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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE

No. R. 1352

10 October 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 under 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, R.700 of 16 May 1997 and R.798 of 13 June 1997.

Substitution of rule 37A of the Rules

2. The following rule is hereby substituted for rule 37A of the Rules:

"37A. (1) The provisions of this rule shall apply to every civil action the entry date of which is on or after 1 December 1997 and which was commenced by process issued out of the seat of the Cape of Good Hope Provincial

Division of the High Court of South Africa or transferred from any other court for hearing in the High Court sitting at Cape Town.

- (2) Any provision of this rule shall prevail where it may be in conflict with any other provision of these rules.

- (3) In this rule, unless the context otherwise indicates -
'*compliance certificate*' means the certificate of compliance referred to in subrule (13)(a);

'*compliance date*' means the date by which the compliance certificate is to be filed as referred to in subrule (7)(d);

'*court direction*' means a direction made by a judge whether presiding over a conference or otherwise, and all such directions shall, for all purposes, be orders of the court;

'*default hearing*' means a hearing referred to in subrule (12)(c);

'*directions hearing*' means a hearing referred to in subrule (7)(c);

'*entry date*' means the date upon which the particulars required to set down a case have been entered in the register for trial in terms of rule 34(1) of the Rules regulating the conduct of the proceedings of the Cape Provincial Division of the High Court of South Africa;

'*final conference*' means the final conference referred to in subrule (14);

'*further witness summary*' means a further witness summary referred to in subrule (16);

'*month*' means a calendar month, namely a period commencing on a date in any month and ending on a date corresponding numerically to that date less one in the following month or, if the period constitutes two or more months, on a date corresponding numerically to that date less one after the passing of the number of months concerned: Provided that where the period so calculated does not end on a court day such period shall end on the first court day thereafter;

'*notice of default*' means the notice of default referred to in subrule (12)(a);

'*not ready list*' means the not ready list referred to in subrule (15);

'*party*' means a party in person where the party is unrepresented, or the attorney or counsel who represents a party;

'*progress conference*' means a conference referred to in subrule (4);

'*special directions hearing*' means a special directions hearing referred to in subrule (10)(b); and

'*witness summary*' means a witness summary referred to in subrule (16).

- (4) (a) Not later than 20 days after the *entry date* the party who has entered the particulars shall, on not less than 10 days' written notice to all other parties, convene a conference known as a *progress conference*.
- (b) The *progress conference* shall be held not later than two months after the *entry date*.
- (c) All parties shall attend the *progress conference*.

- (d) The purpose of the *progress conference* shall be to conduct an in-depth review of the case and to reach agreement on how the issues can be resolved as efficiently, economically and speedily as possible.
- (5) The duties of the parties to a *progress conference* shall include, but not be limited to the following:
- (a) The parties shall consider whether the proceedings are appropriately brought in the Cape Provincial Division of the High Court or would be dealt with more appropriately in another court and the making of directions, including consents, in connection therewith.
- (b) The parties shall consider whether the pleadings have been finalised or whether any party proposes any amendment, and where the parties agree upon such an amendment they shall reach agreement as to the manner and time for the making of the amendment and for any responsive amendment or other consequential action.
- (c) (i) The parties shall consider whether any further party is to be joined in the proceedings and agree upon the time by which such party will be joined.
- (ii) The parties shall, where necessary, adjourn the *progress conference* pending the proposed joinder to facilitate any such further party's participation.
- (iii) Whenever a *progress conference* is adjourned pending joinder or where the party is not joined by the agreed time, the plaintiff shall not later than 10 days after the pleadings have closed following the joinder or, where there is no timeous joinder, after the date agreed therefor has passed, reconvene the *progress conference* on not less than 15 days' written notice to the parties, and save as aforesaid and save that the *compliance date* referred to in paragraph (j) shall not be later than seven months after the date of the reconvened *progress conference*, the provisions of subrule (4) shall apply *mutatis mutandis* to the reconvened *progress conference*.
- (d) The parties shall define the matters in issue and consider whether such issues can be settled by agreement or, alternatively, limited, whether conditionally or otherwise, by agreement and reach agreement upon steps to promote settlement of all or some of the issues.
- (e) The parties shall consider whether any of the issues in dispute are susceptible of resolution by referral for alternative dispute resolution or by a separate hearing in terms of rule 33(4) or by referral in terms of section 19*bis* of the Act or by other means, and agree upon the steps to be taken to ensure a speedy and efficient resolution of any such issues.

- (f) The parties shall consider all steps necessary to complete the preparation for trial including, but not limited to, discovery, inspection of documents, further or better discovery, medical examinations, other inspections, the exchange of photographs or plans and particulars for trial, and agree upon the time by which each party is to complete each such step.
- (g) (i) The parties shall establish whether the case is one in which a party is likely to wish to adduce expert evidence and, if so, agree upon the date by which the parties shall file expert reports.
- (ii) The parties shall consider whether the appointment of a single mutually acceptable expert or an agreed panel of experts would be appropriate and, if so, agree upon a procedure to be followed to identify such expert or experts and obtain the necessary report or reports.
- (iii) Where the different parties intend to engage experts in the same or a similar discipline they shall reach agreement to ensure that the experts confer after they have reported and that they thereafter deliver a joint statement setting out the matters upon which they agree and the matters upon which they disagree.
- (iv) The parties shall agree as to the time within which the experts shall confer and file their joint statement.
- (h) The parties shall agree upon the date by which *witness summaries* and *further witness summaries* are to be exchanged and whether they are to be filed at court and, if so, whether or not such summaries are to be sealed or not.
- (i) The parties shall agree upon the need for and the terms of any other directions.
- (j) The parties shall fix the date by which all the directions that may be ordered by the court pursuant to the agreements reached at the *progress conference* shall be completed, and this date, known as the *compliance date*, shall not be later than eight months after the *entry date*.
- (6) (a) The plaintiff's attorney or, where the plaintiff is unrepresented, the defendant's attorney shall not later than three months after the *entry date* file a minute signed by all the parties or their respective attorneys and listing, without elaboration, in the form of a consent to an order, the terms of all agreements reached and listing separately those matters upon which agreement was not reached and in respect of which one or more parties wish the court to make an order.
- (b) The minute shall be as near as may be in accordance with Form 22 of the First Schedule.

