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PROCLAMATION

*by the State President of the Republic of
South Africa*

No. R. 76, 1977

BOPHUTHATSWANA.—ESTABLISHMENT OF A HIGH COURT FOR BOPHUTHATSWANA, REGULATIONS FOR THAT COURT, THE VALIDITY OF PROCESS OF THE SUPREME COURT OF SOUTH AFRICA, A BANTU APPEAL COURT AND A BANTU DIVORCE COURT IN THE AREA OF JURISDICTION OF THE HIGH COURT OF BOPHUTHATSWANA AND THE ADAPTATION OF STATUTORY PROVISIONS IN REGARD TO MASTERS, DEPUTY MASTERS AND ASSISTANT MASTERS OF THE SUPREME COURT OF SOUTH AFRICA

1. By virtue of the powers vested in me—

(1) by section 34 of the Bantu Homelands Constitution Act, 1971 (Act 21 of 1971), I hereby—

(a) with effect from the first day of November 1977, establish a High Court to be known as the High Court of Bophuthatswana (hereinafter referred to as the High Court) for the area referred to in section 2 of the Bophuthatswana Constitution Proclamation, 1972 (Proclamation R. 131 of 1972), as defined on the said date, to replace any provincial division of the Supreme Court of South Africa, any Bantu Appeal Court and any Bantu Divorce Court which has jurisdiction in the said area: Provided that for the purposes of the provisions of this Proclamation in relation to the appointment of a Chief Justice for the High Court, the remuneration and allowances payable to him and the making of regulations in terms of subsection (2B) of the said section 34 regulating any matter mentioned in subsection (1) (g) of that section, the High Court shall be deemed to be established with effect from the first day of May 1977; and

(b) make the regulations contained in the Schedule hereto for the said High Court;

(2) by section 25 of the Bantu Administration Act, 1927 (Act 38 of 1927), read with section 21 (1) of the Bantu Trust and Land Act, 1936 (Act 18 of 1936), I hereby determine, in relation to the area for which the said High Court is established, as follows:

(a) Any reference in any law to a Master, Deputy Master or Assistant Master of or for a provincial division of the Supreme Court of South Africa shall be

PROKLAMASIE

*van die Staatspresident van die Republiek van
Suid-Afrika*

No. R. 76, 1977

BOPHUTHATSWANA.—INSTELLING VAN 'N HOËRHOF VIR BOPHUTHATSWANA, REGULASIES VIR DAARDIE HOF, DIE GELDIGHEID VAN PROSESSTUKKE VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA, 'N BANTOE-APPËLHOF EN 'N BANTOE-EGSKEIDINGSHOF IN DIE REGSGEBIED VAN DIE HOËRHOF VAN BOPHUTHATSWANA EN DIE AANPASSING VAN WETSBEPALINGS MET BETREKKING TOT MEESTERS, ADJUNK-MEESTERS EN ASSISTENT-MEESTERS VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA

1. Kragtens die bevoegdheid my verleen—

(1) by artikel 34 van die Grondwet van die Bantoe-tuislande, 1971 (Wet 21 van 1971)—

(a) stel ek hierby, met ingang van die eerste dag van November 1977, 'n Hoërhof in wat bekend staan as die Hoërhof van Bophuthatswana (hieronder die Hoërhof genoem) vir die gebied bedoel in artikel 2 van die Bophuthatswana-grondwetproklamasie, 1972 (Proklamasie R. 131 van 1972), soos op genoemde datum omskryf, ter vervanging van enige provinsiale afdeling van die Hooggeregshof van Suid-Afrika, enige Bantoe-appêlhof en enige Bantoe-egskeidingshof wat in gemelde gebied regsbevoegdheid besit: Met dien verstande dat by die toepassing van die bepalings van hierdie Proklamasie met betrekking tot die aanstelling van 'n Hoofregter vir die Hoërhof, die besoldiging en toelaes aan hom betaalbaar en die uitvaardiging kragtens subartikel (2B) van genoemde artikel 34 van regulasies vir die reëling van die een of ander aangeleentheid vermeld in subartikel (1) (g) van daardie artikel, die Hoërhof geag ingestel te wees met ingang van die eerste dag van Mei 1977; en

(b) vaardig ek hierby die regulasies in die Bylae hiervan vervat, uit vir genoemde Hoërhof;

(2) by artikel 25 van die Bantoe-administrasie Wet, 1927 (Wet 38 van 1927), gelees met artikel 21 (1) van die Bantoe-trust en -grond Wet, 1936 (Wet 18 van 1936), bepaal ek hierby, met betrekking tot die gebied waarvoor genoemde Hoërhof ingestel is, soos volg:

(a) Enige verwysing in enige wet na 'n Meester, Adjunk-meester of Assistent-meester van of vir 'n provinsiale afdeling van die Hooggeregshof van Suid-Afrika

construed as a reference to a Master, Deputy Master or Assistant Master, as the case may be, of or for the High Court;

(b) any reference to the Minister in relation to the appointment of a Master, Deputy Master or Assistant Master for the High Court, shall be construed as a reference to the Minister of Bantu Administration and Development and he may, in his discretion, delegate any power, function or duty in connection with the High Court or its officials to the Secretary for Bantu Administration and Development; and

(c) the process of a division of the Supreme Court of South Africa, a Bantu Appeal Court and a Bantu Divorce Court shall be of force in the area of jurisdiction of the High Court and any judgment or order of such division or court shall have the force of law in the area of jurisdiction of the High Court and may be served and executed in the area of jurisdiction thereof as if it were a process, a judgment or an order of the High Court.

2. This Proclamation shall be called the High Court of Bophuthatswana Proclamation, 1977.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this Fifteenth day of April, One thousand Nine hundred and Seventy-seven.

N. DIEDERICHS, State President.

By Order of the State President-in-Council:

M. C. BOTHA.

SCHEDULE

HIGH COURT OF BOPHUTHATSWANA REGULATIONS

Definitions

1. In these regulations, unless the context otherwise indicates, any expression to which a meaning has been assigned in the Bantu Homelands Constitution Act, 1971 (Act 21 of 1971) (hereinafter referred to as the Act), bears the meaning so assigned thereto, and—

“advocate” means any person whose name appears in the register referred to in section 8 of the Admission of Advocates Act, 1964 (Act 74 of 1964), and who has not been suspended or whose name has not been struck off the roll of advocates;

“Appellate Division” means the Appellate Division of the Supreme Court;

“area” means the area over which the Court has jurisdiction;

“attorney” means any person who is duly permitted to practice as an attorney in any part of the Republic and who has not been suspended or whose name has not been struck off the roll of attorneys;

“Chief Justice” means, except where it is a reference to the Chief Justice of the Republic, the Chief Justice of the Court appointed in terms of regulation 2 (1);

“civil summons” means any summons whereby civil proceedings are commenced, and includes any rule nisi, notice of motion or petition the object of which is to require the appearance before the Court of any person against whom relief is sought in such proceedings or of any person who is interested in resisting the grant of such relief;

“Court” means the High Court of Bophuthatswana established in terms of section 34 of the Act;

“court day” means any day other than a Saturday, a Sunday or a public holiday in Bophuthatswana and only court days shall be included in the computation of any time expressed in days prescribed by the rules of court;

“defendant” includes any respondent or other party against whom relief is sought in civil proceedings;

word uitgelê as ’n verwysing na ’n Meester, Adjunk-meester of Assistent-meester, na gelang van die geval, van of vir die Hoërhof;

(b) enige verwysing na die Minister met betrekking tot die aanstelling van ’n Meester, Adjunk-meester of Assistent-meester vir die Hoërhof word uitgelê as ’n verwysing na die Minister van Bantoe-administrasie en -ontwikkeling en hy kan, na goeddunke, enige bevoegdheid, funksie of plig in verband met die Hoërhof of sy ampsdraers deleger aan die Sekretaris van Bantoe-administrasie en -ontwikkeling; en

(c) die prosesstukke van ’n afdeling van die Hooggeregshof van Suid-Afrika, ’n Bantoe-appèlhof en ’n Bantoe-egskeidingshof geld in die regsgebied van die Hoërhof en enige vonnis of bevel van sodanige afdeling of hof het regskrag in die regsgebied van die Hoërhof en kan in die regsgebied daarvan beteken en ten uitvoer gelê word asof dit ’n prosesstuk, vonnis of bevel van die Hoërhof is.

2. Hierdie Proklamasie heet die Proklamasie op die Hoërhof van Bophuthatswana, 1977.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad, op hede die Vyftiende dag van April Eenduisend Negehoenderd Sewe-en-sewentig.

N. DIEDERICHS, Staatspresident.

Op las van die Staatspresident-in-rade:

M. C. BOTHA.

BYLAE

HOËRHOF VAN BOPHUTHATSWANA REGULASIES

Woordomskrywings

1. In hierdie regulasies, tensy uit die samehang anders blyk, het ’n uitdrukking waaraan ’n betekenis in die Grondwet van die Bantoe-tuislande, 1971 (Wet 21 van 1971) (hieronder die Wet genoem), geheg is, daardie betekenis en beteken—

“advokaat” ’n persoon wie se naam in die register bedoel in artikel 8 van die Wet op die Toelating van Advokate, 1964 (Wet 74 van 1964), verskyn en wat nie geskors of wie se naam nie van die rol van advokate geskrap is nie; “Appèlafdeling” die Appèlafdeling van die Hooggeregshof;

“eiser” ook ’n applikant of ander party wat in ’n siviele geding om regshulp aansoek doen;

“gebied” die gebied waaroor die Hof regsbevoegdheid uitoefen;

“griffier” ’n griffier of ’n assistent-griffier aangestel kragtens die bepaling van regulasie 26;

“Hof” die Hoërhof van Bophuthatswana ingestel kragtens die bepaling van artikel 34 van die Wet;

“hofdag” enige dag wat nie ’n Saterdag, ’n Sondag of openbare vakansiedag in Bophuthatswana is nie, en by die berekening van ’n tydperk van dae by die hofreëls voorgeskryf, word slegs hofdae ingesluit;

“hofreëls” die regulasies bedoel in artikel 34 (2B) van die Wet, en het “reëls” or “reëls van die hof” ’n ooreenstemmende betekenis;

“Hoofregter”, behalwe waar daar verwys word na die Hoofregter van die Republiek, die Hoofregter van die Hof aangestel kragtens regulasie 2 (1);

“Hooggeregshof” die Hooggeregshof van die Republiek van Suid-Afrika;

“laerhof” ’n hof (wat nie die Hof of ’n afdeling van die Hooggeregshof is nie) of ’n administratiewe tribunaal, wat notule van sy verrigtings moet hou, en ook ’n magistraat of ander beampte wat ’n voorlopige ondersoek in verband met ’n beweerde misdryf hou;

"full court" means a court consisting of two or more judges;

"Government" means the Government of the Republic;

"inferior court" means any court (other than the Court or a division of the Supreme Court) or administrative tribunal which is required to keep record of its proceedings, and includes a magistrate or other officer holding a preparatory examination into an alleged offence;

"Minister" means the Minister of Bantu Administration and Development;

"plaintiff" includes any applicant or other party who seeks relief in civil proceedings;

"Public Service" means the Public Service of the Republic;

"Public Service Commission" means the Public Service Commission referred to in the Public Service Act, 1957 (Act 54 of 1957);

"registrar" means a registrar or assistant registrar appointed in terms of the provisions of regulation 26;

"rules of court" means the regulations referred to in section 34 (2B) of the Act and "rules" or "court rules" shall have a corresponding meaning;

"Secretary" means the Secretary for Bantu Administration and Development;

"Supreme Court" the Supreme Court of the Republic of South Africa.

Appointment, remuneration and tenure of office of judges

2. (1) The State President shall appoint, under his hand and the Seal of the Republic, a Chief Justice and so many judges for the Court as he may from time to time determine.

(2) (a) The Chief Justice and all other judges of the Court shall be fit and proper persons and shall receive such remuneration and other benefits, allowances and privileges as are prescribed by or under the Judges' Remuneration and Pensions Act, 1975 (Act 14 of 1975), for judges of the Supreme Court, and which shall not be reduced during their continuance in office: Provided that the remuneration of the Chief Justice shall equal that of a judge president of a provincial division of the Supreme Court.

