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PROCLAMATION

by the

President of the Republic of South Africa

No. R. 50, 1999

COMMENCEMENT OF THE CRIMINAL PROCEDURE AMENDMENT ACT, 1997 (ACT NO. 76 OF 1997)

Under section 5 of the Criminal Procedure Amendment Act, 1997 (Act No. 76 of 1997),
I hereby fix 28 May 1999 as the date on which sections 1 to 3 of the said Act shall come
into operation.

Given under my Hand and the Seal of the Republic of South Africa at Cape Town this
Twenty Third day of April One thousand Nine hundred and Ninety-nine.

N. R. MANDELA

President

By Order of the President-in-Cabinet:

A. M. OMAR

Minister of the Cabinet

PROKLAMASIE*van die**President van die Republiek van Suid-Afrika***No. R. 50, 1999****INWERKINGTREDING VAN DIE STRAFPROSESWYSIGINGSWET, 1997
(WET NO. 76 VAN 1997)**

Kragtens artikel 5 van die Strafproseswysigingswet, 1997 (Wet No. 76 van 1997), bepaal ek hierby 28 Mei 1999 as die datum waarop artikels 1 tot 3 van genoemde Wet in werking tree.

Gegee onder my Hand en die Seël van die Republiek van Suid-Afrika te Kaapstad op hede die Drie-en-twintigste dag van April Eenhduisend Negehonderd Nege-en-negentig

N. R. MANDELA

President

By Order of the President-in-Cabinet:

A. M. OMAR

Minister of the Cabinet

GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE DEPARTEMENT VAN JUSTISIE

No. R. 568

30 April 1999

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

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

SCHEDULE

Definitions

1. In these rules "the Rules" means the rules regulating the conduct of the proceedings of the several provincial and local divisions of the High Court of South Africa published under Government Notice No. R.48 of 12 January 1965, as amended by Government Notices Nos. R.235 of 18 February 1966, R.2004 of 15 December 1967, R.3553 of 17 October 1969, R.2021 of 5 November 1971, R.1985 of 3 November 1972, R.480 of 30 March 1973, R.639 of 4 April 1975, R.1816 of 8 October 1976, R.1975 of 29 October 1976, R.2477 of 17 December 1976, R.2365 of 18 November 1977, R.1546 of 28 July 1978, R.1577 of 20 July 1979, R.1535 of 25 July 1980, R.2527 of 5 December 1980, R.500 of 12 March 1982, R.773 of 23 April 1982, R.775 of 23 April 1982, R.1873 of 3 September 1982, R.2171 of 6 October 1982, R.645 of 25 March 1983, R.841 of 22 April 1983, R.1077 of 20 May 1983, R.1996 of 7 September 1984, R.2094 of 13 September 1985, R.810 of 2 May 1986, R.2164 of 2 October 1987, R.2642 of 27 November 1987, R.1421 of 15 July 1988, R.210 of 10 February 1989, R.608 of 31 March 1989, R.2628 of 1 December 1989, R.185 of 2 February 1990, R.1929 of 10 August 1990, R.1262 of 30 May 1991, R.2410 of 30 September 1991, R.2845 of 29 November 1991, R.406 of 7 February 1992, R.1883 of 3 July 1992, R.109 of 22 January 1993, R.960 of 28 May 1993, R.974 of 1 June 1993, R.1356 of 30 July 1993, R.1843 of 1 October 1993, R.2365 of 10 December 1993, R.2529 of 31 December 1993, R.181 of 28 January 1994, R.411 of 11 March 1994, R.873 of 31 May 1996, R.1063 of 28 June 1996, R.1557 of 20 September 1996, R.1746 of 25 October 1996, R.2047 of 13 December 1996, R.417 of 14 March 1997, R.491 of 27 March 1997, R.700 of 16 May 1997, R.798 of 13 June 1997, R.1352 of 10 October 1997, R.785 of 5 June 1998, R.881 of 26 June 1998, R. 1024 of 7 August 1998, 1723 of 30 December 1998 and R. 315 of 12 March 1999.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing rules.

— Words underlined with a solid line indicate insertions in existing rules.

Amendment of rule 51 of the Rules

2. Rule 51 of the Rules is hereby amended by the insertion of the following subrule:

- "(5) (a) Notice in terms of section 309C(6) of the Criminal Procedure Act, 1977 (Act No. 51 of 1977), shall be given by the registrar at least 10 days before the date fixed for the hearing of any of the applications referred to in section 309C, unless the accused or his or her attorney and the attorney-general concerned have agreed to a shorter period, and shall correspond substantially to Form 22.
- (b) The notice referred to in paragraph (a) shall -
- (i) be handed to the accused or his or her attorney and the attorney-general concerned and proof of receipt of such notice shall be indicated on a copy of the notice, which shall be kept by the registrar; or
- (ii) be sent by registered post."

