

South Africa

Rules Board for Courts of Law Act, 1985

Rules of the Supreme Court of Appeal, 1998

Government Notice R1523 of 1998

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Rules of the Supreme Court of Appeal, 1998

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South Africa

Rules Board for Courts of Law Act, 1985

Rules of the Supreme Court of Appeal, 1998

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[Amended by [Rules of the Supreme Court of Appeal, 1998: Amendment \(Government Notice R979 of 2010\)](#) on 24 December 2010]

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.

1. Definitions

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

"**apply**" means apply on notice of motion on the prescribed form in the Annexure, and "application" has a corresponding meaning;

"**Court**" means the Supreme Court of Appeal of South Africa;

"**court day**" means any day other than a Saturday, Sunday or public holiday;

"**judge**" means a judge or an acting judge of the Court sitting otherwise than in open court;

"**lodging of documents with the registrar**" means the lodging of documents with the registrar through an attorney practising in Bloemfontein or, if a party is not represented by an attorney, by registered post or by that party personally, after prior service of copies of such documents on any other party;

"**party**" or any other reference to a litigant in terms includes a legal practitioner appearing on behalf of a party, as the context may require;

"**President**" means the President of the Court and, in his or her absence, includes the Deputy President of the Court;

[definition of "President" inserted by section 3 of [Government Notice R979 of 2010](#)]

"**registrar**" means the registrar of the Court and includes any acting or assistant registrar of the Court.

- (2) (a) Only court days shall be included in the computation of any time expressed in days prescribed by these rules or fixed by any order of the Court.
- (b) The period between 16 December and 15 January (both dates inclusive) shall not be taken into account in the calculation of any period in terms of these rules.

2. Court Terms

- (1) **Terms**

There shall be four terms in each year as follows:

15 February to 31 March, inclusive;

1 May to 31 May, inclusive;

15 August to 30 September, inclusive;

1 November to 30 November, inclusive.

(2) **Hearing case out of term**

A matter may be heard out of term if the President so directs.

(3) **Commencement of term**

If the day fixed for the commencement of a term is not a court day, the term shall commence on the next succeeding court day and, if the day fixed for the end of a term is not a court day, the term shall end on the court day preceding.

[rule 2 substituted by section 4 of [Government Notice R979 of 2010](#)]

3. Registrar's office hours

(1) **Hours**

The office of the registrar shall be open on court days from 08:30 to 13:00 and from 14:00 to 15:30, save that no documents shall be lodged after 15:00.

[subrule (1) amended by section 3(a) of [Government Notice R979 of 2010](#)]

(2) **Exceptional cases**

The registrar may in exceptional cases accept documents at any time, and shall do so when directed by a judge.

[subrule (2) amended by section 3(b) of [Government Notice R979 of 2010](#)]

4. General powers and duties of registrar

(1) **Filing of documents**

- (a) The registrar may refuse to accept any document tendered for lodging if, in the registrar's opinion, it does not comply with these rules: Provided that if proper copies of the rejected documents are resubmitted within 10 days of rejection, such lodging shall not be deemed untimely.
- (b) The registrar may provisionally accept, in lieu of the original document tendered for lodging, a copy (including a facsimile or other electronic copy) thereof, but the original shall be filed within 10 days thereafter.
- (c) The registrar may not accept documents in relation to an appeal on the date of the hearing of that appeal.

(2) **Maintaining of court records**

- (a) A notice of appeal or the first application in an intended appeal shall be numbered by the registrar with a consecutive number for the year during which it is filed.
- (b) Every document lodged afterwards in such a case shall be marked with that number by the party lodging it and shall not be received by the registrar until so marked.
- (c) All the documents delivered to the registrar to be filed in a case shall be filed by the registrar in a case file under the number of such case.

- (d) The registrar shall maintain the Court's records and shall not permit any of them to be removed from the court building, except as authorised by the registrar.
 - (e) Any document lodged with the registrar and made part of the Court's records shall not thereafter be withdrawn permanently from the official court files.
- (3) **Inspection and copying**
- (a) Documents filed for Court purposes are public documents and may be inspected by any person in the presence of the registrar.
 - (b) Copies of any document forming part of the Court's records may be made by any person in the presence of the registrar.
 - (c) The registrar shall, at the request of a party, make a copy of a recorded order, settlement or judgment on payment of the prescribed court fees and the registrar shall certify that copy or photocopy to be a true copy of the original.
- (4) **Settlement of disputes with registrar**
- If a dispute arises as to the correctness of any ruling by the registrar, the registrar shall refer the dispute to a judge for a final ruling.
- (5) **Communications with judges**
- Any communication directed to the President or any Judge must be done through the office of the registrar.