(b) An appointment under this subregulation may, in the case of a person holding office in an acting capacity by virtue of any appointment under subregulation (4), be made with retrospective effect from the commencement of the period during which he so held office, or, where he has so held office for two or more periods which together constitute a single uninterrupted period, from the commencement of the first of such periods.

(3) (a) Any person appointed under subregulation (1) or (4) including a judge who has been seconded in terms of section 34 (2) (b) of the Act to serve as a judge of the Court shall, before commencing to exercise the functions of his office, take an oath or make an affirmation, which shall be subscribed by him, in the form set out below, namely:

"I, do hereby
(full name)

swear/solemnly and sincerely affirm and declare that I will, in my capacity as a judge of the High Court of Bophuthatswana, administer justice to all persons alike without fear, favour or prejudice, and, as the circumstances of any particular case require, in accordance with the law and customs of the area over which the said Court exercises jurisdiction".

(b) Any such oath or affirmation shall be taken or made before the senior available judge of the Court who shall at the foot thereof endorse a statement of the fact that it was taken or made before him and of the date on which it was so taken or made and append his

"Minister" die Minister van Bantoe-administrasie en -ontwikkeling;

"prokureur" 'n persoon behoorlik toegelaat om binne enige deel van die Republiek as prokureur te praktiseer en wat nie geskors of wie se naam nie van die rol van prokureurs geskrap is nie;

"Regering" die Regering van die Republiek;

"Sekretaris" die Sekretaris van Bantoe-administrasie en -ontwikkeling;

"siviele dagvaarding" 'n dagvaarding waarmee 'n siviele geding begin word, en ook 'n bevel *nisi*, kennisgewing van mosie of petisie wat ten doel het om die verskyning voor die Hof te vereis van iemand teen wie regshulp in so 'n geding versoek word, of van iemand wat daarby belang het om die verlening van bedoelde regshulp teen te staan;

"Staatsdiens" die Staatsdiens van die Republiek;

"Staatsdienskommissie" die Staatsdienskommissie bedoel in die Staatsdienswet, 1957 (Wet 54 van 1957);

"verweerder" ook 'n respondent of ander party teen wie in 'n siviele geding om regshulp aansoek gedoen word;

"volle hof" 'n hof wat uit twee of meer regters bestaan.

Aanstelling, besoldiging en ampsduur van regters

2. (1) Die Staatspresident stel onder sy hand en die Seël van die Republiek 'n Hoofregter en soveel ander regters as wat hy van tyd tot tyd bepaal, aan vir die Hof.

(2) (a) Die Hoofregter en alle ander regters van die Hof moet geskikte persone wees en ontvang die besoldiging en ander voordele, toelaes en vooregte wat by of kragtens die Wet op Besoldiging en Pensioene van Regters, 1975 (Wet 14 van 1975), vir regters van die Hooggeregshof voorgeskryf word en wat nie solank hulle die amp beklee, verminder mag word nie: Met dien verstande dat die besoldiging van die Hoofregter gelyk is aan dié van 'n regterpresident van 'n provinsiale afdeling van die Hooggeregshof.

(b) 'n Aanstelling kragtens hierdie subregulasie kan, in die geval van iemand wat dan uit hoofde van 'n aanstelling kragtens subregulasie (4) in waarnemende hoedanigheid dien, terugwerkend gemaak word vanaf die begin van die tydperk wat hy aldus gedien het of, waar hy vir twee of meer tydperke wat tesame 'n enkele ononderbroke tydperk uitmaak, aldus gedien het, vanaf die begin van die eerste van daardie tydperke.

(3) (a) Iemand wat kragtens subregulasie (1) of (4) aangestel word, met inbegrip van 'n regter wat kragtens die bepalings van artikel 34 (2) (b) van die Wet afgestaan is om as regter van die Hof te dien, moet, voordat hy sy ampswerkzaamhede begin uitvoer, 'n eed of plegtige verklaring aflê, wat deur hom onderteken moet word, in onderstaande vorm, te wete:

"Ek, verklaar hierby
(volle naam)

onder eed/plegtig en opreg dat ek in my hoedanigheid van 'n regter van die Hoërfhof van Bophuthatswana aan alle persone op gelyke voet reg sal laat geskied sonder vrees, begunstiging of vooroordeel en soos die omstandighede van 'n bepaalde saak vereis, ooreenkomstig die reg en gebruike van die gebied waaroor bedoelde Hof jurisdiksie uitoefen."

(b) So 'n eed of plegtige verklaring moet afgelê word voor die senior beskikbare regter van die Hof wat daar- onder 'n verklaring moet endosseer dat dit voor hom afgelê is, en die datum van aflegging daarvan moet vermeld en dit moet onderteken: Met dien verstande dat so

signature thereto: Provided that such oath or affirmation which is to be taken or made by the first or only judge appointed for the Court, shall be taken or made before the Chief Justice of the Republic or any other person designated for that purpose by the State President.

(4) Whenever it is for any reason expedient that a person be appointed to act as a judge in the place of any judge of the Court or in addition to the judges of the Court or in any vacancy in the Court, the State President may appoint some fit proper person so to act for such period as the State President may determine.

(5) Any appointment made under this regulation shall be deemed to have been made also in respect of any period during which the person appointed is necessarily engaged in connection with the disposal of any proceedings in which he has taken part as a judge and which have not been disposed of at the termination of the period for which he was appointed or, having been disposed of before or after such termination, are re-opened.

(6) (a) A judge of the Court shall not be removed from office except by the State President on the grounds of misbehaviour or incapacity.

(b) A judge of the Court may retire from office if he has attained the age of 65 years and has served continuously in that office for a period of at least 10 years in the Court or in the Supreme Court or both, whether in an acting or permanent capacity, and shall retire from office on attaining the age of 70 years, irrespective of the period of his holding the office of judge.

(7) The provisions of subregulations (3) and (6) (a) shall apply also in respect of a person appointed under subregulation (4), and the provisions of subregulation (2) (a) relating to the remuneration of any judge referred to in that paragraph, shall apply also in respect of a person so appointed.

(8) A judge of the Supreme Court seconded in terms of the provisions of section 34 (2) (b) of the Act to serve as Chief Justice shall be paid, apart from his salary as judge of the Supreme Court, an additional allowance in order that his salary, calculated together with the said allowance, shall equal that payable to a judge president of a provincial division of the Supreme Court.

Judge not to hold any other office of profit

3. (1) No judge of the Court shall, without the consent of the State President, accept, hold or perform any other office of profit or receive in respect of any service any fees, emoluments or other remuneration apart from his salary and any allowances which may be payable to him in his capacity as such a judge.

(2) Subject to the provisions of regulation 2 (8) no fees, emoluments or other remuneration, shall, apart from his salary and any allowances which are payable to him in his capacity as judge of the Supreme Court, be paid to a judge of the Supreme Court seconded to act or serve as judge of the Court, merely by reason of the fact that such a judge acts or serves as a judge of the Court.

Constitution of Court

4. (1) (a) Save as provided in these regulations or any other law, the Court shall, when sitting as a court of first instance for the hearing of any civil matter, be constituted before a single judge of the Court: Provided that the Chief Justice or, in his absence, the senior available judge of the Court may at any time direct that any matter be heard by a full court consisting of so many judges as he may determine.

(b) A single judge may at any time discontinue the hearing of any matter which is being heard before him and refer it for hearing to the full court.

'n eed of plegtige verklaring wat afgelê moet word deur die eerste of enigste regter wat vir die Hof aangestel word, afgelê word voor die Hoofregter van die Republiek of 'n ander persoon deur die Staatspresident vir daardie doel aangewys.

(4) Wanneer dit om die een of ander rede raadsaam is dat iemand aangestel word om as 'n regter op te tree in die plek van 'n regter van die Hof of bo en behalwe die regters van die Hof of in 'n vakature in die Hof, kan die Staatspresident 'n geskikte persoon aanstel om aldus op te tree vir die tydperk wat die Staatspresident bepaal.

(5) 'n Aanstelling kragtens hierdie regulasie gedoen, word geag ook gedoen te wees ten opsigte van enige tydperk waartydens die aangestelde persoon hom noodsaaklikerwys besig hou in verband met die afhandeling van verrigtings waaraan hy as regter deelgeneem het en wat, by beëindiging van die tydperk waarvoor hy aangestel is, nog nie afgehandel is nie of wat, nadat dit voor of na sodanige beëindiging afgehandel is, heropen word.

(6) (a) 'n Regter van die Hof word nie van sy amp onthef nie behalwe deur die Staatspresident op grond van wangedrag of onbekwaamheid.

(b) 'n regter van die Hof kan aftree indien hy die ouderdom van 65 jaar bereik het, en in sy amp in die Hof of in die Hooggeregshof, of albei, onafgebroke gedien het vir 'n periode van minstens 10 jaar, hetsy in 'n waarnemende of permanente hoedanigheid, en moet aftree by die bereiking van die ouderdom van 70 jaar ongeag die tydperk van sy diens in die amp van regter.

(7) Die bepalinge van subregulasie (3) en (6) (a) is ook van toepassing ten opsigte van iemand kragtens subregulasie (4) aangestel, en die bepalinge van subregulasie (2) (a) met betrekking tot die besoldiging van 'n regter bedoel in daardie paragraaf is ook van toepassing ten opsigte van 'n persoon aldus aangestel.

(8) 'n Regter van die Hooggeregshof wat kragtens die bepalinge van artikel 34 (2) (b) van die Wet afgestaan is om as Hoofregter te dien, word, benewens sy salaris as regter van die Hooggeregshof, 'n bykomende toelae betaal ten einde sy salaris, bereken tesame met dié toelae, gelyk te maak aan die salaris betaalbaar aan 'n regter-president van 'n provinsiale afdeling van die Hooggeregshof.

Regter beklee geen ander winsbetrekking nie

3. (1) Geen regter van die Hof mag, sonder toestemming van die Staatspresident, 'n ander winsbetrekking aanvaar of beklee of daarin dien of ten opsigte van enige diens enige gelde, emolumente of ander besoldiging benewens sy salaris en enige toelae wat in sy hoedanigheid van so 'n regter aan hom betaalbaar is, ontvang nie.

(2) Behoudens die bepalinge van regulasie 2 (8) word geen gelde, emolumente of ander besoldiging, benewens sy salaris en enige toelae wat in sy hoedanigheid van regter van die Hooggeregshof aan hom betaalbaar is, aan 'n regter van die Hooggeregshof wat afgestaan is om as regter van die Hof waar te neem of te dien, betaal nie bloot uit hoofde daarvan dat so 'n regter as regter van die Hof waarneem of dien nie.

Samestelling van Hof

4. (1) (a) Behoudens die bepalinge van hierdie regulasies of ander wetsbepalinge word die Hof, wanneer hy as 'n hof van eerste instansie vir die verhoor van 'n siviele aangeleentheid sit, voor 'n enkele regter van die Hof saamgestel: Met dien verstande dat die Hoofregter, of in sy afwesigheid die senior beskikbare regter van die Hof, te eniger tyd kan gelas dat 'n aangeleentheid verhoor word deur 'n volle hof wat bestaan uit soveel regters as wat hy bepaal.

(b) 'n Enkele regter kan te eniger tyd die verhoor van 'n aangeleentheid wat voor hom verhoor word, staak en dit vir verhoor na die volle hof verwys.

(2) The Court shall, subject to the provisions of sub-regulation (4) and except where it is in terms of any law required or permitted to be otherwise constituted, for the hearing of any appeal be constituted before not less than two judges: Provided that in the case of an appeal which could have been heard by a Bantu Appeal Court had these regulations not come into force, the Court shall be constituted before a single judge and two assessors who, in the opinion of the Court, have a good knowledge of Bantu law and custom.

(3) For the hearing of any criminal case as a court of first instance, the Court shall be constituted in the manner prescribed in the applicable law relating to procedure in criminal matters.

(4) During any period which may by rule of court be fixed as vacation or during any period for which only one judge has been appointed in terms of these regulations or is available, one judge thereof shall, notwithstanding anything contained in these regulations or any other law, be competent to exercise all the powers, jurisdiction and authority of the Court, including the hearing of appeals.

More than one court may sit at the same time

5. The Court may at any time sit in so many courts constituted in the manner provided for in these regulations as the available judges may allow.

