



**GOVERNMENT NOTICE
DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT**

No. R. 2017

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)

**AMENDMENT OF RULES REGULATING THE CONDUCT OF THE PROCEEDINGS
OF THE MAGISTRATES' COURTS 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 and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

Expressions in square brackets in bold [] indicate omissions from the existing rules

Expressions with solid underline indicate insertions into the 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, R. 611 of 29 July 2011, R. 1085 of 30 December 2011, R. 685 of 31 August 2012, R. 115 of 15 February 2013, R. 263 of 12 April 2013, R. 760 of 11 October 2013, R. 183 of 18 March 2014, R. 215 of 28 March 2014 and R. 507 of 27 June 2014, R. 5 of 9 January 2015, R. 32 of 23 January 2015, R. 33 of 23 January 2015, R. 318 of 17 April 2015, R. 545 of 30 June 2015, R. 2 of 19 February 2016 and R. 1055 of 29 September 2017.

Amendment of TABLE OF CONTENTS AND COMPARATIVE TABLE OF NUMBERS OF NEW RULES AND CORRESPONDING NUMBERS OF PREVIOUS RULES

2. The TABLE OF CONTENTS AND COMPARATIVE TABLE OF NUMBERS OF NEW RULES AND CORRESPONDING NUMBERS OF PREVIOUS RULES is hereby amended by the substitution thereof for the following TABLE OF CONTENTS AND COMPARATIVE TABLE OF NUMBERS OF NEW RULES AND CORRESPONDING NUMBERS OF PREVIOUS RULES:

<i>Rule No.</i>	<i>Subject</i>	<i>Previous Rule No.</i>
<u>CHAPTER 1 (rules 1-69)</u>		
1	Purpose and application of rules	1
2	Definitions	2
[CHAPTER 1 (rules 3-69)]		
3	Duties and office hours of registrars and clerks of the court in civil matters	3
4	Applications in terms of sections 57 and 58 of the Act	4
5	Summons	5
6	Rules relating to pleadings generally	6
7	Amendment of summons	7
8	Sheriff of the court	8
9	Service of process, notices and other documents	9
10	Edictal citation and substituted service	10
11	Judgment by consent	11
12	Judgment by default	12
13	Notice of intention to defend	13
14	Summary judgment	14
14A	Provisional sentence	14A
15	Declaration	15
16	Further particulars	16
17	Plea	17
18	Offer to settle	18
18A	Interim payments	18A
19	Exceptions and applications to strike out	19
20	Claims in reconvention	20
21	Replication and plea in reconvention	21
21A	Close of pleadings	21A
21B	Failure to deliver pleadings – barring	21B
22	Set-down of trial	22
23	Discovery of documents	23
24	Medical examinations, inspection of things, expert testimony and tendering in evidence any plan, diagram, model or photograph	24
25	Pre-trial procedure for formulating issues	25

26	Subpoenae, interrogatories and commissions <i>de bene esse</i>	26
27	Withdrawal, dismissal and settlement	27
28	Intervention, joinder, and consolidation of actions	28
28A	Third party procedure	28A
29	Trial	29
30	Record of proceedings in civil matters	30
31	Adjournment and postponement	31
32	Non-appearance of a party - withdrawal and dismissal	32
33	Costs	33
34	Fees of the sheriff	34
35	Review of taxation	35
36	Process in execution	36
37	Second and further warrants or emoluments attachment orders or garnishee orders	37
38	Security by judgment creditor	38
39	General provisions regarding execution	39
40	Execution against a partnership	40
41	Execution against movable property	41
42	Execution against movable property (continued)	42
43	Execution against immovable property	43
43A	[Enforcement of foreign civil judgments] Execution against residential immovable property	-
43B	<u>Enforcement of foreign civil judgments</u>	43A
44	Interpleader claims	44
45	Enquiry into financial position of judgment debtor	45
46	Attachment of emoluments by emoluments attachment order	46
47	Attachment of a debt by garnishee order	47
48	Administration orders	48
49	Rescission and variation of judgments	49
50	Appeals and transfer of actions to magistrates' courts	50
51	Appeals in civil cases	51
52	Representation of parties	52
53	<i>Pro Deo</i> applicants	53
54	Actions by and against partners, a person carrying on business in a name or style other than his or her own name, an unincorporated company, syndicate or association	54
55	Applications	55
55A	Amendment of pleadings	55A
56	Interdicts, attachments to secure claims and <i>mandamenten van spolie</i>	56
57	Attachment of property to found or confirm jurisdiction	57
58	[Maintenance pendente lite, contribution towards costs, interim custody and access to children] <u>Interim relief in matrimonial matters</u>	58
59	Assessors	59
60	Non-compliance with rules, including time limits and errors	60