[rule 4 substituted by section 6 of [Government Notice R979 of 2010](#)]

5. Power of attorney

- (1) **When required**
- A power of attorney need not be filed, but the authority of a legal practitioner to act on behalf of any party may, within 10 days after it has come to the notice of any other party that the legal practitioner is so acting, or with the leave of the Court on good cause shown at any time before judgment, be disputed by notice, whereafter upon expiry of 10 days after service of the notice the legal practitioner shall no longer so act, unless a power of attorney is lodged with the registrar within that period.
- (2) **Format**
- Every power of attorney shall be signed by or on behalf of the party giving it, and shall otherwise be executed according to law.
- (3) **Exemptions**
- No power of attorney shall be required to be filed by—
- (a) the National Prosecuting Authority;
 - (b) a legal practitioner acting *pro deo* or *amicus curiae*; or
 - (c) the State Attorney, any deputy state attorney or any professional assistant to the State Attorney, or any attorney instructed in writing or by telegram or facsimile by or on behalf of the State Attorney or a deputy state attorney in any matter in which the State Attorney or deputy state attorney is acting as such by virtue of any statute.

[rule 5 substituted by section 7 of [Government Notice R979 of 2010](#)]

6. Application for leave to appeal

(1) Filing of application

In every matter where leave to appeal is by law required of the Court, an application therefor shall be lodged in triplicate with the registrar within the time limits prescribed by that law.

(2) Annexures required

Every such application shall be accompanied by—

- (a) a copy of the order of the court *a quo* appealed against;
- (b) where leave to appeal has been refused by that court, a copy of that order;
- (c) a copy of the judgment delivered by the court *a quo*; and
- (d) where leave to appeal has been refused by that court, a copy of the judgment refusing such leave:

Provided that the registrar may, on written request, extend the period for the filing of a copy of the judgment or judgments for a period not exceeding one month.

(3) Answer

Every affidavit in answer to an application for leave to appeal shall be lodged in triplicate within one month after service of the application on the respondent.

(4) Reply

An applicant who applied for leave to appeal shall, within 10 days after an affidavit referred to in subrule (3) has been received, be entitled to lodge an affidavit in reply dealing strictly only with new matters raised in the answer.

(5) Format of application, answer and reply

Every application, answer and reply—

- (a) shall—
 - (i) be clear and succinct and to the point;
 - (ii) furnish fairly all such information as may be necessary to enable the Court to decide the application;
 - (iii) deal with the merits of the case only in so far as is necessary for the purpose of explaining and supporting the particular grounds upon which leave to appeal is sought or opposed;
 - (iv) be properly and separately paginated; and
- (b) shall not—
 - (i) be accompanied by the record;
 - (ii) traverse extraneous matters; or
 - (iii) exceed, for the founding affidavit and answer 30 pages each and for the reply 10 pages.

(6) Request for further document

The judges considering the application may call for—

- (a) submissions or further affidavits;
- (b) the record or portions of it; and

(c) additional copies of the application.

(7) **Time for filing further documents**

The party concerned shall lodge the required documents within the period prescribed by the registrar.

(8) **Failure to comply**

If the party concerned fails to comply with a direction by the registrar or fails to cure the defects in the application within the period directed, the application shall lapse.

[rule 6 substituted by section 8 of [Government Notice R979 of 2010](#)]

7. Notice of appeal

- (1) An appellant in a civil case shall lodge a notice of appeal with the registrar and the registrar of the court *a quo* within one month after the date of—
 - (a) the granting of the judgment or order appealed against where leave to appeal is not required;
 - (b) the granting of leave to appeal where leave to appeal is required; or
 - (c) the setting aside of a direction of a high court in terms of section 20(2)(b) of the Supreme Court Act, 1959 ([Act No. 59 of 1959](#)).
- (2) A respondent in a civil appeal who intends to cross-appeal shall, within one month after receipt of the appellant's notice of appeal, lodge a notice of the cross-appeal with the registrar and with the registrar of the court *a quo*.
- (3) Every notice of appeal and cross-appeal shall—
 - (a) state what part of the judgment or order is appealed against;
 - (b) state the particular respect in which the variation of the judgment or order is sought; and
 - (c) be accompanied by a certified copy of the order (if any) granting leave to appeal or to cross-appeal.
- (4) The time limit for lodging of the notice of appeal may be extended by written agreement of all the parties to the appeal.

8. Record

- (1) An appellant shall within three months of the lodging of the notice of appeal lodge with the registrar six copies of the record of the proceedings in the court *a quo* and deliver to each respondent such number of copies as may be considered necessary or as may reasonably be requested by the respondent.
- (2) The time limit for lodging of the record may be extended—
 - (a) by written agreement of all the parties to the appeal; or
 - (b) by the registrar upon written request with notice to all the parties to the appeal:

Provided that the registrar shall not be entitled to extend the period for more than two months.
- (3) If the appellant fails to lodge the record within the prescribed period or within the extended period, the appeal shall lapse.
- (4)
 - (a) If an appeal is withdrawn or has lapsed and no record has been lodged with the registrar, a respondent who has noted a cross-appeal may, within one month from such withdrawal or lapsing of the appeal, notify the registrar in writing that he or she desires to prosecute the cross appeal.