- (7) (a) As soon as practicable after the filing of the minute of the *progress conference*, the registrar shall place the court file before a judge in chambers.
- (b) The judge shall consider the matter and, if he or she is satisfied, make directions in accordance with the agreements reached as set out in the minute referred to in subrule (6).
- (c) Where the judge is not satisfied that the parties have fully complied with the requirements or had proper regard to the purposes of the *progress conference* or where there are unresolved issues relating to the further conduct of the matter or where the judge deems it appropriate, he or she may, in addition to any order that may be made as aforesaid, order that a *directions hearing* be held.
- (d) Where no *directions hearing* is ordered the judge shall, when making directions, fix a *compliance date* either as agreed upon by the parties or as considered reasonable by the judge.
- (e) The *compliance date* shall, save in exceptional circumstances, not be later than eight months after the *entry date* or seven months after the date of a reconvened *progress conference* referred to in subrule (5)(c).
- (8) The registrar shall forthwith forward a copy of all directions made by the judge to each party.
- (9) (a) A *directions hearing* presided over by a judge shall be held whenever a judge has ordered such a hearing pursuant to subrule (7).
- (b) The registrar shall give the parties not less than five days' notice of the holding of the *directions hearing*.
- (c) All parties shall attend the *directions hearing*.
- (d) At a *directions hearing* the judge may make directions, amend any existing orders or directions and make any order as to costs.
- (10) Directions made, whether in accordance with the agreement reached by the parties at the *progress conference* or by a judge at a *directions hearing* or at a *default hearing* or otherwise pursuant to this rule, may be amended by -
- (a) the consent of all parties: Provided that such amendment shall not extend the time for compliance with any direction to a time which will prevent the timeous filing of the *compliance certificate*, and such consent shall not be effective unless recorded in writing and unless the parties confirm in such consent in writing that the amendment will not prejudice the *compliance date*; or
- (b) the court pursuant to an application made by a party on notice to the registrar requesting that such application be set down for hearing at a *special directions hearing*, and such notice shall be delivered not later than five days before the date upon which the procedural step is to be completed; or

- (c) the court at a *default hearing*.
- (11) The provisions of subrule (9) shall *mutatis mutandis* apply to a *special directions hearing*.
- (12) (a) Whenever a party defaults in due and timeous compliance with any provision of this rule or a direction made by the court, the other party or parties to the action shall forthwith and not later than five days after the default, deliver a *notice of default* which shall be as near as may be in accordance with Form 23 of the First Schedule.
- (b) Unless a notice in writing is filed not later than seven days after the first filing of a *notice of default* by the party who filed the notice of default or by the alleged defaulting party confirming that the default has been purged, the registrar shall forthwith give notice of a *default hearing*.
- (c) A *default hearing* shall be presided over by a judge.
- (d) The registrar shall give the parties not less than 10 days' notice of the holding of the *default hearing*.
- (e) All the parties shall attend the *default hearing*.
- (f) At a *default hearing* the judge may make directions, amend any existing order or directions and make any order as to costs.
- (g) The court shall endeavour to ensure that the matter is brought to trial as soon as possible and shall extend the *compliance date* only on good cause shown and then only for as short a time as possible.
- (h) Orders that may be made include -
- (i) directions to enable the matter to proceed to an early *final conference*;
 - (ii) loss of priority;
 - (iii) transfer of the proceedings to the *not ready list*;
 - (iv) dismissal of the proceedings or a part thereof;
 - (v) where a party other than the plaintiff is in default, striking out any defence or pleading;
 - (vi) orders as to costs;
 - (vii) any direction the judge deems appropriate for the achievement of the objects of this rule.
- (13) (a) Not later than 10 days after the *compliance date*, the plaintiff shall, if all the directions and orders have been complied with, file a *compliance certificate* which shall be as near as may be in accordance with Form 24 of the First Schedule: Provided that where the plaintiff is unrepresented, the *compliance certificate* shall be filed by the defendant's attorney.
- (b) Where, by reason of the default of any party, a *compliance certificate* is not filed timeously, the registrar shall forthwith set the matter down for a *default hearing* in accordance with subrule (12).

- (c) All the parties shall attend the *default hearing*.
- (d) The *default hearing* shall be presided over by a judge who shall endeavour to make directions, which may include orders as set out in subrule (12)(h), to enable the matter to proceed to an early *final conference*.
- (e) Where it appears that the plaintiff was not diligent in complying with any directions made or has for whatever reason been prevented from complying with any directions, the court may transfer the matter to the *not ready list*.
- (f) Where there has, by the time of the *default hearing*, been full compliance and a *compliance certificate* has been filed, the court may summarily convert the *default hearing* into a *final conference* and proceed to deal with the matter or may instruct the registrar to give notice of a *final conference*.
- (14) (a) Upon the filing of a duly completed *compliance certificate* the registrar shall forthwith allocate a date for trial and shall set the matter down for a *final conference* to be presided over by a judge.
- (b) The registrar shall give the parties not less than 30 days' notice of the trial date and not less than 10 days' notice of the date for the *final conference*.
- (c) The judge who is to preside over the *final conference* may, where he or she considers it to be indicated, cancel the *final conference* and permit the parties to proceed to trial.
- (d) A *final conference* shall be adjourned only in exceptional circumstances.
- (e) If the parties are not fully prepared for the *final conference* or if the attorney or counsel representing the plaintiff is not properly instructed, the judge shall transfer the matter to the *not ready list* and make such other directions, including orders as to costs, as are appropriate.
- (f) If a party other than a plaintiff is not properly represented at a *final conference*, the judge may issue appropriate directions, including orders as to costs and for the striking out of any pleading or defence and for the granting of judgment.
- (g) (i) At the *final conference* the judge shall explore the prospects of settlement, limiting issues and curtailing the trial.
(ii) The judge shall, in particular, consider the parties' state of readiness and confirm compliance with all directions and orders and ascertain whether there is agreement as to who will begin and whether any further directions are required to secure the attendance of witnesses or otherwise ensure that the trial can proceed.
- (h) If the judge is satisfied that the matter is ready to proceed to trial, he or she shall permit the matter to go ahead on the fixed date and shall make such further directions as may be appropriate.

- (i) If the judge is not satisfied with the parties' state of readiness but is satisfied that the failure can be remedied speedily and that justice so requires, he or she may adjourn the *final conference* to a fixed date or a date to be determined by the registrar and make such further directions, including orders as to costs, as are appropriate to expedite the trial of the matter.
 - (j) If the judge is of the opinion that the matter is not ready for trial and that the time required for the matter to be ready for trial is such that he or she considers it appropriate, he or she may refer the matter to the *not ready list* and make such further directions, including orders as to costs, as are appropriate.
 - (k) At the *final conference* attention shall be given to the need for a transcript of the proceedings and arrangements shall be made for the bundling and pagination of documents and the preparation and presentation of exhibits.
- (15) (a) The *not ready list* shall be maintained by the registrar to ensure that cases which are not ready to proceed to trial or which are in need of preparation at any time are placed under review with the aim of disposing of them as soon as possible without allowing them to stand in the way of properly prepared cases proceeding to an early resolution.
- (b) Where a case has been on the *not ready list* for three months, the registrar shall send a notice to the plaintiff or, where the plaintiff is represented, to his or her attorney stating that unless application is made to the court to remove the case from the *not ready list* within 30 days of the date of the notice, the parties shall be required to attend a *default hearing* on a date not less than 45 days and not more than 60 days from the date of the notice, and a copy of the notice shall be sent to all the other parties.
- (c) (i) Where such a notice is sent to an attorney representing a plaintiff, it shall require the attorney forthwith to inform his or her client of the notice and of the consequences of the case remaining on the *not ready list* for 12 months and of the steps that may be taken to have the case transferred from the *not ready list* and re-enrolled for trial.
- (ii) The client shall be advised that he or she must be present at the *default hearing*.
- (iii) The plaintiff's attorney shall deliver a notice stating that his or her client has been informed as aforesaid, when and how this was done and what steps the plaintiff proposes to take in the matter.
- (iv) The notice shall be delivered not later than five days before the *default hearing*.
- (d) An attorney who receives a notice pursuant to paragraph (b) shall not be entitled to withdraw as his or her client's attorney until after the *default hearing* and then only with the leave of the court.