60A	Irregular proceedings	60A
61	Records, entries or documents as evidence in civil matters	61
62	Security for costs	62
63	Filing, preparation and inspection of documents	63
64	Procedure for securing the attendance of witnesses in criminal cases	64
65	Criminal record book	65
66	Records of criminal cases	66
67	Criminal appeals	67
68	Oath of office of interpreter	68
69	Repeal of rules and transitional provisions	69
CHAPTER 2 (rules 70-88)		
70	Objectives	70
71	Purposes of mediation	71
72	Purpose of rules	72
73	Definitions	73
74	Application of rules	74
75	Referral to mediation	75
76	Functions and duties of clerks and registrars	76
77	Referral to mediation prior to commencement of litigation	77
78	Referral to mediation by litigants	78
79	Referral to mediation by court	79
80	Role and functions of mediator	80
81	Suspension of time limits	81
82	Settlement agreements	82
83	Multiple parties and multiple disputes	83
84	Fees of mediators	84
85	Representation of parties at mediation proceedings	85
86	Accreditation of mediators	86
87	Forms and guidelines	87
88	Short title and commencement	88"

Substitution of rule 43 of the Rules

3. The following rule is hereby substituted for rule 43 of the Rules:

“43 Execution against immovable property

- (1)(a) Subject to the provisions of rule 43A, no warrant of execution against the immovable property of any judgment debtor shall be issued unless—
- (i) a return has been made of any process issued against the movable property of the judgment debtor from which it appears that the said person has insufficient movable property to satisfy the warrant; or

(ii) such immovable property has been declared to be specially executable by the court.

(b) A warrant of execution against immovable property shall contain—

(i) a full description of the nature, magisterial district and physical address of the immovable property to enable it to be traced and identified by the sheriff; and

(ii) sufficient information to enable the sheriff to give effect to subrule (3) hereof.

(2) The attachment of the immovable property shall be made by any sheriff of the district in which the property is situated, upon a warrant of execution corresponding substantially with Form 32 of Annexure 1.

(3)(a) Notice of the attachment, corresponding substantially with Form 33 of Annexure 1, shall be served by the sheriff upon the owner of the immovable property and upon the registrar of deeds or other officer charged with the registration of such property, and if the property is occupied by some person other than the owner, also upon such occupier.

(b) Any notice referred to in paragraph (a) shall—

(i) draw attention to the provisions of subrule (8)(a)(iii); and

(ii) be served according to the provisions of rule 9, except that service upon the registrar of deeds or other officer charged with the registration of immovable property may also be effected by the sheriff by means of a registered letter, duly prepaid and posted, addressed to the officer intended to be served.

(4)(a) When effecting the attachment, the sheriff may enter buildings or structures on the immovable property in order to ascertain the improvements made to the immovable property, as well as the condition of such improvements: Provided that where the sheriff after reasonable attempts is unable to gain access onto the immovable property or into any building or structure on account of the property, building or structure being locked, the sheriff may use a locksmith to gain entry.

(b) After attachment, any sale in execution shall take place in the district in which the attached immovable property is situated and shall be conducted by the sheriff of such district who first attached the property: Provided that the sheriff in the first instance and subject to the provisions of paragraph (d) of subrule (8) may on good cause shown authorise such sale to be conducted elsewhere and by another sheriff.

(c) Upon receipt of written instructions from the execution creditor to proceed with such sale, the sheriff shall ascertain and record the bonds or other encumbrances which are registered against the attached

immovable property together with the names and addresses of the persons in whose favour such bonds and encumbrances are so registered and shall thereupon notify the execution creditor accordingly.

