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GOVERNMENT NOTICE.

DEPARTMENT OF BANTU ADMINISTRATION AND DEVELOPMENT.

No. R. 2082.] [29 December 1967.

CHIEFS' AND HEADMEN'S CIVIL COURTS: RULES.

The Minister of Bantu Administration and Development has, in terms of section 12 (6) of the Bantu Administration Act, 1927 (Act No. 38 of 1927), made the regulations containing the rules relating to the practice and procedure to be followed in chiefs' and headmen's civil courts, and which are set out in the accompanying Schedule to take effect from 1 January 1968, as from which date the regulations published under Government Notice No. 2885 of 1951, as amended by Government Notices Nos. 1180 of 1953 and 886 of 1958, shall be withdrawn.

SCHEDULE.

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GOEWERMENSKENNISGEWING.

DEPARTEMENT VAN BANTOE-ADMINISTRASIE EN -ONTWIKKELING.

No. R. 2082.] [29 Desember 1967.

SIVIELE HOWE VAN KAPTEINS EN HOOFMANNE: REËLS.

Die Minister van Bantoe-administrasie en -ontwikkeling het kragtens artikel 12 (6) van die Bantoe-Administrasie Wet, 1927 (Wet No. 38 van 1927), die regulasies gemaak wat die reëls bevat waarby die praktyk en prosedure voorgeskryf word wat in die sivielehowe van kapteins en hoofmanne gevolg moet word, en wat in bygaande Bylae vervat is om op 1 Januarie 1968 in werking te tree vanaf welke datum die regulasies wat by Goewermentskennisgewing No. 2885 van 1951, soos gewysig by Goewermentskennisgewings Nos. 1180 van 1953 en 886 van 1958, afgekondig is, ingetrek word.

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Procedure to Accord with Recognised Customs and Laws.

1. The procedure in connection with the trial of civil claims between Bantu before a chief or headman under section 12 of the Act, shall be in accordance with the recognised customs and laws of the tribe—

- (a) in the case of a chief (including his authorised deputy), to which he has been appointed or in respect of which he has been recognised; and
- (b) in the case of a headman, occupying the location or area over which he has been appointed.

Hearing or Judgment in Absence of Parties.

2. (1) If there is no appearance by or on behalf of the defendant at the time and place fixed for the hearing of the action, the chief may, upon the request of the plaintiff and on being satisfied that notice of the action was given to the defendant personally and that the defendant was at the time of receipt of such notice within the area of the chief, give judgment in favour of such plaintiff for an amount, or such other relief, not exceeding the amount or relief claimed by the plaintiff and costs of the action.

(2) If the plaintiff fails to appear at the time and place fixed for the hearing of the action the chief may, upon the request of the defendant, dismiss the plaintiff's claim.

(3) Any party to an action in which a default judgment is given may within two months after such judgment has come to the knowledge of the party against whom it is given apply to the chief who gave the judgment or his successor in office to rescind such judgment.

(4) Any chief to whom application has been made in terms of subrule (3) may rescind any judgment given by him or his predecessor in office in the absence of the person against whom the judgment was given.

(5) Every rescission of a default judgment shall be reported verbally or in writing, personally or by messenger, by the chief who rescinded such judgment to the clerk of the court who shall record the rescission in the "remarks" column of the register referred to in rule 7 opposite the particulars of the case in question.

Adjournment of or Delay in Hearing of Action.

3. (1) A chief may adjourn the hearing of any action or suit as the circumstances of the case may require.

(2) If a chief shall unreasonably delay in hearing or refuse to deal with any case or adjudicate upon any matter, application may be made by any party in the proceedings, after due notice to all other parties in the proceedings, to the court of Bantu Affairs Commissioner for the hearing of the case or matter.

(3) After hearing the application referred to in subrule (2) the Bantu Affairs Commissioner may—

- (a) give such order as he shall think fit for the speedy trial of the case or matter by the chief; or
- (b) if it appears that the interests of justice so require, order that the case or matter shall be tried in the Bantu Affairs Commissioner's court, whereupon the proceedings in the chief's court shall be stayed.

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Prosedure moet met erkende gebruike en reg ooreenstem.

1. Die prosedure in verband met die verhoor, kragtens artikel 12 van die Wet, van siviele eise tussen Bantoes voor 'n kaptein of 'n hoofman, moet in ooreenstemming wees met die erkende gebruike en wette van die stam—

- (a) waaroor, in die geval van 'n kaptein (en ook sy gevolmagtigde), hy aangestel is of ten opsigte waarvan hy erken word; en
- (b) wat, in die geval van 'n hoofman, die lokasie of gebied waaroor hy aangestel is, okkupeer.

Verhoor of uitspraak in afwesigheid van partye.

2. (1) As daar op die tyd en plek vasgestel vir die verhoor van die aksie, geen verskyning deur of namens die verweerder gemaak is nie, kan die kaptein, mits hy daarvan oortuig is dat kennis van die aksie aan die verweerder persoonlik gegee is en dat die verweerder binne die gebied van die kaptein was toe hy dié kennis ontvang het, op versoek van die eiser uitspraak ten gunste van sodanige eiser gee vir 'n bedrag, of sodanige ander verligting, van hoogstens dié wat deur die eiser geëis word, en koste van die aksie.

(2) As die eiser op die tyd en plek vasgestel vir die verhoor van die aksie, versuim om te verskyn, kan die kaptein, op versoek van die verweerder, die eiser se eis afwys.

(3) Enige party by 'n aksie waarin uitspraak by verstek gevel word, kan binne twee maande ná die party teen wie dit gevel is die uitspraak te wete gekom het, by die kaptein wat die uitspraak gegee het of by sy ampsopvolger aansoek doen om sodanige uitspraak tersyde te stel.