Persons over whom and matters in relation to which the Court has jurisdiction

6 (1) The Court shall have the same jurisdiction in the area as that which could have been exercised by a provincial division of the Supreme Court, a Bantu Appeal Court and a Bantu Divorce Court in terms of the common law or other applicable laws had these regulations not come into force and shall, in addition to any powers or jurisdiction conferred on it by law, have the power—

(a) to hear and determine appeals from all inferior courts within its area of jurisdiction;

(b) to review the proceedings of all such courts; and

(c) in its discretion, and at the instance of any interested person, to inquire into and determine any existing, future or contingent right or obligation, notwithstanding that such person cannot claim any relief consequential upon the determination.

(2) The Court shall also have jurisdiction over any person residing or being outside the area who is joined as a party to any cause in relation to which the Court has jurisdiction or who, in terms of a third party notice, becomes a party to such a cause.

(3) The provisions of this regulation shall not be construed as in any way limiting the powers of a provincial division of the Supreme Court, a Bantu Appeal Court and a Bantu Divorce Court, as existing at the time of the coming into operation of these regulations, or as depriving such courts of any jurisdiction they could legally exercise at the time of such coming into operation, in order to enable such courts to finalise any unfinished work, including legal matters already instituted at the time of such coming into operation.

Seat and Circuit Courts

7. (1) The seat of the Court shall be in Montshiwa: Provided that the Chief Justice may, by notice in the *Government Gazette* and the *Official Gazette* of Bophuthatswana, from time to time divide the area into one or more circuit districts and may, from time to time, by like notice alter the boundaries of any such district for purposes of specific circuits of the Court.

(2) Die Hof word, behoudens die bepalings van sub-regulasie (4) en behalwe waar hy ingevolge die een of ander wetsbepaling anders saamgestel moet of kan word, vir die verhoor van 'n appèl voor minstens twee regters saamgestel: Met dien verstande dat in die geval van 'n appèl wat deur die Bantoe-appèlhof verhoor sou kon gewees het indien hierdie regulasies nie van krag geword geword het nie, die Hof voor 'n enkele regter en twee assessore wat, na die mening van die Hof, 'n goeie kennis van Bantoereg en -gebruik het, saamgestel word.

(3) Vir die verhoor van 'n strafsak as 'n hof van eerste instansie word die Hof saamgestel op die wyse in die toepaslike wetsbepalings op prosedure in strafregtelike aangeleenthede voorgeskryf.

(4) Gedurende enige tydperk wat by hofreël as 'n vakansietydperk bepaal is, of gedurende enige tydperk waarvoor slegs een regter kragtens hierdie regulasies vir die Hof aangestel is of waartydens hy beskikbaar is, is een regter daarvan, ondanks enigiets in hierdie regulasies of ander wetsbepalings vervat, bevoeg om al die bevoegdhede, jurisdiksie en gesag van die Hof uit te oefen, insluitende die verhoor van appèlle.

Meer as een hof kan terselfdertyd sit

5. Die Hof kan te eniger tyd in soveel howe, wat volgens voorskrif van hierdie regulasies saamgestel is, sittings hou as wat die beskikbare regters toelaat.

Persone en aangeleenthede met betrekking waartoe die Hof regsbevoeg is

6. (1) Die Hof besit dieselfde regsbevoegdheid in die gebied as wat 'n provinsiale afdeling van die Hooggeregshof, 'n Bantoe-appèlhof en 'n Bantoe-egskeidingshof ingevolge die gemene reg of ander toepaslike wette sou kon uitoefen indien hierdie regulasies nie van krag geword het nie en is, afgesien van enige bevoegdheid of jurisdiksie regtens aan hom verleen, bevoeg—

(a) om appèlle van alle laerhowe binne sy regsgebied te verhoor en daaroor te beslis;

(b) om die verrigtinge van alle sodanige howe te hersien; en

(c) om na goeëduke, en op versoek van 'n belanghebbende persoon, enige bestaande, toekomstige of voorwaardelike reg of verpligting te ondersoek en te bepaal, al het so iemand nie regtens enige aanspraak op verligting uit hoofde van die bepaling nie.

(2) Die Hof besit ook regsbevoegdheid oor 'n persoon wat buite die gebied woon of is en wat gevoeg word as 'n party by 'n geding met betrekking waartoe die Hof regsbevoegdheid besit of wat ingevolge 'n derdeparty-kennisgewing 'n party by so 'n geding word.

(3) Die bepalings van hierdie regulasie word nie so uitgelê dat dit op enigerlei wyse die bevoegdhede van 'n provinsiale afdeling van die Hooggeregshof, 'n Bantoe-appèlhof en 'n Bantoe-egskeidingshof, soos dit by die inwerking-treding van hierdie regulasies bestaan, beperk, of sodanige howe enige regsbevoegdheid wat hulle wettiglik by bedoelde inwerking-treding kon uitoefen, ontnem nie, ten einde bedoelde howe in staat te stel om enige onafgehandelde werksaamhede, insluitende regs-aangeleenthede wat reeds aanhangig gemaak is by bedoelde inwerking-treding, af te handel.

Setel en Rondgange

7. (1) Die setel van die Hof is op Montshiwa: Met dien verstande dat die Hoofregter by kennisgewing in die *Staatskoerant* en die *Amptelike Koerant* van Bophuthatswana van tyd tot tyd die gebied in een of meer rondgangdistrikte kan indeel en van tyd tot tyd by dergelike kennisgewing die grense van sodanige distrikte kan verander vir doeleindes van bepaalde rondgange van die Hof.

(2) In each circuit district referred to in subregulation (1) there shall be held at such times and places as may be determined by the Chief Justice, a court presided over by a judge of the Court.

(3) Such a court shall, for all purposes, be deemed to be the Court, shall not constitute a separate division of the Court and all records in connection with the proceedings of the Court on circuit and its judgments, decrees, orders and sentences shall be those of the Court.

Nature of Court and seal

8. (1) The Court is a court of record and shall have for use as the occasion may require, a seal of the design described in the annexure to these regulations.

(2) The seal shall be kept in the custody of the registrar of the Court.

Procedure to be carried on in open court

9. Save as is otherwise provided in any law, all proceedings in the Court shall be carried on in open court.

Manner of arriving at decisions

10. (1) Save as otherwise provided in these regulations or any other law, the judgment of the majority of the judges of the full court shall be the judgment of the Court and where the judgments of a majority of the judges of the Court are not in agreement, the hearing shall be adjourned and commenced *de novo* before a new court constituted in such manner as the Chief Justice or, in his absence, the senior available judge, may determine.

(2) If at any stage during the hearing of any matter by a full court, any judge of such court dies or retires or is otherwise incapable of acting or is absent, the hearing shall, if the remaining judges constitute a majority of the judges before whom it was commenced, proceed before such remaining judges, and if such remaining judges do not constitute such a majority, or if only one judge remains, the hearing shall be commenced *de novo*, unless all the parties to the proceedings agree unconditionally in writing to accept the decision of the majority of such remaining judges or of such one remaining judge as the decision of the court.

(3) The provisions of subregulation (1) shall *mutatis mutandis* apply whenever in the circumstances set out in subregulation (2) a hearing proceeds before two or more judges.

Certified copies of court records admissible as evidence

11. Whenever a judgment, decree, order or other record of the Court is required to be proved or inspected or referred to in any manner, a copy of such judgment, decree, order or other record duly certified as such by the registrar under the seal of the Court, shall be *prima facie* evidence thereof without proof of the authenticity of the registrar's signature.

Reference of particular matters for investigation by referee

12. (1) In any civil proceedings the Court may, with the consent of the parties, refer—

(a) any matter which requires extensive examination of documents or scientific, technical or local investigation which, in the opinion of the Court, cannot be conveniently conducted by it; or

(b) any matter which relates wholly or in part to accounts; or

(c) any other matter arising in such proceedings;

for inquiry and report to a referee to be appointed by the Court, and the Court may adopt the report of any such referee, either wholly or in part, and either with or

(2) Daar moet in elk van die rondgangdistrikte bedoel in subregulasie (1), op die tye en plekke wat die Hoofregter bepaal, 'n hof voor 'n regter van die Hof gehou word.

(3) So 'n hof word vir alle doeleindes geag die Hof te wees, vorm nie 'n afsonderlike afdeling van die Hof nie, en alle stukke in verband met die verrigtinge van die Hof op rondgang en sy uitsprake, bevels, orders en vonisse is dié van die Hof

Aard van die Hof en seël

8. (1) Die Hof is 'n notulerende hof en moet 'n seël vir gebruik na vereiste van omstandighede hê waarvan die ontwerp is soos in die Aanhangsel van hierdie regulasies beskryf.

(2) Die seël word in bewaring van die griffier van die Hof gehou.

Verrigtinge wat in ope hof plaas

9. Behoudens andersluidende wetsbepalings word alle verrigtinge in die Hof in ope hof aangevoer.

Wyse waarop tot beslissings geraak word

10. (1) Behoudens andersluidende bepalinge van hierdie regulasies of ander wetsbepalings is die uitspraak van die meerderheid van die regters van die volle hof die uitspraak van die Hof, en waar die uitsprake van 'n meerderheid van die regters van die Hof nie met mekaar ooreenstem nie, word die verhoor verdaag en *de novo* begin voor 'n nuwe hof saamgestel op die wyse wat die Hoofregter, of, in sy afwesigheid, die senior beskikbare regter bepaal.

(2) Indien in enige stadium gedurende die verhoor van 'n aangeleentheid deur 'n volle hof, 'n regter van so 'n hof te sterwe kom of aftree of andersins onbekwaam word om op te tree of afwesig is, word die verhoor, indien die oorblywende regters 'n meerderheid uitmaak van die regters voor wie dit begin het, voor daardie oorblywende regters voortgesit, en indien daardie oorblywende regters nie so 'n meerderheid uitmaak nie of indien slegs een regter oorbly, word die verhoor *de novo* begin, tensy al die partye by die verrigtinge skriftelik en onvoorwaardelik ooreenkom om die beslissing van die meerderheid van bedoelde oorblywende regters of van bedoelde enkele oorblywende regter as die beslissing van die Hof te aanvaar.

(3) Die bepalinge van subregulasie (1) is *mutatis mutandis* van toepassing wanneer 'n verhoor onder die omstandighede in subregulasie (2) uiteengesit, voor twee of meer regters voortgesit word.

Gesertifiseerde afskrifte van hofstukke as getuienis toegelaatbaar

11. Wanneer 'n uitspraak, bevel, order of ander stukke van die Hof bewys of geïnspekteer moet word of daar op enige wyse daarna verwys moet word, is 'n afskrif van so 'n uitspraak, bevel, order of ander stuk wat behoorlik deur die griffier onder die seël van die Hof as sodanig gesertifiseer is, *prima facie*-bewys daarvan sonder bewys van die egtheid van die handtekening van die griffier.

Verwysing van bepaalde aangeleenthede vir ondersoek deur skeidsregter

12. (1) Die Hof kan, in 'n siviele geding, met die toestemming van die partye—

(a) enige aangeleentheid wat 'n uitgebreide ondersoek van dokumente of wetenskaplike, tegniese of plaaslike ondersoek verg wat na die oordeel van die Hof nie geredelik deur die Hof ingestel kan word nie; of

(b) enige aangeleentheid wat geheel en al of gedeeltelik op rekening betrekking het; of

(c) enige ander aangeleentheid wat uit bedoelde geding voortspruit;

vir ondersoek en verslag van 'n skeidsregter, wat deur die Hof aangewys moet word, verwys, en die Hof kan die verslag van so 'n skeidsregter in sy geheel of gedeeltelik

without modifications, or may remit such report for further inquiry or report or consideration by such referee, or make such other order in regard thereto as may be necessary or desirable.

(2) Any such report or any part thereof which is adopted by the Court, whether with or without modifications, shall have effect as if it were a finding by the Court in the civil proceedings in question.

(3) Any such referee shall for the purpose of such inquiry have such powers and shall conduct the inquiry in such manner as may be prescribed by a special order of the Court or by the rules of court.

(4) For the purpose of procuring the attendance of any witness (including any witness detained in custody under any law) and the production of any document or thing before a referee, an inquiry under this regulation shall be deemed to be civil proceedings.