- (b) Such respondent shall thereupon be deemed to be the appellant and the period prescribed in subrule (1) shall be calculated from the date on which the appellant withdrew the appeal or the appeal lapsed.
- (5) One of the copies of the record lodged with the registrar shall be certified correct by the registrar of the court *a quo*.
- (6)
 - (a) The copies of the record shall be clearly typed on stout A4 standard paper in double-spacing in black record ink, on one side of the paper only.
 - (b) Legible documents that were typed or printed in the original, including all process in the court *a quo* forming part of the record on appeal, and documents such as typed or printed contracts and cheques (whether handwritten, typed or printed) and the like shall not be retyped and a clear photocopy shall be provided instead.
 - (c) The pages shall be numbered clearly and consecutively, and every tenth line on each page shall be numbered and the pagination used in the court *a quo* shall be retained where possible.
 - (d)
 - (i) At the top of each page containing evidence, the name of the witness and, at the top of each page containing exhibits, the number of the exhibit, shall appear.
 - (ii) All references in the record to page numbers of exhibits shall be transposed to reflect the page numbers of such exhibits in the appeal record.
 - (e) The record shall be divided into separate conveniently-sized volumes of approximately 100 pages each.
 - (f) The record shall be securely bound in suitable covers disclosing—
 - (i) the case number;
 - (ii) the names of the parties;
 - (iii) the volume number and the numbers of the pages contained in that volume;
 - (iv) the total number of volumes in the record;
 - (v) the court appealed from; and
 - (vi) the names and addresses of all the parties for service.
 - (g)
 - (i) The volume number and the numbers of the pages contained in a volume shall also appear on the upper third of the spine of the volume.
 - (ii) Each volume shall be so bound that upon being eased open it will lie open without any manual or other restraint and upon being so opened and thereafter repeatedly closed, the binding shall not fail.
 - (h) The—
 - (i) judgment and order appealed against;
 - (ii) judgment and order granting leave to appeal; and
 - (iii) notice of appeal,shall, if the record consists of more than one volume, be contained in a separate volume.
 - (i) The record, in the first or in a separate volume, shall contain a correct and complete index of the evidence, documents and exhibits in the case, the nature of the documents and exhibits being briefly stated therein.

- (j) Unless it is essential for the determination of the appeal and the parties agree thereto in writing, the record shall not contain—
 - (i) argument and opening address;
 - (ii) formal documents;
 - (iii) discovery affidavits and the like;
 - (iv) identical duplicates of any document; or
 - (v) documents not proved or admitted, andthe registrar shall *mero motu* disallow the costs, also between attorney and own client, of such documents.
- (7)
 - (a) A core bundle of documents shall be prepared if to do so is appropriate to the appeal.
 - (b) The core bundle shall consist of the material documents of the case in a proper, preferably chronological, sequence.
 - (c) Documents contained in the core bundle shall be omitted from the record, but the record shall indicate where each such document is to be found in the core bundle.
- (8)
 - (a) Whenever the decision of an appeal is likely to hinge exclusively on a specific issue or issues of law and/or fact, the appellant shall, within 10 days of the noting of the appeal, request the respondent's consent to submit such issue or issues to the Court, failing which the respondent shall, within 10 days thereafter, make a similar request to the appellant.
 - (b) The respondent or the appellant, as the case may be, shall within 10 days agree thereto or state the reasons for not agreeing to the request.
 - (c) The request and the response shall form part of the record.
 - (d) The Court may make a special order of costs if no request was made or if either of the parties was unreasonable in this regard.
 - (e) If the parties reach agreement as referred to in paragraph (a), only those parts of the record of the proceedings in the court *a quo* as may be agreed upon shall be contained in the record lodged with the registrar: Provided that the Court may call for the full record and may order full argument of the whole case.
- (9)
 - (a) Whenever the decision of an appeal is likely to hinge exclusively on part of the record in the court *a quo*, the appellant shall, within 10 days of the noting of the appeal, request the respondent's consent to omit the unnecessary parts from the record, failing which the respondent shall, within 10 days thereafter, make a similar request to the appellant.
 - (b) The respondent or the appellant, as the case may be, shall within 10 days agree thereto or state the reasons for not agreeing to the request.
 - (c) The request and the respondent's response shall form part of the record.
 - (d) The Court may make a special order of costs if no request was made or if either of the parties was unreasonable in this regard.
 - (e) If the parties agree to limit the record, only those parts of the record of the proceedings in the court *a quo* as are agreed upon shall be contained in the record lodged with the registrar: Provided that the Court may call for the full record and may order full argument of the whole case.
- (10) Any person convicted of any offence who intends to appeal to the Court and—
 - (a) has the right so to appeal; or
 - (b) intends to make application to the Court for leave to appeal,

shall be entitled, upon request, to obtain from the registrar of the court from which that person intends to appeal, such number of copies of the record or extracts from it as may be necessary, on payment of the prescribed fees:

Provided that—

- (i) if such a person is unable to pay the prescribed fee; and
- (ii) the copies are necessary for the aforesaid purposes,

that person shall be entitled to obtain the same without payment of any fees.

- (11) (a) Any question arising as to the inability of a person referred to in subrule (10) to pay the prescribed fees or as to the number of copies or as to what extracts are necessary shall be decided by the registrar of the court *a quo*.
- (b) If the registrar's decision is confirmed by a judge of that court, it shall be final.

9. Security

(1) When required

If the court which grants leave to appeal orders the appellant to provide security for the respondent's costs of appeal, the appellant shall, before lodging the record with the registrar, enter into sufficient security for the respondent's costs of appeal and shall inform the registrar accordingly.