(4) Enige kaptein by wie aansoek ooreenkomstig subreël (3) gedoen is, kan enige uitspraak deur hom of sy ampsvoorganger gegee in die afwesigheid van die persoon teen wie dit gegee is, tersyde stel.

(5) Elke tersydestelling van 'n verstekuitspraak word deur die kaptein wat sodanige uitspraak tersyde gestel het of mondelings, of skriftelik, of persoonlik, of deur 'n bode aan die klerk van die hof gerapporteer, en sodanige klerk moet die tersydestelling in die „opmerkings“-kolom van die register waarvan in reël 7 melding gemaak word, teenoor die besonderhede van die betrokke saak aanteken.

Verdagging van of vertraging in die verhoor van aksie.

3. (1) 'n Kaptein kan die verhoor van 'n aksie of geding verdaag na gelang die omstandighede van die geval mag vereis.

(2) As 'n kaptein op onredelike wyse die verhoor van 'n saak vertraag of weier om dit te behandel of om daaroor 'n beslissing te vel, kan 'n party by die geding, ná behoorlike kennisgewing aan al die partye by die geding, by die hof van die Bantoesakekommissaris aansoek doen om die verhoor van die saak.

(3) Ná verhoor van die aansoek waarna daar in subreël (2) verwys word, kan die Bantoesakekommissaris—

- (a) sodanige bevel na sy goeddunke gee ten einde die saak sonder versuim deur die kaptein te laat verhoor; of
- (b) as dit in belang van die regspleging aldus nodig blyk, beveel dat die saak in die Bantoesakekommissarishof verhoor word, waarna die geding in die hof van die kaptein gestuit moet word.

(4) When the Bantu Affairs Commissioner makes the order referred to in subrule (3) (b) he shall call upon the plaintiff and defendant to file statements of claim and defence, respectively or, at their option, to file pleadings in terms of the rules for courts of Bantu Affairs Commissioner within such time as he may fix and thereafter he shall proceed to hear and determine the case in accordance with the said rules.

Chief to have no Interest in Case.

4. No chief shall adjudicate upon any matter or thing in which he is pecuniarily or personally interested.

No Representation by Legal Practitioners.

5. Notwithstanding anything in any other law contained no advocate or other legal practitioner may appear or act for any party in any chief's court.

Written Record.

6. (1) Immediately after pronouncement of judgment (including a default judgment) the chief shall prepare or cause to be prepared a written record in quadruplicate, containing the following particulars:—

- (a) Name of plaintiff.
- (b) Name of defendant.
- (c) Particulars of claim.
- (d) Particulars of defence.
- (e) Judgment.
- (f) Date of judgment.

(2) The written record shall be signed by or on behalf of the chief and two members of his court.

(3) Within one month from the date of the judgment the chief shall cause the original of the written record to be addressed and posted, or delivered by messenger, to the Bantu Affairs Commissioner of the area in which the defendant resides.

(4) A copy of the written record shall be handed to the successful party and a further copy thereof to the other party, either of whom may, within two months from the date of the judgment, deliver it to the Bantu Affairs Commissioner of the area in which the defendant resides.

(5) A copy of the written record shall be retained by the chief for record purposes.

(6) Notwithstanding the provisions of subrules (1) to (5), a chief who, due to illiteracy, is unable to complete the written record or cause it to be completed on his behalf, may verbally furnish, either personally or by messenger, the particulars of any action heard by him to the clerk of the court, who shall complete the written record.

Registration of Judgments.

7. (1) All judgments (including default judgments) of a chief's court shall be registered and the particulars of the written record referred to in rule 6 (1), together with date of registration, shall be entered in a register to be kept for the purpose by the clerk of the court.

(2) If after two months the written record has not been delivered to the Bantu Affairs Commissioner as provided in rule 6 (3) or (4) the judgment shall lapse.

Execution.

8. (1) The procedure in connection with the execution of a chief's judgment shall be in accordance with the recognised customs and laws of the tribe—

- (a) in the case of a chief (including his authorised deputy) to which he has been appointed or in respect of which he has been recognised; and
- (b) in the case of a headman, occupying the location or area over which he has been appointed:

(4) Wanneer die Bantoesakekommissaris die bevel gee waarna daar in subreël (3) (b) verwys word, moet hy die eiser en verweerder versoek om verklarings met betrekking tot onderskeidelik die eis en die verweer in te dien, of, volgens hul keuse, pleitskrifte ingevolge die reëls van Bantoesakekommissarishowe binne die tyd wat hy vasstel in te dien en daarna moet hy ooreenkomstig gemelde reëls die saak verhoor en uitspraak gee.

Kaptein moet geen belang by saak hê nie.

4. 'n Kaptein mag oor geen saak of ding waarby hy geldelike of persoonlike belang het, 'n beslissing vel nie.

Geen verteenwoordiging deur regspraktisyns nie.

5. Nieteenstaande enigiets in enige ander wet vervat, mag geen advokaat of ander regspraktisyn in 'n hof van 'n kaptein ten behoeve van 'n party verskyn of optree nie.

Skriftelike verslag.

6. (1) Onmiddellik ná die uitspraak (met inbegrip van 'n verstekuitspraak) moet die kaptein 'n verslag, in vier-voud, waarin onderstaande besonderhede voorkom, opstel of laat opstel:—

- (a) Naam van klaer.
- (b) Naam van verweerder.
- (c) Besonderhede van eis.
- (d) Besonderhede van verweer.
- (e) Uitspraak.
- (f) Datum van uitspraak.

(2) Die skriftelike verslag moet deur of namens die kaptein en twee lede van sy hof onderteken word.

(3) Binne een maand van die datum van die uitspraak moet die kaptein sorg dat die oorspronklike kopie van die verslag aan die Bantoesakekommissaris van die gebied waarin die verweerder woon, geadresseer en gepos word, of deur 'n bode aan hom afgelewer word.