(5) (a) Any person summoned to appear and give evidence or produce any document or thing before a referee, who, without sufficient cause, fails to attend at the time and place specified or to remain in attendance until the conclusion of the inquiry or until he is excused by the referee from further attendance, or refuses to be sworn or to make affirmation as a witness, or having been sworn or having been made affirmation, fails to answer fully and satisfactorily any question put to him, or fails to produce any document or thing in his possession or custody or under his control, which he was summoned to produce, shall be guilty of an offence and liable on conviction to a fine not exceeding R50 or to imprisonment for a period not exceeding three months.

(b) Any person who, after having been sworn or having made affirmation, gives false evidence before a referee at an inquiry, knowing such evidence to be false or not knowing or believing it to be true, shall be guilty of an offence and liable on conviction to the penalties prescribed by law for perjury.

(6) Any referee shall be entitled to such remuneration as may be prescribed by the rules of court or, if no such remuneration has been so prescribed, as the Court may determine, and to any reasonable expenditure incurred by him for the purposes of the inquiry, and any such remuneration and expenditure shall be taxed by the taxing master of the Court and shall be costs in the cause.

Appeals to the Court

13. (1) Subject to the provisions of these regulations and any other law, the Court shall have the power to hear and determine appeals from inferior courts in the area, and the provisions of any law relating to the powers of a provincial division of the Supreme Court in connection with appeals from any such inferior courts to the Supreme Court shall, subject to the provisions of these regulations and the rules of court, *mutatis mutandis* apply to any appeals to the Court.

(2) The provisions of this regulation shall not affect any other law relating to appeals from decisions of inferior courts in civil matters and any reference to the Supreme Court or a Bantu Appeal Court in relation to such appeals shall be construed as a reference to the Court.

(3) Appeals in criminal cases heard by the Court shall *mutatis mutandis* be subject to the provisions of the Criminal Procedure Act, 1955 (Act 56 of 1955), and any reference in that Act to the Supreme Court or a division thereof shall be deemed to be a reference to the Court.

aanvaar, met of sonder wysigings, of kan so 'n verslag vir verdere ondersoek of verslag of oorweging deur bedoelde skeidsregter terugverwys, of 'n ander bevel ten opsigte daarvan uitvaardig wat nodig of wenslik is.

(2) So 'n verslag of enige deel daarvan wat deur die Hof aanvaar word, hetsy met of sonder wysigings, het die uitwerking van 'n bevinding van die Hof in die betrokke siviele geding.

(3) So 'n skeidsregter het, vir die doeleindes van bedoelde ondersoek, die bevoegdheid en behartig die ondersoek op die wyse wat by 'n spesiale hofbevel of by hofreëls voorgeskryf word.

(4) Vir die doeleindes van die verkryging van die aanwesigheid van 'n getuie (met inbegrip van 'n getuie wat kragtens 'n wetsbepaling in hegtenis gehou word) en die oorlegging van 'n dokument of saak voor 'n skeidsregter, word 'n ondersoek kragtens hierdie regulasie 'n siviele geding geag.

(5) (a) Iemand wat gedagvaar is om voor 'n skeidsregter te verskyn en getuie af te lê of 'n dokument of saak oor te lê, en wat sonder voldoende rede in gebreke bly om op die bepaalde tyd en plek aanwesig te wees of om aanwesig te bly totdat die ondersoek voltooi is of totdat die skeidsregter hom verlos gee om nie meer aanwesig te wees nie, of wat weier om as getuie die eed of 'n plegtige verklaring af te lê, of wat na eedaflegging of die aflê van 'n plegtige verklaring in gebreke bly om 'n vraag aan hom gestel volledig en op bevredigende wyse te beantwoord, of wat in gebreke bly om 'n dokument of saak in sy besit of bewaring of onder sy beheer, en tot oorlegging waarvan hy gedagvaar is, oor te lê, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R50 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(b) Iemand wat na eedaflegging of die aflê van 'n plegtige verklaring valse getuie af lê of 'n skeidsregter by 'n ondersoek aflê, met die wete dat die getuie vals is of sonder dat hy weet of glo dat dit waar is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met die regtens voorgeskrewe straffe vir meened.

(6) 'n Skeidsregter is geregtig op die besoldiging wat by die hofreëls voorgeskryf word of, indien geen sodanige besoldiging aldus voorgeskryf is nie, wat die hof bepaal, en op enige redelike uitgawes deur hom vir die doeleindes van die ondersoek aangeaan, en sodanige besoldiging en uitgawes word deur die takseermeester van die Hof getakseer en is koste in die geding.

Appelle na die Hof

13. (1) Behoudens die bepalings van hierdie regulasies en enige ander wetsbepaling, besit die Hof die bevoegdheid om appële vanaf laerhowe in die gebied te verhoor en daaroor te beslis en is die wetsbepalings wat betrekking het op die bevoegdhede van 'n provinsiale afdeling van die Hooggeregshof in verband met appële vanaf sodanige laerhowe na die Hooggeregshof, behoudens die bepalings van hierdie regulasies en die hofreëls, *mutatis mutandis* van toepassing op alle appële na die Hof.

(2) Die bepalings van hierdie regulasie maak nie op ander wetsbepalings betreffende appële teen beslissings van laerhowe in siviele aangeleenthede inbreuk nie en enige verwysing na die Hooggeregshof of 'n Bantoe-appëlhof met betrekking tot sodanige appële word uitgelê as 'n verwysing na die Hof.

(3) Appële in strafsake deur die Hof verhoor, is *mutatis mutandis* onderworpe aan die bepalings van die Strafproseduurewet, 1955 (Wet 56 van 1955), en enige verwysing in daardie Wet na die Hooggeregshof of 'n afdeling daarvan word geag 'n verwysing na die Hof te wees.

Appeals to the Appellate Division

14. (1) In addition to any jurisdiction conferred upon it by any other law, the Appellate Division shall, subject to the provisions of these regulations and any other law, have jurisdiction to hear and determine any appeal from a decision of the Court and the provisions relating to appeals from a judgment or order of a provincial division of the Supreme Court shall, subject to the provisions of these regulations, apply as if the Court were a provincial division of the Supreme Court.

(2) Save with the leave of the Court there shall be no appeal to the Appellate Division against an interlocutory order or against a judgment or order on application by way of motion or petition or summons for provisional judgment or in a trial where the defendant is in default, or in connection with costs only, which by law vests in the discretion of the Court or against a judgment or order given by consent, or against a judgment or order given by the Court in an appeal to it or upon review by it: Provided that, where such leave has been refused, the Appellate Division may, on application made to it, grant such leave, and may vary any order as to costs made by the Court in refusing leave.

Grounds for review of proceedings of inferior courts

15. (1) The grounds upon which the proceedings of any inferior court may be brought under review before the Court, are—

- (a) absence of jurisdiction on the part of the court;
- (b) interest in the cause, bias, malice or corruption on the part of the presiding judicial officer;
- (c) gross irregularity in the proceedings; and
- (d) the admission of inadmissible or incompetent evidence or the rejection of admissible or competent evidence.

(2) Nothing in this regulation shall affect the provisions of any other law relating to the review of proceedings in inferior courts and any reference in any law to the Supreme Court or a Bantu Appeal Court in relation to reviews shall be construed as a reference to the Court.

No process to be issued against judge except with consent of the Court

16. (1) Notwithstanding anything to the contrary in any law contained, no summons or subpoena against any judge of the Court or the Supreme Court shall in any civil action be issued out of any court in the area, except with the consent of the Court.

(2) Where the issuing of a summons or subpoena against a judge to appear in a civil action has been consented to, the date upon which such judge must attend court shall be determined in consultation with the Chief Justice or, in his absence, the next senior judge of the Court.

Scope and execution of process

17. (1) The provisions of section 26 (1) of the Supreme Court Act, 1959 (Act 59 of 1959), shall apply to process of the Court.

(2) Any warrant or other process for the execution of a judgment given or order issued against any association of persons corporate or unincorporate, partnership or firm may be executed by attachment of the property or assets of such association, partnership or firm.

Appèl na die Appèlafdeling

14. (1) Benewens enige regsbevoegdheid by enige wetsbepaling aan hom verleen, is die Appèlafdeling regsbevoeg om, behoudens die bepalings van hierdie regulasies en ander wetsbepalings, 'n appèl teen 'n beslissing van die Hof te verhoor en te beslis en is die bepalings met betrekking tot appèl teen 'n uitspraak of bevel van 'n provinsiale afdeling van die Hooggeregshof, onderworpe aan die bepalings van hierdie regulasies, van toepassing asof die Hof 'n provinsiale afdeling van die Hooggeregshof is.

(2) Behalwe met verlof van die Hof, is daar geen appèl na die Appèlafdeling nie teen 'n interlokutore bevel of teen 'n uitspraak of bevel of aansoek by wyse van mosie of petisie of dagvaarding vir provisionele vonnis of in 'n verhoorsaak waar die verweerder in verstek is, of slegs in verband met koste wat regtens by die diskresie van die Hof berus of teen 'n uitspraak of bevel by toestemming gegee, of teen 'n uitspraak of bevel wat deur die Hof in appèl na hom of hersiening deur hom gegee is: Met dien verstande dat waar sodanige verlof geweier is, die Appèlafdeling, op aansoek aan hom gerig, sodanige verlof kan verleen en enige bevel deur die Hof, by die weiering van verlof met betrekking tot koste uitgevaardig, kan wysig.

Gronde vir hersiening van verrigtinge van laerhowe

15. (1) Die gronde waarop die verrigtinge van 'n laerhof voor die Hof in hersiening gebring kan word, is—

- (a) gebrek aan regsbevoegdheid van die Hof;
- (b) belang by die geding, vooroordeel, kwaadwilligheid of korrupsie by die voorsittende regterlike beampte;
- (c) growwe onreëlmatigheid in verband met die verrigtinge; en
- (d) die toelating van ontoelaatbare of onbevoegde getuienis of die verwerping van toelaatbare of bevoegde getuienis.

(2) Die bepalings van hierdie regulasie het geen uitwerking op ander wetsbepalings met betrekking tot die hersiening van verrigtinge van laerhowe nie en enige verwysing in enige wetsbepaling na die Hooggeregshof of 'n Bantoe-appèlhof met betrekking tot hersienings word uitgelê as 'n verwysing na die Hof.

Prosesstukke word nie sonder toestemming van die Hof teen regter uitgereik nie

16. (1) Ondanks andersluidende wetsbepalings, word geen dagvaarding of getuiedagvaarding in 'n siviele geding teen 'n regter van die Hof of die Hooggeregshof uit enige hof in die gebied uitgereik nie, behalwe met die toestemming van die Hof.

(2) Waar toestemming tot die uitreiking van 'n dagvaarding of getuiedagvaarding teen 'n regter om in 'n siviele saak te verskyn, verleen is, word die datum waarop so 'n regter die hof moet bywoon, in oorleg met die Hoofregter of, in sy afwesigheid, die eersvolgende senior regter van die Hof, bepaal.

Strekking en tenuitvoerlegging van prosesstukke

17. (1) Die bepalings van artikel 26 (1) van die Wet op die Hooggeregshof, 1959 (Wet 59 van 1959), is van toepassing op prosesstukke van die Hof.

(2) 'n Lasbrief of ander prosesstuk vir die tenuitvoerlegging van 'n uitspraak gegee of bevel uitgevaardig teen 'n vereniging van persone met of sonder regspersoonlikheid, vennootskap of firma kan deur beslaglegging op die eiendom of bates van dié vereniging, vennootskap of firma ten uitvoer gelê word.

Time allowed for appearance

18. The time allowed for entering an appearance to a civil summons served shall be not less than—

- (a) twenty-one court days if the summons is to be served in the area; and
- (b) twenty-eight court days in any other case.

Prohibition on arrest or attachment to found jurisdiction where defendant resides within the Republic

19. (1) No arrest of a person or attachment of property to found jurisdiction shall be ordered by the Court against a person who is resident in the Republic.

(2) No writ shall be issued out of the Court in or in connection with civil proceedings instituted or to be instituted for the arrest of a person residing within the area to secure his appearance as a defendant in those proceedings, by reason only that such person has departed or is about to depart to a place outside the area of jurisdiction of the Court but within the Republic.

Circumstances in which security for costs shall not be required

20. When a person residing within the Republic but outside the area is a plaintiff in civil proceedings in the Court, he shall not, by reason only of the fact that he resides outside the area, be required to give security for costs in those proceedings.

