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GOVERNMENT NOTICE GOEWEMENTSKENNISGEWING

DEPARTMENT OF JUSTICE DEPARTEMENT VAN JUSTISIE

No. R. 1746

25 October 1996

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE SUPREME 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, made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme 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 and R. 1557 of 20 September 1996.

Amendment of rule 8 of the Rules**2. Rule 8 of the Rules is hereby amended—****(a) by the substitution for subrule (1) of the following subrule:**

“(1) Where by law any person may be summoned to answer a claim made for provisional sentence, proceedings shall be instituted by way of a summons as near as may be in accordance with Form 3 of the First Schedule calling upon such person to pay the amount claimed or, failing such payment, to appear personally or by counsel or by an attorney who, under section 4 (2) of the Right of Appearance in Courts Act, 1995 (Act No. 62 of 1995), has the right of appearance in the Supreme Court upon a day named in such summons, not being less than 10 days after the service upon him or her of such summons, to admit or deny his or her liability.”; and

(b) by the substitution for subrule (5) of the following subrule:

“(5) Upon the day named in the summons the defendant may appear personally or by an advocate or by an attorney who, under section 4 (2) of the Right of Appearance in Courts Act, 1995 (Act No. 62 of 1995), has the right of appearance in the Supreme Court to admit or deny his or her liability and may, not later than noon of the court day but one preceding the day upon which he or she is called upon to appear in court, deliver an affidavit setting forth the grounds upon which he or she disputes liability in which event the plaintiff shall be afforded a reasonable opportunity of replying thereto.”.

Amendment of rule 46 of the Rules**3. Rule 46 of the Rules is hereby amended by the addition of the following subrule:**

“(16) In this rule, the word “days” shall have the same meaning as “court days” as defined in rule 1 of the Rules.”.

Amendment of Form 3 of the First Schedule to the Rules**4. Form 3 of the First Schedule to the Rules is hereby amended by the substitution for item (2) of the following item:**

“(2) that failing such payment, he or she is hereby called upon to appear before this Court personally or by an advocate or by an attorney who, under section 4 (2) of the Right of Appearance in Courts Act, 1995 (Act No. 62 of 1995), has the right of appearance in the Supreme Court, at on the day of 19..... at (time) in the forenoon (or as soon thereafter as the matter can be heard) to admit or deny his or her liability for the said claim, and to state why the mortgaged property should not be declared executable.”.

Commencement**5. These rules shall come into operation on 25 November 1996.****No. R. 1746****25 Oktober 1996**

**WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGE VAN DIE VERSKILLENDSE PROVINSIALE
EN PLAASLIKE AFDELINGS VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA GEREËL WORD**

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 reëls beteken “die Reëls” die reëls waarby die verrigtinge van die verskillende provinsiale en plaaslike afdelings van die Hooggeregshof van Suid-Afrika gereël word, afgekondig by Goewermentskennisgewing No. R. 48 van 12 Januarie 1965, soos gewysig by Goewermentskennisgewings Nos. 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, 28 Junie 1996 en R. 1557 van 20 September 1996.

Wysiging van reël 8 van die Reëls**2. Reël 8 van die Reëls word hierby gewysig—****(a) deur subreël (1) deur die volgende subreël te vervang:**

“(1) Waar iemand regtens vir voorlopige vonnis gedagvaar kan word, geskied dit by wyse van ’n dagvaarding so na moontlik bewoord soos Vorm 3 in die Eerste Bylae, waarby hy of sy opgeroep word om die geëiste bedrag te betaal of anders persoonlik of by monde van ’n advokaat of ’n prokureur wat kragtens artikel 4 (2) van die Wet op die Reg op Verskyning in Howe, 1995 (Wet No. 62 van 1995), die reg op verskyning in die Hooggeregshof het, te verskyn op ’n dag in die dagvaarding genoem, synde minstens 10 dae na die betekening daarvan, om sy of haar aanspreeklikheid te erken of te ontken.”; en

(b) deur subreël (5) deur die volgende subreël te vervang:

“(5) Op die dag in die dagvaarding genoem kan die verweerder persoonlik of by monde van ’n advokaat of ’n prokureur wat kragtens artikel 4 (2) van die Wet op die Reg op Verskyning in Howe, 1995 (Wet No. 62 van 1995), die reg op verskyning in die Hooggeregshof het, verskyn om sy of haar aanspreeklikheid te ontken of te erken, en hy of sy kan laatstens voor middag van die tweede hofdag voor dié waarop hy of sy opgeroep is om te verskyn, ’n beëdigde verklaring aflewer wat die gronde bevat waarop hy of sy aanspreeklikheid betwis, in welke geval die eiser ’n redelike geleentheid gegun word om daarop te antwoord.”.

Wysiging van reël 46 van die Reëls**3. Reël 46 van die Reëls word hierby gewysig deur die volgende subreël by te voeg:**

“(16) In hierdie reël, beteken die woord “dae” “hofdae” soos omskryf in reël 1 van die Reëls.”.

Wysiging van Vorm 3 van die Eerste Bylae by die Reëls**4. Vorm 3 van die Eerste Bylae by die Reëls word hierby gewysig deur item (2) deur die volgende item te vervang:**

“(2) dat by versuim van betaling, hy of sy hierby opgeroep word om voor hierdie hof persoonlik of deur ’n advokaat of deur ’n prokureur wat kragtens artikel 4 (2) van die Wet op die Reg op Verskyning in Howe, 1995 (Wet No. 62 van 1995), die reg op verskyning in die Hooggeregshof het, te op die dag van 19..... om (tyd) in die voormiddag (of so spoedig daarna as wat die saak verhoor kan word) te verskyn om sy of haar aanspreeklikheid vir die genoemde eis te erken of te ontken en te vermeld waarom die eiendom wat aan die verband onderworpe is, nie uitwinbaar verklaar behoort te word nie;”.

Inwerkingtreding**5. Hierdie reëls tree op 25 November 1996 in werking.**

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