(4) 'n Afskrif van die skriftelike verslag moet aan die suksesvolle party oorhandig word en nog 'n afskrif daarvan aan die ander party, en enigeen van die partye kan dit binne twee maande ná die datum van die uitspraak by die Bantoesakekommissaris van die gebied waarin die verweerder woon, inlewer.

(5) 'n Afskrif van die skriftelike verslag moet deur die kaptein vir rekorddoeleindes gehou word.

(6) Ondanks die bepalings van subreëls (1) tot (5), kan 'n kaptein wat weens ongeletterdheid nie in staat is om die skriftelike verslag in te vul of dit namens hom te laat invul nie, of persoonlik of deur 'n bode, die besonderhede van enige aksie wat deur hom verhoor is, mondelings aan die klerk van die hof verstrek, wat dan die skriftelike verslag moet invul.

Registrasie van uitsprake.

7. (1) Alle uitsprake (met inbegrip van verstekuitsprake) van die hof van 'n kaptein moet geregistreer word en die besonderhede van die skriftelike verslag waarna in reël 6 (1) verwys word, tesame met die datum van registrasie, moet in 'n register wat vir dié doel deur die klerk van die hof gehou moet word, ingeskryf word.

(2) As die skriftelike verslag ná twee maande nog nie soos in reël 6 (3) of (4) bepaal word, aan die Bantoesakekommissaris afgelewer is nie, verval die uitspraak.

Tenuitvoerlegging.

8. (1) Die prosedure in verband met die tenuitvoerlegging van die uitspraak van 'n kaptein moet in ooreenstemming wees met die erkende gebruike en wette van die stam—

- (a) in die geval van 'n kaptein (asook sy gevolmagtigde), waaroor hy aangestel is of ten opsigte waarvan hy erken word; en
- (b) in die geval van 'n hoofman, wat die lokasie of gebied waaroor hy aangestel is, okkupeer;

Provided that execution of any such judgment shall be suspended as provided by section 12 (4) of the Act, on an appeal therefrom being noted within the time and in the manner prescribed in these rules: Provided further that execution shall in any event not be levied until the judgment has been registered as required by rule 7 (1).

(2) Any claim to property attached in the manner provided in subrule (1), made by any person other than the judgment debtor, shall be heard and determined by the chief who delivered the judgment resulting in such attachment or by his successor in office.

(3) (a) Where the property to be attached is in an area outside the jurisdiction of the chief who delivered the judgment or where any person resists with force, or by a show of force, the seizure of any property about to be seized by any messenger of a chief in the lawful execution of a judgment of the said chief and the messenger shall be of opinion that seizure of such property cannot be effected without a breach of the peace, he shall immediately report the circumstances to the judgment creditor, who, if he so desire, may apply to the clerk of the court for the enforcement of the judgment: Provided that the clerk of the court shall take no steps for the enforcement of any judgment which has not been registered.

(b) The manner of enforcement of such judgment shall be the same as prescribed for the enforcement of judgments of courts of Bantu Affairs Commissioner.

(4) Any person who obstructs a messenger of a chief in the execution of his duty shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding fifty rand or in default of payment to imprisonment for a period not exceeding one hundred days.

Appeal Against Chief's Judgment.

9. (1) Any party dissatisfied with any judgment or order of a chief's court may, within two months from the date of the pronouncement thereof, appeal against such judgment or order to the court of Bantu Affairs Commissioner having jurisdiction by notifying the clerk of the said court, either in person or through a legal representative: Provided that no appeal shall lie from a default judgment given by a chief under rule 2 (1) unless and until an application for the rescission of such judgment has been refused.

(2) As soon as the appellant has notified the clerk of the court in terms of subrule (1), and has deposited with the clerk of the court the fees prescribed in rule 13 (2) (d) and (e), the appeal shall be deemed to have been properly noted: Provided that if the judgment subsequently lapses as provided in rule 7 (2) the appeal shall also lapse.

(3) The Bantu Affairs Commissioner may on good cause shown extend the period prescribed in subrule (1) for noting an appeal.

(4) A party to a civil suit in which a chief has given judgment shall not lose his right to appeal therefrom to the court of Bantu Affairs Commissioner having jurisdiction, by reaction of his satisfying or offering to satisfy such judgment in part or in full or by accepting any benefit thereunder.

10. (1) The clerk of the court to whom the notification referred to in rule 9 (1) is made shall—

- forthwith record the noting of the appeal;
- fix a time and date for the hearing of the appeal and notify the appellant thereof;
- issue a notice for service on the respondent in which shall be set forth the information contained in the register kept in terms of rule 7 (1) and also the time and date fixed for the hearing;

Met dien verstande dat tenuitvoerlegging van so 'n uitspraak opgeskort word soos bepaal by artikel 12 (4) van die Wet, wanneer appèl teen sodanige uitspraak binne die tydbestek en op die wyse in hierdie reëls voorgeskryf, aangeteken word: Voorts met dien verstande dat die tenuitvoerlegging in elk geval nie uitgevoer word nie totdat die uitspraak geregistreer is soos vereis by reël 7 (1).

(2) Enige eis ten opsigte van eiendom waarop beslag gelê is op die wyse in subreël (1) bepaal, ingestel deur enigiemand anders as die uitspraakskuldenaar, moet deur die kaptein wat die uitspraak gegee het wat aanleiding tot sodanige beslaglegging gegee het, of sy ampsopvolger, verhoor en besleg word.