[subrule (1) amended by section 9(a) of [Government Notice R979 of 2010](#)]

(2) Form or amount of security

If the form or amount of security is contested, the registrar of the court *a quo* shall determine the issue and this decision shall be final.

[subrule (2) amended by section 9(b) of [Government Notice R979 of 2010](#)]

10. Heads of argument

(1) Filing

Unless the President otherwise directs—

- (a) the appellant shall lodge with the registrar six copies of his or her main heads of argument within six weeks from the lodging of the record; and
- (b) the respondent shall lodge with the registrar six copies of his or her main heads of argument within one month from the receipt of the appellant's heads of argument.

(2) Urgency

When the lodging of an application or record of appeal with the registrar does not allow the heads of argument to be lodged and served in terms of subrule (1), the applicant or appellant, as the case may be, shall file the same without delay and the respondent shall thereafter file the argument in answer as soon as possible.

(2A) Failure to file

- (a) If the appellant fails to lodge heads of argument within the prescribed period or within the extended period, the appeal shall lapse.
- (b) If, after the appellant has filed heads of argument, the respondent fails to lodge heads of argument within the prescribed period or within the extended period, the appeal shall be enrolled for hearing and the Court may at the hearing in the absence of the defaulting party, and after hearing argument, make such order as it deems fit.

(3) Format

- (a)
 - (i) The heads of argument shall be clear, succinct and without unnecessary elaboration.
 - (ii) Each point should be numbered and be stated as concisely as the nature of the case allows and must be followed by a reference to the record or an authority in support of the point.
- (b)
 - (i) The heads of argument shall not contain lengthy quotations from the record or authorities.
 - (ii) The heads of argument must state, in respect of each authority cited, the proposition of law that the authority states, and if more than one authority is cited for a proposition the reason for citing the additional authorities must be stated.
- (c) References to authorities and the record shall not be general but to specific pages and paragraphs.
- (d)
 - (i) The heads of argument of the appellant shall be accompanied by a chronology table, duly crossreferenced, without argument.
 - (ii) If the respondent disputes the correctness of the chronology table in a material respect, the respondent's heads of argument shall be accompanied by the respondent's version of the chronology table.
- (e)
 - (i) The heads of argument shall be accompanied by a list of the authorities to be quoted in support of the argument and shall indicate with an asterisk the authorities to which particular reference will be made during the course of argument.
 - (ii) If any such authority is not readily available, copies of the text relied upon shall accompany the heads of argument in a separate volume.
 - (iii) The heads of argument shall define the form of order sought from the Court.
- (f) A photocopy, or a printout from an electronic database, of those provisions of any statute, regulation, rule, ordinance or by-law directly at issue, shall accompany the heads of argument in a separate volume.
- (g) The heads of argument of any appellant or respondent shall not exceed 40 pages, unless a judge, on request, otherwise orders.

(4) Form

- (a) The heads of argument shall be clearly typed on stout A4 standard paper in double-spacing in black record ink, on one side of the paper only.
- (b) All annexures to the heads of argument shall be bound separately.
- (c) Heads of argument and annexures thereto shall be bound with plastic comb binders and card covers, white for the appellant and blue for the respondent.

(5) Cross-appeals

Cross-appeals do not require a separate set of heads of argument. In all cases where there is an appeal and a cross-appeal, the appellant's main heads of argument under rule 10(1)(b) shall follow the same pattern.

[rule 10 substituted by section 10 of [Government Notice R979 of 2010](#)]

10A. Practice note

Contents

The heads of argument of each party must be accompanied by—

- (a) a brief typed note indicating—
 - (i) the name and number of the matter;
 - (ii) the nature of the appeal;
 - (iii) a concise statement of the basis for jurisdiction in this Court, including the statutory provisions and time factors on which jurisdiction rests;
 - (iv) if that party wishes to raise a constitutional question relating to the constitutional validity or the constitutional applicability of any law or the constitutional validity or applicability or extension of a common law rule, a concise definition of the question;
 - (v) the issues on appeal succinctly stated (for example 'negligence in MVA case', 'admissibility of a confession', 'interpretation of...')
 - (vi) an estimate of the duration of the argument;
 - (vii) if more than one day is required for argument, the reasons for the request;
 - (viii) which portions or pages of the record are in a language other than English;
 - (ix) a list reflecting those parts of the record that, in the opinion of counsel, are necessary for the determination of the appeal;
 - (x) a summary of the argument. not exceeding 100 words;
 - (xi) if a core bundle is not appropriate for the appeal, the reasons for the conclusion;
 - (xii) that there was due and timeous compliance with rule 8(8) and (9), and if not, why not; and
- (b) a certificate signed by the legal practitioner responsible for the heads of argument that rules 10 and 10A(a) have been complied with.

[rule 10A inserted by section 11 of [Government Notice R979 of 2010](#)]

11. Powers of the President or the Court

(1) Powers

The President or the Court may *mero motu*, on request or on application—

- (a) extend or reduce any time period prescribed in these rules and may condone non-compliance with these rules;
- (b) give such directions in matters of practice, procedure and the disposal of any appeal, application or interlocutory matter as the President or the Court may consider just and expedient.

