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GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE DEPARTEMENT VAN JUSTISIE

No. R. 797

13 June 1997

MAGISTRATES' COURTS: AMENDMENT OF THE RULES OF COURT

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules published under Government Notice No. R.1108 of 21 June 1968, as amended by Government Notices Nos. R.3002 of 25 July 1969, R.490 of 26 March 1970, R.947 of 2 June 1972, R.1115 of 28 June 1974, R.1285 of 19 July 1974, R.689 of 23 April 1976, R.261 of 25 February 1977, R.2221 of 28 October 1977, R.327 of 24 February 1978, R.2222 of 10 November 1978, R.1449 of 29 June 1979, R.1314 of 27 June 1980, R.1800 of 28 August 1981, R.1139 of 11 June 1982, R.1689 of 29 July 1983, R.1946 of 9 September 1983, 1338 of 29 June 1984, R.1994 of 7 September 1984, R.2083 of 21 September 1984, R.391 of 7 March 1986,

R.2165 of 2 October 1987, R.1451 of 22 July 1988, R.1765 of 26 August 1988, R.211 of 10 February 1989, R.607 of 31 March 1989, R.2629 of 1 December 1989, R.186 of 2 February 1990, R.1887 of 8 August 1990, R.1928 of 10 August 1990, R.1967 of 17 August 1990, R.1261 of 30 May 1991, R.2407 of 27 September 1991, R.2409 of 30 September 1991, R.405 of 7 February 1992, R.1510 of 29 May 1992, R.1882 of 3 July 1992, R.871 of 21 May 1993, R.959 of 28 May 1993, R.1134 of 25 June 1993, R.1355 of 30 July 1993, R.1844 of 1 October 1993, R.2530 of 31 December 1993, R.150 of 28 January 1994, R.180 of 28 January 1994, R.498 of 11 March 1994, R.625 of 28 March 1994, R.710 of 12 April 1994, R.1062 of 28 June 1996, R.1130 of 5 July 1996, R.419 of 14 March 1997, R. 492, of 27 March 1997, R. 570 of 18 April 1997, and R. 790 of 6 June 1997.

Amendment of rule 33 of the Rules

2. Rule 33 of the Rules is hereby amended by the substitution for subrule (23) of the following subrule:

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

Substitution of rule 49 of the Rules

3. The following rule is hereby substituted for rule 49 of the Rules:

"Rescission and variation of judgments

49. (1) A party to proceedings in which a default judgment has been given, or any person affected by such judgment, may within 20 days after obtaining knowledge of the judgment serve and file an application to court, on notice to all parties to the proceedings, for a rescission or variation of the judgment and the court may, upon good cause shown, or if it is satisfied that there is good reason to do so, rescind or vary the default judgment on such terms as it deems fit.

(2) It will be presumed that the applicant had knowledge of the default judgment 10 days after the date on which it was granted, unless the applicant proves otherwise.

(3) Where an application for rescission of a default judgment is made by a defendant against whom the judgment was granted, who wishes to defend the proceedings, the application must be supported by an affidavit setting out the reasons for the defendant's absence or default and the grounds of the defendant's defence to the claim.

(4) Where an application for rescission of a default judgment is made by a defendant against whom the judgment was granted, who does not wish to defend the proceedings, the applicant must satisfy the court that he or she was not in wilful default and that the judgment was satisfied, or arrangements were made to satisfy the judgment, within a reasonable time after it came to his or her knowledge.

(5) Where a plaintiff in whose favour a default judgment was granted has agreed in writing that the judgment be rescinded or varied, either the plaintiff or the defendant against whom the judgment was granted may, by notice to all parties to the proceedings, request the court to rescind or vary the default judgment, which request shall be accompanied by written proof of the plaintiff's consent to the rescission or variation.

(6) Where an application for rescission or variation of a default judgment is made by any person other than an applicant referred to in subrule (3), (4) or (5), the application must be supported by an affidavit setting out the reasons why the applicant seeks rescission or variation of the judgment.

(7) All applications for rescission or variation of a judgment other than a default judgment must be brought on notice to all parties, supported by an affidavit setting out the grounds on which the applicant seeks the rescission or variation, and the court may rescind or vary such judgment if it is satisfied that there is good reason to do so.

(8) Where the rescission or variation of a judgment is sought on the ground that it is void *ab origine* or was obtained by fraud or mistake, the application must be served and filed within one year after the applicant first had knowledge of such voidness, fraud or mistake.

(9) A magistrate who of his or her own accord corrects errors in a judgment in terms of section 36(c) of the Act shall, in writing, advise the parties of the correction.”.

