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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE

No. R. 757

29 May 1998

The President of the Constitutional Court in consultation with the Chief Justice has, under section 171 of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), and section 16 of the Constitutional Court Complementary Act, 1995 (Act No. 13 of 1995), as amended, prescribed the rules contained in the Annexure hereto regulating matters relating to the proceedings of and before the Constitutional Court with effect from 29 May 1998.

ANNEXURE
DIVISION OF RULES

These rules are divided as follows:

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1. Definitions

- (1) In these rules any word or expression to which a meaning has been assigned in the Constitution shall bear that meaning and, unless the context otherwise indicates -
- "affidavit"** includes an affirmation or a declaration contemplated in section 7 of the Justices of the Peace and Commissioners of Oaths Act, 1963 (Act No. 16 of 1963);
- "apply"** means apply on notice of motion, and **"application"** has a corresponding meaning;
- "Court"** means the Constitutional Court established by section 166(a) of the Constitution, read with item 16(2)(a) of Schedule 6 to the Constitution;
- "court day"** means any day other than a Saturday, Sunday or public holiday, and only court days shall be included in the computation of any time expressed in days prescribed by these rules or fixed by any order of the court;
- "directions"** means directions given by the President with regard to the procedures to be followed in the conduct and disposition of cases;
- "judge"** means a judge or acting judge of the Court appointed under section 174 or 175 of the Constitution, sitting otherwise than in open court;
- "law clinic"** means a centre for the practical legal education of students in the faculty of law at a university in the Republic, and includes a law centre controlled by a non-profit organisation which provides the public with legal services free of charge and certified as contemplated in section 3(1)(f) of the Attorneys Act, 1979 (Act No. 53 of 1979);
- "legal representative"** means an advocate admitted in terms of section 3 of the Admission of Advocates Act, 1964 (Act No. 74 of 1964), or an attorney admitted in terms of section 15 of the Attorneys Act, 1979 (Act No. 53 of 1979);
- "party"** or any other reference to a litigant in terms includes a legal representative appearing on behalf of a party, as the context may require;
- "President"** means the President of the Court appointed under section 174(3) read with item 16(2)(b) of Schedule 6 of the Constitution;
- "registrar"** means the registrar of the Court, and includes any acting or assistant registrar of the Court;
- "sheriff"** means a person appointed in terms of section 2 of the Sheriffs Act, 1986 (Act No. 90 of 1986), and includes a person appointed in terms of section 5 or section 6 of that Act as an acting or a deputy sheriff, respectively, and a sheriff, an acting or a deputy sheriff appointed in terms of any law not yet

repealed by a competent authority and, immediately before the commencement of the Constitution, in force in any area which forms part of the national territory;
“**Supreme Court of Appeal Rules**” means the rules regulating the conduct of the proceedings of the Supreme Court of Appeal published under Government Gazette No. R.1207 of 15 December 1961, as amended;

“**the Constitution**” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); and

“**Uniform Rules**” means the rules regulating the conduct of the proceedings of the several high courts published under Government Notice No. R.48 of 12 January 1965, as amended.

- (2) Any powers or authority vesting in the President in terms of these rules may be exercised by a judge or judges designated by the President for that purpose.
- (3) Any reference in these rules to a party having to sign documents shall be construed as including a reference to a legal representative representing such party, and a reference to lodging documents with the registrar as including prior service of such documents on other parties and the lodging of 25 copies of all relevant documents with the registrar.
- (4) Notices, directions or other communications in terms of these rules may be given or made by registered post or by facsimile or other electronic copy.
- (5) The President may extend any time limit prescribed in these rules.
- (6) Written arguments, responses and any other representations to the Court shall be clear and succinct.

PART I Sessions of the Court

2. **Court terms**

- (1) There shall be 4 terms in each year as follows:
15 February to 31 March, inclusive;
1 May to 31 May, inclusive;
15 August to 30 September, inclusive;
1 November to 30 November, inclusive.
- (2) A case may be heard out of term if the *President* so directs.
- (3) If the day fixed for the commencement of a term is not a *court day*, the term shall commence on the next succeeding *court day* and, if the day fixed for the end of a term is not a *court day*, the term shall end on the *court day* preceding.

PART II Registrar

3. **Registrar's office hours**

- (1) The office of the *registrar* shall be open from 08:30 to 13:00 and from 14:00 to 15:30 on *court days*.
- (2) The *registrar* may in exceptional circumstances accept documents at any time, and shall do so when directed by a *judge*.

4. General duties of the registrar

- (1) A notice of appeal, an order of court referring any matter to the *Court* by another court, or another document by which proceedings are initiated in the *Court* in terms of these rules shall be numbered by the *registrar* with a consecutive number for the year during which it is filed.
- (2) Every document afterwards lodged in such a case or in any subsequent case in continuation thereof shall be marked with that number by the *party* lodging it and shall not be received by the *registrar* until so marked.
- (3) All documents delivered to the *registrar* to be filed in a case shall be filed by the *registrar* in a case file under the number of such case.
- (4) All documents referred to in subrule (1) shall be subject to the payment of R75,00 court fees in the form of a revenue stamp: Provided that if an indigent *party* is assisted or represented by an office or officer of the Human Rights Commission, the Public Protector, the Legal Aid Board, a *law clinic* or *pro Deo* counsel, or satisfies the *registrar* in terms of subrule (5) that he or she is indigent, the payment of court fees shall be waived by the *registrar* and he or she shall make a note to that effect on the first page of the document in question.
- (5) A *party* who desires to initiate or oppose proceedings in the *Court* and who is of the opinion that he or she is indigent, or anybody on behalf of such *party*, shall satisfy the *registrar* that, except for household goods, wearing apparel and tools of trade, such *party* is not possessed of property to the amount of R20 000 and will not be able within a reasonable time to provide such sum from his or her earnings.
- (6) Copies of a record may be made by any person in the presence of the *registrar*: Provided that the *registrar* shall at the request of a *party* make a copy of a recorded order, settlement, judgment or order relating to costs on payment of court fees with revenue stamps of R1,00 for every 100 typed words or part thereof, or on payment with revenue stamps of R0,50 for every photocopy of an A4-size page or part thereof and shall certify that copy or photocopy to be a true copy of the original: Provided further that if an indigent *party* is assisted or represented by an office or officer of the Human Rights Commission, the Public Protector, the Legal Aid Board, a *law clinic* or *pro Deo* counsel, or satisfies the *registrar* that he or she is indigent in terms of subrule (5), the payment of court fees may be waived by the *registrar*.
- (7) The *registrar* shall sign (manually or by machining a facsimile of his or her signature), date and issue all process as sued out by a *party*.
- (8) Whenever the *Court* makes an order declaring or confirming any law or provision thereof to be inconsistent with *the Constitution* under section 172 of *the Constitution*, the *registrar* shall, not later than 15 days after such order has been made, cause such order to be published in the *Gazette* and in the provincial gazette concerned if the order relates to provincial legislation.

- (9) The *registrar* shall publish a hearing list which shall be affixed to the notice board at the *Court* building not less than 15 days before each term for the convenience of the *legal representatives* and the information of the public.
- (10) *Directions* with regard to any proceedings shall be furnished by the *registrar* to the parties concerned within five days of such *directions* having been given.
- (11)
 - (a) The registrar shall maintain the *Court's* records and shall not permit any of them to be removed from the court building.
 - (b) Any document lodged with the *registrar* and made part of the *Court's* records shall not thereafter be withdrawn permanently from the official court files.
 - (c) After the conclusion of the proceedings in the *Court*, any original records and papers transmitted to the *Court* by any other court shall be returned to the court from which they were received.
- (12)
 - (a) If it appears to the *registrar* that a *party* is unrepresented, he or she shall refer such *party* to the nearest office or officer of the Human Rights Commission, the Legal Aid Board, a *law clinic* or such other appropriate body or institution that may be willing and in a position to assist such *party*.
 - (b) If no assistance is rendered by such Commission, Board, *law clinic* or other body or institution, the *registrar* shall assist such unrepresented *party* in preparing the papers required by these rules or, if directed to do so by the *President*, request an advocate or attorney to assist such *party*.
 - (c) The State or the *registrar* shall not be liable for any damage or loss resulting from assistance given in good faith by that *registrar* to such *party* in proceedings before the *Court* or in the enforcement of an order in terms of these rules in the form of legal advice or in the compilation or preparation of any process or document.

PART III

Service of process

5. Sheriff

- (1) Unless the *Court* directs otherwise, all process of the *Court*, at the request of any *party*, shall be served or executed through a *sheriff* of the High Court: Provided that a *sheriff* shall be under an obligation to effect service only if the *party* who desires the service has remunerated him or her beforehand for the said service according to the tariff for *sheriffs* prescribed in rule 68 of the *Uniform Rules*.
- (2) Service or execution of judicial process shall, after payment of the remuneration, be effected by the *sheriff* concerned without delay, and the *sheriff* may, where resistance to the due service or execution of judicial process is experienced or is reasonably expected, call upon any member of the South African Police Service referred to in sections 199 and 205 of *the Constitution* for assistance.
- (3) A *sheriff* who is entrusted with the service or execution of judicial process shall -
 - (a) in writing notify the *registrar* and the *party* concerned who sued out the process that service or execution has been duly effected, stating the

identity of the person upon whom the process was served, the date and manner of service or the result of execution, and return that process to the *registrar*, or

- (b) in writing notify the *party* who sued out the judicial process concerned if he or she has been unable to effect service or execution, and of the reason for such inability, and return that process to the *party* concerned, and keep a record of any process so returned.

- (4) A *sheriff* shall after service or attempted service of any judicial process specify the total amount of his or her charges on the original of that document and each copy thereof, and the amount of each of his or her charges separately on the return of service.

6. Service of process

- (1) Subject to subrule (2), the provisions of rule 4 of the *Uniform Rules* shall apply, with such modifications as may be necessary, to the service of any process of the *Court*.
- (2) In any matter, including any appeal, where there is a dispute over the constitutionality of any executive or administrative act or conduct or threatened executive or administrative act or conduct, or in any inquiry into the constitutionality of any law, including any Act of Parliament or that of a provincial legislature, and the authority responsible for the executive or administrative act or conduct or the threatening thereof or for the administration of any such law is not a *party* to the case, the *party* challenging the constitutionality of such act or conduct or law shall, within five days of lodging with the *registrar* a document in which such contention is raised for the first time in the proceedings before the *Court*, serve on the authority concerned a copy of such document and lodge proof of such service with the *registrar*, and no order declaring such act, conduct or law to be unconstitutional shall be made by the *Court* in such matter unless the provisions of this rule have been complied with.

PART IV Representation

7. Representation of parties

- (1) Except where the *Court* or the *President* directs otherwise, no person shall be entitled to appear on behalf of any *party* at any proceedings of the *Court* unless he or she is entitled to appear in the high courts.
- (2) If a *party* dies or becomes incompetent to continue any proceedings, the proceedings shall thereby be stayed until such time as an executor, curator, trustee, guardian or other competent person has been appointed in his or her place, or until such incompetence ceases to exist.
- (3) Where an executor, curator, trustee, guardian or other competent person has been so appointed, the *Court* may, on application, order that he or she be substituted for the *party* who has so died or become incompetent.

8. Power of attorney or authorisation to act

- (1) A power of attorney need not be filed, but the authority of a *legal practitioner* to act on behalf of any *party* may, within 21 days after it has come to the notice of any *party* that the *legal practitioner* is so acting, or with the leave of the court on

good cause shown at any time before judgment, be disputed by notice, whereafter the *legal practitioner* may no longer so act, unless a power of attorney is lodged with the *registrar* within 21 days of such notice.

- (2) Every power of attorney or authorisation to act lodged shall be signed by or on behalf of the *party* giving it, and shall otherwise be duly executed according to law.
- (3) No power of attorney or authorisation to act shall be required to be lodged by an attorney-general, a *pro Deo* counsel appointed by the State or the State Attorney, any deputy state attorney or any professional assistant to the State Attorney or any attorney instructed, in writing or by telegram or by facsimile, by or on behalf of the State Attorney or a deputy state attorney in any matter in which the State Attorney or deputy state attorney is acting as such by virtue of any provision of the State Attorney Act, 1957 (Act No. 56 of 1957), or by virtue of any provision of any law not yet repealed by a competent authority and, immediately before the commencement of the *Constitution*, in force in any area which forms part of the national territory.

PART V

Amicus curiae submissions

9. Submissions by an *amicus curiae*

- (1) Subject to these rules, any person interested in any matter before the *Court* may, with the written consent of all the parties in the matter before the *Court*, given not later than the time specified in subrule (5), be admitted therein as an *amicus curiae* upon such terms and conditions and with such rights and privileges as may be agreed upon in writing with all the parties before the *Court* or as may be directed by the *President* in terms of subrule (3).
- (2) The written consent referred to in subrule (1) shall, within five days of it having been obtained, be lodged with the *registrar* and the *amicus curiae* shall, in addition to any other provision, comply with the times agreed upon for the lodging of written argument.
- (3) The *President* may amend the terms, conditions, rights and privileges agreed upon as referred to in subrule (1).
- (4) If the written consent referred to in subrule (1) has not been secured, any person who has an interest in any matter before the *Court* may *apply* to the *President* to be admitted therein as an *amicus curiae*, and the *President* may grant such *application* upon such terms and conditions and with such rights and privileges as he or she may determine.
- (5) An *application* pursuant to the provisions of subrule (4) shall be made -
 - (a) in the case of an *application* for leave to appeal to the *Court*, and in any case where the right of direct access to the *Court* has been invoked, within 10 days after such *application* has been lodged with the *registrar*,
 - (b) in any other matter, not later than 10 days after the lodging of the respondent's written submissions or after the time for lodging such submissions has expired.

(6) An *application* to be admitted as an *amicus curiae* shall -

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

(7) An *amicus curiae* shall have the right to lodge written argument, provided that such written argument does not repeat any matter set forth in the argument of the other parties and raises new contentions which may be useful to the *Court*.

(8) Unless otherwise ordered by the *Court*, an *amicus curiae* shall be limited to the record on appeal or referral and the facts found proved in other proceedings and shall not add thereto and shall not present oral argument.

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

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

(11) The provisions of rule 1(3) shall be applicable, with such modifications as may be necessary, to an *amicus curiae*.