(2) Delegation

Any power or authority vesting in the President in terms of these rules may be exercised by a judge or judges designated by the President for that purpose.

[rule 11 substituted by section 12 of [Government Notice R979 of 2010](#)]

11A. Non-compliance with rules

The Court may make an order for costs to be borne personally by any party or attorney or counsel if the hearing of the appeal is adversely affected by the failure of that party or his or her legal representative to comply with these rules.

[rule 11A inserted by section 13 of [Government Notice R979 of 2010](#)]

12. Application for condonation

(1) Filing

In every matter where condonation is sought, the application shall be lodged in triplicate with the registrar.

(2) Answer

Every affidavit in answer to an application for condonation shall be lodged in triplicate with the registrar within one month after service of the application on the respondent.

(3) Reply

The applicant shall lodge with the registrar any reply in triplicate within 10 days of receipt of the answering affidavit.

(4) Form

Every application, answer or reply shall—

- (a) be clear and succinct and to the point;
- (b) furnish fairly all such information as may be necessary to enable the Court to decide the application; and
- (c) deal with the merits of the case only in so far as is necessary for the purpose of explaining and supporting the particular grounds upon which the application is sought or opposed.

(5) Request for further documents

The judges considering the application may call for—

- (a) submissions or further affidavits;
- (b) the record or portions of it; and
- (c) additional copies of the application,

and the party concerned shall lodge with the registrar the required documents within the period prescribed.

(6) Failure to comply

If the applicant fails to comply with a direction by the Court or the registrar or to complete the application within the period prescribed, the application shall lapse.

[rule 12 substituted by section 14 of [Government Notice R979 of 2010](#)]

13. Set-down

(1) Notification

The registrar shall, subject to the directions of the President, notify each party by registered letter of the date of hearing.

(2) **Address**

A registered letter forwarded to a party's last-known address shall be deemed to be sufficient notice of the date of the hearing.

(3) **Non-appearance**

If the applicant or appellant fails to appear at the date thus notified, the application or appeal shall be dismissed for non-prosecution, unless the Court otherwise directs.

(4) **Unavailability of counsel**

Where a pending appeal is awaiting enrolment the registrar must be informed immediately—

- (a) if counsel for either party is due to be unavailable in the next ensuing term; and
- (b) if enrolment may clash with religious holidays which any of the legal representatives or parties in the case wish to observe.

[rule 13 substituted by section 15 of [Government Notice R979 of 2010](#)]

14. **Oral argument**

(1) **Time limits**

If a matter has been set down for one day, subject to the presiding judge's directions, the time for argument shall not exceed—

- (a) two hours for the applicant or appellant's main argument;
- (b) two hours for the argument in answer; and
- (c) a quarter of an hour for the argument in reply.

[subrule (1) amended by section 16(a) of [Government Notice R979 of 2010](#)]

(2) **Language**

If a party intends to argue a matter in an official language which differs from that in which the heads of argument are drawn, the party shall inform the registrar accordingly in writing at least three weeks before the hearing of the matter.

[subrule (2) amended by section 16(b) of [Government Notice R979 of 2010](#)]

15. ***In forma pauperis***

- (1) Any party who is a natural person and who is of the opinion that he or she is indigent may request the registrar for leave to prosecute or defend an appeal *in forma pauperis*.
- (2) A party shall be deemed to be indigent if he or she can satisfy the registrar that, except for household goods, wearing apparel and tools of trade, he or she is not possessed of property to the amount of R10 000 and will not be able within a reasonable time to provide such sum from his or her earnings or obtain legal aid.
- (3) No such request shall be lodged with the registrar unless the opposite party has been asked and has failed or refused to consent to the applicant proceeding *in forma pauperis* within one month thereafter.
- (4) Any party dissatisfied with a ruling of the registrar under this rule may apply to the President for a revision in chambers.

[subrule (4) substituted by section 17 of [Government Notice R979 of 2010](#)]

- (5) Whenever a party obtains leave to prosecute or defend an appeal *in forma pauperis*, that party shall not be required to lodge security in terms of these rules for the costs of the opposite party or to pay any court fees notwithstanding the existence of any order referred to in rule 9(1).

16. *Amicus curiae* submissions

(1) Admission as amicus

Subject to this rule, any person interested in any matter before the Court may, with the written consent of all the parties in the matter before the Court given not later than the time specified in subrule (5), be admitted therein as an *amicus curiae* upon such terms and conditions and with such rights and privileges as may be agreed upon in writing with all the parties before the Court or as may be directed by the President in terms of subrule (3).

(2) Admission by consent

The written consent referred to in subrule (1) shall, within 10 days of it having been obtained, be lodged with the registrar and the *amicus curiae* shall, in addition to any other provision, comply with the times agreed upon for the lodging of written argument.

(3) Amendment of consent

The President may amend the terms, conditions, rights and privileges agreed upon as referred to in subrule (1).

(4) Application to be admitted

If the written consent referred to in subrule (1) has not been secured, any person who has an interest in any matter before the Court may apply to the President to be admitted therein as an *amicus curiae*, and the President may grant such application upon such terms and conditions and with such rights and privileges as he or she may determine.

(5) Time for application

An application pursuant to the provisions of subrule (4) shall be made within one month after the record has been lodged with the registrar.