- (e) (i) At the *default hearing* the court shall assist the parties to bring the matter to trial as soon as is practicable and shall make such orders as are appropriate, including orders as to costs.
 - (ii) The court shall also make an order if the case is to remain on the *not ready list* and, where appropriate, the court shall specify the conditions upon compliance with which the plaintiff may apply to a judge in chambers for the re-enrolment of the case on the list of actions for trial.
 - (f) Where proceedings have remained on the *not ready list* for more than 12 months the registrar shall refer such case to the judge-president who shall make such orders as he or she considers necessary to achieve the just, efficient and inexpensive disposal of the case, including, where appropriate, orders as to costs and for the dismissal of the action.
- (16) (a) In every opposed civil action other than actions for the dissolution of marriage and actions relating to the custody of children, each party shall be required to exchange a summary of the evidence, other than expert evidence which shall be dealt with in terms of subrule (5)(g), of each witness whom such party expects to call to testify at the trial.
- (b) The purpose of delivering the summary shall be to facilitate clarification of the issues, clarification of the evidence in regard thereto and meaningful negotiations for the settlement of such issues.
 - (c) The summary in respect of each witness shall -
 - (i) identify the witness by name;
 - (ii) summarise the substance of the evidence such witness is expected to give on each issue with sufficient particularity to serve the purpose for which the rule requires the summary to be given; and
 - (iii) be verified by the signature of the witness.
 - (d) All *witness summaries* shall be exchanged but need not be filed with the court unless so agreed by the parties and any such agreement may provide for filing with the court of sealed *witness summaries* and *further witness summaries*, which shall be opened by the court only with the consent of all the parties or in order to determine any issue where the content or form of the *witness summary* or *further witness summary* is relevant in determining such an issue.
 - (e) When the dates upon which *witness summaries* are to be filed are considered at a *progress conference* or when such dates are fixed by the court at a *directions hearing*, a *special directions hearing* or a *default hearing*, provision shall be made for parties to file *further witness summaries* in response to a matter in an opponent's *witness summary* where such matter has not already been dealt with in a *witness summary* filed on such party's behalf.

- (f) No evidence for which a *witness summary* or *further witness summary* has not been delivered shall be adduced at a trial save with the consent of the court.
- (17) (a) Whenever the registrar is required to give notice to the attorney for a party in terms of this rule, such notice shall be given by placing a copy thereof in the postbox of that attorney or his or her nominated correspondent, and such postboxes, one of which shall be allocated to each firm of attorneys, shall be maintained by the registrar at the High Court.
- (b) It shall be the responsibility of each attorney to ensure that notices placed in postboxes are regularly and timeously collected and any notice placed in a postbox by the registrar shall be deemed to have been received three days after the date of placing.
- (c) Any notice required to be given by the registrar to an unrepresented party shall be sent by pre-paid registered post and shall be deemed to have been received five days after the date of posting.
- (18) Whenever this rule requires the "plaintiff's attorney" or the "defendant's attorney" to initiate or undertake any procedure and there is more than one plaintiff or more than one defendant, it shall be the duty of the first plaintiff's attorney or the first defendant's attorney, as the case may be, to comply with the requirement of the rule.
- (19) Where, owing to the complexities of a matter or for any other reason, a party is of the view that the action requires special or individual case management, such party shall on notice to all the other parties apply in writing to the judge-president for appropriate directions.
- (20) Where an attorney or counsel attends a conference or hearing, he or she shall be properly instructed and familiar with all aspects of the case and shall have been authorised to conclude the necessary agreements and to deal effectively with all the matters which require attention."

Insertion of Forms 22, 23 and 24 in the First Schedule to the Rules

3. The First Schedule to the Rules is hereby amended by the insertion of the following forms:

"FORM 22

IN THE HIGH COURT OF SOUTH AFRICA (CAPE OF GOOD HOPE PROVINCIAL DIVISION)

Case No.

In the matter between:

..... Plaintiff
and
..... Defendant

MINUTE OF PROGRESS CONFERENCE

1. The entry date as defined in rule 37A(3) was [date]
2. The progress conference in the above matter was held on [date]
3. The parties were represented as follows: [List names and parties represented.]

4. It was agreed that the above Honourable Court be requested to make directions by consent in the terms as set out in the Schedule of Agreed Directions annexed hereto. [Annex a "Schedule of Agreed Directions". Each direction to be separately numbered.]
5. The parties were unable to agree upon the orders set out in the Schedule of Requested Directions annexed hereto. [Annex a "Schedule of Requested Directions". List the orders not agreed on but requested by a party. In each case identify the party making the request.]
6. The agreed compliance date as referred to in subrule (5)(j) is [date.]

[Note: The compliance date must not be later than eight months after the entry date or seven months after a progress conference which was reconvened in terms of subrule (5)(c).]

Confirmed on behalf of the plaintiff:

.....
(Signature and date)

Confirmed on behalf of the defendant:

.....
(Signature and date)

FORM 23

IN THE HIGH COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

Case No.

In the matter between:

..... Plaintiff
and

..... Defendant

NOTICE OF DEFAULT

..... [specify party] hereby gives notice of default in respect of the following:

1. [party in default] was required pursuant to subrule of rule 37A/ the directions of this Honourable Court granted in this matter on [date]* to -

2.
.....

[Here set out requirement of rule 37A or the direction not complied with and the date for compliance.]

3. [party in default] is in default.

Dated at this day of 19.....

.....
(Signature)

To: The Registrar
All other parties

*Delete that which is not applicable

FORM 24

IN THE HIGH COURT OF SOUTH AFRICA
(CAPE OF GOOD HOPE PROVINCIAL DIVISION)

Case No.

In the matter between:

..... Plaintiff
and

..... Defendant

COMPLIANCE CERTIFICATE

1. I, [name] of [name of attorney's firm], am the attorney acting for the plaintiff in this action.
2. I certify that each of the following directions/orders has been complied with by the party concerned and that such compliance occurred on the date inserted in the third column.

[Set out below in column one the list of the direction/order made, in column two the date for compliance and in column three the date upon which the party concerned complied.]

List of direction/order	Date directed for compliance	Date of compliance

3. I further certify that the matter is, on the part of the plaintiff, in all respects ready for hearing.
4. I request that a trial date be allocated and that a final conference be called.
5. I am aware that if, at the final conference, it is found that any direction or order made by the Court has not been complied with by any party or that the matter is otherwise not ready for trial on the part of plaintiff, the matter may be referred to the not ready list.

Dated at this day of 19.....

.....
(Plaintiff's attorney)

To: The Registrar
All other parties".

Commencement

4. These rules shall come into operation on **1 December 1997**.

DEPARTEMENT VAN JUSTISIE

No. R. 1352

10 Oktober 1997

**WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGE VAN DIE
VERSKILLENDE 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 deur 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, R.700 van 16 Mei 1997 en R.798 van 13 Junie 1997.