Commencement

4. These rules shall come into operation on **14 July 1997**.

No. R. 797

13 Junie 1997

LANDDROSHOWE: WYSIGING VAN DIE REËLS VAN DIE HOF

Die Reëlsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister van Justisie, die reëls in die Bylae gemaak.

BYLAE**Woordomskrywing**

1. In hierdie reëls beteken "die Reëls" die reëls afgekondig by Goewerments=
kennisgewing No. R.1108 van 21 Junie 1968, soos gewysig by Goewermentsken=
nisgewings Nos. R.3002 van 25 Julie 1969, R.490 van 26 Maart 1970, R.947 van 2
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April 1994, R.1062 van 28 Junie 1996, R.1130 van 5 Julie 1996, R.419 van 14 Maart
1997, R. 492 van 27 Maart 1997, R. 570 van 18 April 1997 en R. 790 van
6 Junie 1997.

Wysiging van reël 33 van die Reëls

2. Reël 33 van die Reëls word hierby gewysig deur subreël (23) deur die volgende subreël te vervang:

"(23) Belasting op toegevoegde waarde kan by alle koste, gelde, uitgawes en tariewe ten opsigte waarvan belasting op toegevoegde waarde betaalbaar is, gevoeg word."

Vervanging van reël 49 van die Reëls

3. Reël 49 van die Reëls word hierby deur die volgende reël vervang:

"Tersydestelling en wysiging van vonnisse"

49. (1) 'n Party by verrigtinge waarin 'n vonnis by verstek gegee is, of enige persoon wat deur sodanige vonnis geraak word, kan binne 20 dae nadat hy of sy kennis van die vonnis gekry het, 'n aansoek beteken en by die hof indien, met kennisgewing aan alle partye by die verrigtinge, om tersydestelling of wysiging van die vonnis en die hof kan, as goeie redes aangevoer word of indien hy tevrede is dat daar goeie rede daarvoor is, die verstekvonnis tersyde stel of wysig met die bepalings wat hy goedvind.

(2) Daar word vermoed dat die applikant 10 dae na die datum waarop die verstekvonnis toegestaan is, kennis daarvan gedra het, tensy die applikant die teendeel bewys.

(3) Waar 'n aansoek om tersydestelling van 'n verstekvonnis gedoen word deur 'n verweerder teen wie die vonnis toegestaan is en wat die verrigtinge wil verdedig, moet die aansoek deur 'n beëdigde verklaring gesteun word wat die redes vir die verweerder se afwesigheid of verstek en die gronde van die verweerder se verweer teen die eis uiteensit.

(4) Waar 'n aansoek om tersydestelling van 'n verstekvonnis gedoen word deur 'n verweerder teen wie die vonnis toegestaan is en wat nie die verrigtinge wil verdedig nie, moet die applikant die hof tevrede stel dat hy of sy nie opsetlik in verstek was nie en dat aan die vonnis voldoen is, of dat reëlins getref is om aan die vonnis te voldoen, binne 'n redelike tyd nadat hy of sy dit te wete gekom het.

(5) Waar 'n eiser in wie se guns 'n verstekvonnis toegestaan is, skriftelik daartoe toestem dat die vonnis tersyde gestel of gewysig word, kan óf die eiser óf die verweerder teen wie die vonnis toegestaan is, met kennisgewing aan alle partye by die verrigtinge, die hof versoek om die verstekvonnis tersyde te stel of te wysig, welke versoek vergesel moet gaan van skriftelike bewys van die eiser se toestemming tot die tersydestelling of wysiging.

(6) Waar 'n aansoek om tersydestelling of wysiging van 'n verstekvonnis gedoen word deur 'n ander persoon as die applikant bedoel in subreël (3), (4) of (5), moet die aansoek deur 'n beëdigde verklaring gesteun word wat die redes uiteensit waarom die applikant tersydestelling of wysiging van die vonnis verlang.

(7) Alle aansoeke om tersydestelling of wysiging van 'n vonnis, uitgesonderd 'n verstekvonnis, moet met kennisgewing aan alle partye gedoen word, gesteun deur 'n beëdigde verklaring wat die gronde uiteensit waarop die applikant die tersydestelling of wysiging verlang, en die hof kan sodanige vonnis tersyde stel of wysig indien hy tevrede is dat daar goeie rede daarvoor bestaan.

(8) Waar die tersydestelling of wysiging van 'n vonnis verlang word op grond daarvan dat dit *ab origine* nietig is of op grond van bedrog of dwaling verkry is, moet die aansoek binne een jaar nadat die applikant vir die eerste keer van sodanige nietigheid, bedrog of dwaling te wete gekom het, beteken en ingedien word.