(6) Format

An application to be admitted as an *amicus curiae* shall—

- (a) briefly describe the interest of the *amicus curiae* in the proceedings;
- (b) briefly identify the position to be adopted by the *amicus curiae* in the proceedings;
- (c) set out the submissions to be advanced by the *amicus curiae*, their relevance to the proceedings and his or her reasons for believing that the submissions will be useful to the Court and different from those of the other parties.

(7) Argument

- (a) An *amicus curiae* shall have the right to lodge written argument, provided that such written argument does not repeat any matter set forth in the argument of the other parties and raises new contentions which may be useful to the Court.
- (b) The heads of argument of an *amicus curiae* shall not exceed 20 pages unless a judge, on request, otherwise orders.

(8) Limitations

An *amicus curiae* shall be limited to the record on appeal and may not add thereto and, unless otherwise ordered by the Court, shall not present oral argument.

(9) **Filing of heads**

An order granting leave to be admitted as an *amicus curiae* shall specify the date of lodging the written argument of the *amicus curiae* or any other relevant matter.

(10) **Costs**

An order of the Court dealing with costs may make provision for the payment of costs incurred by or as a result of the intervention of the *amicus curiae*.

[rule 16 substituted by section 18 of [Government Notice R979 of 2010](#)]

16A Withdrawal or settlement

- (1) The appellant shall inform the registrar immediately it becomes known that an appeal is to be postponed or has been settled.
- (2) An attorney who wishes to withdraw as attorney of record must comply with the procedure prescribed by Uniform rule 16(4).

[rule 16A inserted by section 19 of [Government Notice R979 of 2010](#)]

17. Taxation of costs

(1) **Taxation**

The costs incurred in any appeal or application shall be taxed by the registrar, who, when exercising this function, shall be called the taxing master, but his or her taxation shall be subject to review in terms of subrule (3).

(2) **VAT**

Value-added tax may be added to all costs, fees, disbursements and tariffs in respect of which value-added tax is chargeable.

(3) **Statement of case**

Any party dissatisfied with the ruling of the taxing master as to any item or part of an item which was objected to or disallowed *mero motu* by the taxing master may within 20 days of the *allocatur* require the taxing master to state a case for the decision of the President, which case shall set out each item or part of an item, together with the grounds of objection advanced at the taxation, and shall embody any relevant findings of facts by the taxing master.

(4) **Contentions of parties**

The taxing master shall supply a copy of the stated case to each of the parties, who may within 15 days of receipt of the copy submit contentions in writing thereon, including grounds of objection not advanced at the taxation, in respect of any item or part of an item which was objected to before the taxing master or disallowed *mero motu* by the taxing master.

(5) **Report**

Thereafter the taxing master shall frame his or her report and shall supply a copy thereof to each of the parties and shall forthwith lay the case, together with the contentions of the parties thereon and his or her report, before the President.

(6) **Hearing of review**

- (a) The President or a judge or judges designated by him or her may—
- (i) decide the matter upon the merits of the case and submissions so submitted;
- (ii) require any further information from the taxing master;

- (iii) if deemed fit, hear the parties or their advocates or attorneys in chambers; or
- (iv) refer the case for decision to the Court.
- (b) Any further information to be supplied by the taxing master to the judge or judges must also be supplied to the parties who may within 10 days after receipt thereof, make written submissions thereon to the taxing master, who shall forthwith lay such information together with any submissions of the parties thereon before the judge or judges.

(7) **Costs orders**

The judge, judges or court deciding the matter may make such order as to costs of the case as deemed fit, including an order that the unsuccessful party pay to the successful party the costs of review in a sum fixed by the judge, judges or Court.

[rule 17 substituted by section 20 of [Government Notice R979 of 2010](#)]

18. Attorneys' fees

The following fees shall be allowed to attorneys conducting appeals or other matters before the Court:

A – Taking instructions

1. (a)	To note an appeal or cross-appeal when leave to appeal is not required	56,00
(b)	To prosecute or defend an appeal, including continuation of a cross-appeal	91,00 to 532,00
(c)	To make or oppose an application	84,00 to 280,00
2.	To draft any application or affidavit	Half the charge allowed under item E1 for drafting

B – Preparation of records

R c		
1.	Making, for the purpose of preparing copies of the record on appeal (except where a charge is made under paragraph 5 hereof), a copy of such particulars of the record as were not in the possession of the appellant or his or her attorney at the time when the order appealed from was made, per folio	1,50
2.	Arranging record for printing or typing, excluding unnecessary documents therefrom, and preparing an index and list of documents not included in the record on appeal, per half-hour or part thereof	91,00
3.	Connecting printer's proof or typed or roneoed copy, per half-hour or part thereof	91,00
4.	Attending at the office of the registrar or officer of the court appealed from to peruse or authenticate the record, per half-hour or part thereof	56,00
5. (a)	Making typed copies of record on appeal and heads of arguments, per folio	1,50
(b)	Where copies are made other than by typewriter, the charge shall be R 1,50 per page for the first copy, and for further copies per page	0,75

(Note I: In the calculation of the number of folios the total number of words of all necessary documents is to be divided by 100, i.e. the entire record is to be treated as one document.)