(5) Subject to rule 43A and any order made by the court, no immovable property which is subject to any claim preferent to that of the execution creditor shall be sold in execution unless—

(a) the execution creditor has caused notice of the intended sale, corresponding substantially with Form 34 of Annexure 1, to be served upon—

(i) preferent creditors personally;

(ii) the local authority, if the property is rated; and

(iii) the body corporate, if the property is a sectional title unit;

calling upon the aforesaid entities to stipulate within 10 days of a date to be stated, a reasonable reserve price or to agree in writing to a sale without reserve, and has provided proof to the sheriff that such entities have so stipulated or agreed, or

(b) subject to the provisions of section 66(2)(b) of the Act, the sheriff is satisfied that it is impossible to notify any preferent creditor, in terms of this rule, of the proposed sale, or such creditor, having been notified, has failed or neglected to stipulate a reserve price or to agree in writing to a sale without reserve as provided for in paragraph (a) within the time stated in such notice.

(6) The sheriff may by notice served upon any person require such person to deliver up to the sheriff forthwith, all documents in such person's possession or control relating to the debtor's title to the said property.

(7)(a) The sheriff conducting the sale shall appoint a day and place for the sale of the attached immovable property, such day being, except by special leave of a magistrate, not less than 45 days after service of the notice of attachment and shall forthwith inform all other sheriffs appointed in the district of such day and place.

(b) (i) The execution creditor shall, after consultation with the sheriff conducting the sale, prepare a notice of sale containing a short description of the attached immovable property, its improvements, magisterial district and physical address, the time and place for the holding of the sale and the fact that the conditions may be inspected at the office of the sheriff conducting the sale.

(ii) The execution creditor must furnish the sheriff with as many copies of the notice of sale as the sheriff may require.

(c) The execution creditor shall—

(i) publish the notice once in a newspaper circulating daily or weekly in the district in which the attached immovable property is situated and in the Gazette not less than five days and not more than 15 days before the date of the sale; and

(ii) provide the sheriff conducting the sale, by hand, or by facsimile or electronic mail, with one satisfactory photocopy of each of the notices published in the newspaper and the Gazette, respectively.

(d) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall forward a copy of the notice of sale referred to in paragraph (b) to every execution creditor who had caused the said immovable property to be attached and to every mortgagee thereof whose address is known and shall simultaneously furnish a copy of the notice of sale to all other sheriffs appointed in that district.

(e) Not less than 10 days prior to the date of the sale, the sheriff conducting the sale shall affix—

(i) one copy of the notice on the notice-board of the magistrate's court of the district in which the attached immovable property is situated, or if the said property is situated in the district where the court out of which the warrant was issued is situated, then on the notice-board of such court; and

(ii) one copy at or as near as may be to the place where the said sale is actually to take place.

(8)(a) (i) Not less than 35 days prior to the date of the sale, the execution creditor shall prepare the conditions of sale, corresponding substantially with Form 33A of Annexure 1, upon which the attached property is to be sold and shall submit such conditions to the sheriff conducting the sale, for the purposes of settling them.

(ii) In addition to any other terms, the conditions of sale shall include any conditions ordered by the court.

(iii) Not less than 25 days prior to the date of the sale, any interested party may submit to the sheriff, in writing, further or amended conditions of sale.

(iv) Not less than 20 days prior to the date of the sale, the sheriff shall settle the conditions of sale.

(v) The sale in execution and the conditions of sale shall comply with the provisions of any law relating to auctions, in particular the Consumer Protection Act, 2008 and the Regulations promulgated thereunder.

- (b) (i) The execution creditor shall thereafter supply the said sheriff with three copies of the conditions of sale, one of which shall lie for inspection by interested parties at the office of the sheriff for 15 days prior to the date of the sale.
- (ii) The sheriff conducting the sale shall forthwith furnish a copy of the conditions of sale to all other sheriffs appointed in that district.
- (c) Not less than 15 days prior to the date of the sale, the sheriff shall serve one copy of the conditions of sale on the judgment debtor.
- (d) Not less than 10 days prior to the date of the sale, any interested party may, subject to rule 43A and any order made by the court under the provisions thereof, and upon 24 hours' notice to all known affected parties apply to the magistrate of the district in which the attached immovable property is to be sold for any modification of the conditions of sale and the magistrate may make such order thereon, including an appropriate order as to costs.
- (9) The execution creditor shall appoint a conveyancer to attend to the transfer of the attached immovable property sold in execution: Provided that the sheriff shall be entitled to appoint a new conveyancer should the conveyancer appointed by the execution creditor not proceed timeously or satisfactorily with the transfer.
- (10)(a) Immovable property attached in execution shall be sold by public auction by the sheriff or a private auctioneer appointed in terms of paragraph (b).
- (b) The execution creditor or any person having an interest in the due and proper realisation of the attached immovable property may, by notice given to the sheriff within 15 days after attachment, but subject to the provisions hereinafter contained, require that such property be sold by an auctioneer in the ordinary course of business and may in such notice nominate the auctioneer to be employed.
- (c)(i) Where a notice in terms of paragraph (b) is given by any person other than the execution creditor, such notice must be accompanied by the deposit of a sum sufficient to cover the additional expense of sale by an auctioneer in the ordinary course of business, and in default of such a deposit such notice shall be void.
- (ii) A notice in terms of paragraph (b) shall lapse if the services of an auctioneer are not obtainable.
- (iii) If after satisfying the claim of the execution creditor and all warrants of execution lodged with the sheriff on or before the day immediately preceding the date of the sale and all costs there are surplus proceeds of the sale of the immovable property, the deposit must be refunded to the depositor: Provided that if there is no surplus, such deposit must,