(3) (a) Waar die eiendom waarop beslag gelê moet word in 'n gebied buite die jurisdiksie van die kaptein wat die uitspraak gegee het, val, of waar enige persoon met geweld of met 'n skyn van geweld die beslaglegging van eiendom waarop beslag gelê gaan word, deur enige bode van 'n kaptein in die regmatige uitvoering van 'n uitspraak van genoemde kaptein weerstaan, en waar die bode van mening is dat beslaglegging op sodanige eiendom nie sonder 'n vredebreuk teweeggebring kan word nie, moet hy die omstandighede onmiddellik aan die uitspraakskuldeiser rapporteer, wat indien hy aldus verlang, by die klerk van die hof aansoek kan doen om die teruitvoerlegging van die uitspraak: Met dien verstande dat die klerk van die hof geen stappe vir die tenuitvoerlegging van 'n uitspraak wat nie geregistreer is, moet doen nie.

(b) Die wyse waarop sodanige uitspraak ten uitvoer gelê word, is dieselfde as dié wat vir die tenuitvoerlegging van uitsprake van Bantoesakekommissarishowe voorgeskryf word.

(4) Enigeen wat 'n bode van 'n kaptein in die uitvoering van sy plig dwarsboom, begaan 'n oortreding en is by skuldigbevinding strafbaar met 'n boete van hoogstens vyftig rand of, by wanbetaling, met gevangenisstraf vir 'n tydperk van hoogstens honderd dae.

Appèl teen die uitspraak van die kaptein.

9. (1) 'n Party wat met die uitspraak of bevel van 'n hof van 'n kaptein ontevrede is, kan binne twee maande ná die uitspraak téén sodanige uitspraak of bevel appèl aanteken by die Bantoesakekommissarishof wat die regsmag besit, deur die klerk van gemelde hof, hetsy persoonlik of deur tussenkoms van 'n regsvertegenwoordiger, daarvan in kennis te stel: Met dien verstande dat geen appèl aangeteken kan word teen 'n verstekuitspraak wat deur 'n kaptein gegee is ooreenkomstig reël 2 (1) nie, tensy en totdat 'n aansoek om die tersydestelling van so 'n uitspraak geweier is.

(2) Sodra die appellant die klerk van die hof kragtens subreël (1) in kennis gestel het en by die klerk van die hof die voorgeskrewe gelde gedeponeer het, word die appèl geag behoorlik aangeteken te wees: Met dien verstande dat, indien die uitspraak daarná kragtens reël 7 (2) verval, die appèl ook verval.

(3) Die Bantoesakekommissaris kan, ná aanvoering van voldoende redes, die tydperk wat by subreël (1) vir die aantekening van appèl voorgeskryf word, verleng.

(4) 'n Party by 'n siviele geding waarin 'n kaptein uitspraak gegee het, verbeur nie sy reg om teen sodanige uitspraak te appelleer by die Bantoesakekommissarishof wat regsmag het, deur aan die uitspraak geheel of gedeeltelik te voldoen, of aan te bied om daaraan te voldoen nie, of deur enige voordeel kragtens so 'n uitspraak te aanvaar nie.

10. (1) Die klerk van die hof by wie die aantekening van appèl, waarna in reël 9 (1) verwys word, geskied het, moet—

- adelik die aantekening van die appèl opteken;
- 'n tyd en datum vir die verhoor van die appèl vasstel en die appellant daarvan verwittig;
- 'n kennisgewing uitreik vir betekening aan die respondēt en waarin die inligting vervat is wat in die register wat ingevolge reël 7 (1) bygehou moet word, asook die tyd en datum wat vir die verhoor bepaal is, uiteengesit word;

(d) issue a notice to the chief who heard the case that an appeal has been lodged and calling upon him to comply with the requirements of rule 11 (1).

(2) (a) Service of the notice referred to in subrule (1) (c) may be effected by the appellant himself by delivery thereof in the presence of a witness to the respondent personally, or to some adult member of the kraal or dwelling at which the respondent resides: Provided that in the event of a non-personal service the court of Bantu Affairs Commissioner may, if the respondent should be in default on the date fixed for the hearing of such appeal, require personal service to be made in such manner as it may direct. If the appellant so requests such notice shall, upon prepayment to the clerk of the court of the messenger's fees for service, be served by the messenger of such court in the manner prescribed for the service of summons in courts of Bantu Affairs Commissioner.

(b) No costs or charges shall be recoverable in respect of the service of such notice by the appellant himself.

Chief's Reasons for Judgment.

11. (1) The chief shall as soon as possible, but not later than fourteen days after receiving the notification referred to in rule 10 (1) (d), furnish the clerk of the court, personally or by deputy, with the reasons for his judgment, which, if not in writing, shall be recorded by such clerk of the court and shall form part of the record of the case. When the reasons for judgment have been furnished, the clerk of the court shall pay over to the chief the fees deposited with him under rule 9 (2).

(2) If the chief fails to furnish his reasons for judgment the court of the Bantu Affairs Commissioner may issue an order calling upon him to do so within a stated time and may adjourn the hearing until such time as he complies with such order.

(3) Notwithstanding anything contained in subrule (2) the court of Bantu Affairs Commissioner may in its discretion and subject to the provisions of rule 12 proceed with the hearing without such reasons for judgment.

Hearing of Appeal.

12. (1) The plaintiff in the chief's court may, not less than seven days before the date fixed for the hearing of the appeal, file with the clerk of the court and serve upon the defendant, a written statement amplifying his claim in the chief's court.

(2) The defendant in the chief's court may, not less than seven days before the date fixed for hearing of the appeal, file with the clerk of the court and serve upon the plaintiff a written statement of his defence to the claim and may also raise a counterclaim notwithstanding that such claim was not raised in the chief's court.

(3) The court of Bantu Affairs Commissioner may at or before the hearing of the appeal allow the statement of claim, defence or counterclaim referred to in subrules (1) and (2) to be then and there recorded notwithstanding that the same may not have been submitted within the time hereinbefore mentioned and shall require the plaintiff to plead to the counterclaim.