PART VI

Applications

10. Application procedure

(1) Save where otherwise provided, in any matter in which an *application* is necessary for any purpose, including -

(a) in respect of a matter contemplated in section 167(4)(a) of the *Constitution*, and

(b) the obtaining of *directions* from the *Court*,
such *application* shall be brought on notice of motion supported by an *affidavit* as to the facts upon which the applicant relies for relief and shall set out an address within 25 kilometres from the office of the *registrar* at which he or she will accept notice and service of all documents in the proceedings and shall set forth a day, not less than five days after service thereof on the respondent, on or before which such respondent is required to notify the applicant in writing whether he or she intends to oppose such *application* and shall further state that if no such notification is given, the *registrar* will be requested to place the matter before the *President* to be dealt with in terms of subrule (4).

(2) When relief is claimed against any person, authority, government, organ of state or body, or where it is necessary or proper to give any of the aforementioned notice of an *application* referred to in subrule (1), the notice of motion shall be addressed to both the *registrar* and the aforementioned, otherwise it shall be addressed to the *registrar* and shall be as near as may be in accordance with Form 1 or 2, as the case may be.

- (3) (a) Any person opposing the granting of an order sought in the notice of motion shall -
- (i) within the time stated in the said notice, notify the applicant and the *registrar* in writing of his or her intention to oppose the *application* and shall in such notice appoint an address within 25 kilometres of the office of the *registrar* at which he or she will accept notice and service of all documents in the proceedings;
 - (ii) within 15 days of notifying the applicant of his or her intention to oppose the *application*, lodge his or her answering *affidavit*, if any, together with any relevant documents which may include supporting *affidavits*.
- (b) The applicant may lodge a replying *affidavit* within 10 days of the service upon him or her of the *affidavit* and documents referred to in paragraph (a)(ii).
- (c) (i) Where no notice of opposition is given or where no answering *affidavit* in terms of paragraph (a)(ii) is lodged within the time referred to in paragraph (a)(ii), the applicant may within five days of the expiry thereof request the *registrar* to place the *application* before the *President*.
- (ii) Where an answering *affidavit* is lodged, the applicant may request the *registrar* to place the *application* before the *President* within five days of the lodging of his or her replying *affidavit* or, if no replying *affidavit* is lodged, within five days of the expiry of the time stated in paragraph (b).
- (iii) If the applicant fails so to request the *registrar* within the allotted period, the respondent may do so immediately upon the expiry thereof.
- (d) The *President* may, when giving *directions* under subrule (4), permit the lodging of further *affidavits*.
- (4) When an *application* is placed before the *President* in terms of subrule (3)(c), he or she shall give *directions* as to how the *application* shall be dealt with and, in particular, as to whether it shall be set down for hearing or whether it shall be dealt with on the basis of written argument or summarily on the basis of the information contained in the *affidavits*.

11. Urgent applications

- (1) In urgent applications, the *President* may dispense with the forms and service provided for in these rules and may give *directions* for the matter to be dealt with at such time and in such manner and in accordance with such procedure, which shall as far as is practicable be in accordance with these rules, as may be appropriate.
- (2) An application in terms of subrule (1) shall be on notice of motion accompanied by an *affidavit* setting forth explicitly the circumstances which justify a departure from the ordinary procedures.

12. Argument

- (1) Written argument shall be filed timeously.
- (2) Oral argument shall not be allowed if *directions* to that effect are given by the *President*.

- (3) (a) Oral argument shall be relevant to the issues before the *Court* and its duration shall be subject to such time limits as the *President* may impose.
- (b) The parties shall assume that all the *judges* have read the written arguments and that there is no need to repeat what is set out therein.
- (4) (a) Argument may be addressed in the *Court* in any official language and the *party* concerned shall not be responsible for the provision of an interpreter.
- (b) Should a person wish to address the *Court* in an official language other than the language in which such person's written argument is couched, such person shall, at least seven days prior to the hearing of the matter in question, give written notice to the *registrar* of his or her intention to use another official language and shall indicate what that language is.
- (5) On the *Court's* own motion, or on the application of one or more parties, the *Court* may order that two or more cases, involving what appear to be the same or related questions, be argued together as one case or on such other terms as may be prescribed.

PART VII

Matters within the exclusive jurisdiction of the Court

13. Referral of a Bill

- (1) The referral of a Bill in terms of section 79(4)(b) or 121(2)(b) of the *Constitution* by the President of the Republic or by the premier of a province, as the case may be, shall be in writing and shall be addressed to the *registrar* and to the Speaker of the National Assembly and the Chairperson of the National Council of Provinces, or to the Speaker of the provincial legislature in question, as the case may be.
- (2) Such referral shall specify -
 - (a) the provision or provisions of the Bill in respect of which the President of the Republic or the premier of a province has reservations;
 - (b) the Constitutional provision or provisions relating to such reservations; and
 - (c) the grounds or reasons for such reservations.
- (3) Political parties represented in the national Parliament or the provincial legislature concerned, as the case may be, shall be entitled as of right to make written submissions relevant to the determination of the issue within the time specified in *directions* given under subrule (4).
- (4) Upon receipt of the referral, the matter shall be dealt with in accordance with *directions* given by the *President*, which may include a *direction* -
 - (a) requesting the relevant Speaker or the Chairperson of the National Council of Provinces, as the case may be, for such additional information as the *President* may consider to be necessary or expedient to deal with the matter; and
 - (b) calling upon all interested political parties in the national Parliament or the provincial legislature concerned, as the case may be, who may wish to do so to make such written submissions as are relevant to the deter-

mination of the issue within a period to be specified in such direction.

14. Constitutionality of an Act

- (1) An application in terms of sections 80(1) and 122(1) of *the Constitution* by members of the National Assembly or a provincial legislature shall be brought on notice of motion supported by an *affidavit* as to the contentions upon which the applicants rely for relief and shall be lodged with the *registrar* and served on the Speaker of the National Assembly and, where applicable, the Chairperson of the National Council of Provinces, or on the Speaker of the provincial legislature concerned, as the case may be.
- (2) The notice shall request the Speaker and, if relevant, the Chairperson of the National Council of Provinces to bring the application to the attention of all political parties represented in the relevant house or legislature in writing within five days of the service upon her or him of such application.
- (3) The application referred to in subrule (1) shall be accompanied by a certificate by the Speaker of the legislature concerned that the requirements of section 80(2)(a) or section 122(2)(a) of *the Constitution*, as the case may be, have been complied with.
- (4) The application referred to in subrule (1) shall also specify -
 - (a) the provision or provisions of the Act being challenged;
 - (b) the relevant provision or provisions of *the Constitution* relied upon for such challenge;
 - (c) the grounds upon which the respective provisions are deemed to be in conflict; and
 - (d) the relief, including any interim relief, sought.
- (5)
 - (a) Any political party in the legislature concerned or any government that wishes to oppose the granting of an order sought in such an application shall notify the *registrar* in writing within 15 days of such application of such intention to oppose and shall, in such notification, appoint an address at which such party or government will accept notice and service of all documents in the proceedings.
 - (b) If such a notice is given, the application shall be disposed of in accordance with the provisions of rule 10.
- (6) If a notice to oppose is not lodged in terms of subrule (5), the matter shall be disposed of in accordance with *directions* given by the *President*, which may include a *direction* -
 - (a) calling for such additional information as the *President* may consider to be necessary or expedient to deal with the matter; and
 - (b) that all interested political parties in the national Parliament or the provincial legislature concerned, as the case may be, who wish to do so make such written submissions as are relevant to the determination of the issue within a period specified in such direction.

15. Confirmation of an order of constitutional invalidity

- (1) The registrar of a court which has made an order of constitutional invalidity as contemplated in section 172 of *the Constitution* shall, within 15 days of such order, lodge with the *registrar* of the *Court* a copy of such order.

- (2) A person or organ of state entitled to do so and desirous of appealing against such an order in terms of section 172(2)(d) of *the Constitution* shall, within 21 days of the making of such order, lodge a notice of appeal with the *registrar* and a copy thereof with the registrar of the court which made the order, whereupon the matter shall be disposed of in accordance with *directions* given by the *President*.
- (3) The appellant shall in such notice of appeal set forth clearly the grounds on which the appeal is brought, indicating which findings of fact and/or law are appealed against and what order it is contended ought to have been made.
- (4) A person or organ of state entitled to do so and desirous of applying for the confirmation of an order in terms of section 172(2)(d) of *the Constitution* shall, within 21 days of the making of such order, lodge an application for such confirmation with the *registrar* and a copy thereof with the registrar of the court which made the order, whereupon the matter shall be disposed of in accordance with *directions* given by the *President*.
- (5) If no notice or application as contemplated in subrules (2) and (4), respectively, has been lodged within the time prescribed, the matter of the confirmation of the order of invalidity shall be disposed of in accordance with *directions* given by the *President*.

16. Certification of a provincial constitution

- (1) The Speaker of a provincial legislature which has passed or amended a constitution in terms of sections 142 and 144(2) of *the Constitution* and which wishes such constitution or constitutional amendment to be certified by the *Court* shall certify in writing the content of the constitution or amendment passed by the provincial legislature and submit such constitution or constitutional amendment to the *registrar* with a formal request to the *Court* to perform its functions in terms of section 144 of *the Constitution*.
- (2) The certificate contemplated in subrule (1) shall include a statement specifying that the constitution or the constitutional amendment was passed by the requisite majority.
- (3) Any political party represented in the provincial legislature shall be entitled as of right to present oral argument to the *Court* provided that such political party may be required to submit a written submission to the *Court* in advance of the oral argument.
- (4) Upon the receipt of the request referred to in subrule (1), the matter shall be disposed of in accordance with *directions* given by the *President*, which may include -
 - (a) referral to the Speaker for such additional information as is considered by the *President* to be necessary or expedient to deal with the matter;
 - (b) a *direction* specifying the time within which written submissions from interested political parties shall be made;
 - (c) a *direction* that any written submissions made in terms paragraph (b) should be brought to the attention of other political parties in the provincial legislature by such means as the *President* considers suitable.

- (5) An order of the *Court* pursuant to section 144 of the *Constitution* may specify the provisions of the provincial constitution or of the constitutional amendment, if any, which comply and which do not comply with the *Constitution*.

PART VIII

Direct access and appeals

17. Direct access in the interests of justice

- (1) An *application* for direct access as contemplated in section 167(6)(a) of the *Constitution* shall be brought on notice of motion which shall be supported by an *affidavit* which shall set forth the facts upon which the applicant relies for relief.
- (2) An application in terms of subrule (1) shall be lodged with the *registrar* and served on all *parties* with a direct or substantial interest in the relief claimed and shall set out -
- (a) the grounds on which it is contended that it is in the interests of justice that an order for direct access be granted;
 - (b) the nature of the relief sought and the grounds upon which such relief is based;
 - (c) whether the matter can be dealt with by the *Court* without the hearing of oral evidence and, if it cannot,
 - (d) how such evidence should be adduced and conflicts of fact resolved.
- (3) Any person or *party* wishing to oppose the *application* shall, within 10 days after the lodging of such *application*, notify the applicant and the *registrar* in writing of his or her intention to oppose.
- (4) After such notice of intention to oppose has been received by the *registrar* or where the time for the lodging of such notice has expired, the matter shall be disposed of in accordance with *directions* given by the *President*, which may include -
- (a) a *direction* calling upon the respondents to make written submissions to the *Court* within a specified time as to whether or not direct access should be granted; or
 - (b) a *direction* indicating that no written submissions or *affidavits* need be filed.
- (5) *Applications* for direct access may be dealt with summarily, without hearing oral or written argument other than that contained in the application itself: Provided that where the respondent has indicated his or her intention to oppose in terms of subrule (3), an *application* for direct access shall be granted only after the provisions of subrule (4)(a) have been complied with.

18. Appeals from courts other than the Supreme Court of Appeal

- (1) The procedure set out in this rule shall be followed in an *application* for leave to appeal directly to the Constitutional Court where a decision on a constitutional matter, other than an order of constitutional invalidity under section 172(2)(a) of the *Constitution*, has been given by any court other than the Supreme Court of Appeal irrespective of whether the Chief Justice has refused leave or special leave to appeal.

- (2) A litigant who is aggrieved by the decision of a court and who wishes to appeal against it directly to the *Court* shall, within 15 days of the order against which the appeal is sought to be brought and after giving notice to the other *party* or parties concerned, *apply* to the court which gave the decision to certify that it is in the interests of justice for the matter to be brought directly to the Constitutional Court and that there is reason to believe that the *Court* may give leave to the appellant to note an appeal against the decision on such matter.
- (3) The application referred to in subrule (2) shall be in writing, signed by the appellant, and shall set out clearly and succinctly the constitutional matter raised in the case, the decision against which the appeal is made and the grounds on which such decision is disputed.
- (4) The respondent or respondents may, within 10 days from the date upon which such application is served upon him, her or them, respond thereto in writing.
- (5) The response shall be signed by the respondent or respondents.
- (6)
 - (a) If it appears to the court hearing the application made in terms of subrule (2) that -
 - (i) the constitutional matter is one of substance on which a ruling by the *Court* is desirable; and
 - (ii) the evidence in the proceedings is sufficient to enable the *Court* to deal with and dispose of the matter without having to refer the case back to the court concerned for further evidence; and
 - (iii) there is a reasonable prospect that the *Court* will reverse or materially alter the judgment if permission to bring the appeal is given,such court shall certify on the application that in its opinion, the requirements of subparagraphs (i), (ii) and (iii) have been satisfied or, failing which, which of such requirements have been satisfied and which have not been so satisfied.
 - (b) The certificate shall also indicate whether, in the opinion of the court concerned, it is in the interests of justice for the appeal to be brought directly to the Constitutional Court.
- (7) Within 10 days of the date on which a positive or negative certificate is given in terms of subrule (6) an appellant wishing to appeal to the *Court* on a constitutional matter shall lodge with the *registrar* an application for leave to appeal.
- (8) An application referred to in subrule (7) shall be signed by the appellant and shall contain -
 - (a) those portions of the judgment concerned that deal with the constitutional issue;
 - (b) the application for the *judge's* certificate brought in terms of subrule (2);
 - (c) the *judge's* certificate; and
 - (d) such supplementary information or argument that the appellant considers necessary to bring to the attention of the *Court*.

- (9) (a) Within 10 days from the date upon which an application referred to in subrule (7) is lodged, the respondent or respondents may respond thereto in writing, indicating whether or not the parties concerned consent to leave to appeal being given and, if the application is opposed, the grounds for such opposition.
- (b) The response shall be signed by the respondent or respondents.
- (10) (a) The *Court* shall decide whether or not to grant the appellant leave to appeal: Provided that in matters of urgency and when the *Court* is out of term, the *President* may grant but not refuse leave to appeal.
- (b) *Applications* for leave to appeal may be dealt with summarily, without hearing oral or written argument other than that contained in the application itself.