as far as may be necessary, be applied in payment of the auctioneer's fees and expenses.

(d) If two or more notices in terms of paragraph (b) are given, the first shall have preference.

(11)(a)(i) If the purchaser fails to carry out any obligations due by the purchaser under the conditions of sale, the sale may be cancelled by a magistrate summarily on the report of the sheriff conducting the sale, after due notice to the purchaser, and the attached immovable property may be put up for sale again.

(ii) The report shall be accompanied by a notice corresponding substantially with Form 33B of Annexure 1.

(iii) If the sale is cancelled, the sheriff shall inform the judgment debtor of the cancellation.

(b) Any loss sustained by reason of the purchaser's default may, on the application of any aggrieved creditor whose name appears on the sheriff's distribution account, be recovered from the purchaser under judgment of a magistrate given on a written report by the sheriff, after notice in writing has been given to the purchaser that the report will be laid before a magistrate for the aforesaid purpose.

(c) If the purchaser is already in possession of the immovable property, the said sheriff may, on notice to affected persons apply to a magistrate for an order evicting the purchaser or any person claiming to occupy the property through the purchaser or otherwise occupying the property.

(12) Subject to the provisions of rule 43A and subrule (5) hereof—

(a) the sale shall be conducted upon the conditions stipulated under subrule (8); and

(b) the immovable property shall be sold to the highest bidder.

(13)(a) All moneys in respect of the purchase price of the immovable property sold in execution shall be paid to the sheriff and the sheriff shall retain such moneys in his or her trust account until transfer has been given to the purchaser.

(b) The sheriff conducting the sale shall give transfer to the purchaser against payment of the purchase money and upon performance of the conditions of sale and may for that purpose do anything necessary to effect registration of transfer, and anything so done by him or her shall be as valid and effectual as if he or she were the owner of the property.

(c) No amount of the purchase money shall be paid out until the provisions of subrule (14) have been complied with.

(14)(a) After conclusion of the sale, but before preparation by the sheriff of a plan of distribution, the execution creditor or his or her attorney shall provide the sheriff with a certificate of all money paid by the judgment debtor to the execution creditor or his or her attorney after the issue of the warrant of execution.

(b) (i) Within 10 days after the date of registration of the transfer, the sheriff shall have prepared a plan of distribution of the proceeds in order of preference, and must forward a copy of such plan to the registrar or clerk of the court and to all other sheriffs appointed in that district.

(ii) Immediately thereafter the said sheriff shall give notice to all parties who have lodged warrants and to the execution debtor that the plan of distribution will lie for inspection at his or her office and the office of the registrar or clerk of the court for 15 days from a date mentioned, and unless such parties signify in writing their agreement to the plan, such plan will so lie for inspection.

(c) After deduction from the proceeds of the costs and charges of execution, the following shall be the order of preference:

(i) Claims of preferent creditors ranking in priority in their legal order of preference; and thereafter

(ii) Claims of other creditors whose warrants have been lodged with the sheriff in the order of preference appearing from sections 96 and 98A to 103 (inclusive) of the Insolvency Act, 1936 (Act No. 24 of 1936).

(d) Any interested person objecting to the plan must—

(i) before the expiry of the period referred to in paragraph (b)(ii), give notice in writing to the sheriff and all other interested persons of the particulars of the objection; and

(ii) within 10 days after the expiry of the period referred to in paragraph (b)(ii), bring such objection before a magistrate for review upon 10 days notice to the sheriff and the said persons.