Vervanging van reël 37A van die Reëls

2. Reël 37A van die Reëls word hierby deur die volgende reël vervang:

- "37A. (1)** Die bepalings van hierdie reëls is van toepassing op elke siviele aksie waarvan die inskrywingsdatum op of na 1 Desember 1997 is en wat 'n aanvang geneem het by proses wat by die setel van die Provinsiale Afdeling Kaap die Goeie Hoop van die Hooggeregshof uitgereik is of van enige ander hof oorgeplaas is vir verhoor in die Hooggeregshof wat in Kaapstad sit.
- (2) Enige bepaling van hierdie reël geniet voorrang waar sodanige bepaling teenstrydig is met enige ander bepaling van hierdie reëls.
- (3) In hierdie reël, tensy uit die samehang anders blyk, beteken -
'aanwysingsverhoor' 'n verhoor bedoel in subreël (7)(c);
'finale konferensie' die finale konferensie bedoel in subreël (14);
'getuie-opsomming' 'n getuie-opsomming bedoel in subreël (16);
'hofaanwysing' 'n aanwysing van 'n regter wat by 'n konferensie voorsit of andersins, en alle sodanige aanwysings is, vir alle doeleindes, bevele van die hof;
'inskrywingsdatum' die datum waarop die besonderhede wat vereis word om 'n saak ter rolle te plaas, in die register vir verhoor ingevolge reël 34(1) van die Reëls waarby die verrigtinge van die Kaapse Provinsiale Afdeling van die Hooggeregshof van Suid-Afrika gereël word, ingeskryf is;
'kennisgewing van verstek' die kennisgewing van verstek bedoel in subreël (12)(a);
'maand' 'n kalendermaand, naamlik 'n tydperk wat begin op 'n datum in enige maand en eindig op 'n datum wat numeries ooreenstem met daardie datum minus een in die daaropvolgende maand of, indien die tydperk twee of meer behels, eindig op 'n datum wat numeries ooreenstem met daardie datum minus een na verloop van die betrokke aantal maande: Met dien verstande dat waar die tydperk aldus bereken nie op 'n hofdag eindig nie, die tydperk op die eerste hofdag daarna eindig;
'nakomingsdatum' die datum waarop die nakomingsertifikaat ingedien moet word soos bedoel in subreël (7)(d);
'nakomingsertifikaat' die sertifikaat van nakoming bedoel in subreël (13)(a);
'niegereed-lys' die niegereed-lys bedoel in subreël (15);
'party' die party persoonlik, waar sodanige party onvertegenwoordig is, of die prokureur of advokaat wat 'n party verteenwoordig;
'spesiale aanwysingsverhoor' 'n spesiale aanwysingsverhoor bedoel in subreël (10)(b);
'verdere getuie-opsomming' 'n verdere getuie-opsomming bedoel in subreël (16);
'verstekverhoor' 'n verhoor bedoel in subreël (12)(c); en
'vorderingskonferensie' 'n konferensie bedoel in subreël (4).

- (4) (a) Hoogstens 20 dae na die *inskrywingsdatum* moet die party wat die besonderhede ingeskryf het, met minstens 10 dae skriftelike kennisgewing aan alle ander partye, 'n konferensie belê wat 'n *vorderingskonferensie* genoem word.
- (b) Die *vorderingskonferensie* moet hoogstens twee maande na die *inskrywingsdatum* gehou word.
- (c) Al die partye moet die *vorderingskonferensie* bywoon.
- (d) Die doel van die *vorderingskonferensie* is om 'n deeglike oorsig oor die saak te verkry en om 'n ooreenkoms te bereik oor hoe om die geskilpunte so doeltreffend, ekonomies en spoedig moontlik te besleg.
- (5) Die pligte van die partye tot 'n *vorderingskonferensie* sluit in, maar is nie beperk nie tot, die volgende:
- (a) Die partye moet oorweeg of die verrigtinge gepas in die Kaapse Provinsiale Afdeling van die Hooggeregshof ingestel word en of dit meer gepas in 'n ander hof afgehandel sou kon word en moet die gee van aanwysings, met inbegrip van toestemmings, in verband daarmee oorweeg.
- (b) Die partye moet oorweeg of die pleitstukke gefinaliseer is, en of enige party enige wysiging voorstel, en waar die partye oor sodanige wysiging ooreenkom, moet hulle ooreenkoms bereik oor die wyse en tyd waarop die wysiging gemaak word en ook enige wysiging in reaksie daarop of ander voortvloeiende handeling.
- (c) (i) Die partye moet oorweeg of enige verdere party by die verrigtinge gevoeg moet word en ooreenkom oor die tyd waarop sodanige party gevoeg sal word.
- (ii) Die partye moet, waar nodig, die *vorderingskonferensie* verdaag hangende die voorgestelde voeging om die deelname van sodanige verdere party te vergemaklik.
- (iii) Wanneer 'n *vorderingskonferensie* verdaag word hangende voeging of waar die party nie op die ooreengekome tyd gevoeg word nie, moet die eiser hoogstens 10 dae nadat die pleitstukke gesluit het na die voeging of, waar voeging nie betyds plaasvind nie, nadat die ooreengekome datum daarvoor verby is, weer die *vorderingskonferensie* belê met minstens 15 dae skriftelike kennisgewing aan die partye, en behoudens voormelde en met dien verstande dat die *nakomingsdatum* bedoel in paragraaf (j) nie later is nie as sewe maande na die datum van die *vorderingskonferensie* wat weer belê is, is die bepalings van subreël (4) *mutatis mutandis* van toepassing op die *vorderingskonferensie* wat weer belê word.
- (d) Die partye moet die aangeleenthede in geskil omskryf en oorweeg of sodanige geskilpunte by ooreenkoms geskik kan word of alternatiewelik by ooreenkoms beperk kan word, hetsy voorwaardelik of andersins, en moet ooreenkoms bereik oor stappe om skikking

van al of sommige van die geskilpunte te bevorder.

- (e) Die partye moet oorweeg of enige van die geskilpunte vatbaar is vir beslegting deur verwysing na alternatiewe geskilbeslegting, of deur 'n afsonderlike verhoor ingevolge reël 33(4), of deur verwysing ingevolge artikel 19*bis* van die Wet of deur ander middele, en moet ooreenkoms bereik oor die stappe wat gedoen moet word om 'n spoedige en doeltreffende beslegting van sodanige geskilpunte te verseker.
- (f) Die partye moet alle stappe oorweeg wat nodig is om die voorbereiding vir verhoor te voltooi, met inbegrip van, maar nie beperk nie tot, blootlegging, insae in stukke, verdere of beter blootlegging, mediese ondersoeke, ander inspeksies, die uitruil van foto's of planne, en besonderhede vir verhoor, en moet ooreenkom oor die tyd waarop elke party elke sodanige stap moet voltooi.
- (g)
 - (i) Die partye moet vasstel of die saak een is waarin 'n party waarskynlik deskundige getuienis sal wil aanbied en, indien wel, ooreenkom oor 'n datum waarop die partye deskundige verslae moet indien.
 - (ii) Die partye moet oorweeg of die aanstelling van 'n enkele wedersyds aanvaarbare deskundige, of 'n ooreengekome paneel deskundiges, gepas is en, indien wel, ooreenkom oor 'n prosedure wat gevolg moet word om sodanige deskundige of deskundiges te identifiseer en die nodige verslag of verslae verkry.
 - (iii) Waar verskillende partye voornemens is om deskundiges in dieselfde of 'n soortgelyke dissipline te betrek, moet hulle ooreenkoms bereik om te verseker dat die deskundiges beraadslaag nadat hulle verslag gedoen het en dat hulle daarna 'n gesamentlike verklaring uitreik waarin hulle die aangeleenthede waaroor hulle ooreenkom en die aangeleenthede waaroor hulle verskil, uiteensit.
 - (iv) Die partye moet ooreenkom oor die tyd waarbinne die deskundiges moet beraadslaag en hulle gesamentlike verklaring moet indien.
- (h) Die partye moet ooreenkom oor die datum waarteen *getuie-opsommings* en *verdere getuie-opsommings* uitgeruil moet word en of dit by die hof ingedien moet word en, indien wel, of sodanige opsommings verseël moet word of nie.
- (i) Die partye moet ooreenkom oor die behoefte aan en die bepalings van enige ander aanwysings.
- (j) Die partye moet die datum vasstel waarteen al die aanwysings wat deur die hof gelas kan word ooreenkomstig die ooreenkomste by die *vorderingskonferensie* bereik, voltooi moet wees, en hierdie datum, die *nakomingsdatum*, mag nie later as agt maande na die *inskrywingsdatum* wees nie.