19. Procedure on appeal

- (1) If leave to appeal is given in terms of rule 18, the appellant shall note and prosecute the appeal as follows:
 - (a) The appellant shall prepare and lodge the appeal record with the *registrar* within such time as may be fixed by the *President* in *directions*.
 - (b) The appeal record shall consist of the judgment of the court from which the appeal is noted, together with all the documentation lodged by the parties in that court and all the evidence which may have been led in the proceedings and which may be relevant to the issues that are to be determined.
 - (c) (i) The parties shall endeavour to reach agreement on what should be included in the record and, in the absence of such agreement, the appellant shall *apply* to the *President* for *directions* to be given in regard to the compilation of the record.
 - (ii) Such application shall be made in writing and shall set out the nature of the dispute between the parties in regard to the compilation of the record and the reasons for the appellant's contentions.
 - (iii) The respondent may respond to the application within 10 days of being served with the application and shall set out the reasons for the respondent's contentions.
 - (iv) The *President* may assign the application to one or more *judges*, who may deal with the matter on the papers or require the parties to appear before him or her or them on a specified day and at a specified time to debate the compilation of the record.
 - (v) The *judge* or *judges* concerned shall give *directions* in regard to the compilation of the record, the time within which the record is to be lodged with the *registrar* and any other matters which may be deemed by him or her or them to be necessary for the purpose of enabling the *Court* to deal with the appeal, which *directions* may include that the matter be referred back to the court *a quo* for the hearing of additional evidence specified in the *directions*, or that additional evidence be put before the *Court* by way of *affidavit* or otherwise for the purpose of the appeal.

- (2)
 - (a) One of the copies of the record lodged with the *registrar* shall be certified as correct by the registrar of the court appealed from.
 - (b) Copies of the record shall be clearly typed on stout A4 standard paper, double-spaced in black record ink, on one side of the paper only.
 - (c) Legible documents that were typed or printed in their original form such as cheques and the like shall not be retyped and clear photocopies shall be provided instead.
 - (d) All records shall be securely bound in suitable covers disclosing the names of the *parties*, the court appealed from and the names of the attorneys of the *parties*.
 - (e) Bulky records shall be divided into separate conveniently-sized volumes.
- (3) If a record has been lodged in accordance with the provisions of paragraphs (b) and (c) of subrule (1), the *registrar* shall cause a notice to be given to the *parties* to the appeal requiring -
 - (a) the appellant to lodge with the *registrar* written argument in support of the appeal within a period determined by the *President* and specified in such notice; and
 - (b) the respondent to lodge with the *registrar* written argument in reply to the appellant's argument by a specified date determined by the *President*, which shall be subsequent to the date on which the appellant's argument was served on the respondent.
- (4) The appellant may lodge with the *registrar* written argument in answer to the respondent's argument within 10 days from the date on which the respondent's argument was served on the appellant.
- (5) The *President* may decide whether the appeal shall be dealt with on the basis of written arguments only.
- (6) Subject to the provisions of subrule (5), the *President* shall determine the date on which oral argument will be heard, and the *registrar* shall within five days of such determination notify all parties to the appeal of the date of the hearing by registered post or facsimile.

20. Appeal against a decision of the Supreme Court of Appeal

- (1) An appeal to the *Court* on a constitutional matter against a judgment or order of the Supreme Court of Appeal shall be granted only with the special leave of the *Court* on application made to it.
- (2) A litigant who is aggrieved by the decision of the Supreme Court of Appeal on a constitutional matter and who wishes to appeal against it to the *Court* shall, within 15 days of the judgment against which the appeal is sought to be brought and after giving notice to the other *party* or parties concerned, lodge with the *registrar* of the *Court* an application for leave to appeal.
- (3)
 - (a) The application referred to in subrule (2) shall be in writing, signed by the appellant, and shall set out the constitutional matter raised in the case, the decision against which the appeal is made and the grounds on which such decision is disputed.

- (b) Such application shall contain -
 - (i) the judgment of the Supreme Court of Appeal or, if such judgment is not yet available, the order issued by the Supreme Court of Appeal;
 - (ii) such supplementary information or argument that the appellant considers necessary to bring to the attention of the Court.
- (4) (a) Within 10 days from the date upon which the application referred to in subrule (2) is lodged, the respondent or respondents may respond thereto in writing, indicating whether or not the parties concerned consent to leave to appeal being given and, if the application is opposed, the grounds for such opposition.
- (b) The response shall be signed by the respondent or respondents.
- (5) The provisions of rule 18(10) shall be equally applicable.

PART IX

Fees and costs

21. Taxation of costs and attorneys' fees

- (1) Rules 9 and 10 of the *Supreme Court of Appeal Rules* regarding taxation and attorneys' fees shall apply, with such modifications as may be necessary.
- (2) In the event of oral and written argument, a fee for written argument may in appropriate circumstances be allowed as a separate item.

22. Fees of the Court

- (1) In addition to the Court fees already prescribed in these rules the fees in Schedule 2 shall be the fees of the court payable with revenue stamps.
- (2) The proviso to rule 4(4) and the provisions of rule 4(5) of the *Supreme Court of Appeal Rules* shall apply, with such modifications as may be necessary.

PART X

Miscellaneous provisions

23. Library

- (1) The Court's library shall be available for use by the *judges*, the staff of the Court and other persons who have permission from the librarian for the purposes of constitutional research.
- (2) The library shall be open during such times as the reasonable needs of the Court may require and its operation shall be governed by the rules made by the librarian in consultation with the *President*.

24. Translations

Where any record or other document lodged with the *registrar* contains material written in an official language which is not understood by all the *judges*, the *registrar* shall have the portions of such record or document concerned translated by a sworn translator of the High Court into a language or languages which will be understood by such *judges*, and shall supply the *parties* with a copy of such translations.

25. Models, diagrams and exhibits

- (1) Models, diagrams and exhibits of material forming part of the evidence taken in a case and brought to the *Court* for its inspection shall be placed in the custody of the *registrar* at least 10 days before the case is to be heard or submitted.
- (2) All models, diagrams and exhibits of material placed in the custody of the *registrar* shall be removed by the parties within 40 days after the case is decided.
- (3) When this is not done, the *registrar* shall notify the *party* concerned to remove the articles forthwith and if they are not removed within six months thereafter, the *registrar* shall destroy them or otherwise appropriately dispose of them.

26. Withdrawal of cases

Whenever all *parties*, at any stage of the proceedings, lodge with the *registrar* an agreement in writing that a case be withdrawn, specifying the terms relating to the payment of costs and payment to the *registrar* of any fees that may be due, the *registrar* shall, if the *President* so directs, enter such withdrawal, whereupon the *Court* shall no longer be seized of the matter.

27. Format of documents

- (1) Every document which exceeds five pages shall, regardless of the method of duplication, contain a table of contents and a table of authorities with correct references to the pages in the document on which they are cited.
- (2) The body of every document at its close shall bear the name of the party or his or her attorney, if applicable, and the original document shall be signed by the *party* or his or her attorney.
- (3)
 - (a) The *registrar* shall not accept for lodging any document presented in a form not in compliance with this rule, but shall return it to the defaulting *party* indicating the instance in which there has been a failure to comply: Provided that if new and proper copies of any such document are resubmitted within five days of receiving written notification, such lodging shall not be deemed late.
 - (b) If the *Court* finds that the provisions of this rule have not been complied with, it may impose, in its discretion, appropriate sanctions including but not limited to dismissal of the action or imposition of costs.

28. Application of certain rules of the *Uniform Rules*

The following rules of the *Uniform Rules* shall, with such modifications as may be necessary, apply to the proceedings in the *Court*:

<i>Rule No.</i>	<i>Subject</i>
6(7) to 6(15)	Joinder of parties on application and related matters
28	Amendments to pleadings and documents
35(13)	Discovery, inspection and production of documents
38(3) to 38(8)	Procuring evidence for trial
42	Variation and rescission of orders
59	Sworn translators
61	Interpretation of evidence

- | | |
|----|---|
| 62 | Filing, preparation and inspection of documents |
| 63 | Authentication of documents executed outside the Republic for use within the Republic |
| 64 | Destruction of documents |
| 65 | Commissioners of the Court |

29. Application of certain sections of the Supreme Court Act, 1959 (Act No. 59 of 1959)

The following sections of the Supreme Court Act, 1959 (Act No. 59 of 1959), shall apply, with such modifications as may be necessary, to proceedings of and before the Court:

Section	Subject
19bis	Reference of particular matters for investigation by referee
22	Powers of Court on hearing of appeals
32	Examinations by interrogatories of persons whose evidence is required in civil cases
33	Manner of dealing with commissions rogatoire, letters of request and documents of service originating from foreign countries

30. Documents lodged to canvass factual material

- (1) Any party to any proceedings before the Court and an *amicus curiae* properly admitted by the Court in any proceedings shall be entitled, in documents lodged with the registrar in terms of these rules, to canvass factual material which is relevant to the determination of the issues before the Court and which do not specifically appear on the record: Provided that such facts -
 - (a) are common cause or otherwise incontrovertible; or
 - (b) are of an official, scientific, technical or statistical nature capable of easy verification.
- (2) All other parties shall be entitled, within the time allowed by these rules for responding to such document, to admit, deny, controvert or elaborate upon such facts to the extent necessary and appropriate for a proper decision by the Court.

31. General

The Court may, on sufficient cause shown, excuse the parties from compliance with any of the foregoing rules and may give such directions in matters of practice and procedure as it may consider just and expedient.

32. Execution

Costs orders of the Court shall be executed in the magistrate's court as follows:

- (1) The costs order shall have the effect of a civil judgment of the magistrate's court and the party in whose favour a costs order was made shall be deemed the judgment creditor and the party against whom such order was made shall be deemed the judgment debtor.
- (2) The party in whose favour a costs order was made shall, where a costs order has not been complied with, file with the registrar an affidavit setting out the details of the costs order and stating that the costs order has not been complied with or has not been complied with in full, as the case may be, and the amount outstanding, and shall request the registrar to furnish him or her with a certified copy of such costs order.

- (3) The registrar shall, after having inspected the *Court* file concerned to verify the contents of the *affidavit*, furnish the *party* referred to in subrule (2) with a certified copy of the costs order concerned and shall record such furnishing on the *Court* file.
- (4) The *party* referred to in subrule (2) shall file the said copy with the clerk of the civil court of the district in which he or she resides, carries on business or is employed.
- (5) Such order shall be executed in accordance with the provisions of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and the Magistrates' Courts Rules published under Government Notice No. R.1108 of 21 June 1968, as amended, regarding warrants of execution against movable and immovable property and the issuing of emolument attachment orders and garnishee orders only.

33. Transitional provisions

When a time is prescribed for any purpose in terms of these rules, and such time would otherwise have commenced to run prior to the commencement of these rules, such time shall begin to run only on the date on which these rules come into operation.

34. Repeal of rules

The Rules of the Constitutional Court published under Government Notice No. R.5 in Regulation Gazette 5450 of 6 January 1995 shall be repealed on the date on which these rules come into operation: Provided that any *directions* in writing in terms of rule 3 of such rules pertaining to the procedures to be followed in the determination of a dispute or an issue in cases already instituted shall remain in force, unless repealed in writing by the *President*.

35. Short title

These rules shall be called the **Constitutional Court Rules, 1998**.

Schedule 1

FORMS

Form No.

1. Notice of motion (to *registrar*)
2. Notice of motion (to *registrar* and respondent)

FORM 1

NOTICE OF MOTION

(to *Registrar*)

IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

Case No.

In the matter of:

.....(Applicant)

Take notice that the above-named applicant applies to the *Court* for an order in the following terms:

- (a)
- (b)
- (c)

and that the *affidavit* of, annexed hereto, will be used in support thereof.

Kindly place the matter before the *President* to be dealt with in terms of rule 10(4).

Dated at, this day of 19.....

To the *Registrar* of the above-named *Court*.

.....
Applicant or attorney

FORM 2
NOTICE OF MOTION
(to Registrar and Respondent)
IN THE CONSTITUTIONAL COURT OF SOUTH AFRICA

Case No.

In the matter between:

.....(Applicant)

and

.....(Respondent)

Take notice that(hereinafter called the applicant) intends to make application to this *Court* for an order (a) (b) (c)(here set forth the form of order prayed) and that the accompanying affidavit ofwill be used in support thereof.

Take notice further that the applicant has appointed(here set forth an address) as the address at which he or she will accept notice and service of all process in these proceedings.

Take notice further that if you intend opposing this *application* you are required (a) to notify applicant's attorney in writing on or before(date) and (b) within 15 days after you have so given notice of your intention to oppose the *application* to file your answering affidavit, if any; and further that you are required to appoint in such notification an address at which you will accept notice and service of all documents in these proceedings.

If no such notice of intention to oppose is given, the applicant will request the *registrar* to place the matter before the *President* to be dealt with in terms of rule 10(4).

Dated at, this day of 19.....

.....
Applicant or attorney

To:

(1)
(Respondent)

.....
.....
.....
(Address)

(2) The *Registrar* of the above *Court*

.....

**Schedule 2
FEES**

	R
Lodging of any petition (other than the first document)	10,00
Lodging of an answering affidavit (each)	10,00
Lodging of a notice of appeal or cross-appeal	15,00
Order of the court granting leave to appeal.....	15,00
For the registrar's certificate on certified copies of documents (each) ...	1,00
Taxing fee in any matter.....	25,00

DEPARTEMENT VAN JUSTISIE

No. R. 757

29 Mei 1998

Die President van die Konstitusionele Hof, in oorleg met die Hoofregter, het kragtens artikel 171 van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996) en artikel 16 van die Aanvullende Wet op die Konstitusionele Hof, 1995 (Wet No. 13 van 1995), soos gewysig, die reëls vervat in die Bylae hiervan met betrekking tot die reëling van die verrigtinge van en voor die Konstitusionele Hof, met ingang van 29 Mei 1998 voorgeskryf.

