

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

Government Gazette Staatskoerant

Regulation Gazette

No. 6403

Regulasiekoerant

Vol. 402

PRETORIA, 30 DECEMBER
DESEMBER 1998

No. 19662

GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF JUSTICE

No. 1723

30 December 1998

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

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

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules regulating the conduct of the proceedings of the several provincial and local divisions of the High Court of South Africa published by Government Notice No. R.48 of 12 January 1965, as amended by Government Notices Nos. R.235 of 18 February 1966, R.2004 of 15 December 1967, R.3553 of 17 October 1969, R.2021 of 5 November 1971, R.1985 of 3 November 1972, R.480 of 30 March 1973, R.639 of 4 April 1975, R.1816 of 8 October 1976, R.1975 of 29 October 1976, R.2477 of 17 December 1976, R.2365 of 18 November 1977, R.1546 of 28 July 1978, R.1577 of 20 July 1979, R.1535 of 25 July 1980, R.2527 of 5 December 1980, R.500 of 12 March 1982, R.773 of 23 April 1982, R.775 of 23 April 1982, R.1873 of 3 September 1982, R.2171 of 6 October 1982, R.645 of 25 March 1983, R.841 of 22 April 1983, R.1077 of 20 May 1983, R.1996 of 7 September 1984, R.2094 of 13 September 1985, R.810 of 2 May 1986, R.2164 of 2 October 1987, R.2642 of 27 November 1987, R.1421 of 15 July 1988, R.210 of 10 February 1989, R.608 of 31 March 1989, R.2628 of 1 December 1989, R.185 of 2 February 1990, R.1929 of 10 August 1990, R.1262 of 30 May 1991, R.2410 of 30 September 1991, R.2845 of 29 November 1991, R.406 of 7 February 1992, R.1883 of 3 July 1992, R.109 of 22 January 1993, R.960 of 28 May 1993, R.974 of 1 June 1993, R.1356 of 30 July 1993, R.1843 of 1 October 1993, R.2365 of 10 December 1993, R.2529 of 31 December 1993, R.181 of 28 January 1994, R.411 of 11 March 1994, R.873 of 31 May 1996, R.1063 of 28 June 1996, R.1557 of 20 September 1996, R.1746 of 25 October 1996, R.2047 of 13 December 1996, R.417 of 14 March 1997, R.491 of 27 March 1997, R.700 of 16 May 1997, R.798 of 13 June 1997, R.1352 of 10 October 1997, R.785 of 5 June 1998, R.881 of 26 June 1998 and R.1024 of 7 August 1998.

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing rules.
- _____ Word underlined with a solid line indicate insertions in existing rules.

Amendment of rule 70 of the Rules

2. Rule 70 of the Rules is hereby amended by -

(a) the insertion of the following subrule after subrule (5):

"(5A) (a) The taxing master may grant a party wasted costs occasioned by the failure of the taxing party or his or her attorney or both to appear at a taxation or by the withdrawal by the taxing party of his or her bill of costs.

(b) The taxing master may order in appropriate circumstances that the wasted costs be paid *de bonis propriis* by the attorney.

(c) In the making of an order in terms of paragraphs (a) or (b), the taxing master shall have regard to all the appropriate facts and circumstances.

(d) Where a party or his or her attorney or both misbehave at a taxation, the taxing master may -

(i) expel the party or attorney or both from the taxation and proceed with and complete the taxation in the absence of such party or attorney or both; or

(ii) adjourn the taxation and refer it to a judge in chambers for directions with regard to the finalisation of the taxation; or

(iii) adjourn the taxation and submit a written report to a judge in chambers on the misbehaviour of the party or attorney or both with the view to obtaining directions from the judge as to whether contempt of court proceedings would be appropriate.

(e) Contempt of court proceedings as contemplated in paragraph (d)(iii) shall be held by a judge in chambers at his or her direction."; and

(b) the substitution for paragraph (b) of item 3 of Section E of the Tariff of the following paragraph:

"(b) The taxing master may -

(i) if he or she is satisfied that one or more of the requirements referred to in [paragraph(a)] item 3(a) has not been complied with, refuse to tax such bill;

(ii) if he or she is satisfied that fees are being charged in a party-and-party bill of costs -

(aa) for work not done;

(bb) for work for which fees are to be charged in an attorney-and-client bill of costs; or

(cc) which are excessively high, deny the attorney the remuneration referred to in ~~[item]~~ items 1 and 2 of this section, if more than 20 per cent of the number of items in the bill of costs, ~~[excluding]~~ including expenses, or of the total amount of the bill of costs, ~~[excluding]~~ including expenses, is taxed off."