Manner of securing attendance of witnesses in civil proceedings and penalties for non-attendance

21. (1) A party to civil proceedings before the Court in which the attendance of witnesses is required, may procure the attendance of any witness in the manner provided for in the rules of court.

(2) Whenever any person subpoenaed to attend any civil proceedings as a witness fails, without reasonable excuse, to obey the subpoena and it appears from the return of the competent officer or from evidence given under oath that the subpoena was served upon the person to whom it was directed and that his reasonable expenses, calculated in accordance with the tariff framed under regulation 34 (1) were paid or offered to him, or that he is evading service of the subpoena, or if any person who has attended in obedience to a subpoena fails to remain in attendance, the Court may issue a warrant directing that he be arrested and brought before the Court at a time and place stated in the warrant or as soon thereafter possible.

(3) A person arrested under any such warrant may be detained thereunder before the Court or in any prison or lock-up or other place of detention or in the custody of the person who is in charge of him with a view to securing his attendance as a witness at the said proceedings: Provided that the Court may release him on a recognizance with or without sureties for his appearance to give evidence as required and for his appearance at the inquiry referred to in subregulation (4).

(4) The Court may summarily inquire into such person's evasion of the service of the subpoena or failure to obey the subpoena or to remain in attendance, and may, unless it is proved that such person has a reasonable excuse for such evasion or failure, sentence him to a fine not exceeding R50 or to imprisonment for a period not exceeding three months.

(5) Any sentence imposed by the Court under subregulation (4) shall be enforced and shall be subject to appeal as if it were a sentence imposed in a criminal case.

Tyd toegelaat om verskyning aan te teken

18. Die tydperk toegelaat om, in verband met 'n siviele dagvaarding wat bestel is, verskyning aan te teken, moet minstens—

- (a) een-en-twintig hofdae wees indien die dagvaarding binne die gebied bestel moet word; en
- (b) agt-en-twintig hofdae wees in enige ander geval.

Verbod op arres of beslaglegging om jurisdiksie te vestig waar verweerder in Republiek woon

19. (1) Geen inhegtenisname van die persoon of beslaglegging op eiendom om jurisdiksie te vestig, word teen iemand wat in die Republiek woon deur die Hof beveel nie.

(2) Geen lasbrief word in of in verband met 'n siviele geding wat ingestel is of staan te word, uit die Hof uitgereik vir die inhegtenisname van iemand wat in die gebied woon, ten einde sy verskyning as 'n verweerder by daardie verrigtinge te verseker nie, bloot op grond daarvan dat so iemand na 'n plek buite die regsgebied van die Hof maar binne die Republiek vertrek het of op die punt staan om daarheen te vertrek.

Omstandighede waarin sekerheidstelling vir koste nie vereis word nie

20. Wanneer iemand wat in die Republiek, maar buite die gebied, woon, 'n eiser is in 'n siviele geding voor die Hof, word nie bloot uit hoofde daarvan dat daardie eiser buite die gebied woon, sekerheid vir koste in daardie geding van hom vereis nie.

Manier om verskyning van getuies in siviele gedinge te verseker en strawwe vir versuim om te verskyn

21. (1) 'n Party by 'n siviele geding voor die Hof in verband waarmee die aanwesigheid van getuies vereis word, kan die aanwesigheid van 'n getuie verkry op die wyse in die hofreëls bepaal.

(2) Wanneer iemand wat gedagvaar is om as 'n getuie by 'n siviele geding aanwesig te wees, sonder redelike verskoning versuim om die dagvaarding te gehoorsaam, en dit uit die relaas van die bevoegde beampte of uit getuienis onder eed afgelê, blyk dat die dagvaarding bestel is aan die persoon aan wie dit gerig is en dat sy redelike uitgawes, bereken ooreenkomstig die tarief kragtens regulasie 34 (1) voorgeskryf, aan hom betaal of aangebied is, of dat hy bestelling van die dagvaarding ontwyk, of indien iemand wat ter voldoening aan 'n dagvaarding opgedaag het, versuim om aanwesig te bly, kan die Hof 'n lasbrief uitreik waarby gelas word dat hy in hegtenis geneem en op 'n tyd en plek in die lasbrief vermeld of so spoedig moontlik daarna voor die Hof gebring word.

(3) Iemand wat ingevolge so 'n lasbrief in hegtenis geneem word, kan daarkragtens aangehou word voor die Hof of in 'n gevangenis of opsluitplek of ander aanhoudingsplek of in die bewaring van die persoon wat hom in bewaring het, ten einde sy aanwesigheid as 'n getuie by die betrokke geding te verseker: Met dien verstande dat die Hof hom onder borgakte met of sonder borge vir sy verskyning om getuienis af te lê soos vereis en vir sy verskyning by die ondersoek bedoel in subregulasie (4), kan vrylaat.

(4) Die Hof kan summier ondersoek instel na so iemand se ontwyking van bestelling van die dagvaarding of versuim om die dagvaarding te gehoorsaam of om aanwesig te bly, en kan, tensy bewys word dat so iemand 'n redelike verskoning vir die ontwyking of versuim het, hom vonnis tot 'n boete van hoogstens R50 of tot gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(5) 'n Vonnis ingevolge subregulasie (4) deur die Hof opgelê, word ten uitvoer gelê en is onderhewig aan appèl asof dit 'n vonnis is wat in 'n strafsak opgelê is.

(6) If a person who has entered into any recognizance for his appearance to give evidence at such proceedings or for his appearance at an inquiry referred to in subregulation (4) fails so to appear, he may, apart from the forfeiture of his recognizance, be dealt with as if he had failed to obey a subpoena to attend such proceedings or appear at such inquiry.

Manner in which witness may be dealt with on refusal to give evidence or to produce documents

22. (1) Whenever any person who appears either in obedience to a subpoena or by virtue of a warrant issued under regulation 21 or is present and is orally required by the Court to give evidence in any civil proceedings, refuses to be sworn or to make an affirmation, or, having been sworn or having made an affirmation, refuses to answer such questions as are put to him, or refuses or fails to produce any document or thing which he is required to produce, without any just excuse for such refusal or failure, the Court may adjourn the proceedings for any period not exceeding eight days and may, in the meantime, by warrant commit the person so refusing or failing to prison unless he sooner consents to do what is required of him.

(2) If any person referred to in subregulation (1) again refuses at the resumed hearing of the proceedings to do what is so required of him, the Court may again adjourn the proceedings and commit him for a like period and do so again from time to time until such person consents to do what is required of him.

(3) Nothing in this regulation contained shall prevent the Court from giving judgment in any case or otherwise disposing of the proceedings on the ground of any other sufficient evidence taken.

(4) No person shall be bound to produce any document or thing not specified or otherwise sufficiently described in the subpoena unless he actually has it in Court.

(5) When a subpoena is issued to procure the attendance of a judicial officer to give evidence or to produce any book, paper or document in any civil proceedings, and it appears—

(a) that he is unable to give any evidence or to produce any book, paper or document which would be relevant to any issue in such proceedings; or

(b) that such book, paper or document could properly be produced by some other person; or

(c) that the compelling of his attendance would be an abuse of the process of the court;

the Court may, notwithstanding anything in this regulation contained, after reasonable notice by the registrar to the party who sued out the subpoena and after hearing that party in chambers if he appears, make an order cancelling such subpoena.

Examination by interrogatories of persons whose evidence is required in civil proceedings

23. (1) The Court may in connection with any civil proceedings pending before it, order that the evidence of a person who resides or is, for the time being, outside the area of jurisdiction of the Court, be taken by means of interrogatories by a commissioner appointed for that purpose.

(2) Whenever an order is made under subregulation (1), the registrar shall certify that fact and transmit a copy of his certificate to the commissioner of the Court, together with any interrogatories duly and lawfully framed which it is desired to put to the said person and the fees and the amount of the expenses payable to the said person for his appearance as hereinafter provided.

(6) Indien iemand wat 'n borgakke aangegaan het om te verskyn ten einde in so 'n geding getuienis af te lê, of om by die ondersoek bedoel in subregulasie (4), te verskyn, versuim om aldus te verskyn, kan daar, afgesien van die verbeurdverklaring van sy borggeld, met betrekking tot hom gehandel word asof hy versuim het om 'n dagvaarding om by bedoelde geding aanwesig te wees, te gehoorsaam of om by bedoelde ondersoek te verskyn.

Wyse waarop met getuie gehandel kan word by weiering om getuienis af te lê of stukke oor te lê

22. (1) Wanneer iemand wat of ter voldoening aan 'n dagvaarding of ingevolge 'n lasbrief kragtens regulasie 21 uitgereik, verskyn of aanwesig is en deur die Hof mondeling van hom verlang word om in 'n siviele geding getuienis af te lê, weier om 'n eed of plegtige verklaring af te lê, of, nadat hy 'n eed of plegtige verklaring afgelê het, weier om die vrae te beantwoord wat aan hom gestel word, of weier of versuim om 'n stuk of saak oor te lê waarvan die oorlegging van hom vereis word, sonder dat daar grondige rede vir die weiering of versuim bestaan, kan die Hof die verrigtinge vir 'n tydperk van hoogstens agt dae verdaag en die persoon wat aldus weier of versuim, intussen by lasbrief gevange sit tensy hy eerder instem om te doen wat van hom verlang word.

(2) Indien 'n persoon bedoel in subregulasie (1), by die hervatting van die verhoor van die geding weer weier om te doen wat aldus van hom verlang word, kan die Hof weer eens die verrigtinge verdaag en hom vir 'n dergelyke tydperk gevange sit en dit van tyd tot tyd herhaal totdat bedoelde persoon instem om te doen wat van hom verlang word.

(3) Die bepalinge van hierdie regulasie belet nie die Hof om in enige saak uitspraak te gee of die verrigtinge andersins af te handel op grond van ander voldoende getuienis wat afgeneem is nie.

(4) Niemand is verplig om 'n stuk of saak oor te lê wat nie in die dagvaarding vermeld of andersins genoegsaam beskryf is nie, tensy hy dit werklik in die Hof het.

(5) Wanneer 'n dagvaarding uitgereik word om die aanwesigheid van 'n regterlike beampte te verkry om in 'n siviele geding getuienis af te lê of 'n boek, stuk of dokument oor te lê, en dit blyk—

(a) dat hy nie in staat is om getuienis te lewer of 'n boek, stuk of dokument oor te lê wat by 'n geskildpunt in die geding ter sake sou wees nie; of

(b) dat so 'n boek, stuk of dokument gevoeglik deur iemand anders oorgelê sou kon word; of

(c) dat om hom te verplig om aanwesig te wees op misbruik van geregtelike proses sou neerkom;

kan die Hof, ondanks enigiets in hierdie regulasie vervat, na redelike kennisgewing deur die griffier aan die party wat die dagvaarding uitgeneem het en nadat daardie party in kamers aangehoor is indien hy verskyn, 'n bevel uitvaardig waarby die dagvaarding gekanselleer word.

Ondervraging op vraagpunte van persone van wie getuienis in siviele gedinge verlang word

23. (1) Die Hof kan in verband met 'n siviele geding wat voor hom aanhangig is, beveel dat die getuienis van iemand wat buite die regsgebied van die Hof woon of hom dan daarbuite bevind, by wyse van vraagpunte afgeneem word deur 'n kommissaris vir daardie doel aangestel.

(2) Wanneer 'n bevel kragtens subregulasie (1) uitgevaardig word, moet die griffier daardie feit sertifiseer en 'n afskrif van sy sertifikaat aan die kommissaris van die Hof stuur, tesame met behoorlik en wettiglik opgestelde vraagpunte waarvoor ondervraging van die betrokke persoon verlang word, asook die gelde en bedrag van die onkoste aan daardie persoon betaalbaar ten opsigte van sy verskyning soos hieronder bepaal.

(3) Upon receipt of the certificate, interrogatories and amounts aforesaid, the commissioner shall summon the said person to appear before him, and, upon his appearance, shall take his evidence as if he were a witness in civil proceedings before the Court, and shall put to him the interrogatories aforesaid with any other questions calculated to obtain full and true answers to the said interrogatories and shall take down or cause to be taken down the evidence so obtained, and shall transmit the same, certified as correct, to the registrar.