BYLAE
INDELING VAN REËLS

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1. Woordomskrywing

- (1) In hierdie reëls het 'n woord of uitdrukking waaraan in die Grondwet 'n betekenis geheg is, daardie betekenis, en tensy uit die samehang anders blyk, beteken -
- "aansoek doen"** aansoek doen by wyse van kennisgewing van mosie, en het **"aansoek"** 'n ooreenstemmende betekenis;
- "balju"** 'n persoon aangestel kragtens artikel 2 van die Wet op Balju's, 1986 (Wet No. 90 van 1986), en ook 'n persoon aangestel kragtens artikel 5 of artikel 6 van daardie Wet as onderskeidelik 'n waarnemende balju of 'n adjunkbalju en 'n balju, waarnemende balju of adjunkbalju aangestel kragtens 'n wet wat nog nie deur 'n bevoegde gesag herroep is nie en onmiddellik voor die inwerkingtreding van die Grondwet van krag was in enige gebied wat deel van die nasionale grondgebied uitmaak;
- "beëdigde verklaring"** ook 'n bevestiging of 'n verklaring soos in artikel 7 van die Wet op Vrederegters en Kommissarisse van Ede, 1963 (Wet No. 16 van 1963), bedoel;
- "die Grondwet"** die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);
- "Eenvormige Reëls"** die reëls waarby die verrigtinge van die verskillende hoeë houe gereël word, gepubliseer by Goewermentskennisgewing No. R. 48 van 12 Januarie 1965, soos gewysig;

"griffier" die griffier van die Hof en ook 'n waarnemende of assistent-griffier van die Hof;

"Hof" die Konstitusionele Hof ingestel by artikel 166(a) van die Grondwet, gelees met item 16(2)(a) van Aanhangsel 6 van die Grondwet;

"hofdag" enige dag wat nie 'n Saterdag, Sondag of openbare vakansiedag is nie, en by die berekening van 'n tydperk van dae by hierdie reëls voorgeskryf of in 'n hofbevel bepaal, word slegs hofdae ingesluit;

"party" of enige ander verwysing na 'n gedingvoerder, ook 'n regsverteenwoordiger wat namens 'n party verskyn, na gelang die samehang vereis;

"President" die President van die Hof aangestel kragtens artikel 174(3), gelees met item 16(2)(b) van Aanhangsel 6 van die Grondwet;

"Reëls van die Hoogste Hof van Appèl" die reëls waarby die verrigtinge van die Hoogste Hof van Appèl gereël word, gepubliseer by Goewermentskennisgewing No. R. 1207 van 15 Desember 1961, soos gewysig;

"regskliniek" 'n sentrum vir die praktiese regsopleiding van studente aan die regsfakulteit van 'n universiteit in die Republiek en ook 'n regsentrum wat beheer word deur 'n organisasie sonder winsoogmerk wat regsdienste kosteloos aan die publiek verskaf en gesertifiseer is soos in artikel 3(1)(f) van die Wet op Prokureurs, 1979 (Wet 53 No. van 1979), bedoel;

"regsverteenwoordiger" 'n advokaat toegelaat kragtens artikel 3 van die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964), of 'n prokureur toegelaat kragtens artikel 15 van die Wet op Prokureurs, 1979 (Wet No. 53 van 1979);

"regter" 'n regter of 'n waarnemende regter van die Hof aangestel kragtens artikel 174 of 175 van die Grondwet, wat elders as in die ope hof sit; en

"voorskrifte" voorskrifte deur die President gegee in verband met die prosedures wat gevolg moet word in die hantering en afhandeling van sake.

- (2) Enige bevoegdheid of mag wat ingevolge hierdie reëls aan die President verleen word, kan deur 'n regter of regters deur die President vir daardie doel aangewys, uitgeoefen word.
- (3) Enige verwysing in hierdie reëls na 'n party wat dokumente moet onderteken, word so uitgelê dat dit 'n verwysing na 'n regsverteenwoordiger wat sodanige party verteenwoordig, insluit en 'n verwysing na die indiening van dokumente by die griffier, word so uitgelê dat dit die voorafgaande betekening van sodanige dokumente aan ander partye en die indiening van 25 afskrifte van alle relevante dokumente by die griffier, insluit.
- (4) Kennisgewings, voorskrifte en ander mededelings ingevolge hierdie reëls kan per geregistreerde pos of faksimile of ander elektroniese afskrif gegee of gedoen word.
- (5) Die President kan enige tydsbeperking in hierdie reëls voorgeskryf, verleng.
- (6) Skriftelike betoë, antwoorde en enige ander vertoë aan die Hof moet duidelik en bondig wees.

DEEL I
Sittings van die Hof

2. Hofstermyne

- (1) Daar is vier sittingstermyne in elke jaar soos volg:
Van 15 Februarie tot en met 31 Maart;
van 1 Mei tot en met 31 Mei;
van 15 Augustus tot en met 30 September;
van 1 November tot en met 30 November.
- (2) 'n Saak kan buite die termyn aangehoor word indien die *President* aldus voorskryf.
- (3) As die dag voorgeskryf vir die aanvang van 'n termyn nie 'n *hofdag* is nie, begin die termyn op die eersvolgende *hofdag* en, as die dag voorgeskryf vir die beëindiging van 'n termyn nie 'n *hofdag* is nie, eindig die termyn op die voorafgaande *hofdag*.

DEEL II
Griffier

3. Kantoorure van die griffier

- (1) Die *griffier* se kantore is van 08:30 tot 13:00 en van 14:00 tot 15:30 op *hofdae* oop.
- (2) Die *griffier* kan in buitengewone omstandighede, en moet indien daartoe deur 'n *regter* gelas, te eniger tyd dokumente ontvang.

4. Algemene pligte van die griffier

- (1) 'n Kennisgewing van appèl, 'n hofbevel waardeur enige aangeleentheid na die *Hof* deur 'n ander hof verwys word, of 'n ander dokument waardeur verrigtinge in die *Hof* ingevolge hierdie reëls ingestel word, word deur die *griffier* met 'n volgnommer vir die jaar waarin dit ingedien word, genommer.
- (2) Elke daaropvolgende dokument wat in so 'n saak of in enige daaruitspruitende saak in voortsetting daarvan ingedien word, word deur die *party* wat dit indien, met daardie nommer gemerk en word nie deur die *griffier* in ontvangs geneem alvorens dit aldus gemerk is nie.
- (3) Alle dokumente wat in 'n saak vir liassering by die *griffier* ingedien word, word in 'n saakomslag onder die nommer van sodanige saak geliasseer.
- (4) Die indiening van alle dokumente in subreël (1) bedoel, is onderworpe aan die betaling van R75,00 hofgelde in die vorm van 'n inkomsteseël: Met dien verstande dat indien 'n behoeftige *party* deur 'n kantoor of beampte van die Menseregtekommissie, die Openbare Beskermer, die Regshulpraad, 'n *regskliniek* of 'n *pro Deo*-advokaat bygestaan of verteenwoordig word, of die *griffier* ingevolge subreël (5) oortuig dat hy of sy behoeftig is, die *griffier* die betaling van hofgelde moet kwytskeld en 'n nota te dien effekte op die eerste bladsy van die betrokke dokument moet maak.
- (5) 'n *Party* wat verrigtinge in die *Hof* wil instel of verdedig, en van mening is dat hy of sy behoeftig is, of enigiemand namens so 'n *party*, moet die *griffier* oortuig dat, met uitsondering van huisraad, klere en ambagsgereedskap, sodanige *party*

minder as R20 000 aan waarde besit en nie binne 'n redelike tyd so 'n bedrag uit sy of haar verdienste sal kan bybring nie.

- (6) Afskrifte van 'n oorkonde kan deur enige persoon in teenwoordigheid van die *griffier* gemaak word: Met dien verstande dat die *griffier* op versoek van 'n *party* 'n afskrif van 'n genotuleerde bevel, skikking, uitspraak of kostebevel moet maak teen betaling van hofgelde met inkomsteseëls van R1,00 vir elke 100 getikte woorde of gedeelte daarvan, of teen betaling van R0,50 met inkomsteseëls vir elke fotokopie van 'n A4 - grootte bladsy of gedeelte daarvan en daardie afskrif of fotokopie as 'n ware afskrif van die oorspronklike moet sertifiseer: Met dien verstande verder dat indien 'n behoeftige *party* deur 'n kantoor of beampte van die Menseregtekommissie, die Openbare Beskermer, die Regshulpraad, 'n *regskliniek* of 'n *pro Deo*-advokaat bygestaan of verteenwoordig word, of die *griffier* ingevolge subreël (5) oortuig dat hy of sy behoeftig is, die *griffier* die betaling van hofgelde kan kwytsteld.
- (7) Die *griffier* moet alle prosesstukke deur 'n *party* uitgeneem, onderteken (per hand of deur 'n faksimilee van sy of haar handtekening meganies aan te bring), dateer en uitreik.
- (8) Wanneer die *Hof* 'n bevel maak wat enige wet of bepaling daarvan ingevolge artikel 172 van die *Grondwet* onbestaanbaar met die *Grondwet* verklaar, moet die *griffier*, binne 15 dae nadat sodanige bevel gemaak is, die bevel in die *Staatkoerant* laat publiseer en indien die bevel betrekking het op provinsiale wetgewing, ook in die betrokke Provinsiale Koerant.
- (9) Die *griffier* moet 'n verhoorlys opstel wat vir die gerief van die *regsvertenwoordigers* en ter inligting van die publiek minstens 15 dae voor elke termyn op die kennisgewingbord by die *Hofgebou* aangebring moet word.
- (10) *Voorskrifte* met betrekking tot enige verrigtinge moet deur die *griffier* aan die betrokke partye gegee word binne vyf dae nadat sodanige *voorskrifte* gegee is.
- (11)
 - (a) Die *griffier* moet die oorkondes van die *Hof* bewaar en nie toelaat dat enige rekord uit die hofgebou verwyder word nie.
 - (b) Enige dokument wat by die *griffier* ingedien is en deel uitmaak van die oorkonde van die *Hof*, mag nie daarna permanent uit die amptelike hofleërs verwyder word nie.
 - (c) Enige oorspronklike oorkonde en stukke wat deur 'n ander hof aan die *Hof* gestuur is, moet na afhandeling van die hofverrigtinge aan die hof van waar dit ontvang is, terugbesorg word.
- (12)
 - (a) Indien dit vir die *griffier* voorkom asof 'n *party* onvertenwoordig is, moet hy of sy sodanige *party* verwys na die naaste kantoor of beampte van die Menseregtekommissie, die Regshulpraad, 'n *regskliniek* of sodanige ander gepaste liggaam of instelling wat moontlik gewillig en in 'n posisie mag wees om so 'n *party* by te staan.
 - (b) Indien geen bystand deur sodanige Kommissie, Raad, *regskliniek* of ander liggaam of instelling gelewer word nie, moet die *griffier* sodanige onvertenwoordigde *party* met die voorbereiding van die stukke wat ingevolge hierdie reëls vereis word, bystaan of, indien deur die *President* daartoe gelas, 'n advokaat of prokureur versoek om sodanige *party* by

te staan.

- (c) Die Staat of die *griffier* is nie aanspreeklik nie vir enige skade of verlies wat voortspruit uit bystand wat te goeder trou deur daardie *griffier* aan sodanige *party* verleen is in verrigtinge voor die *Hof* of by die afdwinging van 'n bevel ingevolge hierdie reëls in die vorm van regsadvies of by die opstel of voorbereiding van enige prosesstuk of dokument verleen is nie.

DEEL III

Betekening van prosesstukke

5. *Balju*

- (1) Tensy die *Hof* anders gelas, word alle prosesstukke van die *Hof* op versoek van enige *party* deur 'n *balju* van die Hoë *Hof* beteken of ten uitvoer gelê: Met dien verstande dat 'n *balju* verplig is om betekening te doen slegs indien 'n *party* wat die diens verlang, hom of haar vooraf vir gemelde diens vergoed het ooreenkomstig die tarief vir *balju*'s voorgeskryf in reël 68 van die *Eenvormige Reëls*.
- (2) Betekening of tenuitvoerlegging van geregtelike prosesstukke moet, na betaling van die vergoeding, sonder versuim deur die betrokke *balju* beteken of ten uitvoer gelê word en die *balju* kan, waar weerstand teen die behoorlike betekening of tenuitvoerlegging van geregtelike prosesstukke ondervind of redelikerwys verwag word, enige lid van die Suid-Afrikaanse Polisiediens ingestel kragtens artikels 199 en 205 van die *Grondwet*, versoek om aan hom of haar hulp te verleen.
- (3) 'n *Balju* aan wie geregtelike prosesstukke vir betekening of vir tenuitvoerlegging toevertrou word, moet -
- die *griffier* en die betrokke *party* wat die prosesstuk uitgeneem het, skriftelik in kennis stel dat betekening of tenuitvoerlegging behoorlik geskied het, met vermelding van die identiteit van die persoon aan wie die prosesstuk beteken is, die datum en wyse van betekening of van die uitslag van die tenuitvoerlegging, en die prosesstuk aan die *griffier* terugbesorg; of
 - die *party* wat die betrokke geregtelike prosesstuk uitgeneem het, skriftelik in kennis stel indien hy of sy nie betekening of tenuitvoerlegging kon laat geskied nie, met vermelding van die rede daarvoor, en daardie prosesstuk aan die betrokke *party* terugbesorg, en moet rekord hou van enige prosesstuk wat hy of sy op hierdie wyse terugbesorg.
- (4) 'n *Balju* moet na betekening of gepoogde betekening van enige geregtelike prosesstuk, op die oorspronklike van daardie stuk en elke afskrif daarvan, die totale bedrag van sy of haar vorderings en op die relaas van betekening die bedrag van elkeen van sy of haar vorderings afsonderlik spesifiseer.

6. Betekening van prosesstukke

- (1) Die bepalings van reël 4 van die *Eenvormige Reëls* is, behoudens subreël (2), met sodanige veranderinge as wat nodig is, van toepassing op die betekening van enige prosesstuk van die *Hof*.
- (2) In enige aangeleentheid, insluitende enige appèl, waar daar 'n geskil is oor die grondwetlike bestaanbaarheid van enige uitvoerende of administratiewe handeling of optrede of dreigende uitvoerende of administratiewe handeling of optrede of in enige ondersoek na die grondwetlike bestaanbaarheid van enige wet, met inbegrip van 'n Wet van die Parlement of van 'n provinsiale wetgewer,

en die uitvoerende gesag wat vir die uitvoerende of administratiewe handeling of optrede of die dreigende uitvoerende of administratiewe handeling of optrede of vir die administrasie van so 'n wet verantwoordelik is en wat nie 'n party by die aangeleentheid is nie, moet die party wat die grondwetlike bestaanbaarheid van sodanige handeling of optrede of wet aanveg, binne vyf dae nadat 'n dokument waarin sodanige bewerings vir die eerste keer in die verrigtinge voor die Hof gemaak is, by die griffier ingedien is, aan die betrokke gesag 'n afskrif van sodanige dokument beteken en bewys van sodanige betekening by die griffier indien, en geen bevel wat sodanige handeling, optrede of wet grondwetlik onbestaanbaar verklaar, sal in sodanige aangeleentheid deur die Hof gemaak word tensy die bepalings van hierdie reël nagekom is nie.