(9) 'n Landdros wat uit eie beweging foute in 'n vonnis kragtens artikel 36(c) van die Wet regstel, moet die partye skriftelik van die regstelling in kennis stel."

Inwerkingtreding

4. Hierdie reëls tree op **14 Julie 1997** in werking.

No. R. 798

13 June 1997

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SEVERAL PROVINCIAL AND LOCAL DIVISIONS OF THE HIGH COURT OF SOUTH AFRICA

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules regulating the conduct of the proceedings of the several provincial and local divisions of the High Court of South Africa published by Government Notice No. R.48 of 12 January 1965, as amended by Government Notices Nos. R.235 of 18 February 1966, R.2004 of 15 December 1967, R.3553 of 17 October 1969, R.2021 of 5 November 1971, R.1985 of 3 November 1972, R.480 of 30 March 1973, R.639 of 4 April 1975, R.1816 of 8 October 1976, R.1975 of 29 October 1976, R.2477 of 17 December 1976, R.2365 of 18 November 1977, R.1546 of 28 July 1978, R.1577 of 20 July 1979, R.1535 of 25 July 1980, R.2527 of 5

December 1980, R.500 of 12 March 1982, R.773 of 23 April 1982, R.775 of 23 April 1982, R.1873 of 3 September 1982, R.2171 of 6 October 1982, R.645 of 25 March 1983, R.841 of 22 April 1983, R.1077 of 20 May 1983, R.1996 of 7 September 1984, R.2094 of 13 September 1985, R.810 of 2 May 1986, R.2164 of 2 October 1987, R.2642 of 27 November 1987, R.1421 of 15 July 1988, R.210 of 10 February 1989, R.608 of 31 March 1989, R.2628 of 1 December 1989, R.185 of 2 February 1990, R.1929 of 10 August 1990, R.1262 of 30 May 1991, R.2410 of 30 September 1991, R.2845 of 29 November 1991, R.406 of 7 February 1992, R.1883 of 3 July 1992, R.109 of 22 January 1993, R.960 of 28 May 1993, R.974 of 1 June 1993, R.1356 of 30 July 1993, R.1843 of 1 October 1993, R.2365 of 10 December 1993, R.2529 of 31 December 1993, R.181 of 28 January 1994, R.411 of 11 March 1994, R.873 of 31 May 1996, R.1063 of 28 June 1996, R.1557 of 20 September 1996, R.1746 of 25 October 1996, R.2047 of 13 December 1996, R.417 of 14 March 1997, R.491 of 27 March 1997 and R.700 of 16 May 1997.

Amendment of rule 70 of the Rules

2. Rule 70 of the Rules is hereby amended by the substitution for subrule (3A) of the following subrule:

“(3A) Value added tax may be added to all costs, fees, disbursements and tariffs in respect of which value added tax is chargeable.”.

Commencement

3. These rules shall come into operation on **14 July 1997**.

No. R. 798**13 Junie 1997****WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGE VAN DIE VERSKILLENDEN PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA GEREËL WORD**

Die Reëlsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister van Justisie, die reëls in die Bylae gemaak.

BYLAE**Woordomskrywing**

1. In hierdie reëls beteken "die Reëls" die reëls waarby die verrigtinge van die verskillende provinsiale en plaaslike afdelings van die Hooggeregshof van Suid-Afrika gereël word, afgekondig by Goewermentskennisgewing No. R.48 van 12 Januarie 1965, soos gewysig by Goewermentskennisgewings Nos. R.235 van 18 Februarie 1966, R.2004 van 15 Desember 1967, R.3553 van 17 Oktober 1969, R.2021 van 5 November 1971, R.1985 van 3 November 1972, R.480 van 30 Maart 1973, R.639 van 4 April 1975, R.1816 van 8 Oktober 1976, R.1975 van 29 Oktober 1976, R.2477 van 17 Desember 1976, R.2365 van 18 November 1977, R.1546 van 28 Julie 1978, R.1577 van 20 Julie 1979, R.1535 van 25 Julie 1980, R.2527 van 5 Desember 1980, R.500 van 12 Maart 1982, R.773 van 23 April 1982, R.775 van 23 April 1982, R.1873 van 3 September 1982, R.2171 van 6 Oktober 1982, R.645 van 25 Maart 1983, R.841 van 22 April 1983, R.1077 van 20 Mei 1983, R.1996 van 7 September 1984, R.2094 van 13 September 1985, R.810 van 2 Mei 1986, R.2164 van 2 Oktober 1987, R.2642 van 27 November 1987, R.1421 van 15 Julie 1988, R.210 van 10 Februarie 1989, R.608 van 31 Maart 1989, R.2628 van 1 Desember 1989, R.185 van 2 Februarie 1990, R.1929 van 10 Augustus 1990, R.1262 van 30 Mei 1991, R.2410 van 30 September 1991, R.2845 van 29 November 1991, R.406 van 7 Februarie 1992, R.1883 van 3 Julie 1992, R.109 van 22 Januarie 1993, R.960 van 28 Mei 1993, R.974 van 1 Junie 1993, R.1356 van 30 Julie 1993, R.1843 van 1 Oktober 1993, R.2365 van 10 Desember 1993, R.2529 van 31 Desember 1993,