(4) Upon the day fixed for the appearance of the parties the court of Bantu Affairs Commissioner shall proceed to re-hear and re-try the case as if it were one of first instance in that court and may give such judgment or make such order thereon as provided in section 12 (5) of the Act. The successful party may take out the process of the court of such Bantu Affairs Commissioner for the execution of such judgment or order.

(d) 'n kennisgewing aan die kaptein uitreik wat die saak verhoor het, dat appèl aangeteken is en aan hom opdrag gee om die vereistes van reël 11 (1) na te kom.

(2) (a) Die kennisgewing waarna in subreël (1) (c) verwys word, kan deur die appellant self beteken word deur die aflewering daarvan in teenwoordigheid van 'n getuie aan die respondent persoonlik of aan 'n volwasse lid van die kraal of woning waar die respondent woon. Met dien verstande dat, in geval van 'n nie-persoonlike betekening, die Bantoesakekommissarishof, indien die respondent in gebreke bly om op die vasgestelde datum vir die verhoor van die appèl te verskyn, kan gelas dat 'n persoonlike kennisgewing op die wyse wat die hof bepaal, beteken word. Indien die appellant dit versoek, moet sodanige kennisgewing, by vooruitbetaling van die bodegelde aan die klerk van die hof, deur die bode van sodanige hof beteken word op die wyse wat vir die betekening van dagvaardigings in Bantoesakekommissarishowe voorgeskryf is.

(b) Geen koste of vorderings is verhaalbaar ten opsigte van die betekening van so 'n kennisgewing deur die appellant self nie.

Kaptein se redes vir die uitspraak.

11. (1) Die kaptein moet so gou moontlik, maar nie later nie as veertien dae nadat hy die kennisgewing ontvang het waarna in reël 10 (1) (d) verwys word, persoonlik of deur sy plaasvervanger die redes vir sy uitspraak aan die klerk van die hof verstrek. As die redes nie op skrif is nie, moet dit deur sodanige klerk van die hof aangeteken word en maak dit deel van die oorkonde van die geding uit. Wanneer die redes vir uitspraak verstrek is, moet die klerk van die hof die gelde wat by hom gedeponeer is ingevolge reël 9 (2), aan die kaptein betaal.

(2) As die kaptein in gebreke bly om sy redes vir die uitspraak te verstrek, kan die Bantoesakekommissarishof 'n bevel uitreik en hom verplig om dit binne 'n vasgestelde tydperk te doen, en kan die hof die verhoor uitstel totdat die kaptein aan die bevel voldoen het.

(3) Nieteenstaande andersluidende bepalings in subreël (2) vervat, kan die Bantoesakekommissarishof na goeddunke en behoudens die bepalings van reël 12 met die verhoor van die saak voortgaan sonder dat sodanige redes vir die uitspraak verstrek is.

Verhoor van appèl.

12. (1) Die eiser in die hof van die kaptein kan minstens sewe dae vóór die datum wat vir die verhoor van die appèl vasgestel is, 'n skriftelike verklaring by die klerk van die hof indien en aan die verweerder beteken, waarin hy sy eis in die hof van die kaptein, uiteensit en aanvul.

(2) Die verweerder in die hof van die kaptein kan, minstens sewe dae vóór die datum wat vir die verhoor van die appèl vasgestel is 'n skriftelike verklaring ten opsigte van sy verweer teen die eis, by die klerk van die hof indien en aan die eiser beteken, en kan hy ook 'n teeneis instel, nieteenstaande die feit dat so 'n eis nie in die hof van die kaptein ingestel was nie.

(3) Die Bantoesakekommissarishof kan by of vóór die verhoor van die appèl toelaat dat die verklarings ten opsigte van die eis, verweer en teeneis, waarna in subreëls (1) en (2) verwys word, daar en dan aangeteken word, ten spyte daarvan dat dit nie binne die voormelde tyd voorgelê is nie en hy moet van die eiser vereis dat hy teen die teeneis moet pleit.

(4) Op die dag wat vir die verskyning van die partye vasgestel is, verhoor die Bantoesakekommissarishof die saak weer asof dit in eerste instansie voor hierdie hof dien en kan die hof dié uitspraak gee of hofbevel uitreik soos bepaal in artikel 12 (5) van die Wet. Die suksesvolle party kan die prosesstukke by so 'n Bantoesakekommissarishof vir die tenuitvoerlegging van so 'n uitspraak of bevel uitneem.

(5) The clerk of the court shall immediately after the appeal has been heard issue a notice to the chief against whose judgment the appeal was lodged, informing him of the result of such appeal and, in the case, of the noting of any further appeal to the Bantu Appeal Court, of such further appeal, and, in due course, of the outcome thereof.

Scale of Fees.

13. (1) The fees payable and recoverable in connection with any proceedings in a chief's court shall be in accordance with the recognised customs and laws of—

- (a) in the case of a chief (including his authorised deputy), the tribe to which he has been appointed or in respect of which he has been recognised; and
- (b) in the case of a headman, the tribe occupying the location or area over which he has been appointed.

(2) If no fee is payable in terms of subrule (1) then the following fees shall be payable and recoverable against the party adjudged to pay the costs:—

	R c
(a) To chief for first day of hearing and judgment (to be paid by plaintiff in advance).....	2 00
(b) To chief for second and each subsequent day of hearing.....	1 00
(c) To chief for furnishing written record in terms of rule 6.....	0 25
(d) To chief for attending and giving reasons in terms of rule 11 (1).....	0 25
(e) To chief for necessary travelling (per mile—for forward and return journeys by shortest route).....	0 05
(f) To messenger for necessary travelling, other than to deliver written record in terms of rule 6 (3) (per mile—for forward and return journeys by shortest route).....	0 02½
(g) To messenger for each process of message served, delivered or executed; or attempt at service, delivery or execution.....	0 20

Saving of Pending Proceedings.