(4) The commissioner shall further transmit to the registrar a certificate showing the amount paid to the person concerned in respect of the expenses of his appearance, and the cost of the issue and service of the process for summoning such person before him.

(5) Any person summoned to appear as in this regulation provided who, without reasonable excuse, fails to appear at the time and place mentioned in the summons, shall be guilty of an offence and liable on conviction by any competent court to a fine not exceeding R50 or to imprisonment for a period not exceeding three months.

(6) Any interrogatories taken and certified under the provisions of this regulation, shall, subject to all lawful exceptions, be received as evidence in the civil proceedings aforesaid.

Manner of dealing with commissions rogatoire, letters of request, and documents for service originating from foreign countries

24. (1) Whenever a commission rogatoire or letter of request received from any state or territory or court outside the Republic is transmitted to the registrar by the Secretary, together with a translation in English or Afrikaans if the original is in any other language, and an intimation that the Minister considers it desirable that effect should be given thereto without requiring an application to be made to the Court by the agents (if any) of the parties to the action or matter, the registrar shall submit the same to a judge in chambers in order to give effect to such commission rogatoire or letter of request.

(2) Whenever a request for the service on a person in the area if any civil process or citation received from a state, territory or court outside the Republic is transmitted to the registrar by the Secretary, together with a translation in English or Afrikaans if the original is in any other language, and an intimation that the Minister considers it desirable that effect should be given thereto, the registrar shall cause service of the said process or citation to be effected in accordance with the rules of court by the sheriff or a deputy sheriff or any person specially appointed for that purpose by a judge of the Court.

(3) The registrar shall, after effect has been given to any such commission rogatoire, letter of request, process or citation, return all relevant documents, duly verified in accordance with the rules of court, to the Secretary for transmission.

(4) Except where the Minister otherwise directs, no fees other than disbursements shall be recovered from any state, territory or court on whose behalf any service such as is referred to in this regulation has been effected.

Appointment and powers of attorney-general

25. (1) The State President shall, subject to the laws governing the Public Service, appoint, in respect of the area of jurisdiction of the Court, an attorney-general, who shall have the power to prosecute in the name of the Republic, in any court in the area, any person charged with any offence in regard to which any court in the said area has jurisdiction, and he may perform all functions relating to the exercise of that power.

(3) By ontvangs van bedoelde sertifikaat, vraagpunte en gelde dagvaar die kommissaris die betrokke persoon om voor hom te verskyn, en by sy verskyning neem die kommissaris sy getuienis af asof hy 'n getuie in 'n siviele geding voor die Hof is en stel hy aan hom voormelde vraagpunte asook ander vrae wat daarop bereken is om volledige en juiste antwoorde op bedoelde vraagpunte te verkry, en neem hy die aldus verkreeë getuienis af of laat hy dit afneem, en hy moet dit as korrek sertifiseer en aan die griffier stuur.

(4) Die kommissaris moet verder aan die griffier 'n sertifikaat stuur wat die bedrag toon wat aan die betrokke persoon ten opsigte van die onkoste verbonde aan sy verskyning betaal is, asook die koste van uitreiking en bestelling van die prosesstukke waarby daardie persoon gedagvaar is om voor hom te verskyn.

(5) Iemand wat gedagvaar word om volgens voorskrif van hierdie regulasie te verskyn, en wat sonder redelike verskoning versuim om op die tyd en plek in die dagvaarding vermeld te verskyn, is aan 'n misdryf skuldig en by skuldigbevinding deur enige bevoegde hof strafbaar met 'n boete van hoogstens R50 of met gevangenisstraf vir 'n tydperk van hoogstens drie maande.

(6) Getuienis op vraagpunte, ingevolge hierdie regulasie afgeneem en gesertifiseer, word, onderworpe aan alle wetlike eksepsies, as getuienis in voormelde siviele geding aangeneem.

Wyse waarop met rogatore kommissies, versoekbriewe en stukke vir bestelling afkomstig uit vreemde lande gehandel moet word

24. (1) Wanneer 'n rogatore kommissie of versoekbrief wat van 'n staat of gebied of hof buite die Republiek ontvang is, deur die Sekretaris aan die griffier gestuur word, tesame met 'n vertaling in Afrikaans of Engels, indien die oorspronklike in 'n ander taal is, en 'n mededeling dat die Minister dit wenslik ag dat daaraan gevolg gegee word sonder om te vereis dat 'n aansoek deur die agente (as daar is) van die partye by die geding of saak by die Hof gedoen word, lê die griffier bedoelde rogatore kommissie of versoekbrief voor aan 'n regter in kamers om daaraan gevolg te gee.

(2) Wanneer 'n versoek om die bestelling aan iemand in die gebied van 'n siviele prosesstuk of sitasie wat van 'n staat, gebied of hof buite die Republiek ontvang is, deur die Sekretaris aan die griffier gestuur word, tesame met 'n vertaling in Afrikaans of Engels, indien die oorspronklike in 'n ander taal is, en 'n mededeling dat die Minister dit wenslik ag dat daaraan gevolg gegee word, laat die griffier bedoelde prosesstuk of sitasie ooreenkomstig die hofreëls bestel deur die balju of adjunk-balju of iemand wat 'n regter van die Hof spesiaal vir daardie doel aangestel het.

(3) Die griffier moet, nadat aan so 'n rogatore kommissie, versoekbrief, prosesstuk of sitasie gevolg gegee is, alle tersaaklike stukke, behoorlike ooreenkomstig die hofreëls geverifieer, aan die Sekretaris vir versending deurstuur.

(4) Behalwe waar die Minister anders gelas, word geen ander gelde as uitgawes op 'n staat, gebied of hof ten behoeve waarvan bestelling geskied het soos in hierdie regulasie bedoel, verhaal nie.

Aanstelling en bevoegdheid van prokureur-generaal

25. (1) Behoudens die wetsbepalings op die Staatsdiens, stel die Staatspresident ten opsigte van die regsgebied van die Hof 'n prokureur-generaal aan, wat die bevoegdheid besit om in die naam van die Republiek in enige hof in die gebied iemand te vervolg wat aangekla word weens 'n misdryf met betrekking waartoe 'n hof in bedoelde gebied regsbevoegdheid besit, en hy kan alle werksaamhede verrig wat met die uitoefening van daardie bevoegdheid in verband staan,

(2) The attorney-general shall exercise his authority and carry out his functions under these regulations or under any other law, subject to the control and directions of the Minister who may reverse any decision arrived at by the attorney-general and may himself in general or in any specific matter exercise any part of such authority and carry out any such function.

(3) Whenever for any reason the attorney-general is absent or unable to carry out the functions of his office or whenever the office of the attorney-general becomes vacant, the Minister may appoint any fit and proper officer of the Public Service to act in the place of the attorney-general during his absence or incapacity or to act in the vacant office until the vacancy is filled, as the case may be.

(4) The Minister may, subject to the laws governing the Public Service, in respect of the area, appoint one or more deputy attorneys-general, who may, subject to the control and directions of the attorney-general, do anything which may be lawfully done by the attorney-general.

Appointment and powers of other officers of the Court

26. (1) (a) The Minister may, subject to the laws governing the Public Service, appoint for the Court registrars, assistant registrars, sheriffs, additional sheriffs, deputy sheriffs and other officers, whenever they may be required for the administration of justice or the exercise of the powers and authority of the Court: Provided that if the duties to be performed by any deputy sheriff are, in the opinion of the Public Service Commission, insufficient to keep at least one person fully occupied throughout the year, and no officer in the Public Service is, in the opinion of the said Commission, able to perform the duties of such deputy sheriff in addition to his other duties, or if, in the opinion of the Minister, the duties of such deputy sheriff can be performed satisfactorily and at less cost to the Government by a person who is not an officer in the Public Service, the Minister may appoint any person as such deputy sheriff at such remuneration and on such conditions as the Minister may determine.

(b) Whenever by reason of absence or incapacity a registrar, assistant registrar or sheriff is unable to carry out the functions of his office, or his office becomes vacant, the Minister may authorise any other competent officer in the Public Service to act in the place of the absent or incapacitated officer during such absence or incapacity or to act in the vacant office until the vacancy is filled: Provided that when any such vacancy has remained unfilled for a continuous period exceeding six months the fact shall be reported to the Public Service Commission.

(c) An additional sheriff may, subject to the directions of the sheriff, exercise all the powers and carry out and perform all the functions and duties of the sheriff.

(2) Any officer in the Public Service appointed under subregulation (1) may hold simultaneously more than one of the offices mentioned in that subregulation.

(3) A deputy sheriff who is not an officer in the Public Service may, with the approval of the Minister, appoint one or more assistants for whom he shall be responsible and any such assistant may, subject to the directions of the deputy sheriff, exercise any of the powers and carry out or perform any of the functions or duties of such deputy sheriff.

(4) Any person appointed as an assistant to a deputy sheriff who is an officer in the Public Service, may, subject to the directions of such deputy sheriff, exercise any of the powers and carry out or perform any of the functions or duties of that deputy sheriff.

(2) Die prokureur-generaal oefen sy gesag uit en verrig sy werksaamhede ingevolge hierdie regulasies of enige ander wetsbepaling onderworpe aan die beheer en voorskrifte van die Minister, wat 'n beslissing waartoe die prokureur-generaal geraak het, kan omverwerp en self in die algemeen of met betrekking tot 'n besondere aangeleentheid enige deel van daardie gesag kan uitoefen en enige sodanige werksaamheid kan verrig.

(3) Wanneer die prokureur-generaal om die een of ander rede afwesig is of nie in staat is om sy ampswerksaamhede te verrig nie of wanneer die amp van die prokureur-generaal vakant raak, kan die Minister 'n geskikte beamppte van die Staatsdiens aanstel om gedurende die afwesigheid of onvermoë van die prokureur-generaal in sy plek op te tree of om in die vakante amp waar te neem totdat die vakature aangevul word, na gelang van die geval.

(4) Die Minister kan, behoudens die wetsbepalings op die Staatsdiens, ten opsigte van die gebied een of meer adjunk-prokureurs-generaal aanstel wat, onderworpe aan die beheer en voorskrifte van die prokureur-generaal, enigiets kan doen wat die prokureur-generaal wettiglik kan doen.

Aanstelling en bevoegdheid van ander beamptes van die Hof

26. (1) (a) Die Minister kan, met inagneming van die wetsbepalings op die Staatsdiens, vir die Hof griffiers, assistent-griffiers, balju's, addisionele balju's, adjunk-balju's en ander beamptes aanstel wanneer hulle vir die regspleging of die uitoefening van die bevoegdheid en gesag van die Hof nodig is: Met dien verstande dat indien die pligte wat deur 'n adjunk-balju verrig moet word, volgens die oordeel van die Staatsdienskommissie nie voldoende is om minstens een persoon die hele jaar deur ten volle besig te hou nie, en geen beampte in die Staatsdiens volgens die oordeel van bedoelde Kommissie in staat is om die pligte van daardie adjunk-balju benewens sy ander pligte uit te voer nie, of indien, volgens die Minister se oordeel, die pligte van bedoelde adjunk-balju op bevredigende wyse en teen laer koste vir die Regering verrig kan word deur iemand wat nie 'n beampte in die Staatsdiens is nie, die Minister enigiemand as so 'n adjunk-balju kan aanstel teen die besoldiging en op die voorwaardes wat die Minister bepaal.

(b) Wanneer 'n griffier, assistent-griffier of balju weens afwesigheid of onbekwaamheid nie sy ampspligte kan uitvoer nie of sy amp vakant word, kan die Minister 'n ander bevoegde beampte in die Staatsdiens magtig om in die plek van die afwesige of onbekwame beampte op te tree solank hy aldus afwesig of onbekwaam is, of om in die vakante betrekking waar te neem totdat die vakature gevul word: Met dien verstande dat wanneer so 'n vakature vir 'n ononderbroke tydperk van meer as ses maande nie gevul is nie, die geval aan die Staatsdienskommissie gerapporteer moet word.

(c) 'n Addisionele balju kan, onderworpe aan die opdragte van die balju, al die bevoegdheid van die balju uitoefen en al sy werksaamhede en pligte uitvoer.

(2) 'n Beampte in die Staatsdiens wat kragtens subregulasie (1) aangestel is, kan gelyktydig meer as een van die ampte in daardie subregulasie bedoel, beklee.