DEEL IV

Verteenwoordiging

7. Verteenwoordiging van partye

- (1) Behalwe waar die Hof of die President anders gelas, is geen persoon daarop geregtig om namens enige party in enige verrigtinge van die Hof te verskyn nie, tensy hy of sy geregtig is om in die hoë howe te verskyn.
- (2) Indien 'n party sterf of onbekwaam raak om verrigtinge voort te sit, word die verrigtinge daardeur opgeskort totdat 'n eksekuteur, kurator, trustee, voog of ander bevoegde persoon in sy of haar plek aangestel is of totdat sodanige onbekwaamheid tot 'n einde kom.
- (3) Wanneer 'n eksekuteur, kurator, trustee, voog of ander bevoegde persoon aldus aangestel is, kan die Hof, op aansoek, beveel dat hy of sy in die plek gestel word van die party wat gesterf of onbekwaam geraak het.

8. Volmag of magtiging om op te tree

- (1) 'n Volmag hoef nie geliasseer te word nie, maar die magtiging om namens enige party op te tree, kan binne 21 dae nadat dit tot die kennis van enige party gekom het dat die regsverteenwoordiger aldus optree, of met verlof van die hof indien goeie gronde aangevoer word, te eniger tyd voor uitspraak betwis word by kennisgewing, waarna die regsverteenwoordiger nie langer aldus mag optree nie tensy daar binne 21 dae vanaf sodanige kennisgewing 'n volmag by die griffier ingedien word.
- (2) Elke volmag of magtiging om op te tree wat ingedien word, moet deur of namens die party wat dit gee, onderteken en origens behoorlik volgens die reg verly wees.
- (3) Geen volmag of magtiging om op te tree, word vereis nie van 'n prokureur-generaal, 'n pro Deo-advokaat deur die Staat aangestel, of die Staatsprokureur, 'n adjunkstaatsprokureur of 'n professionele assistent van die Staatsprokureur, of 'n prokureur aan wie skriftelik of per telegram of faksimilee deur of namens die Staatsprokureur of 'n adjunkstaatsprokureur opdrag gegee is, in 'n aangeleentheid waarin die Staatsprokureur of adjunkstaatsprokureur amptelik optree uit hoofde van 'n bepaling van die Wet op die Staatsprokureur, 1957 (Wet No.56 van 1957), of uit hoofde van enige bepaling van 'n wet wat nog nie deur 'n bevoegde gesag herroep is nie en onmiddellik voor die inwerkingtreding van die Grondwet in enige gebied wat deel van die nasionale grondgebied uitmaak, van krag was.

DEEL V

Amicus curiae-voorleggings9. Voorleggings deur 'n *amicus curiae*

- (1) Behoudens hierdie reëls kan enige belanghebbende in enige aangeleentheid voor die *Hof*, met die skriftelike toestemming van al die partye by die aangeleentheid voor die *Hof*, gegee nie later nie as die tydperk in subreël (5) vermeld, as 'n *amicus curiae* daarin toegelaat word ooreenkomstig sodanige bepalings en voorwaardes en met sodanige regte en voorregte as waaroor skriftelik deur al die partye voor die *Hof* ooreengekom word of as wat deur die *President* in gevolge subreël (3) beveel word.
- (2) Die skriftelike toestemming bedoel in subreël (1) moet binne vyf dae nadat dit verkry is, by die *griffier* ingedien word en die *amicus curiae* moet, benewens enige ander bepaling, die ooreengekome tydperke vir die indiening van skriftelike betoog nakom.
- (3) Die *President* kan die bepalings, voorwaardes, regte en voorregte waaroor ooreengekom is soos in subreël (1) bedoel, wysig.
- (4) Indien die skriftelike toestemming bedoel in subreël (1) nie verkry is nie, kan 'n belanghebbende in 'n aangeleentheid voor die *Hof* by die *President* aansoek doen om as 'n *amicus curiae* daarin toegelaat te word en die *President* kan sodanige aansoek toestaan ooreenkomstig sodanige bepalings en voorwaardes en met sodanige regte en voorregte as wat hy of sy bepaal.
- (5) 'n Aansoek kragtens die bepalings van subreël (4) word gedoen -
 - (a) in die geval van 'n aansoek by die *Hof* om verlof om te appelleer, en in enige geval waar 'n beroep op die reg op direkte toegang tot die *Hof* gedoen is, binne 10 dae nadat sodanige aansoek by die *griffier* ingedien is;
 - (b) in enige ander geval, nie later nie as 10 dae na die indiening van die respondent se skriftelike voorleggings of nadat die tydperk vir indiening van sodanige voorleggings verstryk het.
- (6) 'n Aansoek om as *amicus curiae* toegelaat te word, moet -
 - (a) kortliks die belang van die *amicus curiae* in die verrigtinge;
 - (b) kortliks die standpunt wat die *amicus curiae* in die verrigtinge gaan inneem;
 - (c) die voorleggings wat deur die *amicus curiae* gedoen sal word, die toepaslikheid daarvan op die verrigtinge en die redes waarom hy of sy meen dat die voorleggings die *Hof* van hulp sal wees en verskillend van dié van die ander partye is, uiteensit.
- (7) 'n *Amicus curiae* het die reg om skriftelike betoog in te dien, met dien verstande dat sodanige betoog nie enige aangeleentheid in die betoog van die ander partye herhaal nie en nuwe beweringe opwerp wat die *Hof* van hulp mag wees.
- (8) Tensy die *Hof* anders gelas, is 'n *amicus curiae* beperk tot die oorkonde op appél of verwysing en die feite bewese bevind in ander verrigtinge en mag nie daartoe byvoeg nie, en mag mondelinge betoog nie gelewer word nie.

- (9) 'n Bevel waarin toestemming verleen word om as *amicus curiae* toegelaat te word, moet die datum vir indiening van die skriftelike betoog van die *amicus curiae* of enige ander aangeleentheid spesifiseer.
- (10) 'n Bevel van die *Hof* oor koste kan voorsiening maak vir die betaling van koste aangegaan deur, of as gevolg van, die tussentrede van die *amicus curiae*.
- (11) Die bepalings van reël 1(3) is, met sodanige veranderings as wat nodig is, op 'n *amicus curiae* van toepassing.

DEEL VI

Aansoeke

10. Aansoekprosedure

- (1) Behoudens andersluidende bepalings word, in enige aangeleentheid waarin 'n *aansoek* vir enige doel noodsaaklik is, met inbegrip van -
 - (a) 'n aangeleentheid bedoel in artikel 167(4)(a) van die *Grondwet*, en
 - (b) die verkryging van *voorskrifte* van die *Hof*, sodanige *aansoek* by wyse van kennisgewing van mosie gebring, gesteun deur 'n *beëdigde verklaring* wat die feite bevat waarop die applikant vir regshulp steun, met vermelding van 'n adres binne 25 kilometer van die *griffier* se kantoor waar hy of sy kennisgewing en betekening van alle dokumente in die verrigtinge sal aanvaar en met vermelding van 'n datum, minstens vyf dae na die betekening *daarvan* aan die respondent, waarvoor of waarop sodanige respondent die applikant skriftelik in kennis moet stel of hy of sy van voorneme is om die *aansoek* te bestry en voorts met 'n verklaring dat as kennis nie aldus gegee word nie, die *griffier* versoek sal word om die aangeleentheid voor die *President* te plaas om ingevolge subreël (4) behandel te word.
- (2) Wanneer regshulp aangevra word teen enige persoon, gesag, regering, staatsorgaan of liggaam, of waar dit noodsaaklik of wenslik is om enige van die voormelde kennis van 'n *aansoek* bedoel in subreël (1) te gee, word die kennisgewing van mosie aan sowel die *griffier* as die voormelde gerig, andersins net aan die *griffier*, en is dit so na moontlik in ooreenstemming met Vorms 1 of 2, na gelang van die geval.
- (3) (a) Iemand wat die toestaan van 'n bevel in die kennisgewing van mosie gevra, bestry -
 - (i) gee die applikant en die *griffier* binne die tyd in die kennisgewing vermeld, skriftelik kennis dat hy of sy van voorneme is om die *aansoek* te bestry, met vermelding van 'n adres binne 25 kilometer van die kantoor van die *griffier* waar hy of sy kennisgewing en betekening van alle dokumente in die verrigtinge sal aanvaar;
 - (ii) dien binne 15 dae na kennisgewing aan die applikant van sy of haar voorneme om die *aansoek* te bestry, sy of haar antwoordende *beëdigde verklaring*, indien enige, in tesame met enige desbetreffende dokumente wat stawende *beëdigde verklarings* kan insluit.
- (b) Die applikant kan binne 10 dae na betekening aan hom of haar van die paragraaf (a)(ii) bedoelde *beëdigde verklaring* en dokumente 'n repliserende *beëdigde verklaring* indien.
- (c) (i) As geen kennisgewing van voorneme om die *aansoek* te bestry, of geen antwoordende *beëdigde verklaring* ingevolge paragraaf (a)(ii) binne die tydperk bedoel in paragraaf (a)(ii) ingedien word

- nie, kan die applikant binne vyf dae na die verstryking daarvan die *griffier* versoek om die *aansoek* voor die *President* te plaas.
- (ii) Indien 'n antwoordende *beëdigde verklaring* wel ingedien word, kan die applikant die *griffier* versoek om die *aansoek* voor die *President* te plaas binne vyf dae na die indiening van sy of haar repliserende *beëdigde verklaring*, of indien geen repliserende *beëdigde verklaring* ingedien word nie, binne vyf dae na die verstryking van die in paragraaf (b) genoemde tydperk.
- (iii) As die applikant versuim om die *griffier* binne die vasgestelde tydperk aldus te versoek, kan die respondent dit onmiddellik na die verstryking daarvan doen.
- (d) Die *President* kan, wanneer *voorskrifte* ingevolge subreël (4) gegee word, die indiening van verdere *beëdigde verklarings* toelaat.
- (4) Wanneer 'n *aansoek* ingevolge subreël (3)(c) voor die *President* geplaas word, gee hy of sy *voorskrifte* betreffende die behandeling van die *aansoek* en in die besonder of dit vir verhoor ter rolle geplaas moet word en of dit by wyse van skriftelike betoog of summier op grond van die inligting in die *beëdigde verklarings* vervat, behandel kan word.

11. Dringende aansoeke

- (1) In dringende aansoeke kan die *President* wegdoen met die vorms en betekening waarvoor hierdie reëls voorsiening maak en kan hy of sy *voorskrifte* gee dat met die aangeleentheid gehandel word op sodanige tyd en op sodanige wyse en in ooreenstemming met sodanige prosedure wat so ver as prakties moontlik is in ooreenstemming met hierdie reëls moet wees, as wat gepas is.
- (2) 'n Aansoek ingevolge subreël (1) word gedoen by wyse van kennisgewing van mosie vergesel deur 'n *beëdigde verklaring* wat uitdruklik die omstandighede wat die afwyking van die gewone prosedure regverdig, uiteensit.

12. Betoog

- (1) Skriftelike betoog moet vroegtydig geliasseer word.
- (2) Mondelinge betoog word nie toegelaat nie indien *voorskrifte* te dien effekte deur die *President* gegee word.
- (3) (a) Mondelinge betoog moet betrekking hê op die aangeleenthede voor die *Hof* en die tydsduur daarvan is onderworpe aan sodanige tydsbeperkinge as wat die *President* mag opleë.
- (b) Die partye moet aanneem dat al die *regters* die skriftelike betoë gelees het en dat dit onnodig is om te herhaal wat daarin uiteengesit is.
- (4) (a) Betoog kan in enige amptelike taal in die *Hof* gelewer word en die betrokke *party* is nie daarvoor verantwoordelik om 'n tolk te voorsien nie.
- (b) Indien 'n persoon die *Hof* wil toespreek in 'n ander amptelike taal as die taal waarin die persoon se skriftelike betoog uitgedruk is, moet sodanige persoon, minstens sewe dae voor die aanhoor van die betrokke aangeleentheid, aan die *griffier* skriftelike kennis gee van sy of haar voorneme om 'n ander amptelike taal te gebruik, en aandui watter taal dit is.

- (5) Uit eie beweging, of op mosie van een of meer partye, kan die *Hof* beveel dat twee of meer sake wat blyk dieselfde of verwante vrae te behels, as een saak beredeneer word of ooreenkomstig sodanige ander bepalings as wat voorgeskryf mag word.

DEEL VII

Aangeleenthede binne die uitsluitlike jurisdiksie van die Hof

13. Verwysing van 'n Wetsontwerp

- (1) Die verwysing van 'n Wetsontwerp ingevolge artikel 79(4)(b) of 121(2)(b) van die *Grondwet* deur die President van die Republiek of deur die Premier van 'n provinsie, na gelang van die geval, moet skriftelik wees en gerig word aan die *griffier* en aan die Speaker van die Nasionale Vergadering en die Voorsitter van die Nasionale Raad van Provinsies, of aan die Speaker van die betrokke provinsiale wetgewer, na gelang van die geval.
- (2) Sodanige verwysing moet -
- (a) die bepaling of bepalings van die Wetsontwerp ten opsigte waarvan die President van die Republiek of die premier van 'n provinsie voorbehoude het;
 - (b) die bepaling of bepalings van die *Grondwet* wat op sodanige voorbehoude betrekking het; en
 - (c) die gronde of redes vir sodanige voorbehoude, spesifiseer.
- (3) Politieke partye wat in die nasionale Parlement of die betrokke provinsiale wetgewer, na gelang van die geval, verteenwoordig word, is uit hoofde van vasstaande reg daarop geregtig om, binne die tydperk bepaal in voorskrifte gegee ingevolge subreël (4), skriftelike voorleggings te maak wat ter sake is by die beslissing van die aangeleentheid.
- (4) By ontvangs van die verwysing, word die aangeleentheid hanteer in ooreenstemming met voorskrifte deur die *President* gegee, welke voorskrifte kan insluit -
- (a) 'n versoek aan die betrokke Speaker of die Voorsitter van die Nasionale Raad van Provinsies, na gelang van die geval, vir sodanige verdere inligting as wat na die mening van die *President* noodsaaklik of dienstig is om die aangeleentheid te hanteer; en
 - (b) 'n uitnodiging aan alle belanghebbende politieke partye in die nasionale Parlement of die betrokke provinsiale wetgewer, na gelang van die geval, om, binne 'n tydperk in sodanige voorskrif bepaal, sodanige skriftelike voorleggings te maak as wat ter sake is by die beslissing van die aangeleentheid.

