



**RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA**

2nd Floor, Centre Walk East Tower, 266 Pretorius Street, PRETORIA • P.O. Box 13106, The Tramshed, 0126 • Tel (012) 326 8014/ 8045, Fax (012) 326 8018

6 February 2017

Our ref: Raj Daya

Your ref:

Per email

Dear Sir/Madam

REQUEST FOR COMMENT: HARMONISATION AND PROVISION OF TARIFF ITEMS FOR SHERIFFS IN RESPECT OF SALES IN EXECUTION OF IMMOVABLE PROPERTY: UNIFORM RULE 68 AND PART II OF TABLE C OF ANNEXURE 2 TO THE MAGISTRATES' COURTS RULES

The Rules Board for Courts of Law is currently harmonising the rules in the High Court and the Lower Courts dealing with sales in execution of immovable property. Widespread comment has been received and considered by the Rules Board in finalising Uniform Rule 46, Magistrates' Courts Rule 43, proposed Uniform Rule 46A, proposed Magistrates' Courts Rule 43A, amended Form 21 (Uniform Rules) and proposed Form 33A (Magistrates' Courts Rules). As a result of the aforesaid process, the tariffs for sheriffs in Uniform Rule 68 and Part II of Table C of Annexure 2 to the Magistrates' Courts Rules will require amendment and harmonisation with the rules in the High Court and Lower Courts pertaining to sales in execution of immovable property.

The Rules Board for Courts of Law therefore requests your comments on:

- (a) Proposed draft tariff amendments and insertions to item 5(c) of Uniform Rule 68 in respect of attendances required by sheriffs in terms of amended Uniform Rule 46, proposed Rule 46A and amended Form 21 (attached as Annexure A); and
- (b) Proposed draft tariff amendments and insertions to Part II of Table C of Annexure 2 to the Magistrates' Courts Rules in respect of attendances required by sheriffs in terms of

Board members appointed in terms of Section 3 of the Rules Board for Courts of Law Act 107 of 1985

Judge SA Majiedt(Chairperson), Judge W van der Merwe(Deputy-Chairperson), Mr.M Motimele SC, Ms. J Wessels, Mr.P Hundermark, Mr.P Farlam SC, Ms.A Platt SC(alt-GCB), Prof.M Paleker, Ms.E de Klerk, Mr.G Bellairs, Ms.N Ndlovu, Mr.M Kutama, Mr.A Essa (alt-LSSA), Mr.R Isaacs

amended Magistrates' Courts Rule 43, proposed Magistrates' Courts Rule 43A and proposed Form 33A (attached as Annexure B).

We advise that certain aspects of the tariff for sheriffs such as commission and where the property attached in execution is not sold due to the warrant being withdrawn or stayed is currently under investigation by the Board. The proposed tariff amendments in (a) and (b) above contain the existing provisions of the tariffs as the Board's investigation on the aforesaid aspects has not yet been finalised.

The High Court and Lower Court rules pertaining to sales in execution of immovable property have yet to be considered and approved by the Minister. The following rules and forms attached hereto to assist you with your comments on the proposed tariff amendments must not be construed as having been approved by the Minister. The following proposed rules and forms are attached for ease of reference:

- Draft amended URC 46 (Annexure C);
- Draft proposed URC 46A (Annexure D);
- Draft amended Form 21 (Annexure E);
- Draft amended MCR 43 (Annexure F);
- Draft proposed MCR 43A (Annexure G); and
- Draft proposed Form 33A (Annexure H).

Kindly submit your comments on the proposed tariff amendments in (a) and (b) above, to the Secretariat by not later than **24 March 2017**.

Same can be sent via hand delivery, post, facsimile or email as follows:

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Postal address: P.O. Box 13106, The Tramshed, 0126

Facsimile: (012) 326-8018

Email: Charmaine Kemp (ChKemp@justice.gov.za)

Further enquiries may be directed to 012 326 8014

Yours faithfully,

Raj Daya (signed electronically)

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