(e) The magistrate on review shall hear and determine the matter in dispute and may amend or confirm the plan of distribution or may make such order including an order as to costs as he or she deems appropriate.

(f) If—

(i) no objection is lodged to such plan; or

(ii) the interested parties signify their concurrence therein; or

(iii) the plan is confirmed or amended on review.

the sheriff shall, on production of a certificate from the conveyancer that transfer has been given to the purchaser, pay out in accordance with the plan of distribution.

(15) Neither a sheriff nor any person on behalf of the sheriff shall at any sale in execution purchase any immovable property offered for sale either for himself or herself or for any other person."

Substitution of rule 43A of the Rules

4. The following rule is hereby substituted for rule 43A of the Rules:

"43A Execution against residential immovable property

(1) This rule applies whenever an execution creditor seeks to execute against the residential immovable property of a judgment debtor.

(2)(a) A court considering an application under this rule must—

(i) establish whether the immovable property which the execution creditor intends to execute against is the primary residence of the judgment debtor; and

(ii) consider alternative means by the judgment debtor of satisfying the judgment debt, other than execution against the judgment debtor's primary residence.

(b) A court shall not authorise execution against immovable property which is the primary residence of a judgment debtor unless the court, having considered all relevant factors, considers that execution against such property is warranted.

(c) The registrar or clerk of the court shall not issue a warrant of execution against the residential immovable property of any judgment debtor unless a court has ordered execution against such property.

(3) Every notice of application to declare residential immovable property executable shall be—

(a) substantially in accordance with Form 1B of Annexure 1;

(b) on notice to the judgment debtor and to any other party who may be affected by the sale in execution, including the entities referred to in rule 43(5)(a); Provided that the court may order service on any other party it considers necessary;

(c) supported by affidavit which shall set out the reasons for the application and the grounds on which it is based; and

(d) served by the sheriff on the judgment debtor personally: Provided that the court may order service in any other manner.

(4)(a) The applicant shall in the notice of application—

(i) state the date on which the application is to be heard;

(ii) inform every respondent cited therein that if the respondent intends to oppose the application or make submissions to the court, the respondent must do so on affidavit within 10 days of service of the application and appear in court on the date on which the application is to be heard;

(iii) appoint a physical address which shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse at which the applicant will accept service of all documents in these proceedings; and

(iv) state the applicant's postal, facsimile or electronic mail address where available.

(b) The application shall not be set down for hearing on a date less than five days after expiry of the period referred to in paragraph (a)(ii).

(5) Every application shall be supported by the following documents, where applicable, evidencing:

(a) the market value of the immovable property;

(b) the local authority valuation of the immovable property;

(c) the amounts owing on mortgage bonds registered over the immovable property;

(d) the amount owing to the local authority as rates and other dues;

(e) the amounts owing to a body corporate as levies; and

(f) any other factor which may be necessary to enable the court to give effect to subrule (8);

Provided that the court may call for any other document which it considers necessary.

(6)(a) A respondent, upon service of an application referred to in subrule (3), may—

(i) oppose the application; or

(ii) oppose the application and make submissions which are relevant to the making of an appropriate order by the court; or

(iii) without opposing the application, make submissions which are relevant to the making of an appropriate order by the court.

(b) A respondent referred to in paragraph (a)(i) and (ii) shall—

(i) admit or deny the allegations made by the applicant in the applicant's founding affidavit; and

(ii) set out the reasons for opposing the application and the grounds on which the application is opposed.

(c) Every opposition or submission referred to in paragraphs (a) and (b) shall be set out in an affidavit.

(d) A respondent opposing an application or making submissions shall, within 10 days of service of the application—

(i) deliver the affidavit referred to in paragraph (c);

(ii) appoint a physical address which shall, in places where there are three or more attorneys or firms of attorneys practising independently of one another, be within 15 kilometres of the courthouse at which documents may be served upon such respondent; and

(iii) state the respondent's postal, facsimile or electronic mail address where available.

(7) The registrar or clerk of the court shall place the matter on the roll for hearing by the court on the date stated in the Notice of Application.