14. (1) Nothing in these regulations shall affect proceedings pending at the date of commencement of these rules and such proceedings shall be continued and concluded in every respect as if these rules had not been promulgated.

(2) Proceedings shall, for the purpose of this section, be deemed to be pending if, at the date of commencement of these rules, action had been commenced in the Chief's court, or in the case of an appeal the appeal had been noted in the court of Bantu Affairs Commissioner, and shall be deemed to be concluded when judgment is given in the chief's court or in the court of Bantu Affairs Commissioner, as the case may be.

(3) At the expiration of one year from the date of commencement of these rules, subrule (1) shall cease to have effect and any proceedings pending at the date of commencement of these rules and not concluded within one year thereafter shall become subject to the provisions of these rules.

Definitions.

15. (1) In these rules, unless inconsistent with the context—

“Act” means the Bantu Administration Act, 1927 (Act No. 38 of 1927);

“Bantu Affairs Commissioner” means the Bantu Affairs Commissioner of the court having jurisdiction in the area in which the defendant in the chief's court resides and, subject to the provisions of section 12 (4) of the Act, includes an Additional and an Assistant Bantu Affairs Commissioner;

“Bantu Affairs Commissioner's court” or “court of Bantu Affairs Commissioner” means the court having jurisdiction in the area in which the defendant in the chief's court resides;

“chief”, except for the purpose of rule 1 and 8 (1), includes a headman or deputy of a chief authorised under section 12 (1) of the Act, to hear and determine civil claims, and “chief's court” bears a corresponding meaning;

(5) Die klerk van die hof stel onmiddellik ná die verhoor van die appèl die kaptein teen wie se uitspraak appèl aangeteken was, in kennis van die uitslag van die appèl en van die aantekening van enige verdere appèl by die Bantoe-appèlhof en ook mettertyd van die uitslag daarvan.

Skaal van gelde.

13. (1) Die gelde betaalbaar en verhaalbaar ten opsigte van verrigtinge in 'n hof van 'n kaptein moet in ooreenstemming wees met die erkende gebruike en wette van—

- (a) in die geval van 'n kaptein (asook sy gevolmagtigde), die stam waaroor hy aangestel is, of ten opsigte waarvan hy erken word; en
- (b) in die geval van 'n hoofman, die stam wat die lokaasie of gebied waaroor hy aangestel is, okkupeer.

(2) Indien geen gelde ingevolge subreël (1) betaalbaar is nie, is die volgende gelde betaalbaar en verhaalbaar op die party teen wie uitspraak gegee is om die koste te betaal:—

	R c
(a) Aan die kaptein vir die eerste dag van die verhoor en uitspraak (deur die eiser vooruitbetaalbaar).....	2 00
(b) Aan die kaptein vir die tweede en elke daaropvolgende dag van die verhoor.....	1 00
(c) Aan die kaptein vir die verstrekking van skriftelike verslag ingevolge reël 6.....	0 25
(d) Aan die kaptein vir die bywoning, en die verstrekking van redes kragtens reël 11 (1).....	0 25
(e) Aan die kaptein vir noodsaaklike reise (per myl—vir heen-en-terugreis langs die kortste roete).....	0 05
(f) Aan die bode vir noodsaaklike reise, uitgesonderd dié vir die aflewering van skriftelike verslag ingevolge reël 6 (3) (per myl—vir heen-en-terugreis langs die kortste roete).....	0 02½
(g) Aan die bode vir elke prosesstuk of boodskap wat beteken, afgelewer of ten uitvoer gelê is; of vir elke poging om te beteken, af te lewer of ten uitvoer te lê	0 20

Hangende verrigtinge word nie geraak nie.

14. (1) Geen bepaling in hierdie reëls raak die verrigtinge wat op die datum van die inwerkingtreding van hierdie reëls hangende is nie, en sodanige verrigtinge moet in elke opsig voortgesit en afgesluit word asof hierdie reëls nie afgekondig was nie.

(2) By die toepassing van hierdie artikel moet die verrigtinge geag word hangende te wees as, op die datum van die inwerkingtreding van hierdie reëls, 'n proses reeds in die hof van die kaptein 'n aanvang geneem het, of in die geval van 'n appèl, as dié appèl in die Bantoesakekommissarishof aangeteken is, en die verrigtinge word geag afgesluit te wees wanneer uitspraak in die hof van die kaptein of van die Bantoesakekommissaris, na gelang van die geval, gegee is.

(3) By die verstryking van een jaar na die datum van die inwerkingtreding van hierdie reëls is subreël (1) nie meer van krag nie, en enige verrigtinge wat hangende is op die datum van die inwerkingtreding van hierdie reëls en wat nie binne een jaar daarna afgesluit is nie, word onderworpe aan die bepalings van hierdie reëls.

Woordomskrywing.

15. (1) In hierdie reëls, tensy onbestaanbaar met die sinsverband, beteken—

„Bantoesakekommissaris” die Bantoesakekommissaris van die hof wat regsmag besit in die gebied waarin die verweerder in die hof van die kaptein woon en, behoudens die bepalings van artikel 12 (4) van die Wet, sluit dit 'n Addisionele en 'n Assistent-Bantoesakekommissaris in;

„Bantoesakekommissarishof” die hof wat regsmag besit in die gebied waar die verweerder, in die kaptein se hof, woon;

„kaptein”, uitgesonderd vir die toepassing van reël 1 en 8 (1), ook 'n hoofman of gevolmagtigde van 'n kaptein, gemagtig kragtens artikel 12 (1) van die Wet, om eise in siviele sake te verhoor en daaroor te beslis, en het „hof van 'n kaptein” 'n ooreenstemmende betekenis;

"clerk of the court" means the clerk of the Bantu Affairs Commissioner's court having jurisdiction in the area in which the defendant in the chief's court resides, and includes an assistant clerk of the court and any person appointed to act as such clerk or assistant.