R.181 van 28 Januarie 1994, R.411 van 11 Maart 1994, R.873 van 31 Mei 1996, R.1063 van 28 Junie 1996, R.1557 van 20 September 1996, R.1746 van 25 Oktober 1996, R.2047 van 13 Desember 1996, R.417 van 14 Maart 1997, R.491 van 27 Maart 1997 en R.700 van 16 Mei 1997.

Wysiging van reël 70 van die Reëls

2. Reël 70 van die Reëls word hierby gewysig deur subreël (3A) deur die volgende subreël te vervang:

"(3A) Belasting op toegevoegde waarde kan by alle koste, gelde, uitgawes en tariewe ten opsigte waarvan belasting op toegevoegde waarde betaalbaar is, gevoeg word."

Inwerkingtreding

3. Hierdie reëls tree op **14 Julie 1997** in werking.

No. R. 799

13 June 1997

AMENDMENT OF THE RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act No. 107 of 1985), with the approval of the Minister of Justice, made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules regulating the conduct of the proceedings of the Supreme Court of Appeal of South Africa published under Government Notice No. R.1207 of 15 December 1961, as amended by Government Notices Nos. R.980 of 22 June 1962, R.120 of 31 January 1969, R.679 of 30 April 1971, R.1815 of 8 October 1976, R.2476 of 17 December 1976, R.1547 of 28 July 1978, R.248 of 8 February 1980, R.1120 of 30 May 1980, 2170 of 6 October 1982,

R.644 of 25 March 1983, R.840 of 22 April 1983, R.1995 of 7 September 1984, R.2093 of 13 September 1985, R.2137 of 20 September 1985, R.2643 of 12 December 1986, R.1766 of 2 September 1988, R.1930 of 10 August 1990, R.2408 of 30 September 1991, R.407 of 7 February 1992, R.1884 of 3 July 1992, R.872 of 21 May 1993, R.410 of 11 March 1994, R.418 of 14 March 1997 and R.490 of 27 March 1997.

Amendment of rule 9 of the Rules

2. Rule 9 of the Rules is hereby amended by the substitution for subrule (1A) of the following subrule:

"(1A) Value added tax may be added to all costs, fees, disbursements and tariffs in respect of which value added tax is chargeable."

Commencement

3. These rules shall come into operation on **14 July 1997**.

No. R. 799

13 Junie 1997

WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGE VAN DIE APPÈLAFDELING VAN DIE HOOGGEREGSHOF VAN SUID-AFRIKA GEREËL WORD

Die Reëlsraad vir Geregshowe het kragtens artikel 6 van die Wet op die Reëlsraad vir Geregshowe, 1985 (Wet No. 107 van 1985), met die goedkeuring van die Minister van Justisie, die reëls in die Bylae gemaak.

BYLAE

Woordomskrywing

1. In hierdie reëls beteken "die Reëls" die reëls waarby die verrigtinge van die Appèlafdeling van die Hooggeregshof van Suid-Afrika gereël word, afgekondig by Goewermentskennisgewing No. R.1207 van 15 Desember 1961, soos gewysig by Goewermentskennisgewings Nos. R.980 van 22 Junie 1962, R.120 van 31 Januarie 1969, R.679 van 30 April 1971, R.1815 van 8 Oktober 1976, R.2476 van 17 Desember 1976,

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Wysiging van reël 9 van die Reëls

2. Reël 9 van die Reëls word hierby gewysig deur subreël (1A) deur die volgende subreël te vervang:

“(1A) Belasting op toegevoegde waarde kan by alle koste, gelde, uitgawes en tariewe ten opsigte waarvan belasting op toegevoegde waarde betaalbaar is, gevoeg word.”.

Inwerkingtreding

3. Hierdie reëls tree op **14 Julie 1997** in werking.
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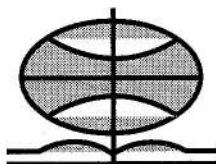
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