(8) A court considering an application under this rule may—

(a) of its own accord or on the application of any affected party, order the inclusion in the conditions of sale, of any condition which it may consider appropriate;

(b) order the furnishing by—

(i) a municipality of rates due to it by the judgment debtor; or

(ii) a body corporate of levies due to it by the judgment debtor;

(c) on good cause shown, condone—

(i) failure to provide any document referred to in subrule (5); or

(ii) delivery of an affidavit outside the period prescribed in subrule (6)(d);

(d) order execution against the primary residence of a judgment debtor if there is no other satisfactory means of satisfying the judgment debt;

(e) set a reserve price;

(f) postpone the application on such terms as it may consider appropriate;

(g) refuse the application if it has no merit;

(h) make an appropriate order as to costs, including a punitive order against a party who delays the finalisation of an application under this rule; or

(i) make any other appropriate order.

(9)(a) In an application under this rule, or upon submissions made by a respondent, the court must consider whether a reserve price is to be set.

(b) In deciding whether to set a reserve price and the amount at which the reserve is to be set, the court shall take into account—

(i) the market value of the immovable property;

(ii) the amount owing as rates or levies;

(iii) the amounts owing on registered mortgage bonds;

(iv) any equity which may be realised between the reserve price and the market value of the property;

(v) reduction of the judgment debtor's indebtedness on the judgment debt and as contemplated in subrule (5)(a) to (e), whether or not equity may be found in the immovable property, as referred to in subparagraph (iv);

(vi) whether the immovable property is occupied, the persons occupying the property and the circumstances of such occupation;

(vii) the likelihood of the reserve price not being realised and the likelihood of the immovable property not being sold;

(viii) any prejudice which any party may suffer if the reserve price is not achieved; and

(ix) any other factor which in the opinion of the court is necessary for the protection of the interests of the execution creditor and the judgment debtor.

- (c) If the reserve price is not achieved at a sale in execution, the court must, on a reconsideration of the factors in paragraph (b) of this subrule and its powers under this rule, order how execution is to proceed.
- (d) Where the reserve price is not achieved at a sale in execution, the sheriff must submit a report to the court, within 5 days of the date of the auction, which report shall contain—
- (i) the date, time and place at which the auction sale was conducted;
 - (ii) the names, identity numbers and contact details of the persons who participated in the auction;
 - (iii) the highest bid or offer made; and
 - (iv) any other relevant factor which may assist the court in performing its function in paragraph (c).
- (e) The court may, after considering the factors in paragraph (d) and any other relevant factor, order that the property be sold to the person who made the highest offer or bid.”

Insertion of rule 43B in the Rules

5. The following rule is hereby inserted in the Rules after rule 43A:

“43B Enforcement of foreign civil judgment

- (1) Whenever a certified copy of a judgment referred to in section 3(1) of the Enforcement of Foreign Civil Judgments Act, 1988 (Act No. 32 of 1988), is filed with the registrar or clerk of the court in the Republic, such registrar or clerk of the court shall register that judgment by numbering it with a consecutive number for the year during which it is filed and by noting the particulars in respect of the judgment referred to in paragraphs (a),(b) and (c) of the said section on the case cover.
- (2) A judgment creditor shall, together with the certified copy of a judgment referred to in subrule (1) —
- (a) file an affidavit made by himself or herself or by somebody else who can confirm the following facts stating—
 - (i) the amount of interest due, the appropriate rate of interest and how the amount of interest has been calculated; and
 - (ii) whether any amount has been paid by the judgment debtor since judgment, and, if so, whether such amount has been deducted from

the capital amount of the judgment debt or from the interest or costs, as the case may be; and

(b) if any amount payable under the judgment is expressed in a currency other than the currency of the Republic, file a certificate issued by a banking institution registered in terms of section 4 of the Banks Act, 1965 (Act No. 23 of 1965), stating the rate of exchange prevailing at the date of the judgment.

(3) A notice issued in terms of section 3(2) of the Enforcement of Foreign Civil Judgments Act, 1988 (Act No. 32 of 1988), shall contain—

(a) the consecutive number referred to in subrule (1);

(b) the date on which the judgment was registered;

(c) the balance of the amount payable under the judgment;

(d) the taxed costs awarded by the court of the designated country;

(e) the interest, if any, which by the law or by order of the court of the designated country concerned is due on the amount payable under the judgment up to the time of registration of the judgment;

(f) the reasonable costs of and incidental to the registration of the judgment, including the costs of obtaining a certified copy of the judgment;

(g) the names of the parties concerned; and

(h) the name of the court where the judgment was given.”