14. Grondwetlike bestaanbaarheid van 'n Wet

- (1) 'n Aansoek ingevolge artikels 80(1) en 122(1) van die *Grondwet* deur lede van die Nasionale Vergadering of 'n provinsiale wetgewer word gedoen by wyse van kennisgewing van mosie gesteun deur 'n *beëdigde verklaring* aangaande die bewerings waarop die applikante vir regshulp steun en moet by die *griffier* ingedien word en aan die Speaker van die Nasionale Vergadering en, waar van toepassing, die Voorsitter van die Nasionale Raad van Provinsies, of aan die Speaker van die betrokke provinsiale wetgewer, na gelang van die geval, beteken word.

- (2) Die kennisgewing moet die Speaker en, indien van toepassing, die Voorsitter van die Nasionale Raad van Provinsies, versoek om die aansoek, binne vyf dae van die betekening van sodanige aansoek aan hom of haar, skriftelik onder die aandag van alle politieke partye wat in die betrokke huis of wetgewer verteenwoordig is, te bring.
- (3) Die aansoek in subreël (1) bedoel, moet vergesel gaan van 'n sertifikaat deur die Speaker van die betrokke wetgewer dat die vereistes van artikel 80(2)(a) of artikel 122(2)(a) van *die Grondwet*, na gelang van die geval, nagekom is.
- (4) Die aansoek in subreël (1) bedoel, moet ook -
 - (a) die bepaling of bepalinge van die Wet wat betwis word;
 - (b) die betrokke bepaling of bepalinge van *die Grondwet* waarop gesteun word vir sodanige betwisting;
 - (c) die gronde waarop die onderskeie bepalinge geag word in konflik te wees; en
 - (d) die regshulp, insluitende enige tydelike regshulp, wat versoek word, spesifiseer.
- (5)
 - (a) Enige politieke party in die betrokke wetgewer of enige regering wat die toestaan van 'n bevel in sodanige kennisgewing versoek, wil bestry, moet die *griffier* binne 15 dae na sodanige kennisgewing skriftelik in kennis stel van die voorneme om dit te bestry, en moet in sodanige kennisgewing 'n adres aandui waar sodanige party of regering kennisgewing en betekening van alle dokumente in die verrigtinge sal ontvang.
 - (b) Indien sodanige kennisgewing gegee word, word die aansoek in ooreenstemming met die bepalinge van reël 10 afgehandel.
- (6) Indien 'n kennisgewing om te bestry, nie ingevolge subreël (5) ingedien word nie, word die aangeleentheid in ooreenstemming met die *voorskrifte* deur die *President* gegee, afgehandel, wat kan insluit 'n *voorskrif* -
 - (a) wat sodanige verdere inligting versoek as wat na die mening van die *President* noodsaaklik of dienstig is om die aangeleentheid af te handel; en
 - (b) dat alle belanghebbende politieke partye in die nasionale Parlement of betrokke provinsiale wetgewer, na gelang van die geval, wat sodanige skriftelike voorleggings wil maak as wat ter sake is by die beslissing van die aangeleentheid, dit binne 'n tydperk in sodanige *voorskrif* gespesifiseer, moet indien.

15. Bekragtiging van 'n bevel van grondwetlike onbestaanbaarheid

- (1) Die *griffier* van 'n hof wat 'n bevel van ongrondwetlikheid bedoel in artikel 172 van *die Grondwet* gemaak het, moet binne 15 dae nadat so 'n bevel gemaak is, 'n afskrif van sodanige bevel by die *griffier* van die *Hof* indien.
- (2) 'n Persoon of staatsorgaan wat daarop geregtig is om dit te doen en appèl teen so 'n bevel ingevolge artikel 172(2)(d) van *die Grondwet* wil aanteken, moet binne 21 vandat so 'n bevel gemaak is, 'n kennisgewing van appèl by die *griffier* indien en 'n afskrif daarvan aan die *griffier* van die hof wat die bevel gemaak het aflewer, waarna die aangeleentheid in ooreenstemming met die *voorskrifte* deur die *President* gegee, afgehandel moet word.

- (3) Die appellant moet in sodanige kennisgewing van appèl duidelik die gronde waarop die appèl berus, uiteensit en aandui teen welke feitebevindinge en/of regsbevindinge geappelleer word en welke bevel na bewering gemaak moes gewees het.
- (4) 'n Persoon of staatsorgaan wat daarop geregtig is en aansoek wil doen vir die bekragtiging van 'n bevel ingevolge artikel 172(2)(d) van *die Grondwet*, moet binne 21 vandat so 'n bevel gemaak is, by die griffier aansoek doen vir sodanige bekragtiging en 'n afskrif daarvan by die griffier van die hof wat die bevel gemaak het indien, waarna die aangeleentheid in ooreenstemming met die voorskrifte deur die *President* gegee, afgehandel moet word.
- (5) Indien geen kennisgewing of aansoek bedoel in subreëls (2) en (4) onderskeidelik, binne die voorgeskrewe tydperk ingedien is nie, word die aangeleentheid van bekragtiging van die bevel van onbestaanbaarheid in ooreenstemming met die voorskrifte deur die *President* gegee, afgehandel.

16. Sertifisering van 'n provinsiale grondwet

- (1) Die Speaker van 'n provinsiale wetgewer wat 'n grondwet ingevolge artikels 142 en 144(2) van *die Grondwet* aangeneem of gewysig het en wat sodanige grondwet of grondwetlike wysiging deur die *Hof* wil laat sertifiseer, moet skriftelik die inhoud van die grondwet of grondwetlike wysiging deur die provinsiale wetgewer aangeneem, sertifiseer en sodanige grondwet of grondwetlike wysiging aan die griffier voorlê met 'n formele versoek tot die *Hof* om sy funksies ingevolge artikel 144 van *die Grondwet* te vervul.
- (2) Die sertifikaat bedoel in subreël (1) moet 'n verklaring insluit waarin vermeld word dat die grondwet of grondwetlike wysiging deur die vereiste meerderheid aanvaar is.
- (3) Enige politieke party in die provinsiale wetgewer verteenwoordig, is uit hoofde van vasstaande reg daarop geregtig om mondelinge betoog voor die *Hof* te lê met dien verstande dat van sodanige politieke party vereis mag word om voor die mondelinge betoog 'n skriftelike voorlegging aan die *Hof*, te maak.
- (4) By ontvangs van die versoek in subreël (1) bedoel, word met die aangeleentheid gehandel in ooreenstemming met die voorskrifte deur die *President* gegee, wat kan insluit -
 - (a) 'n verwysing na die Speaker vir sodanige verdere inligting as wat na die mening van die *President* noodsaaklik of dienstig is om die aangeleentheid te hanteer;
 - (b) 'n voorskrif wat die tydperk spesifiseer waarin skriftelike voorleggings deur belanghebbende politieke partye gemaak kan word;
 - (c) 'n voorskrif dat enige skriftelike voorleggings gemaak ingevolge paragraaf (b) onder die aandag van ander politieke partye in die provinsiale wetgewer gebring moet word op sodanige wyse as wat die *President* gepas ag.
- (5) 'n Bevel van die *Hof* ooreenkomstig artikel 144 van *die Grondwet* kan die bepalings van die provinsiale grondwet of die grondwetlike wysiging, indien enige, wat aan *die Grondwet* voldoen en dié wat nie daaraan voldoen nie, spesifiseer.

DEEL VIII**Direkte toegang en appèlle****17. Direkte toegang in belang van geregtigheid**

- (1) 'n *Aansoek* om direkte toegang soos bedoel in artikel 167(6)(a) van die *Grondwet* word gedoen by kennisgewing van mosie gesteun deur 'n *beëdigde verklaring* wat die feite waarop die applikant vir regshulp steun, uiteensit.
- (2) 'n *Aansoek* ingevolge subreël (1) moet by die *griffier* ingedien word en aan alle partye met 'n direkte of wesenlike belang in die regshulp wat aangevra word, beteken word en moet vermeld -
 - (a) die gronde waarop beweer word dat dit in belang van geregtigheid is dat 'n bevel vir direkte toegang toegestaan word;
 - (b) die aard van die verlangde regshulp en die gronde waarop sodanige regshulp berus;
 - (c) of die aangeleentheid deur die *Hof* behandel kan word sonder die aanhoor van mondelinge getuienis, en, indien dit nie kan nie,
 - (d) hoe sodanige getuienis aangevoer moet word en die feitegeskille opgelos moet word.
- (3) Enige persoon of *party* wat die *aansoek* wil bestry, moet binne 10 dae na die indiening van sodanige *aansoek*, die applikant en die *griffier* skriftelik in kennis stel van sy of haar voorneme om dit te bestry.
- (4) Nadat so 'n kennisgewing van voorneme om te bestry deur die *griffier* ontvang is of waar die tydperk vir die indiening van sodanige kennisgewing verstryk het, word die aangeleentheid afgehandel in ooreenstemming met die *voorskrifte* deur die *President* gegee, wat kan insluit -
 - (a) 'n *voorskrif* wat die respondente oproep om binne 'n bepaalde tydperk skriftelike voorleggings aan die *Hof* te maak oor die kwessie of direkte toegang toegelaat moet word al dan nie;
 - (b) 'n *voorskrif* wat aandui dat geen skriftelike voorleggings of *beëdigde verklarings* geliasseer hoef te word nie.
- (5) *Aansoeke* om direkte toegang kan summier behandel word, sonder die aanhoring van mondelinge of skriftelike betoog behalwe dié in die *aansoek* self vervat: Met dien verstande dat waar die respondent ingevolge subreël (3) aangedui het dat hy of sy van voorneme is om te bestry, 'n *aansoek* om direkte toegang toegestaan sal word slegs nadat daar aan die bepalinge van subreël (4)(a) voldoen is.

18. Appèlle van ander howe as die Hoogste Hof van Appèl

- (1) Die prosedure in hierdie reël uiteengesit, word gevolg in 'n aansoek om verlof om direk na die Konstitusionele Hof te appelleer waar 'n beslissing rakende 'n grondwetlike aangeleentheid, behalwe 'n bevel van grondwetlike onbestaanbaarheid ingevolge artikel 172(2)(a) van die *Grondwet*, gegee is deur enige hof behalwe die Hoogste Hof van Appèl ongeag of die Hoofregter verlof of spesiale verlof om te appelleer, geweier het.
- (2) 'n Gedingvoerder wat veronreg is deur die beslissing van 'n hof en wat direk na die *Hof* daarteen wil appelleer, moet binne 15 dae van die bevel waarteen appèl aangeteken wil word en na kennisgewing aan die ander betrokke *party* of partye, *aansoek doen* by die hof wat die beslissing gegee het om te sertifiseer dat dit in belang van geregtigheid is om die aangeleentheid direk na die Konstitusionele

Hof te bring en dat daar rede is om te glo dat die *Hof* verlof aan die appellant sal verleen om appèl teen die beslissing oor sodanige aangeleentheid aan te teken.

- (3) Die *aansoek* in subreël (2) bedoel, moet skriftelik wees, moet deur die appellant onderteken wees en moet duidelik en bondig die grondwetlike aangeleentheid wat in die saak geopper is, die beslissing waarteen appèl aangeteken word en die gronde waarop die beslissing betwis word, uiteensit.
- (4) Die respondent of respondente kan, binne 10 dae vanaf die datum waarop sodanige aansoek aan hom of haar beteken is, skriftelik daarop antwoord.
- (5) Die antwoord moet deur die respondent of respondente onderteken word.
- (6) (a) Indien dit vir die hof wat die *aansoek* ingevolge subreël (2) aanhoor, blyk dat -
 - (i) die grondwetlike aangeleentheid wesenlik is en dat 'n beslissing deur die *Hof* wenslik is; en
 - (ii) die getuienis in die verrigtinge voldoende is om die *Hof* in staat te stel om dit te behandel en dit af te handel sonder om die saak na die betrokke hof terug te verwys vir verdere getuienis; en
 - (iii) daar 'n redelike vooruitsig is dat die *Hof* die beslissing ter syde sal stel of wesenlik sal wysig indien verlof om te appelleer, toegestaan word,moet sodanige hof op die *aansoek* sertifiseer dat na sy mening, die vereistes van subparagrafe (i), (ii) en (iii) nagekom is of, so nie, welke van dié vereistes nagekom is en welke nie.
- (b) Die sertifikaat moet ook aandui of, na die mening van die betrokke hof, dit in die belang van geregtigheid is om direk na die Konstitusionele Hof te appelleer.
- (7) Die applikant wat na die *Hof* wil appelleer oor 'n grondwetlike aangeleentheid moet binne 10 dae vanaf die datum waarop 'n positiewe of negatiewe sertifikaat ingevolge subreël (6) gegee is, 'n *aansoek* om verlof tot appèl by die *griffier* indien.
- (8) 'n Aansoek in subreël (7) bedoel, moet deur die appellant onderteken word en moet die volgende bevat:
 - (a) dié gedeeltes van die betrokke uitspraak wat oor die grondwetlike geskilpunt handel;
 - (b) die *aansoek* om die sertifikaat van die regter ingevolge subreël (2) gedoen;
 - (c) die sertifikaat van die regter; en
 - (d) sodanige aanvullende inligting of betoog wat die appellant nodig ag om onder die *Hof* se aandag te bring.
- (9) (a) Binne 10 dae vanaf die datum waarop 'n *aansoek* in subreël (7) bedoel ingedien word, kan die respondent of respondente skriftelik daarop antwoord, met 'n aanduiding of die betrokke partye tot die verlening van verlof om te appelleer, toestem al dan nie en indien die *aansoek* bestry word, die gronde daarvoor.
- (b) Die antwoord moet deur die respondent of respondente onderteken word.

- (10) (a) Die *Hof* besluit of verlof om te appelleer aan die appellant toegestaan word al dan nie: Met dien verstande dat in dringende gevalle en wanneer die *Hof* nie in sitting is nie, die *President* verlof tot appèl kan toestaan maar nie kan weier nie.
- (b) *Aanisoeke* om verlof om te appelleer kan summier behandel word, sonder die aanhoor van mondelinge of skriftelike betoog behalwe dié in die aansoek self vervat.