(Note II: in the calculation of the number of pages the total number of words of all necessary documents is to be divided by at least 250, i.e. the entire record is to be treated as one document:

Provided that in the case of printed documents or forms, for example publications, bonds, contracts, credit agreements and special procurations, each page thereof is to be treated as only one page.)

C – Perusal

R c		
1. (a)	Perusing judgment of court <i>a quo</i> when taking instructions for the continuation of an appeal or cross-appeal, where leave to appeal is not required, per page	27,00
(b)	Perusing record on appeal, for each page or part thereof	0,75
(c)	Perusing judgment of court <i>a quo</i> by which leave to appeal was denied, when taking instructions to apply for leave to appeal to the Court, per page	17,00
(Note: The minimum fee under items (a) and (b) shall be R168,00.)		
2.	Perusing any plan, diagram, photograph or other annexure to the record to which the remuneration hereinbefore set out cannot be applied	10,00 to 182,00
3. (a)	Attendance on and perusal of any application or affidavit or any other document not elsewhere provided for, per page	17,00
(b)	Attendance on and perusal of any annexure to an application and answering affidavit, per page	0,75
(c)	Attendance on and perusal of an application or affidavit composed or corrected by counsel, per page	2,00

(*Note I:* The minimum fees under item (a) shall be as follows: For formal affidavits, R17.00; for affidavits other than formal affidavits, R35.00.)

(*Note II:* In the calculation of the number of pages the total number of words of all necessary annexures is to be divided by at least 250, i.e. the entire record is to be treated as one document.)

4.	Attendance on and perusal of heads of argument, excluding annexures for example unreported judgments of court or copies of publications attached as confirmation of heads of arguments, for every 10 pages or portion thereof	35,00
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(*Note:* The minimum fee under this item shall be R70.00)

D – Attendance

R c		
1.	Any formal attendance on an acknowledgment, receipt, etc	7,00
2.	Attendance on any letter, telegram, document or telephone call, or any other necessary attendance not otherwise provided for (Note: A composite fee shall be charged for all letters received: to Provided that a short summary of the contents of such letters is to be 35,00 attached to the bill of costs before taxation).	10,00 to 35,00
3. (a)	Attendance at office of registrar to deliver a letter or document, or to uplift an order, etc	7,00
(b)	Attendance on business other than formal business, per half-hour or part thereof	70,00
4.(a)	Attendance at any consultation with counsel or client, per halfhour or part thereof	70,00 to 105,00
(b)	A comprehensive fee for attendance, obtaining and payment of counsel for noting of judgment	56,00
5.	Attendance at court to enter judgment—	
	(a) by an attorney	70,00
	(b) by a clerk	27,00
6.	Attendance at court on hearing of appeal or	

	application, per half-hour or part thereof—	
	(a) by an attorney	70,00 to 105,00
	(b) by a clerk	42,00

E – Drawing up of documents

R c		
1.	Any applicant or affidavit, per folio (<i>Note: In the calculation of the number of folios, the taxing master shall deduct, but treat as annexures, any relevant portion consisting of quotations from other documents</i>).	21,00
2.	Instructions to counsel, whether written or verbal—	
(a)	on appeal	84,00 to 350,00
(b)	on application	84,00 to 350,00
(c)	in justifiable cases, for the drawing up or correcting of application or affidavit for an application for leave to appeal or disputing thereof	56,00 to 112,00
3.	Drawing up of notice of appeal or other necessary notices, per folio	17,00
4.	Letters and telegrams, per folio, including copy to keep (<i>Note: A composite fee shall be charged for all letters received: Provided that a short summary of such letters is to be attached to the bill of costs before taxation</i>).	11,00
5.	Drawing up power of attorney, per folio	11,00
6.	Drawing up short brief to counsel	11,00

7.	Drawing up bond of security, per folio	22,00
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F – Copying

R c		
	Other documents not specially provided for:	
(a)	First copy, per page	1,50
(b)	Each further necessary copy, per page	0,75

G – Bills of costs

In connection with a bill of costs for work done or services rendered by an attorney, such attorney shall be entitled to charge the following:

- For drawing up the bill of costs, making the necessary copies and attending settlement: 5 per cent of the amount of attorney's fees, either as charged in the bill if not taxed or as allowed on taxation.
- For arranging and attending taxation: 5 per cent of the fees allowed.
(*Note I:* The minimum fee under each of these items shall be R70.00.)
(*Note II:* The fees under each item are calculated on the same amount.)
- For perusal of the other party's bill of costs, as submitted for taxation, including preparation for taxation, per folio: R9,00.
- For attending taxation of the other party's bill of costs: 5 per cent on fees appearing in the bill of costs as submitted before taxation.
(*Note:* The minimum fee under this item shall be R70.00.)
- Before the taxing master taxes the bill of costs, he or she shall be convinced that the party who has to pay the account, or his or her legal practitioner, was properly notified of the time and place of such taxation and of his or her right to be present: Provided that such notice shall not be necessary where the person liable for payment of costs has consented, in writing, to taxation in his or her absence.