Amendment of the Numerical List to Annexure 1 of the Rules

6. The Numerical List to Annexure 1 of the Rules is hereby amended by the substitution therefor of the Numerical List to the Annexure contained in Annexure A to this Schedule.

Amendment of Annexure 1 to the Rules

7. Annexure 1 to the Rules is hereby amended by—

(a) the substitution for Forms Nos.33 and 34 of Forms Nos. 33 and 34, respectively, contained in Annexure B to this Schedule; and

(b) the addition of Forms Nos. 1B, 33A and 33B contained in Annexure B to this Schedule.

Commencement

8. These rules come into operation on **22 December 2017**.

ANNEXURE A

“ANNEXURE 1

FORMS

NUMERICAL LIST

Form No.

1. Notice of Motion (Short Form)
- 1A. Notice of Motion (Long Form)
- 1B. Notice of application to declare immovable property executable in terms of rule 43A
2. Simple Summons
- 2A. Summons: Provisional Sentence
- 2B. Combined Summons
- 2C. Combined Summons: (Divorce Actions)
3. Summons (in which is included an automatic rent interdict)
4. Edictal citation/substituted service: short form of process
5. Request for default judgment
- 5A. Request for default judgment where the defendant has admitted liability and undertaken to pay the debt in instalments or otherwise – Section 57 of the Act
- 5B. Request for default judgment where the defendant has consented to judgment – Section 58 of the Act
6. Notice of withdrawal of action/application
7. Notice of application for summary judgment
8. Affidavit in support of application for summary judgment
9. Affidavit under section 32 of the Act
10. Security under section 32 of the Act
11. Order under section 32 of the Act
12. Consent to sale of goods attached under section 32 of the Act
13. Discovery – form of affidavit
14. Notice in terms of rule 23(5)
15. Discovery – notice to produce
- 15A. Discovery – notice to inspect documents
- 15B. Discovery – notice to produce documents in pleadings, etc
16. Order for interdict obtained *ex parte*
17.
18. Order for attachment of property to found or confirm jurisdiction
19. Direction to attend pre-trial conference

20. Order – pre-trial conference
21. Application for trial with assessors
22. Summons to assessor
23. Commissions *de bene esse*
24. Subpoena
25. Warrant for payment of fine or arrest of witness in default
26. Warrant for the arrest of a witness in default
27. Security on attachment or interdict *ex parte*
28. Security when execution is stayed pending appeal
29. Security when execution is allowed pending appeal
30. Warrant of ejectment
31. Warrant for delivery of goods
32. Warrant for execution against property
33. Notice of attachment in execution
- 33A. Conditions of sale in execution of immovable property
- 33B. Notice to cancel sale of immovable property in terms of rule 43(11)(a)
34. Notice **[to preferent creditor]** in terms of rule 43(5)(a) [section 66(2)(a) of the Act]
35. Interpleader summons [section 69(1) of the Act]
36. Interpleader summons [section 69(2) of the Act]
37. Security under rule 38
38. Emoluments attachment order
39. Garnishee order
40. Notice to appear in court in terms of section 65A(1) of the Act
- 40A. Warrant of arrest in terms of section 65A(6) of the Act
- 40B. Notice to appear in court in terms of section 65A(8)(b) of the Act
41. Notice of set-down of postponed proceedings under section 65E(3) of the Act
42. Notice in terms of rule 58(2)(a)
43. Notice to Third Party
44. Application for an administration order under section 74(1) of the Act
45. Statement of affairs of debtor in an application for an administration order in terms of section 65I(2) or 74A of the Act
46. Certificate of service of foreign process
47. Notice to debtor that an additional creditor has lodged a claim against him or her for a debt owing before the making of the administration order
48. Notice to debtor that a creditor has lodged a claim for a debt accruing after granting of the administration order
49. Notice to add an additional creditor to the list of creditors of a person under administration
50. Notice to creditor that his or her name has been added to the list of creditors of a person under administration
51. Administration order
52. Distribution account in terms of section 74J(5) of the Act
- 52A. Rescission of administration order
53. Notice of abandonment of specified claim, exception or defence
54. Agreement not to appeal
55. Request to inspect record
56. Criminal record book
57. Notice in terms of section 309B(2)(d) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977)".