(2) Where anything is required by these rules to be done within a particular number of days a Sunday or public holiday shall not be reckoned as part of such period.

Forms.

16. The forms contained in the Annexure to these rules may, where applicable, be used with such variations as circumstances may require.

ANNEXURE.

B.A. 502.

FORM 1: RULE 6.

WRITTEN RECORD.

(ORIGINAL.—To be posted or delivered to the Bantu Affairs Commissioner of the area in which defendant resides).

To the Bantu Affairs Commissioner of _____ (insert area).

WRITTEN RECORD of civil matter heard and determined in the Court of—

*Chief/Chief's deputy/Headman _____

between

Plaintiff,

of _____ Location in the area of the Bantu Affairs Commissioner's Court _____

and

Defendant

of _____ Location in the area of the Bantu Affairs Commissioner's Court _____

Particulars of claim _____

Particulars of defence _____

Judgment _____

Date of judgment _____

Signature of *Chief/Chief's Deputy/Headman or person signing on his behalf.

Signature of members of Court:—

1. _____

2. _____

(FOR USE OF CLERK OF BANTU AFFAIRS COMMISSIONER'S COURT ONLY).

Date received _____

Date registered _____

No. in register _____

Clerk of the Bantu Affairs Commissioner's Court.

Date _____

* Delete words inapplicable.

„klerk van die hof" die klerk van die Bantoesakekommissarishof wat regsmag besit in die gebied waarin die verweerder in die hof van die kaptein, woon, en sluit dit 'n assistent-klerk van die hof en enige persoon wat aangestel is om as klerk of assistent op te tree, in;

„Wet" die Bantoe-administrasie Wet, 1927 (Wet No. 38 van 1927).

(2) Waar enigiets ingevolge hierdie reëls binne 'n bepaalde getal dae gedoen moet word, moet 'n Sondag of openbare vakansiedag nie as deel van sodanige tydperk bygereken word nie.

Vorms.

16. Die vorms in die Aanhangsel van hierdie reëls vervat, kan, waar toepaslik, met die veranderinge wat omstandighede vereis, gebruik word.

AANHANGSEL.

B.A. 502.

VORM 1: REËL 6.

SKRIFTELIKE VERSLAG.

(Die OORSPRONKLIKE moet aan die Bantoesakekommissaris van die gebied waarin die verweerder woon, gepos of afgelewer word).

Aan die Bantoesakekommissaris van _____ (vermeld naam van gebied).

SKRIFTELIKE VERSLAG van die siviele saak wat verhoor en beslis is in die Hof van die:

*Kaptein/Kaptein se gevolgmagtigde/Hoofman _____

tussen

eiser

van _____ -lokasie in die gebied van die Bantoesakekommissarishof _____

en

verweerder

van _____ -lokasie in die gebied van die Bantoesakekommissarishof _____

Besonderhede van eis _____

Besonderhede van verweer _____

Uitspraak _____

Datum van uitspraak _____

Handtekening van *Kaptein/Kaptein se gevolgmagtigde/Hoofman of persoon wat namens hom teken.

Handtekening van lede van die Hof:

1. _____

2. _____

VIR GEBRUIK SLEGS DEUR DIE KLERK VAN DIE BANTOESAKEKOMMISSARISHOF.)

Datum ontvang _____

Datum geregistreer _____

No. in register _____

Klerk van die Bantoesakekommissarishof.

Datum _____

*Skrap woorde wat nie van toepassing is nie.

VORM 2: REËL 7/FORM 2: RULE 7.

B.A. 188.

REGISTER VAN SIVIELE SAKE WAT IN DIE HOWE VAN KAPTEINS VERHOOR EN BESLIS IS.
REGISTER OF CIVIL MATTERS HEARD AND DETERMINED IN CHIEFS' COURTS.

1.	2.	3.	4.	5.	6.	7.	8.	9.	10.	11.
No.	(a) Hof van die kaptein. (b) Gebied van die Bantoesakekommissaris. (a) Chief's Court. (b) Bantu Affairs Commissioner's Area.	(a) Naam van eiser. (b) Adres. (a) Name of Plaintiff. (b) Address.	(a) Naam van verweerder. (b) Adres. (a) Name of Defendant. (b) Address.	Besonderhede van eis. Particulars of Claim.	Besonderhede van verweer. Particulars of Defence.	Uitspraak. Judgment.	Datum van uitspraak. Date of Judgment.	Datum van registrasie. Date of Registration.	Handtekening van klerk van die hof. Signature of Clerk of Court.	Opmerkings. Remarks.

FORM 3: RULE 10.

B.A. 503.

NOTICE OF HEARING OF APPEAL AGAINST JUDGMENT OF A CHIEF'S COURT.

In the Court of the Bantu Affairs Commissioner for the District/
Area of _____ held at _____

In the matter of the appeal noted by Plaintiff/Defendant on
against a judgment of Chief _____
in the case between _____ Plaintiff,
of _____

versus

Defendant of _____

heard on _____

Claim _____

Defendant's reply to claim _____

Judgment of the chief _____

TO THE ABOVE-NAMED PLAINTIFF AND DEFENDANT.

You are hereby notified in terms of rule 10 (1) (b) of the Rules for
Chiefs' and Headmen's civil courts, that I have fixed _____
the _____ day of _____ 19____
at 10 a.m. as the date for hearing of the appeal.

The evidence will be heard anew by the Bantu Affairs Commissioner and you are both required to produce all your witnesses and to attend in person.

N.B.—The Chief who tried the case will not be required to attend unless he is specially subpoenaed as a witness by either party.

Dated at _____ this _____ day
of _____ 19____.

Appellant's Signature or Mark. _____

Clerk of the Court. _____

FORM 4: RULES 10 AND 11.