Commencement

3. These rules shall come into operation on **1 February 1999.**

DEPARTEMENT VAN JUSTISIE

No. 1723

30 Desember 1998

**WYSIGING VAN DIE REËLS WAARBY DIE VERRIGTINGE VAN DIE VERSKILLENDE
PROVINSIALE EN PLAASLIKE AFDELINGS VAN DIE HOË HOF VAN SUID-AFRIKA
GEREËL WORD**

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

BYLAE**Woordomskrywing**

1. In hierdie reëls beteken "die Reëls" die reëls waarby die verrigtinge van die verskillende provinsiale en plaaslike afdelings van die Hoë Hof van Suid-Afrika gereël word, afgekondig by Goewermentskennisgewing No. R.48 van 12 Januarie 1965, soos gewysig by Goewermentskennisgewings Nos. R.235 van 18 Februarie 1966, R.2004 van 15 Desember 1967, R.3553 van 17 Oktober 1969, R.2021 van 5 November 1971, R.1985 van 3 November 1972, R.480 van 30 Maart 1973, R.639 van 4 April 1975, R.1816 van 8 Oktober 1976, R.1975 van 29 Oktober 1976, R.2477 van 17 Desember 1976, R.2365 van 18 November 1977, R.1546 van 28 Julie 1978, R.1577 van 20 Julie 1979, R.1535 van 25 Julie 1980, R.2527 van 5 Desember 1980, R.500 van 12 Maart 1982, R.773 van 23 April 1982, R.775 van 23 April 1982, R.1873 van 3 September 1982, R.2171 van 6 Oktober 1982, R.645 van 25 Maart 1983, R.841 van 22 April 1983, R.1077 van 20 Mei 1983, R.1996 van 7 September 1984, R.2094 van 13 September 1985, R.810 van 2 Mei 1986, R.2164 van 2 Oktober 1987, R.2642 van 27 November 1987, R.1421 van 15 Julie 1988, R.210 van 10 Februarie 1989, R.608 van 31 Maart 1989, R.2628 van 1 Desember 1989, R.185 van 2 Februarie 1990, R.1929 van 10 Augustus 1990, R.1262 van 30 Mei 1991, R.2410 van 30 September 1991, R.2845 van 29 November 1991, R.406 van 7 Februarie 1992, R.1883 van 3 Julie 1992, R.109 van 22 Januarie 1993, R.960 van 28 Mei 1993, R.974 van 1 Junie 1993, R.1356 van 30 Julie 1993, R.1843 van 1 Oktober 1993, R.2365 van 10 Desember 1993, R.2529 van 31 Desember 1993, R.181 van 28 Januarie 1994, R.411 van 11 Maart 1994, R.873 van 31 Mei 1996, R.1063 van 28 Junie

1996, R.1557 van 20 September 1996, R.1746 van 25 Oktober 1996, R.2047 van 13 Desember 1996, R.417 van 14 Maart 1997, R.491 van 27 Maart 1997, R.700 van 16 Mei 1997, R.798 van 13 Junie 1997, R.1352 van 10 Oktober 1997, R.785 van 5 Junie 1998, R.881 van 26 Junie 1998 en R.1024 van 7 Augustus 1998.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande reëls aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande reëls aan.

Wysiging van reël 70 van die Reëls

2. Reël 70 van die Reëls word hierby gewysig deur -

(a) die invoeging van die volgende subreël na subreël (5):

- "(5A) (a) Die takseermeester kan verspilde koste aan 'n party toestaan wat veroorsaak is deur die versuim van die takserende party of sy of haar prokureur of albei om by 'n taksasie te verskyn of deur die terugtrekking deur die takserende party van sy of haar kosterekening.
- (b) Die takseermeester kan in gepaste omstandighede beveel dat die verspilde koste *de bonis propriis* deur die prokureur betaal word.
- (c) By die toestaan van 'n bevel ingevolge paragrawe (a) of (b), moet die takseermeester al die gepaste feite en omstandighede in ag neem.
- (d) Waar 'n party of sy of haar prokureur hom of haar of albei by 'n taksasie wangedra, kan die takseermeester -
- (i) die party of prokureur of albei uit die taksasie uitsit en met die taksasie voortgaan en dit voltooi in die afwesigheid van sodanige party of prokureur of albei; of
- (ii) die taksasie verdaag en dit na 'n regter in kamers verwys vir voorskrifte met betrekking tot die afhandeling van die taksasie; of
- (iii) die taksasie verdaag en 'n skriftelike verslag aan 'n regter in kamers voorlê rakende die wangedrag van die party of prokureur of albei met die doel om voorskrifte van die regter te verkry of verrigtinge betreffende minagting van die hof gepas is.
- (e) Verrigtinge betreffende minagting van die hof bedoel in paragraaf (d)(iii) word deur 'n regter in kamers gehou op sy of haar voorskrif."; en

- (b) paragraaf (b) van item 3 van Afdeling E van die Tarief deur die volgende paragraaf te vervang:

"(b) Die takseermeester kan -

- (i) wanneer hy of sy oortuig is dat aan een of meer van die vereistes bedoel in [paragraaf(a)] item 3(a) nie voldoen is nie, weier om so 'n rekening te takseer;
- (ii) wanneer hy of sy oortuig is dat gelde in 'n party-en-partykosterekening gevorder word -
 - (aa) vir werk wat nie gedoen is nie;
 - (bb) vir werk waarvoor gelde in 'n prokureur-en-kliëntkosterekening gevorder moet word; of
 - (cc) wat buitensporig hoog is,

die prokureur die vergoeding bedoel in [item] items 1 en 2 van hierdie afdeling ontsê, indien meer as 20 persent van die aantal items in die kosterekening, [uitgesonderd] insluitend uitgawes, of van die totale bedrag van die kosterekening, [uitgesonderd] insluitend uitgawes, afgetakseer word."

Inwerkingtreding

3. Hierdie reëls tree op **1 Februarie 1999** in werking.

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