- (6) (a) Die eiser se prokureur of, waar die eiser nie verteenwoordig is nie, die verweerder se prokureur, moet hoogstens drie maande na die *inskrywingsdatum* 'n notule indien wat deur al die partye of hulle onderskeie prokureurs onderteken is en wat, sonder om daarop uit te brei, in die vorm van 'n toestemming tot 'n bevel, die bepalings lys van alle ooreenkomste bereik, en die aangeleenthede afsonderlik lys waaroor nie ooreengekom is nie en ten opsigte waarvan een of meer van die partye die hof wil versoek om 'n bevel te maak.
- (b) Die notule moet so na moontlik soos Vorm 22 in die Eerste Bylae bewoord wees.
- (7) (a) Die griffier moet so gou doenlik na die indiening van die notule van die *vorderingskonferensie* die hoflêer voor 'n regter in kamers plaas.
- (b) Die regter moet die aangeleentheid oorweeg en indien hy of sy tevrede is, aanwysings gee in ooreenstemming met ooreenkomste bereik soos uiteengesit in die notule bedoel in subreël (6).
- (c) Waar die regter nie oortuig is dat die partye die vereistes van die *vorderingskonferensie* ten volle nagekom het nie of die doeleindes daarvan behoorlik in ag geneem het nie, of waar daar onopgeloste geskilpunte is wat verband hou met die verdere voer van die aangeleentheid, of waar die regter dit gepas ag, kan die regter, bykomend by enige bevel soos voormeld gemaak, gelas dat 'n *aanwysingsverhoor* gehou word.
- (d) Waar geen *aanwysingsverhoor* gelas word nie, moet die regter, wanneer hy of sy aanwysings gee, 'n *nakomingsdatum* vasstel, hetsy soos ooreengekom deur die partye of soos die regter redelik ag.
- (e) Die *nakomingsdatum* moet, behalwe in uitsonderlike omstandighede, hoogstens agt maande na die *inskrywingsdatum* wees of hoogstens sewe maande na die datum van 'n *vorderingskonferensie* wat weer belê is, soos beoog in subreël (5)(c).
- (8) Die griffier moet onverwyld 'n afskrif van alle aanwysings deur die regter aan elke party stuur.
- (9) (a) 'n *Aanwysingsverhoor* waarby 'n regter voorsit, moet gehou word wanneer 'n regter sodanige verhoor gelas ooreenkomstig subreël (7).
- (b) Die griffier moet die partye minstens vyf dae kennis gee van die hou van die *aanwysingsverhoor*.
- (c) Al die partye moet die *aanwysingsverhoor* bywoon.
- (d) By 'n *aanwysingsverhoor* kan die regter aanwysings gee, enige bestaande bevel of aanwysings wysig en 'n kostebevel maak.

(10) Aanwysings wat gegee word, hetsy ooreenkomstig die ooreenkoms bereik deur die partye by die *vorderingskonferensie* of deur 'n regter by 'n *aanwysingsverhoor* of 'n *verstekverhoor* of andersins ooreenkomstig hierdie reël, kan gewysig word -

(a) met instemming van al die partye: Met dien verstande dat sodanige wysiging nie die tyd vir nakoming van enige aanwysing verleng tot 'n tyd wat die tydigse indiening van die *nakomingsertifikaat* sal verhinder nie en sodanige instemming nie geldig is nie tensy skriftelik aangeteken en tensy die partye in sodanige skriftelike instemming bevestig dat die wysiging nie die *nakomingsdatum* sal benadeel nie; of

(b) deur die hof ooreenkomstig 'n aansoek deur 'n party gebring, met kennisgewing aan die griffier, wat versoek dat sodanige aansoek vir verhoor ter rolle geplaas word by 'n *spesiale aanwysingsverhoor*, en sodanige kennisgewing moet minstens vyf dae voor die datum waarop die prosedurele stap afgehandel moet word, afgelewer word; of

(c) deur die hof by 'n *verstekverhoor*.

(11) Die bepaling van subreël (9) is *mutatis mutandis* op 'n *spesiale aanwysingsverhoor* van toepassing.

(12) (a) Wanneer 'n party versuim om enige bepaling van hierdie reël of 'n aanwysing van die hof behoorlik en betyds na te kom, moet die ander party of partye in die aksie onverwyld en hoogstens vyf dae na die versuim 'n *kennisgewing van verstek* aflewer wat so na moontlik soos Vorm 23 in die Eerste Bylae bewoord moet wees.

(b) Tensy 'n skriftelike kennisgewing hoogstens sewe dae na die eerste indiening van 'n *kennisgewing van verstek* ingedien word deur die party wat die *kennisgewing van verstek* ingedien het of deur die party wat na bewering in verstek is, wat bevestig dat die verstek aangesuiwer is, moet die griffier onverwyld kennis gee van 'n *verstekverhoor*.

(c) 'n Regter moet by 'n *verstekverhoor* voorsit.

(d) Die griffier moet die partye minstens 10 dae kennis van die hou van die *verstekverhoor* gee.

(e) Al die partye moet die *verstekverhoor* bywoon.

(f) By 'n *verstekverhoor* kan die regter aanwysings maak, enige bestaande bevel of aanwysings wysig en 'n kostebevel maak.

(g) Die hof moet poog om te verseker dat die aangeleentheid so gou moontlik bereg word en die *inskrywingsdatum* slegs by aanvoering van gegronde redes verleng en dan slegs vir die kortste moontlike tyd.

(h) Bevele wat gemaak kan word, sluit in -

(i) aanwysings wat die aangeleentheid tot 'n vroeë *finale konferensie* kan laat vorder;

(ii) verlies van voorrang;

- (iii) die oordra van die verrigtinge na die *niegereed-lys*;
- (iv) afwysing van die verrigtinge of 'n deel daarvan;
- (v) die skrapping van enige verweer of pleitstuk, waar 'n ander party as die eiser in verstek is;
- (vi) kostebevele;
- (vii) enige aanwysing wat die regter gepas ag ter bereiking van die oogmerke van hierdie reël.