(3) 'n Adjunk-balju wat nie 'n beampte in die Staatsdiens is nie, kan, met goedkeuring van die Minister, een of meer assistente aanstel vir wie hy verantwoordelik is en so 'n assistent kan, onderworpe aan die opdragte van die adjunk-balju enige van die bevoegdheid van daardie adjunk-balju uitoefen en enige van sy werksaamhede of pligte uitvoer.

(4) Iemand wat aangestel is as assistent van 'n adjunk-balju wat 'n beampte in die Staatsdiens is, kan, onderworpe aan die opdragte van daardie adjunk-balju, enige bevoegdheid van bedoelde adjunk-balju uitoefen en enige van sy werksaamhede of pligte uitvoer.

(5) A deputy sheriff who is not an officer of the Public Service shall, as soon as possible after his appointment, furnish security to the satisfaction of the sheriff for the due and faithful performance of his functions, and if he fails or neglects to furnish such security within a period fixed by the sheriff, his appointment shall lapse at the expiration of the said period.

(6) Whenever in any matter objection is made to the service or execution of process by the sheriff or a deputy sheriff by reason of the interest of such sheriff or deputy sheriff in such matter or of the relationship of such sheriff or deputy sheriff to a party to such matter or of any other good cause of challenge, or whenever by reason of illness or absence or for any other reason it is necessary to appoint any person to perform temporarily any of the duties of a deputy sheriff, the Minister may appoint an acting deputy sheriff.

(7) Any person who has already been appointed in the area as deputy sheriff in terms of the Supreme Court Act, 1959 (Act 59 of 1959), shall, subject to the provisions of subregulation (5), be deemed to have been appointed in terms of the provisions of these regulations.

(8) The Minister may delegate to an officer in the Department of Bantu Administration and Development any of the powers vested in him in terms of this regulation.

Suspension of deputy sheriff

27. (1) A deputy sheriff who is alleged to have been negligent or dilatory in the service or execution of process or wilfully to have demanded payment of more than the prescribed fees or expenses or to have made a false return or in any other manner to have misconducted himself in connection with his duties, may, pending investigation, be suspended from office and profit by the sheriff who may appoint a person to act in his place during the period of suspension.

(2) The sheriff shall forthwith report to the Secretary for the information of the Minister any action which he has taken under this regulation, and the Minister may, after investigation, set aside the suspension or may confirm it and may, if he deems fit, dismiss from his office the deputy sheriff who has been so suspended.

Execution of process

28. (1) The sheriff or the deputy sheriff concerned or his assistant shall execute all sentences, decrees, judgments, writs, summonses, rules, orders, warrants, commands and processes of the Court or the Supreme Court directed to the sheriff and make return of the manner of execution thereof to the Court or the Supreme Court, as the case may be, and to the party at whose instance they were issued.

(2) The return of the sheriff or a deputy sheriff or his assistant of what has been done upon any process of the Court, shall be prima facie evidence of the matters therein stated.

(3) The sheriff shall receive and cause to be detained all persons arrested by order of the Court or committed to his custody by competent authority.

(4) A refusal by the sheriff or any deputy sheriff to do any act which he is by law empowered to do, shall be subject to review by the Court on application *ex parte* or on notice, as the circumstances may require.

Liability for acts of sheriff

29. (1) The Government shall be liable for any loss or damage resulting from any wrongful act performed by a sheriff or deputy sheriff, who is an officer of the Public Service, or an assistant of such deputy sheriff, within the scope of his employment as such sheriff or deputy sheriff or assistant or from any neglect of duty of such sheriff or deputy sheriff or assistant.

(2) The sheriff or a deputy sheriff or his assistant shall not be liable for damage arising out of the rescue or escape of any person arrested by him or committed to his

(5) 'n Adjunk-balju wat nie 'n beampte in die Staatsdiens is nie moet, so gou doenlik na sy aanstelling, tot tevredenheid van die balju sekuriteit vir die behoorlike en pligsgetroue verrigting van sy werksaamhede verstrek, en indien hy versuim of nalaat om sodanige sekuriteit te verstrek binne 'n tydperk deur die balju bepaal, vervel sy aanstelling by verstryking van daardie tydperk.

(6) Wanneer in enige saak teen die bestelling of tenuitvoerlegging van 'n proses deur die balju of 'n adjunk-balju beswaar gemaak word op grond daarvan dat bedoelde balju of adjunk-balju by daardie saak belang het of aan 'n party by daardie saak verwant is of op 'n ander goeie wrakingsgrond, of wanneer dit weens siekte of afwesigheid of om 'n ander rede nodig is om iemand aan te stel om tydelik enige pligte van 'n adjunk-balju te verrig, kan die Minister 'n waarnemende adjunk-balju aanstel.

(7) Enige persoon wat reeds ingevolge die Wet op die Hooggeregshof, 1959 (Wet 59 van 1959), in die gebied as adjunk-balju aangestel is, word, behoudens die bepalings van subregulasie (5), geag ingevolge die bepalings van hierdie regulasies aangestel te gewees het.

(8) Die Minister kan aan 'n beampte in die Departement van Bantoe-administrasie en -ontwikkeling enige bevoegdheid deleger wat ingevolge hierdie regulasie by hom berus.

Skorsing van adjunk-balju

27. (1) 'n Adjunk-balju wat na bewering nalatig of traag by die bestelling of tenuitvoerlegging van prosesstukke was of opsetlik betaling van meer as die voorgeskrewe gelde of onkoste geeis het of 'n valse relaas gemaak of hom andersins in verband met sy pligte aan wangedrag skuldig gemaak het, kan, in afwagting van 'n ondersoek, in sy amp geskors en van die voordele daarvan onthef word deur die balju, wat iemand kan aanstel om gedurende die tydperk van die skorsing in sy plek op te tree.

(2) Die balju moet onverwyld enige stappe wat hy ingevolge hierdie regulasie gedoen het aan die Sekretaris vir die inligting van die Minister rapporteer en die Minister kan na ondersoek die skorsing tersyde stel of dit bekragtig en kan na goeddunke die adjunk-balju wat aldus geskors is uit sy amp ontslaan.

Tenuitvoerlegging van prosesstukke

28. (1) Die balju of die betrokke adjunk-balju of sy assistent moet alle vonnisse, be vele, uitsprake, bevelskrifte, dagvaardings, orders, lasbriewe, lasgewings en prosesstukke van die Hof of die Hooggeregshof wat aan die balju gerig is, ten uitvoer lê en 'n relaas van die wyse waarop dit ten uitvoer gelê is, verstrek aan die Hof of die Hooggeregshof, na gelang van die geval, en aan die party wat dit uitgeneem het.

(2) Die relaas van die balju of 'n adjunk-balju of sy assistent van die stappe wat in verband met 'n prosesstuk van die Hof gedoen is, is prima facie-getuienis van die aangeleenthede daarin vermeld.

(3) Die balju moet alle persone wat op las van die Hof in hegtenis geneem of deur bevoegde gesag in sy bewaring gestel is, ontvang en laat aanhou.

(4) 'n Weiering deur die balju of 'n adjunk-balju om 'n handeling te verrig wat hy regtens gemagtig is om te verrig, is onderworpe aan hersiening deur die Hof by aansoek *ex parte* of na kennisgewing, al na die omstandighede vereis.

Aanspreeklikheid vir handeling van balju

29. (1) Die Regering is aanspreeklik vir verlies of skade wat ontstaan uit 'n wederregtelike handeling deur 'n balju of adjunk-balju wat 'n amptenaar in die Staatsdiens is, of 'n assistent van so 'n adjunk-balju, binne die bestek van sy diens as so 'n balju of adjunk-balju of assistent verrig, of uit pligsversuim deur so 'n balju of adjunk-balju of assistent.

(2) Die balju of 'n adjunk-balju of sy assistent is nie vir skade wat ontstaan uit die bevryding of ontsnapping van iemand wat hy in hegtenis geneem het of wat in sy

custody, unless such rescue or escape was effected through his negligence or connivance, but shall, in the event of the rescue or escape of any such person, use all lawful means for his pursuit, apprehension and safe custody.

(3) No proceedings shall be brought against the Minister or the sheriff or any deputy sheriff or his assistant for anything done or omitted to be done in the execution of the duties of his office unless commenced within six months after the act was committed or the omission occurred.

Service of process on sheriffs or deputy sheriffs

30. (1) Whenever any process requires to be served on the sheriff, such process may be served by the other party by delivering a copy thereof to him at his office during ordinary office hours against his signature.

(2) Whenever any process requires to be served on a deputy sheriff, the said process may, if the deputy sheriff resides in the same district as the sheriff, be served by the sheriff, and in every other case by the messenger of the magistrate's court: Provided that if the messenger is himself the deputy sheriff to be so served, the said process may be served by any person specially appointed by the sheriff for that purpose.

Property not liable to be seized in execution

31. The sheriff or a deputy sheriff or his assistant shall not seize in execution of any process—

(a) the necessary beds and bedding and wearing apparel of the person against whom execution is levied or any member of his family;

(b) the necessary furniture, other than beds, and household utensils in so far as they do not exceed in value the sum of R400;

(c) livestock, tools and agricultural implements of a farmer in so far as they do not exceed in value the sum of R400;

(d) any food and drink sufficient to meet the needs of such person and the members of his family for one month;

(e) tools and implements of trade in so far as they do not exceed in value the sum of R400;

(f) professional books, documents or instruments necessarily used by the debtor in his profession in so far as they do not exceed in value the sum of R400; or

(g) such arms and ammunition as the debtor is in terms of any law, regulation or disciplinary order required to have in his possession as part of his equipment:

Provided that the Court may, in exceptional circumstances and on such conditions as it may determine, increase the amount specified in paragraph (b), (c), (e) or (f) to not more than double the amount therein mentioned.

Offences relating to execution

32. Any person who—

(a) obstructs a sheriff or deputy sheriff or his assistant in the execution of his duty;

(b) being aware that goods are under arrest, interdict or attachment by the Court makes away with or disposes of those goods in a manner not authorised by law, or knowingly permits those goods, if in his possession or under his control, to be made away with or disposed of in such a manner;

(c) being a judgment debtor and being required by a sheriff or deputy sheriff or his assistant to point out property to satisfy a warrant issued in execution of a judgment against such person—

(i) falsely declares to that sheriff or deputy sheriff or his assistant that he possesses no property or insufficient property to satisfy the warrant; or

bewaring gestel is, aanspreeklik nie, tensy die bevryding of ontsnapping weens sy nalatigheid of oogluikende toelating geskied het, maar moet in die geval van die bevryding of ontsnapping van so iemand alle wettige middels vir die agtervolging, inhegtenisname en veilige bewaring van so iemand aanwend.

(3) Geen geding word weens 'n handeling of versuim by die vervulling van sy ampspligte teen die Minister of die balju of 'n adjunk-balju of sy assistent ingestel nie, tensy dit aanhangig gemaak word binne ses maande nadat die handeling of versuim plaasgevind het.

Bestelling van prosesstukke aan balju's of adjunk-balju's

30. (1) Wanneer 'n prosesstuk aan die balju bestel moet word, kan so 'n prosesstuk deur die ander party bestel word deur 'n afskrif daarvan gedurende gewone kantoor-ure by sy kantoor teen sy handtekening aan hom te lewer.

(2) Wanneer 'n prosesstuk aan 'n adjunk-balju bestel moet word, kan daardie prosesstuk, indien die adjunk-balju in dieselfde distrik as die balju woon, deur dié balju en in enige ander geval deur die geregsbode van die magistraatshof bestel word: Met dien verstande dat, indien die geregsbode self die adjunk-balju is aan wie bestelling aldus moet geskied, bedoelde prosesstuk bestel kan word deur iemand wat die balju spesiaal vir die doel aanstel.