19. Prosedure by appèl

- (1) Indien verlof om te appelleer ingevolge reël 18 verleen is, moet die appellant die appèl soos volg aanteken en voortsit:
- (a) Die appellant moet binne sodanige tydperk as wat deur die *President* in *voorskrifte* bepaal is, die appèloorkonde gereedmaak en by die *griffier* indien.
- (b) Die appèloorkonde moet bestaan uit die uitspraak van die hof waarvandaan die appèl aangeteken word, tesame met al die dokumente deur die partye in daardie hof ingedien en al die getuienis wat in die verrigtinge gelei is, en wat ter sake kan wees by die geskilpunte wat beslis moet word.
- (c) (i) Die partye moet poog om ooreenkoms te bereik oor wat in die oorkonde ingesluit behoort te word en by afwesigheid van sodanige ooreenkoms, moet die appellant by die *President* aansoek doen om *voorskrifte* rakende die samestelling van die oorkonde.
- (ii) Sodanige aansoek moet skriftelik wees en die aard van die geskil tussen die partye rakende die samestelling van die oorkonde en die redes vir die appellant se bewerings uiteensit.
- (iii) Die respondent kan binne 10 dae nadat die aansoek beteken is, op die aansoek antwoord en die redes vir die respondent se bewerings uiteensit.
- (iv) Die *President* kan die aansoek aan een of meer *regters* toewys, wat die aangeleentheid oor die stukke kan behandel of die partye kan beveel om op 'n vasgestelde datum en tyd voor hom of haar of hulle te verskyn om die samestelling van die oorkonde te beredeneer.
- (v) Die betrokke *regter* of *regters* moet *voorskrifte* gee rakende die samestelling van die oorkonde, die tydperk waarbinne die oorkonde by die *griffier* ingedien moet word en enige ander aangeleenthede wat hy of sy of hulle nodig ag om die *Hof* in staat te stel om die appèl te behandel, welke *voorskrifte* kan insluit dat die aangeleentheid na die hof *a quo* terugverwys word vir die aanhoor van verdere getuienis wat in die *voorskrifte* gespesifiseer word, of dat verdere getuienis aan die *Hof* voorgelê moet word by wyse van *beëdigde verklaring* of andersins vir die doel van die appèl.
- (2) (a) Een van die afskrifte van die oorkonde wat by die *griffier* ingedien is, word as korrek gesertifiseer deur die *griffier* van die hof waarvandaan geappelleer word.
- (b) Afskrifte van die oorkonde word duidelik getik op sterk A4 standaard papier, met dubbelspasiëring in swart oorkonde-ink, slegs op een kant van die papier.

- (c) Leesbare dokumente wat getik is of gedruk is in hulle oorspronklike vorm, soos tjeks en soortgelyke dokumente, word nie oorgetik nie en duidelike fotostate moet in die plek daarvan voorsien word.
 - (d) Al die oorkondes moet stewig gebind word in gepaste omslae wat die name van die *party* aandui, die hof waarvandaan geappelleer word en die name van die prokureurs wat die *party* verteenwoordig.
 - (e) Omvangryke oorkondes moet verdeel word in afsonderlike volumes van gerieflike grootte.
- (3) Indien 'n oorkonde in ooreenstemming met die bepalings van paragrawe (b) en (c) van subreël (1) ingedien is, moet die *griffier* 'n kennisgewing aan die *party* by die appèl laat afgee, waarin -
- (a) van die appellant vereis word om skriftelike betoog ter ondersteuning van die appèl binne 'n tydperk deur die *President* vasgestel en in die kennisgewing gespesifiseer by die *griffier* in te dien; en
 - (b) van die respondent vereis word om skriftelike betoog in antwoord op die appellant se betoog, teen 'n gespesifiseerde datum deur die *President* vasgestel wat na die datum is waarop die appellant se betoog aan die respondent beteken is, by die *griffier* in te dien.
- (4) Die appellant kan skriftelike betoog in antwoord op die respondent se betoog binne 10 dae vanaf die datum waarop die respondent se betoog aan die appellant beteken is, by die *griffier* indien.
- (5) Die *President* kan besluit of die appèl slegs op grond van die skriftelike betoë behandel moet word.
- (6) Behoudens die bepalings van subreël (5) moet die *President* die datum vasstel waarop mondelinge betoog aangehoor sal word en die *griffier* moet binne vyf dae vanaf sodanige vasstelling alle partye by die appèl per pos of faksimilee van die datum van die verhoor in kennis stel.

20. Appèl teen 'n beslissing van die Hoogste Hof van Appèl

- (1) 'n Appèl na die *Hof* rakende 'n grondwetlike aangeleentheid teen 'n uitspraak of bevel van die Hoogste Hof van Appèl word toegestaan slegs met spesiale verlof van die *Hof* wanneer by die *Hof* aansoek gedoen word.
- (2) 'n Gedingvoerder wat veronreg is deur die beslissing van die Hoogste Hof van Appèl rakende 'n grondwetlike aangeleentheid en wat daarteen na die *Hof* wil appelleer, moet binne 15 dae vanaf die beslissing waarteen die appèl verlang word en nadat kennis aan die ander betrokke *party* of partye gegee is, by die *griffier* van die *Hof* 'n *aansoek* om verlof om te appelleer, indien.
 - (3) (a) Die *aansoek* in subreël (2) bedoel, moet skriftelik wees, deur die appellant onderteken wees en 'n uiteensetting gee van die grondwetlike aangeleentheid wat in die saak geopper is, die beslissing waarteen geappelleer word en die gronde waarop die beslissing betwis word.
 - (b) Sodanige *aansoek* moet -
 - (i) die uitspraak van Hoogste Hof van Appèl of, indien sodanige uitspraak nog nie beskikbaar is nie, die bevel deur die Hoogste Hof van Appèl gegee; en

- (ii) sodanige aanvullende inligting of betoog wat die appellant nodig ag om onder die *Hof* se aandag te bring, bevat.
- (4) (a) Binne 10 dae vanaf die datum waarop die *aansoek* in subreël (2) bedoel ingedien word, kan die respondent of respondente skriftelik daarop antwoord en aandui of die betrokke partye toestem al dan nie tot die verlening van die verlof om te appelleer en indien die aansoek bestry word, die gronde daarvoor.
- (b) Die antwoord moet deur die respondent of respondente onderteken word.
- (5) Die bepalings van reël 18(10) is in dieselfde mate van toepassing.

DEEL IX

Tariewe en koste

21. Taksasie van koste en prokureursgelde

- (1) Reëls 9 en 10 van die *Reëls van die Hoogste Hof van Appèl* met betrekking tot taksasie en prokureursgelde is van toepassing, met sodanige veranderinge as wat nodig is.
- (2) In die geval van mondelinge en skriftelike betoog, kan gelde vir skriftelike betoog in gepaste omstandighede as 'n afsonderlike item toegelaat word.

22. Hofgelde

- (1) Behalwe hofgelde reeds in hierdie reëls voorgeskryf, is die gelde in Bylae 2 die *hofgelde*, betaalbaar by wyse van inkomsteseëls.
- (2) Die voorbehoudsbepaling in reël 4(4) en die bepaling van reël 4(5) van die *Reëls van die Hoogste Hof van Appèl* is van toepassing, met sodanige veranderinge as wat nodig is.

DEEL X

Diverse bepalings

23. Biblioteek

- (1) Die *Hof* se biblioteek is beskikbaar vir gebruik deur *regters*, die personeel van die *Hof* en ander persone wat toestemming van die bibliotekaris het vir doeleindes van grondwetlike navorsing.
- (2) Die biblioteek is oop gedurende sodanige tye as wat die redelike behoeftes van die *Hof* vereis en die werking daarvan word gereël deur reëls deur die bibliotekaris in oorleg met die *President* gemaak.

24. Vertalings

Indien enige oorkonde of ander dokument wat by die *griffier* ingedien is, gegewens bevat wat in 'n amptelike taal geskryf is wat nie deur al die *regters* verstaan word nie, moet die *griffier* die betrokke gedeeltes van sodanige oorkonde of dokument deur 'n beëdigde vertaler van die Hoë Hof in 'n taal of tale wat sodanige *regters* sal verstaan, laat vertaal en 'n afskrif daarvan aan die *party* verskaf.

25. Modelle, diagramme en bewysstukke

- (1) Modelle, diagramme en bewysstukke van gegewens wat deel uitmaak van die getuienis in 'n geding afgeneem en vir inspeksie na die *Hof* gebring is, moet minstens 10 dae voor die saak verhoor of voorgelê word, in die bewaring van die *griffier* geplaas word.
- (2) Alle modelle, diagramme en bewysstukke van gegewens in bewaring van die *griffier* moet binne 40 dae nadat die saak beslis is, deur die partye verwyder word.
- (3) Wanneer dit nie gedoen word nie, moet die *griffier* die betrokke party in kennis stel om die artikels onverwyld te verwyder en indien dit nie binne ses maande daarna verwyder word nie, moet die *griffier* dit vernietig of op 'n ander toepaslike wyse daaroor beskik.

26. Terugtrekking van sake

Wanneer al die partye, in enige stadium van die verrigtinge, 'n skriftelike ooreenkoms by die *griffier* indien dat 'n saak teruggetrek word, met vermelding van die voorwaardes met betrekking tot die betaling van koste en enige uitstaande gelde wat aan die *griffier* betaal moet word, moet die *griffier*, indien die *President* aldus gelas, so 'n terugtrekking aanteken, waarna die *Hof* nie meer aan die aangeleentheid gebonde sal wees nie.

27. Formaat van dokumente

- (1) Elke dokument wat vyf bladsye oorskry, moet, ongeag die metode van duplisering, 'n inhoudsopgawe sowel as 'n opgawe van kenbronne bevat met korrekte verwysings na die bladsye in die dokument waarop dit aangehaal word.
- (2) Aan die einde van elke dokument moet die naam van die party of sy of haar prokureur, indien van toepassing, verskyn en die oorspronklike dokument moet deur die party of sy of haar prokureur onderteken word.
- (3)
 - (a) Die *griffier* aanvaar geen dokument vir indiening, wat in 'n vorm wat nie met hierdie reël ooreenstem nie, voorgelê word, maar besorg dit aan die versuimende party terug met 'n aanduiding van die versuim: Met dien verstande dat indien nuwe en korrekte afskrifte van enige sodanige dokument binne vyf dae na ontvangs van skriftelike kennisgewing heringedien word, word sodanige indiening geag betyds te wees.
 - (c) Indien die *Hof* bevind dat die bepalinge van hierdie reël nie nagekom is nie, kan die *Hof* na goëddunke gepaste sanksies oplê, met inbegrip van, maar nie beperk nie tot, die afwysing van die aksie of oplegging van koste.

28. Toepassing van sekere reëls van die Eenvormige Reëls

Die volgende reëls van die *Eenvormige Reëls*, met sodanige veranderinge as wat nodig mag wees, is op die verrigtinge in die *Hof* van toepassing:

Reëlno.	Onderwerp
6(7) tot 6(15)	Voeging van partye op aansoek en verwante aangeleenthede
28	Wysiging van pleitstukke en dokumente
35(13)	Blootlegging, indiening en voorlegging van stukke
38(3) tot 38(8)	Verkryging van getuienis vir verhoor
42	Wysiging en herroeping van bevele

59	Beëdigde vertalers
61	Vertolking van getuienis
62	Indiening, voorbereiding en insae van stukke
63	Waarmerking van dokumente wat buite die Republiek verly is vir gebruik in die Republiek
64	Vernietiging van stukke
65	Kommissaris van die Hof

29. Toepassing van sekere artikels van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959)

Die volgende artikels van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959), is, met sodanige veranderinge as wat nodig mag wees, op verrigtinge voor en van die Hof van toepassing:

Artikel	Onderwerp
19bis	Verwysing van bepaalde aangeleenthede vir ondersoek deur skeidsregter
22	Bevoegdhede van Hof by verhoor van appèlle
32	Ondervraging op vraagpunte van persone van wie getuienis in siviele gedinge verlang word
33	Wyse waarop met rogatore kommissies, versoekbriewe en stukke vir bestelling afkomstig uit vreemde lande gehandel moet word

30. Dokumente ingedien om feitelike gegewens te bespreek

- (1) Enige *party* in enige verrigtinge voor die Hof en 'n *amicus curiae* behoorlik deur die Hof in enige verrigtinge toegelaat, is daarop geregtig om in dokumente by die griffier ingevolge hierdie reëls ingedien, feitelike gegewens wat ter sake by die beslissing van die geskilpunte voor die Hof is en nie uitdruklik op die oorkonde verskyn nie, te bespreek: Met dien verstande dat sodanige feite -
 - (a) gemeensaak of andersins onweerlegbaar is; of
 - (b) van 'n amptelike, wetenskaplike, tegniese of statistiese aard is wat maklik gestaaf kan word.
- (2) Alle ander *partye* is daarop geregtig om binne die tydperk ingevolge hierdie reëls vir beantwoording van sodanige dokument toegelaat, sodanige feit te erken, ontken, of te weerlê of daarop uit te wei in die mate nodig en gepas vir 'n behoorlike beslissing deur die Hof.

31. Algemeen

Die Hof kan, indien voldoende gronde aangevoer word, die *partye* van nakoming van enige van voorgaande reëls vrystel en kan sodanige *voorskrifte* oor aangeleenthede rakende praktyk en prosedure gee as wat hy billik en dienstig ag.

32. Tenuitvoerlegging

Kostebevele van die Hof word in die landdroshof soos volg ten uitvoer gelê:

- (1) Die kostebevel het die effek van 'n siviele vonnis van die landdroshof en die *party* in wie se guns 'n kostebevel gegee is, word geag die vonnisskuldeiser te wees en die *party* teen wie so 'n bevel gegee is, word geag die vonnisskuldenaar te wees.

- (2) Die *party* in wie se guns 'n kostebevel gegee is, moet, waar daar nie aan 'n kostebevel voldoen is nie, 'n *beëdigde verklaring* by die *griffier* indien waarin die besonderhede van die kostebevel uiteengesit word en waarin vermeld word dat daar nog nie aan die kostebevel voldoen is of nog nie ten volle daaraan voldoen is nie, na gelang van die geval, en moet die uitstaande bedrag vermeld en moet die *griffier* versoek om aan hom of haar 'n gesertifiseerde afskrif van sodanige kostebevel te verskaf.
- (3) Die *griffier* moet, nadat hy of sy die betrokke hoflêer geïnspekteer het om die inhoud van die beëdigde verklaring te staaf, aan die *party* in subreël (2) bedoel, 'n gesertifiseerde afskrif van die betrokke kostebevel verskaf en moet sodanige verskaffing op die hoflêer notuleer.
- (4) Die *party* in subreël (2) bedoel, moet genoemde afskrif by die klerk van die siviele hof van die distrik waarin hy of sy woonagtig is, besigheid dryf of werksaam is, indien.
- (5) Sodanige bevel word ten uitvoer gelê ooreenkomstig die bepalings van die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), en die Landdroshowerêls gepubliseer by Goewermentskennisgewing No.R. 1108 van 21 Junie 1968, soos gewysig, slegs betreffende lasbriewe vir eksekusie teen roerende en onroerende eiendom en die uitreiking van besoldigingbeslagbevele en skuldbeslagbevele.