(13) (a) Hoogstens 10 dae na die *inskrywingsdatum* moet die eiser, indien alle aanwysings en bevele nagekom is, 'n *nakomingsertifikaat* indien wat so na moontlik soos Vorm 24 in die Eerste Bylae bewoord moet wees: Met dien verstande dat waar die eiser onverteenwoordig is, die *nakomingsertifikaat* deur die verweerder se prokureur ingedien moet word.

(b) Waar 'n *nakomingsertifikaat*, vanweë die versuim van enige party, nie betyds ingedien word nie, moet die griffier die aangeleentheid onverwyld vir 'n *verstekverhoor* ooreenkomstig die bepalings van subreël (12)(d) ter rolle plaas.

(c) Al die partye moet die *verstekverhoor* bywoon.

(d) 'n Regter moet by die *verstekverhoor* voorsit, en moet poog om aanwysings te gee, wat bevele kan insluit soos in subreël (12)(h) uiteengesit, wat die aangeleentheid tot 'n vroeë *finale konferensie* kan laat vorder.

(e) Waar dit blyk dat die eiser nie ywerig was in die nakoming van enige aanwysings wat gegee is nie of wat om watter rede ook al verhinder is om enige aanwysings na te kom, kan die hof die aangeleentheid na die *niegereed-lys* oordra.

(f) Waar daar, teen die tyd van die *verstekverhoor*, volledige nakoming is en 'n *nakomingsertifikaat* ingedien is, kan die hof die *verstekverhoor* summier tot 'n *finale konferensie* omskep en voortgaan om die aangeleentheid af te handel of kan die hof die griffier opdrag gee om kennis te gee van 'n *finale konferensie*.

(14) (a) By indiening van 'n behoorlik ingevulde *nakomingsertifikaat* moet die griffier onverwyld 'n verhoordatum toeken en die aangeleentheid vir 'n *finale konferensie*, waarop 'n regter moet voorsit, ter rolle plaas.

(b) Die griffier moet die partye minstens 30 dae kennis van die verhoordatum en minstens 10 dae kennis van die datum van die *finale konferensie* gee.

(c) Die regter wat by die *finale konferensie* voorsit, kan, waar hy of sy dit nodig ag, die *finale konferensie* kanselleer en die partye toelaat om op verhoor te gaan.

(d) 'n *Finale konferensie* mag slegs in uitsonderlike omstandighede verdaag word.

- (e) Indien die partye nie ten volle vir die *finale konferensie* voorbereid is nie of indien die prokureur of advokaat wat die eiser verteenwoordig, nie behoorlike opdrag gekry het nie, moet die regter die aangeleentheid na die *niegereed-lys* oordra en sodanige ander aanwysings gee, met inbegrip van kostebevele, as wat hy of sy gepas ag.
 - (f) Indien 'n ander party as 'n eiser nie behoorlik by 'n *finale konferensie* verteenwoordig is nie, kan die regter gepaste aanwysings gee, met inbegrip van kostebevele en bevele vir die skraping van enige pleitstuk of verweer en vir die gee van uitspraak.
 - (g)
 - (i) By die *finale konferensie* moet die regter die moontlikhede van skikking, die beperking van geskilpunte en die inkorting van die verhoor ondersoek.
 - (ii) Die regter moet in die besonder die partye se staat van gereedheid oorweeg en nakoming van alle aanwysings en bevele bevestig en vasstel of daar eenstemmigheid is oor wie sal begin en of enige verdere aanwysings nodig is om die bywoning van getuies te verkry of andersins te verseker dat die verhoor kan voortgaan.
 - (h) Indien die regter oortuig is dat die aangeleentheid gereed is om op verhoor te gaan, moet hy of sy die aangeleentheid laat voortgaan op die vasgestelde datum en sodanige verdere aanwysings gee as wat gepas is.
 - (i) Indien die regter nie oortuig is van die partye se staat van gereedheid nie, maar oortuig is dat dit spoedig opgelos kan word en dat geregtigheid dit vereis, kan hy of sy die *finale konferensie* verdaag tot 'n vasgestelde datum of 'n datum wat deur die griffier bepaal moet word en sodanige verdere aanwysings gee, met inbegrip van kostebevele, as wat gepas is om die verhoor van die aangeleentheid te bespoedig.
 - (j) Indien die regter van mening is dat die aangeleentheid nie vir verhoor gereed is nie en dat die tyd wat nodig is om die aangeleentheid gereed te maak, sodanig is dat hy of sy dit gepas ag, kan hy of sy die aangeleentheid na die *niegereed-lys* verwys en sodanige verdere aanwysings gee, met inbegrip van kostebevele, as wat gepas is.
 - (k) By die *finale konferensie* moet aandag geskenk word aan die behoefte aan 'n transkripsie van die verrigtinge en reëlins moet getref word vir die inbind en paginerings van stukke en die voorbereiding en aanbieding van bewysstukke.
- (15) (a) Die *niegereed-lys* moet deur die griffier bygehou word om te verseker dat sake wat nie gereed is om op verhoor te gaan nie of wat te eniger tyd voorbereiding vereis, onder hersiening geplaas word ten einde hulle so spoedig moontlik af te handel sonder om toe te laat dat hulle in die pad staan van behoorlik voorbereide sake wat tot 'n vroeë oplossing kan vorder.

- (b) Waar 'n saak vir drie maande op die *niegereed-lys* is, moet die griffier 'n kennisgewing aan die eiser stuur, of waar die eiser verteenwoordig is, aan sy of haar prokureur, waarin vermeld word dat, tensy aansoek by die hof gedoen word om die saak van die *niegereed-lys* te verwyder binne 30 dae na die datum van die kennisgewing, die partye verplig is om die *verstekverhoor* by te woon op 'n datum minstens 45 dae en hoogstens 60 dae na die datum van die kennisgewing, en 'n afskrif van die kennisgewing moet aan al die ander partye gestuur word.
- (c) (i) Waar so 'n kennisgewing gestuur word aan 'n prokureur wat 'n eiser verteenwoordig, moet dit van die prokureur vereis om onverwyld sy of haar kliënt in kennis te stel van die kennisgewing en van die gevolge indien die saak vir langer as 12 maande op die *niegereed-lys* bly en van die stappe wat gedoen kan word om die saak van die *niegereed-lys* oor te plaas en weer vir verhoor ter rolle te plaas.
- (ii) Die kliënt moet in kennis gestel word dat hy of sy by die *verstekverhoor* aanwesig moet wees.
- (iii) Die eiser se prokureur moet 'n kennisgewing aflewer waarin vermeld word dat sy of haar kliënt in kennis gestel is soos voormeld, wanneer en hoe dit gedoen is en watter stappe die eiser voornemens is om in die aangeleentheid te doen.
- (iv) Die kennisgewing moet minstens vyf dae voor die *verstekverhoor* afgelewer word.
- (d) 'n Prokureur wat 'n kennisgewing ooreenkomstig die bepalings van paragraaf (b) ontvang, mag hom of haar nie as sy of haar kliënt se prokureur onttrek tot na die *verstekverhoor* nie en dan slegs met toestemming van die hof.
- (e) (i) By die *verstekverhoor* moet die hof die partye bystaan om die aangeleentheid sou gou doenlik tot verhoor te bring en moet die hof sodanige bevele gee as wat gepas is, met inbegrip van kostebevele.
- (ii) Die hof moet ook 'n bevel gee indien die saak op die *niegereed-lys* moet bly, en waar gepas moet die hof die voorwaardes spesifiseer by nakoming waarvan die eiser by 'n regter in kamers aansoek kan doen om die saak weer vir verhoor ter rolle te plaas.
- (f) Waar die verrigtinge vir langer as 12 maande op die *niegereed-lys* bly, moet die griffier sodanige saak na die regter-president verwys, wat sodanige bevele moet gee as wat hy of sy nodig ag om die bilike, doeltreffende en bekostigbare afhandeling van die saak te bewerkstellig, met inbegrip van, waar gepas, kostebevele en die afwysing van die aksie.