(*Note I* - With a view to affording the party who has been awarded an order for costs full indemnity for all costs reasonably incurred by him or her in relation to his or her claim or defence and to ensure that all such costs shall be borne by the party against whom such order has been made, the taxing master shall on every taxation allow such costs, charges and expenses as appear to him or her to have been necessary or proper for the attainment of justice or for defending the rights of any party, but, save as against the party who incurred them, no costs shall be allowed which appear to the taxing master to have been incurred

or increased through overcaution, negligence or mistake, or by payment of a special fee to counsel or by other unusual expenses.)

(*Note II* - The taxing master shall be entitled in his or her discretion at any time to depart from any of the provisions of this tariff in extraordinary or exceptional circumstances where the strict execution thereof would be unjust, and in this regard shall take into account the time necessarily taken, the complexity of the matter, the nature of the subject matter in dispute, the amount in dispute and any other factors he or she considers relevant.)

(*Note III* - In order to diminish as much as possible the costs arising from the copying of the record or of documents to accompany the briefs of counsel, the taxing master shall not allow the costs of any unnecessary duplication.)

(*Note IV* - Where in the opinion of the taxing master more than one attorney has been necessarily engaged in the performance of any of the work covered by this tariff, each such attorney shall be entitled to be remunerated, on the basis set out in this tariff, for the work necessarily done by him or her. In each such instance the bills of costs shall be taxed jointly and at the same time.)

(*Note V* - A folio shall contain 100 words, four figures to be counted as a word, and any fraction of less than 25 words shall not be allowed as an additional folio.)

(*Note VI* - A page shall consist of at least 250 words and any fraction of less than 250 words shall not be allowed as an additional page. This provision bears no relevance to a document which in totality consists of less than 250 words.)

(*Note VII* - When services of a cost consultant are used to draft the bill of costs, a certificate from the attorney shall accompany the bill of costs and shall indicate—)

- (a) that the bill was properly perused and found correct after receipt thereof;
- (b) that each description therein with reference to work, time and numbers is in accordance with what was necessarily done by him or her; and
- (c) that the items and tariff are drafted and claimed strictly according to party-and-party practice rules.

The taxing master may, where it is evident from the bill of costs that the requirements of (a), (b) and (c) above, or parts thereof, have not been complied with, refuse to tax such bill. The taxing master may also, when he or she is convinced that a party-and-party bill of costs is claimed for work not done or for work which belongs in an attorney-and-client bill of costs or that excessive fees are being charged, deny the attorney the remuneration mentioned in item G1 if more than 20% of the number of items or the total of fees of the bill are taxed off.

19. Fees of the court

The following shall be the fees of the court:	
R	
Lodging of any application	10,00
Lodging of an answering affidavit (each)	10,00
Lodging of a notice of appeal or cross-appeal (each)	10,00
Order of the court granting leave to appeal	10,00
For the registrar's certificate on certified copies of documents (each)	2,00
For each copy of any document made by the registrar (per page)	1,00
Taxing fee with regard to appeals	25,00
Taxing fee with regard to applications	25,00

20. Repeal of rules

The rules of the Supreme Court of Appeal published under Government Notice No. R.1207 of 15 December 1961, as amended by Government Notices Nos. R.980 of 22 June 1962, R.120 of 31 January 1969, R.679 of 30 April 1971, R.1815 of 8 October 1976, R.2476 of 17 December 1976, R.1547 of 28 July 1978, R.248 of 8 February 1980, R.1120 of 30 May 1980, R.2170 of 6 October 1982, R.644 of 25 March 1983, R.840 of 22 April 1983, R.1995 of 7 September 1984, R.2093 of 13 September 1985, R.2137 of 20 September 1985, R.2643 of 12 December 1986, R.1766 of 2 September 1988, R.1930 of 10 August 1990, R.2408 of 30 September 1991, R.407 of 7 February 1992, R.1884 of 3 July 1992, R.872 of 21 May 1993, R.410 of 11 March 1994, R.418 of 14 March 1997, R.490 of 27 March 1997, R. 799 of 13 June 1997 and R.783 of 5 June 1998 are hereby repealed: Provided that any proceedings already commenced under the repealed rules may continue thereunder, save in so far as the rules herein contained may be applicable thereto without injustice or increased costs to any of the parties.

21. Short title and commencement

These rules shall be called the Rules of the Supreme Court of Appeal and shall commence on 28 December 1998.

Annexure**Form 1****Notice of Motion in the Supreme Court of Appeal of South Africa**

In the matter between—

_____ Appellant/Applicant*

_____ Respondent

Take notice that _____ (hereinafter called the Appellant/Applicant*) hereby applies to this Court/the Chief Justice* for an order in the following terms:

1. *Leave to appeal against the judgment [*state particulars*]

2. *Condonation for the failure to [*state particulars*]

3. *Any other matter [*state particulars*]

The accompanying affidavit of _____ is annexed in support of the application.

If you intend to oppose this application, you are required to lodge your affidavit in support of your opposition, after prior service upon the Appellant/Applicant*, with the registrar of this Court within one month after service of this application upon you.

DATED at _____ this _____ day of _____

Applicant/Appellant/Attorney*

Address

TO: 1. _____ (Respondent)

Address

2. The Registrar of the Court,
Bloemfontein

*(*Delete what is inapplicable.)*