33. Oorgangsbepalings

Wanneer 'n tyd vir enige doeleindes ingevolge hierdie reëls voorgeskryf word en sodanige tyd andersins sou begin loop het voor die inwerkingtreding van hierdie reëls, begin sodanige tyd te loop slegs vanaf die datum waarop hierdie reëls in werking tree.

34. Herroeping van reëls

Die Reëls van die Konstitusionele Hof gepubliseer by Goewermentskennisgewing No. R. 5 in Regulasiekoerant 5450 van 6 Januarie 1995 word herroep op die datum waarop hierdie reëls in werking tree: Met dien verstande dat enige skriftelike aanwysings kragtens reël 3 van sodanige reëls met betrekking tot die prosedure wat gevolg moet word in die beslissing van 'n geskil of 'n geskilpunt in sake wat reeds aanhangig gemaak is, van krag bly, tensy dit skriftelik deur die *President* herroep word.

35. Kort titel

Hierdie reëls heet die **Reëls van die Konstitusionele Hof, 1998.**

Bylae 1
VORMS

Vorm no.

1. Kennisgewing van mosie (aan *griffier*)
2. Kennisgewing van mosie (aan *griffier* en respondent)

VORM 1
KENNISGEWING VAN MOSIE
(aan *griffier*)
IN DIE KONSTITUSIONELE HOF VAN SUID-AFRIKA

Saak No.....

In die saak van:

.....(Applikant)

Neem kennis dat bogemelde applikant by die *Hof aansoek doen* om 'n bevel met die volgende bepalings:

- (a)
- (b)
- (c)

En dat die *beëdigde verklaring* van, hierby aangeheg, gebruik sal word ter ondersteuning daarvan.

Geliewe die saak voor die *President* te plaas vir behandeling ingevolge reël 10(4).

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

.....
Applikant of prokureur

Aan die *griffier* van bogenoemde *Hof*.

VORM 2
KENNISGEWING VAN MOSIE
(aan die *griffier* en respondent)
IN DIE KONSTITUSIONELE HOF VAN SUID-AFRIKA

Saak No.....

In die saak tussen:

.....(Applikant)

en

.....(Respondent)

Neem kennis dat(hierna die applikant genoem) voornemens is om by hierdie *Hof aansoek te doen* om 'n bevel (a).....
(b).....(c).....(sit hier die vorm van die aangevraagde bevel uiteen) en dat die bygaande *beëdigde verklaring* van..... gebruik sal word ter ondersteuning daarvan.

Neem verder kennis dat die applikant(meld hier 'n adres) aangewys het as die adres waar hy of sy kennisgewing en die betekening van alle prosesstukke in hierdie verrigtinge sal aanvaar.

Neem verder kennis dat indien u voornemens is om hierdie *aansoek* te bestry, u (a) die applikant se prokureur voor of op(datum) skriftelik daarvan in kennis moet stel en (b) binne 15 dae nadat u aldus kennis gegee het van u voorneme om die *aansoek* te bestry, u antwoordende *beëdigde verklaring*, indien enige, moet indien; en verder dat u in sodanige kennisgewing 'n adres moet aangee waar u kennisgewing en die betekening van alle dokument in hierdie verrigtinge sal aanvaar.

Indien geen sodanige kennis van voorneme om te bestry gegee word nie, sal die applikant die *griffier* versoek om die aangeleentheid voor die *President* te plaas vir behandeling ingevolge reël 10(4).

Gedateer te....., op hede diedag van.....19.....

.....
Applikant of prokureur

Aan:

(1).....

Respondent

.....

.....

.....

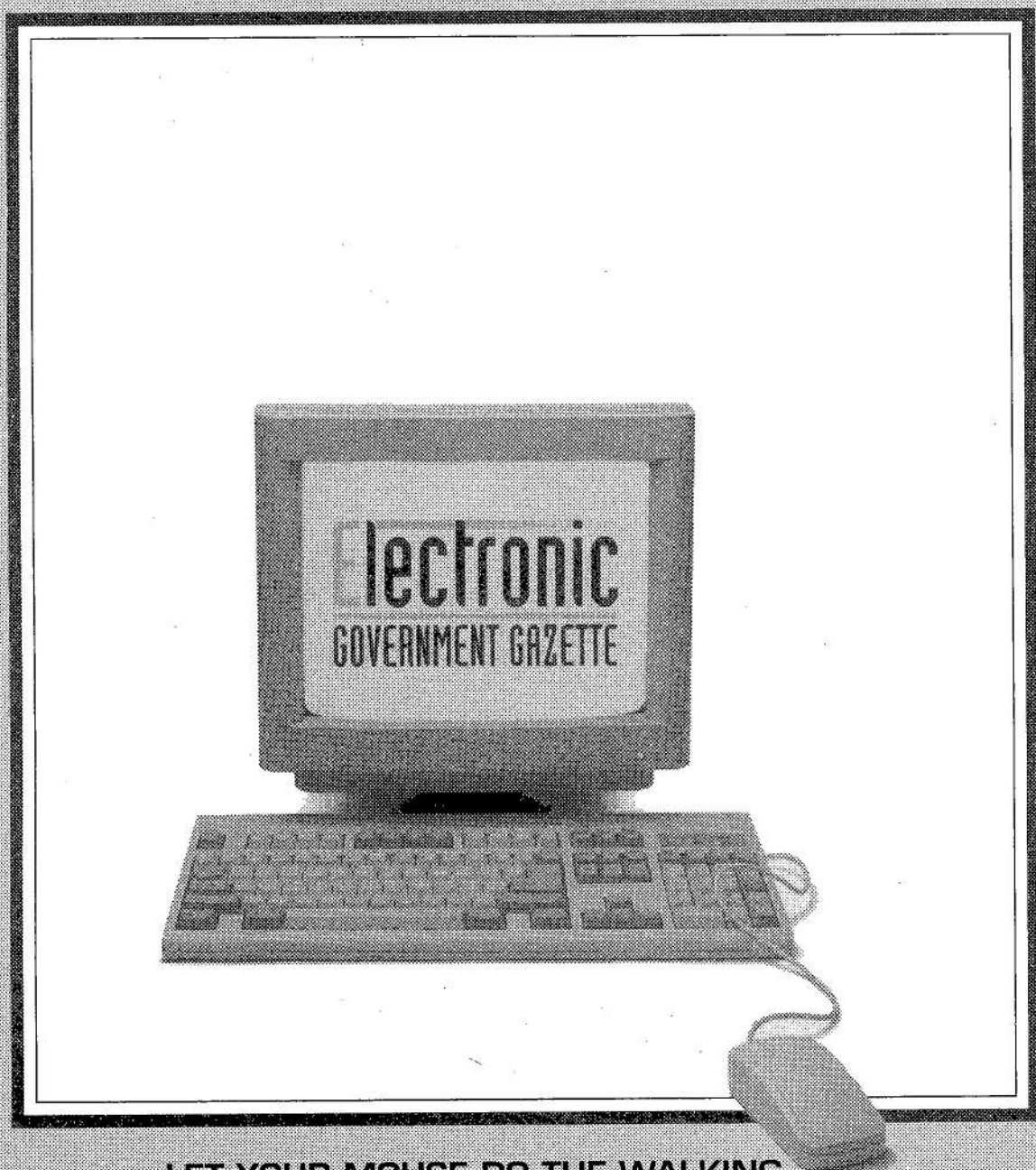
(Adres)

(2) Die *griffier* van bogenoemde *Hof*

.....

Bylae 2 TARIEWE

	R
Indiening van enige petisie (uitgesonderd die eerste dokument).....	10,00
Indiening van 'n antwoordende beëdigde verklaring (elk).....	10,00
Indiening van 'n kennisgewing van appèl of teenappèl (elk).....	15,00
Bevel van die Hof wat verlof om te appelleer toestaan.....	15,00
Vir 'n griffiersertifikaat oor gesertifiseerde afskrifte van dokumente (elk)	1,00
Taksasie van enige aangeleentheid.....	25,00



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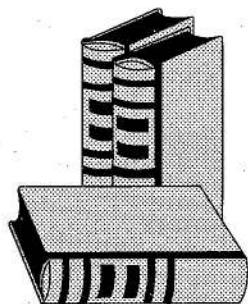
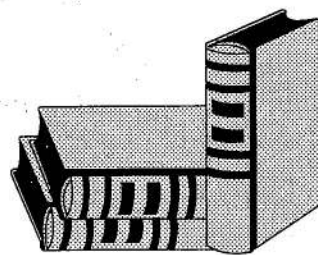
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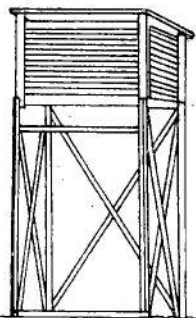
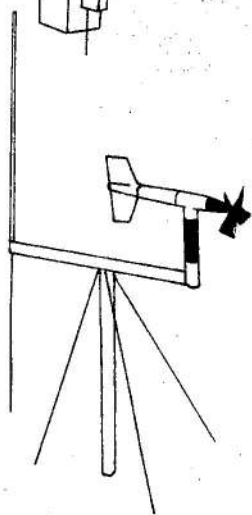
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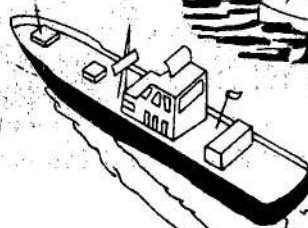
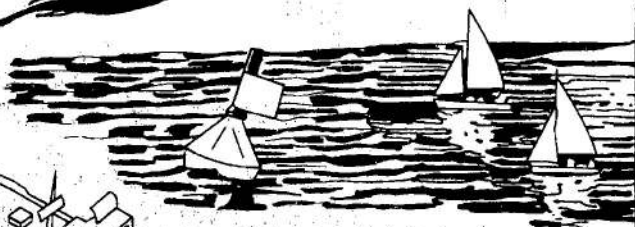
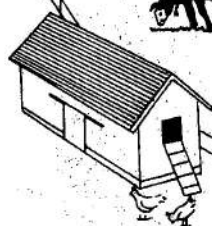
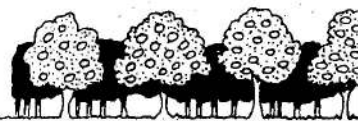
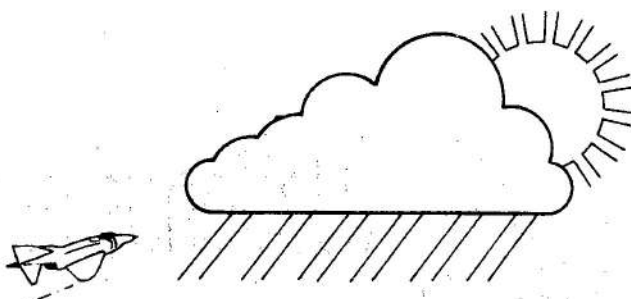


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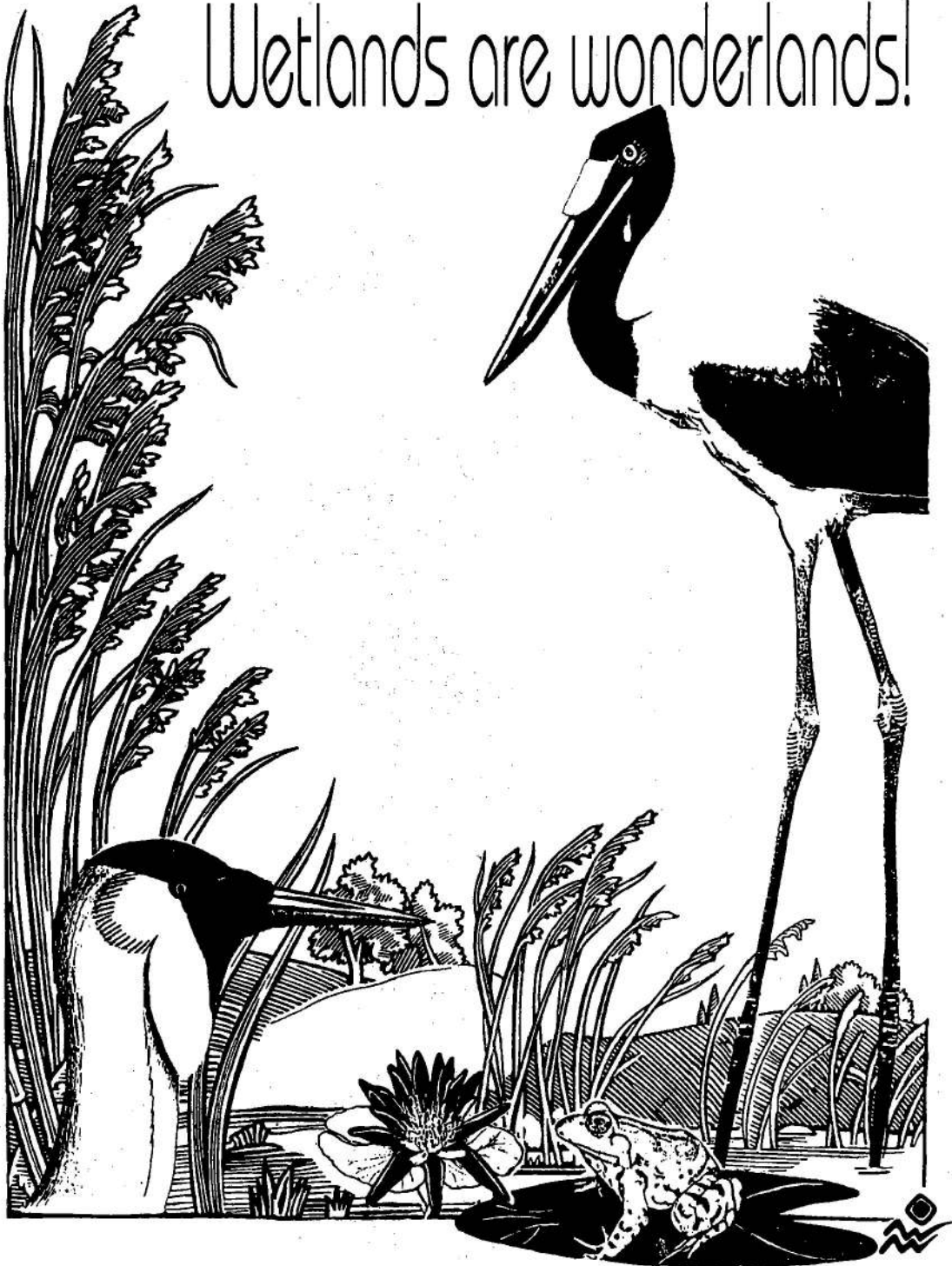


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