21 wherever it occurs of the expression "Reply to the plea".

Amendment of rule 45 of the Rules

3. Rule 45 of the Rules is hereby amended by the addition to subrule (4) of the following proviso:

"Provided further that the period during which a judgment debtor is subject to an administration order shall not be taken into account in the calculation of any of the periods referred to in this rule."

Amendment of rule 49 of the Rules

4. Rule 49 of the Rules is hereby amended—

(a) by the substitution for subrule (1) of the following subrule:

"(1) A defendant to an action or proceedings in which a default judgment has been given may within 20 days after the judgment has come to his knowledge apply to court upon notice to the plaintiff to set aside such judgment and the court may upon good cause shown and, save where leave has been given to defend as a *pro Deo* litigant in terms of rule 53, provided the defendant furnished to the plaintiff security for the costs up to and including the default judgment and such application, in the amount of R100, set aside the default judgment on such terms as it may deem fit: Provided that the judgment creditor may by consent in writing lodged with the clerk of the court, waive compliance with the requirement of security."

(b) by the substitution for subrule (2) of the following subrule:

"(2) Such application shall be on affidavit which shall briefly set forth the reasons for his absence or default of delivery of a notice of intention to defend or of a plea, and the grounds of defence to the action or proceedings in which the judgment was given."

(c) by the deletion of subrule (3);

(d) by the deletion of subrule (7); and

(e) by the substitution in subrule (13) for the expression "(1) to (9)" of the expression "(2), (4), (5), (6), (8) and (9)".

Amendment of rule 62 of the Rules

5. Rule 62 of the Rules is hereby amended—

(a) by the insertion in paragraph (a) of subrule (1) after the expression "resident" of the expression "or working"; and

- (b) deur subreël (2) deur die volgende subreël te vervang:

“(2) Indien daar nie binne 10 dae na sodanige versoek sekuriteit verskaf word nie, kan die hof—

- (i) die verrigtinge opskort totdat aan die versoek voldoen is;
- (ii) gelas dat die eiser nie sekerheid hoef te stel nie;
- (iii) die aksie afwys; of
- (iv) na goeddunke 'n ander bevel gee.”.

Wysiging van Deel I van Tabel B van Bylae 2 by die Reëls

6. Deel I van Tabel B van Bylae 2 by die Reëls word hierby gewysig—

- (a) deur in paragraaf 2 die uitdrukking “items (a), (b), (c), (d) of (e)” deur die uitdrukking “items (a), (b) of (c)” te vervang;
- (b) deur in item (m) van die Tarief na die uitdrukking “Bywoning van uitgestelde verrigtinge ingevolge artikel 65E (3)” die uitdrukking “of bywoning van aansoeke om opskorting van lasbrief uitgereik ingevolge artikel 65F (1) van die Wet” in te voeg;
- (c) deur in paragraaf (ii) van item (n) van die Tarief die uitdrukking “en korrespondensie” te skrap; en
- (d) deur paragraaf (iv) van item (o) van die Tarief te skrap.

Inwerkingtreding

7. Hierdie reëls tree op 1 Julie 1992 in werking.

- (b) by the substitution for subrule (2) of the following subrule:

“(2) If security is not furnished within 10 days after such request, the court may—

- (i) stay the proceedings until such request is complied with;
- (ii) order that the plaintiff need not furnish security;
- (iii) dismiss the action; or
- (iv) make such other order as it may deems fit.”.

Amendment of Part I of Table B of Annexure 2 to the Rules

6. Part I of Table B of Annexure 2 to the Rules is hereby amended—

- (a) by the substitution in paragraph 2 for the expression “items (a), (b), (c), (d) or (e)” of the expression “items (a), (b) or (c)”;
- (b) by the insertion in item (m) of the Tariff after the expression “Attending postponed proceedings in terms of section 65E (3)” of the expression “or attending application for the suspension of a warrant issued in terms of section 65F (1) of the Act”;
- (c) by the deletion in paragraph (ii) of item (n) of the Tariff of the expression “and correspondence”; and
- (d) by the deletion of paragraph (iv) of item (o) of the Tariff.

Commencement

7. These rules shall come into operation on 1 July 1992.

Maak usself asseblief deeglik vertroud met die
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No.**GOEWERMENTSKENNISGEWING****Justisie, Departement van***Goewermentskennisgewing*

R. 1510 Wet op die Reëlsraad vir Geregshowe
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