- (16) (a) In elke bestrede siviele aksie, uitgesonderd aksies vir die ontbinding van 'n huwelik en aksies betreffende die toesig en beheer oor kinders, moet elke party 'n opsomming uitruil van die getuienis, uitgesonderd deskundige getuienis, waarmee gehandel moet word ooreenkomstig subreël (5)(g), van elke getuie wat sodanige party voornemens is om op te roep om by die verhoor te getuig.
- (b) Die doel van die aflewering van die opsomming is om die verheldering van die geskilpunte, die verheldering van getuienis in verband daarmee en betekenisvolle onderhandelings oor die skikking van sodanige geskilpunte te bevorder.
- (c) Die opsomming ten opsigte van elke getuie moet -
- (i) die getuie by name identifiseer;
 - (ii) die wese van die getuienis wat sodanige getuie waarskynlik op elke geskilpunt sal lewer, met voldoende noukeurigheid opsom om te voldoen aan die doel waarvoor die opsomming by hierdie reël vereis, gegee moet word; en
 - (iii) deur die handtekening van die getuie bevestig word.
- (d) Alle *getuie-opsommings* moet uitgeruil word maar hoef nie by die hof ingedien te word nie, tensy aldus deur die partye ooreengekom, en enige sodanige ooreenkoms kan bepaal dat verseëelde *getuie-opsommings* en *verdere getuie-opsommings* by die hof ingedien word, wat slegs deur die hof oopgemaak mag word met instemming van al die partye of ten einde enige geskilpunt te besleg waar die inhoud of vorm van 'n *getuie-opsomming* of *verdere getuie-opsomming* ter sake is vir die beslegting van sodanige geskilpunt.
- (e) Wanneer die datums waarop *getuie-opsommings* ingedien moet word, by 'n *vorderingskonferensie* oorweeg word of wanneer sodanige datum deur die hof by 'n *aanwysingsverhoor*, 'n *spesiale aanwysingsverhoor* of 'n *verstekverhoor* vasgestel word, moet voorsiening daarvoor gemaak word om partye toe te laat om *verdere getuie-opsommings* in te dien in antwoord op 'n aangeleentheid in 'n opponente se *getuie-opsomming*, waar sodanige aangeleentheid nog nie in 'n *getuie-opsomming* wat namens sodanige party ingedien is, behandel is nie.
- (f) Geen getuienis waarvoor 'n *getuie-opsomming* of *verdere getuie-opsomming* nie afgelewer is nie, kan by die verhoor aangebied word nie, behalwe met toestemming van die hof.
- (17) (a) Wanneer die griffier kennis moet gee aan die prokureur van 'n party ooreenkomstig hierdie reël, moet sodanige kennisgewing gegee word deur 'n afskrif daarvan te plaas in die posbus van daardie prokureur of sy of haar benoemde korrespondent, en sodanige posbusse, waarvan een aan elke prokureursfirma toegeken word, moet deur die griffier van die Hooggeregshof in stand gehou word.

- (b) Dit is die verantwoordelikheid van elke prokureur om te verseker dat kennisgewings in die posbusse gereeld en betyds gehaal word, en enige kennisgewing deur die griffier in 'n posbus geplaas, word geag ontvang te wees drie dae na die datum van plasing.
- (c) Enige kennisgewing wat deur die griffier aan 'n onverteenvoorgedigde party gegee moet word, moet per vooruitbetaalde geregi-streerde pos gestuur word en word geag ontvang te wees vyf dae na die datum waarop dit gepos is.
- (18) Waar hierdie reël van die "eiser se prokureur" of die "verweerder se prokureur" vereis om 'n prosedure te inisieer of te onderneem en daar meer as een eiser of meer as een verweerder is, is dit die plig van die eerste eiser se prokureur of die eerste verweerder se prokureur, na gelang van die geval, om die vereiste van die reël na te kom.
- (19) Waar, vanweë die verwickeldheid van 'n aangeleentheid of om enige ander rede, 'n party van mening is dat die aksie spesiale of individuele saakbestuur benodig, moet sodanige party met kennisgewing aan al die ander partye skriftelik by die regter-president aansoek doen om gepaste aanwysings.
- (20) Waar 'n prokureur of advokaat 'n konferensie of verhoor bywoon, moet hy of sy behoorlike opdrag ontvang het en bekend wees met alle aspekte van die saak en gemagtig wees om die nodige ooreenkomste aan te gaan en om al die aangeleenthede wat aandag vereis, doeltreffend te hanteer."

Invoeging van Vorms 22, 23, en 24 in die Eerste Bylae by die Reëls

3. Die Eerste Bylae by die Reëls word hierby gewysig deur die invoeging van die volgende vorms:

"VORM 22 IN DIE HOOGGEREGSHOF VAN SUID-AFRIKA (PROVINSIALE AFDELING KAAP DIE GOEIE HOOP)

Saak No.

In die saak tussen:

..... Eiser

en

..... Verweerder

NOTULE VAN VORDERINGSKONFERENSIE

1. Die inskrywingsdatum soos omskryf in reël 37A(3) was [datum.]
2. Die vorderingskonferensie in bogenoemde saak is gehou op [datum.]
3. Die partye is soos volg verteenwoordig: [Lys name en partye verteenwoordig]

4. Daar is ooreengekom dat bogenoemde Agbare Hof versoek word om aanwysings by toestemming te gee ooreenkomstig die uiteensetting in die Bylae van Ooreengekome Aanwysings hierby aangeheg. [Heg 'n "Bylae van Ooreengekome Aanwysings" aan. Elke aanwysing moet afsonderlik genommer word.]
5. Die partye kon nie ooreenkom oor die bevele uiteengesit in die Bylae van Aangevraagde Aanwysings hierby aangeheg nie. [Heg 'n "Bylae van Aangevraagde Aanwysings" aan. Lys die bevele waaroor nie ooreengekom is nie maar wat deur 'n party aangevra word. Identifiseer in elke geval die party wat die versoek rig.]
6. Die ooreengekome nakomingsdatum bedoel in subreël (5)(j) is [datum.]

[Opmerking: Die nakomingsdatum moet hoogstens agt maande na die inskrywingsdatum wees of hoogstens sewe maande na 'n vorderingskonferensie wat weer belê is ingevolge subreël (4)(a).]

Bevestig namens die eiser:

.....
(Handtekening en datum)

Bevestig namens die verweerder:

.....
(Handtekening en datum)

VORM 3

IN DIE HOOGEREGSHOF VAN SUID-AFRIKA
(PROVINSIALE AFDELING KAAP DIE GOEIE HOOP)

Saak No.