Eiendom wat nie vir beslaglegging vatbaar is nie

31. Die balju of 'n adjunk-balju of sy assistent lê nie by die tenuitvoerlegging van 'n prosesstuk beslag op—

(a) die nodige beddens, beddegoed en klere van die persoon teen wie beslaglegging geskied of 'n lid van sy gesin nie;

(b) die nodige meubels, behalwe beddens, en huisgereedskap vir sover die waarde daarvan die som van R400 nie te bowe gaan nie;

(c) lewende hawe, gereedskap en landbou-uitrusting van 'n landbouer vir sover die waarde daarvan die som van R400 nie te bowe gaan nie;

(d) voedsel en drank voldoende om in die behoeftes van bedoeelde persoon en die lede van sy gesin vir een maand te voorsien nie;

(e) ambagsgereedskap en -uitrusting vir sover die waarde daarvan die som van R400 nie te bowe gaan nie;

(f) professionele boeke, dokumente of instrumente wat vir die skuldenaar in sy beroep noodsaaklik is, vir sover die waarde daarvan R400 nie te bowe gaan nie; of

(g) wapens en ammunisie wat die skuldenaar volgens die een of ander wet, regulasie of tugreglement as deel van sy uitrusting in sy besit moet hê:

Met dien verstande dat die Hof in buitengewone gevalle en op die voorwaardes wat hy bepaal, die bedrag in paragraaf (b), (c), (e) of (f) vermeld, tot hoogstens dubbel daardie bedrag kan verhoog.

Oortredings met betrekking tot eksekusie

32. Iemand wat—

(a) 'n balju of adjunk-balju of sy assistent in die uitvoering van sy pligte dwarsboom;

(b) in die wete dat 'n beslagleggingsbevel of interdik in verband met goed deur die Hof verleen is, daardie goed wegmaak of daaroor beskik op 'n wyse wat nie volgens wet gemagtig is nie, of wetens toelaat dat daardie goed, indien in sy besit of onder sy beheer, op so 'n wyse weggemaak of daaroor beskik word;

(c) in die geval van 'n vonnis skuldenaar, op versoek van 'n balju of adjunk-balju of sy assistent om eiendom ter voldoening aan 'n lasbrief tot eksekusie van 'n vonnis teen so iemand uitgereik, aan te wys—

(i) valslik aan daardie balju of adjunk-balju of sy assistent verklaar dat hy geen eiendom of nie voldoende eiendom om aan die lasbrief te voldoen, besit nie; of

(ii) although knowing of such property, neglects or refuses to point out such property or to, deliver it to the sheriff or deputy sheriff or his assistant when requested to do so; or

(d) being a judgment debtor, refuses or neglects to comply with any requirement of a sheriff or deputy sheriff or his assistant in regard to the delivery of documents in his possession or under his control relating to the title of the immovable property under execution;

shall be guilty of an offence and liable on conviction to a fine not exceeding R200 or in default of payment to imprisonment for a period not exceeding six months or to such imprisonment without the option of a fine.

Transmission of summonses, writs and other process and of notice of issue thereof by telegraph

33. In any civil proceedings—

(a) any summons, writ, warrant, rule, order, notice, document or other process of the Court or communication which by any law, rule of court or agreement of parties is required or directed to be served or executed upon any person, or left at the house or place of abode or business of any person, in order that such person may be affected thereby, may be transmitted by telegraph, and a telegraphic copy served or executed upon such person, or left at his house or place of abode or business, shall be of the same force and effect as if the original had been shown to or a copy thereof served or executed upon such person, or left as aforesaid, as the case may be; and

(b) a telegram from any judicial or police officer, registrar, assistant registrar, sheriff, deputy sheriff or clerk of the court stating that a warrant or writ has been issued for the apprehension or arrest of any person required to appear in or to answer any civil suit, action or proceeding, shall be a sufficient authority to any officer by law authorised to execute any such warrant or writ for the arrest and detention of such person until a sufficient time, not exceeding 14 days, has elapsed to allow of the transmission of the warrant or writ to the place where such person has been arrested or detained, unless the discharge of such person be previously ordered by a judge of the Court: Provided that any such judge may upon good cause shown, order the further detention of any such person for a period to be stated in such order, but not exceeding 28 days from the date of the arrest of such person.

Witness fees

34. (1) The tariff of allowances which shall be paid to a witness in civil proceedings or to any person who is to accompany any such witness on account of the youth or infirmity due to old age or any other infirmity of such witness, shall, subject to the provisions of these regulations, be as prescribed from time to time for the Supreme Court in terms of section 42 of the Supreme Court Act, 1959 (Act 59 of 1959).

(2) Notwithstanding anything to the contrary in any law contained, the Court may order that no allowances or only a portion of the allowances prescribed shall be paid to any witness.

Rules of Court

35. The Chief Justice is, subject to the provisions of these regulations, authorised to make rules regulating the matters mentioned in section 34 (1) (g) of the Act.

(ii) hoewel hy van sodanige eiendom weet, versuim of weier om daardie eiendom aan te wys of dit aan die balju of adjunk-balju of sy assistent te lewer wanneer hy daartoe versoek word; of

(d) in die geval van 'n vonnisskuldenaar, weier of versuim om te voldoen aan 'n vereiste van 'n balju of adjunk-balju of sy assistent in verband met die lewering van dokumente in sy besit of onder sy beheer met betrekking tot die eiendomsreg op die onroerende goed onder eksekusie;

is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R200 of by wanbetaling tot gevangenisstraf vir 'n tydperk van hoogstens ses maande of met sodanige gevangenisstraf sonder die keuse van 'n boete.

Oorsending van dagvaardings, bevelskrifte en ander prosesstukke en van kennisgewing van uitreiking daarvan per telegraaf

33. In 'n siviele geding—

(a) kan 'n dagvaarding, bevelskrif, lasbrief, bevel, order, kennisgewing, dokument of ander prosesstuk van die Hof of mededeling wat volgens wet, hofreël of ooreenkoms van partye aan iemand bestel of teen hom ten uitvoer gelê of by die huis, woon- of besigheidsplek van iemand gelaat moet word, sodat so iemand daardeur geraak kan word, per telegraaf versend word, en 'n telegrafiese afskrif wat aan so iemand bestel of teen hom ten uitvoer gelê of by sy huis of woon- of besigheidsplek gelaat word, het dieselfde krag en uitwerking asof die oorspronklike aan so iemand getoon of 'n afskrif daarvan aan hom bestel of teen hom ten uitvoer gelê of gelaat was, na gelang van die geval; en

(b) dien 'n telegram van 'n regterlike of polisie-beampte, griffier, assistent-griffier, balju, adjunk-balju of klerk van die hof waarin vermeld word dat 'n lasbrief of bevelskrif uitgereik is vir die aanhouding of inhegtenisneming van iemand wat in 'n siviele saak of geding of by siviele verrigtinge moet verskyn of hom moet verweer, as voldoende magtiging aan 'n beampte wat regtens bevoeg is om so 'n lasbrief of bevelskrif vir die inhegtenisneming en aanhouding ten uitvoer te lê, totdat 'n voldoende tydperk, maar hoogstens 14 dae, vir die versending van die lasbrief of bevelskrif na die plek waar bedoelde persoon in hegtenis geneem of aangehou is, verstryk het, tensy 'n regter van die Hof eerder die vrylating van daardie persoon gelas het: Met dien verstande dat waar goeie redes daartoe aangevoer word, so 'n regter kan beveel dat bedoelde persoon vir 'n verdere tydperk in die bevel vermeld, maar hoogstens 28 dae vanaf die datum van inhegtenisneming van daardie persoon, aangehou word.

Getuiegelde

34. (1) Die tarief van toelaes wat betaal moet word aan 'n getuie in 'n siviele geding of aan iemand wat so 'n getuie weens die jeug of 'n ouderdoms- of ander gebrek van daardie getuie moet begelei, is, behoudens die bepalinge van hierdie regulasies, soos van tyd tot tyd voorgeskryf vir die Hooggeregshof kragtens die bepalinge van artikel 42 van die Wet op die Hooggeregshof, 1959 (Wet 59 van 1959).

(2) Ondanks andersluidende bepalinge van die een of ander wet, kan die Hof gelas dat geen toelaes of slegs 'n deel van die voorgeskrewe toelaes aan 'n getuie betaal word.

Hofreëls

35. Die Hoofregter is, behoudens die bepalinge van hierdie regulasies, gemagtig om reëls uit te vaardig vir die reëling van die aangeleenthede vermeld in artikel 34 (1) (g) van die Wet.

Interpretation of laws

36. (1) Any reference to the Supreme Court or a division of that court or a Bantu Appeal Court contained in any law in force in the area, shall, subject to the provisions of these regulations, be construed as a reference to the Court.

(2) Any reference to a judge president or judge of the Supreme Court contained in any law in force in the area in connection with any power, action, duty or function, shall be construed as a reference to the Chief Justice or a judge of the Court, as the case may be.

(3) Any reference in any law to an attorney-general or deputy attorney-general of the area of jurisdiction of a division of the Supreme Court, shall, in the area of jurisdiction of the Court, be construed as a reference to the attorney-general or a deputy attorney-general, as the case may be, of the area of jurisdiction of the Court.

Appearance in Court

37. An advocate of any division of the Supreme Court may appear in any action in the Court: Provided that an attorney also may, with the permission of the Chief Justice, appear in the Court in any action in which the Chief Justice considers it to be in the interest of the administration of justice.

Power of the Court in relation to the application of Bantu law and customs

38. In all actions or proceedings before the Court in which both the plaintiff and the defendant are Bantu and in which questions of customs followed by Bantu are involved, the Court may, as far as possible, apply the Bantu law applicable to that custom, except in the case where such custom is contrary to the principles of public policy or natural justice: Provided that the Court shall not declare the custom of lobola or bogadi or other similar custom to be repugnant to such principles.

ANNEXURE**DESCRIPTION OF THE SEAL OF THE COURT**

The Coat of Arms of the Republic enclosed within a circle and the whole encompassed by a wider circle within which appear the following words:

"BOPHUTHATSWANA — HOËRHOF — HIGH COURT — KGOTLATSHEKISO YE KGOLO";

and the whole encompassed by a wider circle within which appear the following words:

"REPUBLIEK VAN SUID-AFRIKA — REPUBLIC OF SOUTH AFRICA — REPABOLEKI YA AFERIKA-BORWA".

Uitleg van wetsbepalings

36. (1) 'n Verwysing na die Hooggeregshof of 'n afdeling van daardie hof of 'n Bantoe-appèlhof in enige wet wat in die gebied van krag is, word, behoudens die bepalings van hierdie regulasies, uitgelê as 'n verwysing na die Hof.

(2) 'n Verwysing na 'n regter-president of 'n regter van die Hooggeregshof in enige wet wat in die gebied van krag is in verband met enige bevoegdheid, optrede, plig of werkzaamheid, word uitgelê as 'n verwysing na die Hoofregter of 'n regter van die Hof, na gelang van die geval.

(3) 'n Verwysing in enige wet na 'n prokureur-generaal of adjunk-prokureur-generaal van die regsgebied van 'n afdeling van die Hooggeregshof word, in die regsgebied van die Hof, uitgelê as 'n verwysing na die prokureur-generaal of adjunk-prokureur-generaal, na gelang van die geval, van die regsgebied van die Hof.

Verskyning in die Hof

37. 'n Advokaat van enige afdeling van die Hooggeregshof kan in enige geding in die Hof verskyn: Met dien verstande dat 'n prokureur ook, met die verloop van die Hoofregter, in die Hof kan verskyn in 'n geding waarin die Hoofregter dit in die belang van die regspleging beskou.

Bevoegdheid van Hof met betrekking tot die toepassing van Bantoereg en -gebruike

38. In alle gedinge of verrigtinge voor die Hof waarin die eiser sowel as die verweerder Bantoes is en waarin kwessies van Bantoegebruike betrokke is, kan die Hof, sover doenlik, die toepaslike Bantoereg toepas wat in verband met daardie gebruik geld, behalwe in die geval waar daardie gebruik met die beginsels van openbare beleid of natuurlike reg strydig is: Met dien verstande dat die Hof nie die gebruik van lobola of bogadi of dergelike gebruik met bedoelde beginsels in stryd verklaar nie.

AANHANGSEL**BESKRYWING VAN DIE SEËL VAN DIE HOF**

Die Republiekwapen omgewe deur 'n sirkel en daaromheen binne 'n wyer sirkel die woorde:

"BOPHUTHATSWANA — HOËRHOF — HIGH COURT—KGOTLATSHEKISO YE KGOLO";

en daaromheen binne 'n wye sirkel die woorde:

"REPUBLIEK VAN SUID-AFRIKA—REPUBLIC OF SOUTH AFRICA—REPABOLEKI YA AFERIKA-BORWA".

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