NOTIFICATION OF APPEAL TO BANTU AFFAIRS COMMISSIONER'S COURT AND REQUEST FOR REASONS FOR JUDGMENT.

Bantu Affairs Commissioner, _____

Case No. _____

To Chief/Chief's Deputy/Headman, _____

In the case between—

Plaintiff _____

and _____

Defendant. _____

VORM 3—REËL 10.

B.A. 503.

KENNISGEWING VAN VERHOOR VAN APPEL TEEN DIE UITSpraak VAN DIE HOF VAN 'N KAPTEIN.

In die Hof van die Bantoesakekommissaris vir die Distrik/Gebied
van _____ gehou op _____

In die appèlsaak wat deur die eiser/verweerder aangeteken is
op _____ teen 'n uitspraak
van kaptein _____ in die saak
tussen _____ eiser, van _____

teen _____

verweerder, van _____

verhoor op _____

Eis _____

Antwoord van verweerder op die eis _____

Uitspraak van die kaptein _____

AAN BOGENOEMDE EISER EN VERWEERDER.

U word hierby kragtens reël 10 (1) (b) van die Reëls vir Siviele
Howe van Kapteins en Hoofmanne in kennis gestel dat ek _____
die _____
dag van _____ 19____ om 10 vm. bepaal het as die datum
vir die verhoor van die appèl.

Die getuienis sal opnuut deur die Bantoesakekommissaris aange-
hoor word en u word albei versoek om persoonlik, tesame met al u
getuies, te verskyn.

L.W.—Die kaptein wat die saak verhoor het, hoef nie teenwoordig te
wees nie tensy hy spesiaal deur enigen van die twee partye as 'n
getuie gedagvaar is.

Gedateer te _____ op hede die _____
dag van _____ 19____.

Handtekening of merk van appellant. _____

Klerk van die Hof. _____

VORM 4: REËLS 10 EN 11.

KENNISGEWING VAN APPEL BY BANTOESAKEKOMMISSARISHOF EN VERSOEK OM REDES VIR UITSpraak.

Bantoesakekommissaris, _____

Saak No. _____

Aan Kaptein/Kaptein se gevolmagtigde/Hoofman, _____

In die saak tussen—

eiser _____

en _____

verweerder. _____

You are hereby notified in terms of rule 10 (1) (d) of the Rules for Chiefs' and Headmen's civil courts, that an appeal has been noted by the Plaintiff/Defendant in the above-mentioned case.

You are required in terms of rule 11 (1) of the said Rules to furnish me with your reasons for judgment within fourteen days of receipt of this notice.

On receipt of your reasons the sum of R. _____ deposited by the appellant will be paid to you.

Clerk of the Court.

FORM 5: RULE 12.

NOTICE OF RESULT OF APPEAL HEARD IN BANTU AFFAIRS COMMISSIONER'S COURT.

Bantu Affairs Commissioner,

Case No. _____
To Chief/Chief's Deputy/Headman,

In the case between—

Plaintiff

and

Defendant.

You are hereby notified in terms of rule 12 (5) of the Rules for Chiefs' and Headmen's civil courts, that the appeal against the judgment of your court in the above-mentioned case was heard by this court on _____

The judgment of this court reads as follows:—

Remarks: _____

Clerk of the Court.

FORM 6: RULE 12.

NOTIFICATION OF FURTHER APPEAL/RESULT OF APPEAL TO BANTU APPEAL COURT.

Bantu Affairs Commissioner,

Case No. _____
To Chief/Chief's Deputy/Headman,

In the case between—

Plaintiff

and

Defendant.

*You are hereby notified in terms of rule 12 (5) of the Rules for Chiefs' and Headmen's civil courts, that a further appeal to the Bantu Appeal Court in the above-mentioned case has been noted.

*The judgment of the Bantu Appeal Court in this appeal reads as follows:—

Clerk of the Court.

* Delete inapplicable words.

U word hierby kragtens reël 10 (1) (d) van die Reëls vir Siviele Howe van Kapteins en Hoofmanne in kennis gestel dat 'n appèl deur die eiser/verweerder in bovermelde saak aangeteken is.

Daar word van u vereis om my ingevolge reël 11 (1) van genoemde Reëls binne veertien dae ná ontvangs van hierdie kennisgewing van u redes vir uitspraak te voorsien.

By ontvangs van u redes sal die bedrag van R. _____ deur die appellant gedeponeer, aan u betaal word.

Klerk van die Hof.

VORM 5: REËL 12.

KENNISGEWING VAN UITSLAG VAN APPÈL VERHOOR IN BANTOESAKEKOMMISSARISHOF.

Bantoesakekommissaris,

Saak No. _____
Aan Kaptein/Kaptein se gevolmagtigde/Hoofman,

In die saak tussen—

eiser,

en

verweerder.

U word hierby kragtens reël 12 (5) van die Reëls vir Siviele Howe van Kapteins en Hoofmanne in kennis gestel dat die appèl teen die uitspraak van u hof in bovermelde saak, deur hierdie hof op _____ verhoor is.

Die uitspraak van hierdie hof lui soos volg:—

Opmerkings: _____

Klerk van die Hof.

VORM 6: REËL 12.

KENNISGEWING VAN VERDERE APPÈL/UITSLAG VAN APPÈL BY BANTOE-APPÈLHOF.

Bantoesakekommissaris,

Saak No. _____
Aan Kaptein/Kaptein se gevolmagtigde/Hoofman,

In die saak tussen—

eiser

en

verweerder.

* U word hierby kragtens reël 12 (5) van die Reëls vir Siviele Howe van Kapteins en Hoofmanne in kennis gestel dat 'n verdere appèl na die Bantoe-appèlhof in bovermelde saak aangeteken is.

* Die uitspraak van die Bantoe-appèlhof lui soos volg:—

Klerk van die Hof.

*Skrap ontoepaslike woorde.

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