In die saak tussen:

..... Eiser
en

..... Verweerder

KENNISGEWING VAN VERSTEK

..... [spesifiseer party] gee hierby kennis van versuim ten opsigte van die volgende:

1. [paty in verstek] was ooreenkomstig subreël van reël 37A/die aanwysings van hierdie Agbare Hof toegestaan in hierdie saak op [datum]* verplig om -

2.
.....

[Beskryf hier vereiste van reël 37A of die aanwysing wat nie nagekom is nie en die datum vir nakoming.]

3. [party in verstek] is in verstek.

Gedateer te op hede dag van 19....

(Handtekening)

Aan: Die Griffier
Alle ander partye

*Skrap wat nie van toepassing is nie

VORM 24

IN DIE HOOGEREGSHOF VAN SUID-AFRIKA
(PROVINSIALE AFDELING KAAP DIE GOEIE HOOP)

Saak No.

In die saak tussen:

..... Eiser
en

..... Verweerder

NAKOMINGSERTIFIKAAT

1. Ek, [naam] van [naam van prokureursfirma], is die prokureur wat namens die eiser in hierdie aksie optree.

2. Ek sertifiseer dat elk van die volgende aanwysings/bevele deur die betrokke party nagekom is en dat sodanige nakoming plaasgevind het op die datum ingevul in die derde kolom.

[Sit in kolom een die essensie van die aanwysing/bevel gemaak uiteen, in kolom twee die datum vir nakoming en in kolom drie die datum waarop die betrokke party dit nagekom het.]

Essensie van aanwysing/ bevel	Datum aangewys vir na- koming	Datum van nakoming

3. Ek sertifiseer verder dat die saak, wat die eiser betref, in alle opsigte gereed is vir verhoor.
4. Ek versoek dat 'n verhoordatum toegeken word en dat 'n finale konferensie belê word.
5. Ek besef dat indien, by die finale konferensie, gevind word dat enige aanwysing of bevel deur die Hof gegee nie deur enige party nagekom is nie of dat die saak andersins wat die eiser betref, nie vir verhoor gereed is nie, die saak na die niegereed-lys verwys kan word.

Gedateer te op hede die dag van 19....

.....
(Eiser se prokureur)

Aan: Die Griffier
Alle ander partye".

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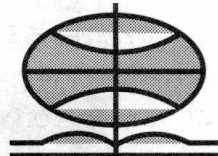
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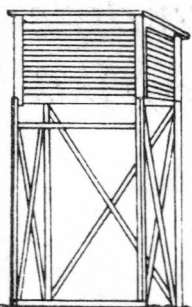
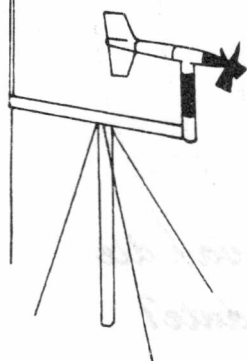
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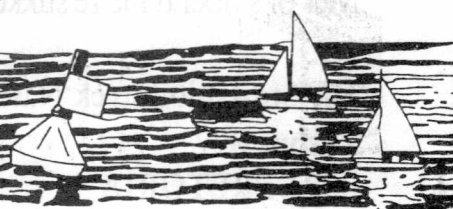
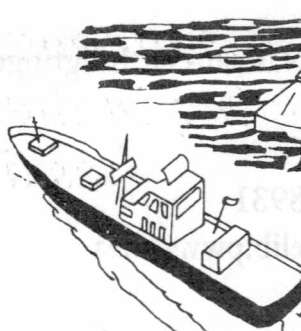
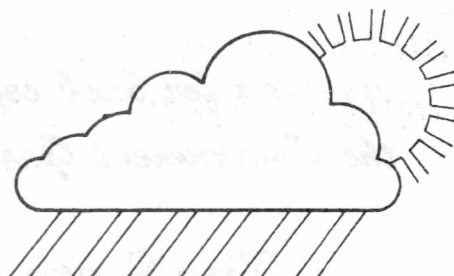
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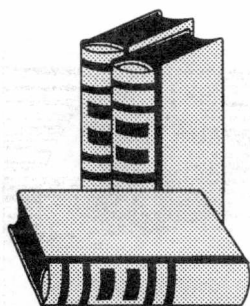
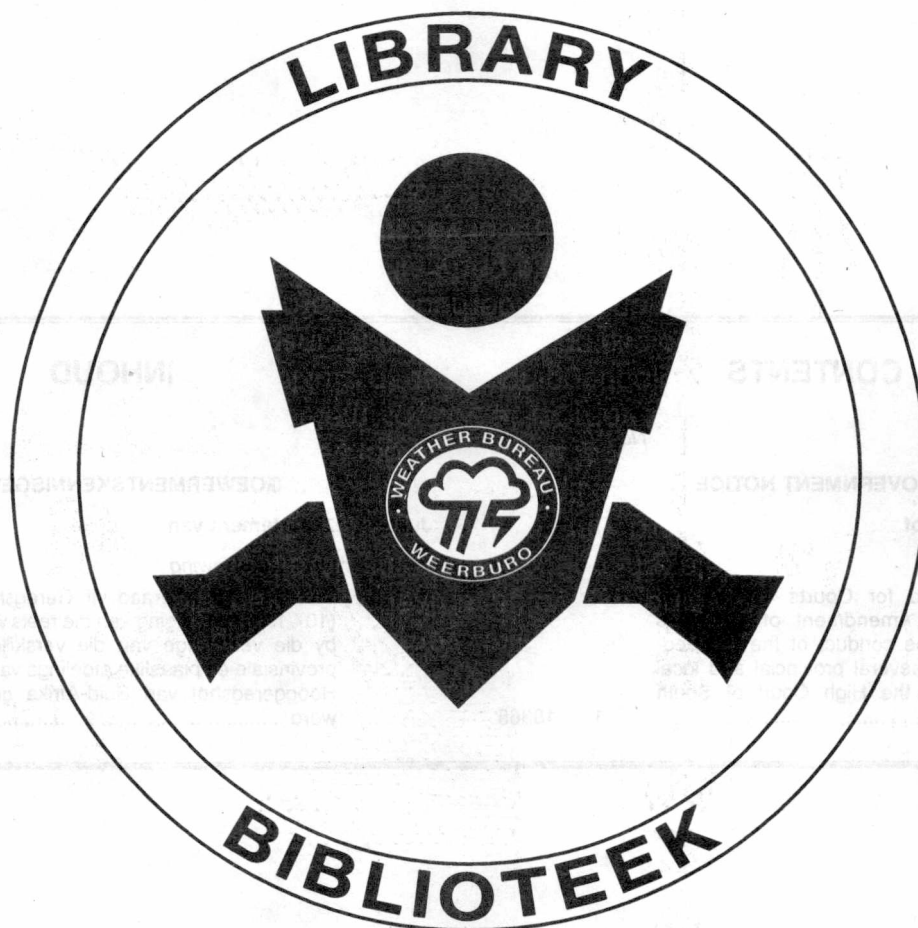
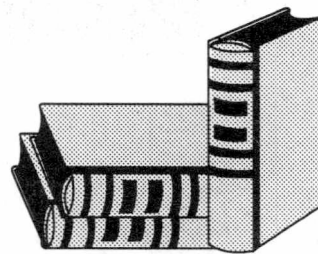
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