Amendment of the First Schedule to the Rules

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

"FORM 22**NOTICE IN TERMS OF SECTION 309C(6) OF THE CRIMINAL PROCEDURE ACT, 1977 (ACT NO. 51 OF 1977)**

In the High Court of South Africa
(..... Division)

CASE NO. (HIGH COURT)

CASE NO. (LOWER COURT) HELD AT (LOWER COURT)

THE STATE vs

CHARGE:

TO THE ATTORNEY-GENERAL,

AND TO THE ACCUSED,

TAKE NOTICE THAT the application by the accused -

- for leave to appeal in terms of section 309B of the Criminal Procedure Act, 1977 (Act No. 51 of 1977); or
- for an extension of the period referred to in section 309B of the Act; or
- for an extension of the period within which an appeal must be noted in terms of section 309(2) of the Act; or
- to call further evidence as contemplated in section 309B(4) of the Act,

has been set down for hearing on (date) at (time) or as soon thereafter as the matter may be heard.

THE matter will be heard at (place).

TO THE ATTORNEY-GENERAL,

(Address)

AND TO THE ACCUSED,

(Address)

OR TO:

(address of accused's attorney, if any)

REGISTRAR OF THE HIGH COURT,

- Delete what is not applicable.

Commencement

4. These rules shall come into operation on 31 May 1999.

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

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

BYLAE

Woordomskrywing

1. In hierdie reëls beteken "die Reëls" die reëls waarby die verrigtinge van die verskillende provinsiale en plaaslike afdelings van die 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, R.1024 van 7 Augustus 1998, R.1723 van 30 Desember 1998 en R.315 van 12 Maart 1999.

ALGEMENE VERDUIDELIKENDE NOTA:

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

Wysiging van reël 51 van die Reëls

2. Reël 51 van die Reëls word hierby gewysig deur die invoeging van die volgende subreël:

- "(5) (a) Kennis kragtens artikel 309C(6) van die Strafproseswet, 1977 (Wet No. 51 van 1977), moet deur die griffier gegee word minstens 10 dae voor die datum wat vir die aanhoor van enige van die aansoeke bedoel in artikel 309C vasgestel is, tensy die beskuldigde of sy of haar prokureur en die betrokke prokureur-generaal op 'n korter tydperk ooreengekom het, en moet wesenlik met Vorm 22 ooreenstem.
- (b) Die kennisgewing bedoel in paragraaf (a) moet -
- (i) aan die beskuldigde of sy of haar prokureur en die betrokke prokureur-generaal oorhandig word en bewys van ontvangs van sodanige kennisgewing moet op 'n afskrif van die kennisgewing, wat deur die griffier bewaar moet word, aangebring word; of
 - (ii) per geregistreerde pos gestuur word."

Wysiging van die Eerste Bylae van die Reëls

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

"VORM 22**KENNISGEWING KRAGTENS ARTIKEL 309C(6) VAN DIE STRAFPROSESWET, 1977 (WET NO. 51 VAN 1977)**

In die Hoë Hof van Suid-Afrika
(..... Afdeling)

SAAKNO. (HOË HOF)

SAAKNO. (LAER HOF) GEHOU TE (LAER HOF)

DIE STAAT vs

AANKLAG:

AAN DIE PROKUREUR-GENERAAL,

EN AAN DIE BESKULDIGDE,

NEEM KENNIS DAT die aansoek deur die beskuldigde -

- om verlof om te appelleer kragtens artikel 309B van die Strafproseswet, 1977 (Wet No. 51 van 1977); of
- om 'n verlenging van die tydperk bedoel in artikel 309B van die Wet; of
- om 'n verlenging van die tydperk waarbinne 'n appèl ingevolge artikel 309(2) van die Wet aangeteken moet word; of
- om verdere getuienis te roep soos beoog in artikel 309B(4) van die Wet,

ter rolle geplaas is vir aanhoring op (datum) om (tyd) of so gou moontlik daarna as wat die saak aangehoor kan word.

DIE saak sal aangehoor word te (plek).

AAN: DIE PROKUREUR-GENERAAL,

(Adres)

AAN DIE BESKULDIGDE,

.....
(Adres)

OF AAN:

.....
(Adres van beskuldigde se prokureur, indien enige)

GRIFFIER VAN DIE HOË HOF,

- Skrap wat nie van toepassing is nie.

Inwerkingtreding

- 4. Hierdie reëls tree op 31 Mei 1999 in werking.**

MAGISTRATES' COURTS: AMENDMENT OF THE RULES OF COURT

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

SCHEDULE**Definitions**

1. In this Schedule "the Rules" means the rules published under Government Notice No. R.1108 of 21 June 1968, as amended by Government Notices Nos. R.3002 of 25 July 1969, R.490 of 26 March 1970, R.947 of 2 June 1972, R.1115 of 28 June 1974, R.1285 of 19 July 1974, R.689 of 23 April 1976, R.261 of 25 February 1977, R.2221 of 28 October 1977, R.327 of 24 February 1978, R.2222 of 10 November 1978, R.1449 of 29 June 1979, R.1314 of 27 June 1980, R.1800 of 28 August 1981, R.1139 of 11 June 1982, R.1689 of 29 July 1983, R.1946 of 9 September 1983, 1338 of 29 June 1984, R.1994 of 7 September 1984, R.2083 of 21 September 1984, R.391 of 7 March 1986, R.2165 of 2 October 1987, R.1451 of 22 July 1988, R.1765 of 26 August 1988, R.211 of 10 February 1989, R.607 of 31 March 1989, R.2629 of 1 December 1989, R.186 of 2 February 1990, R.1887 of 8 August 1990, R.1928 of 10 August 1990, R.1967 of 17 August 1990, R.1261 of 30 May 1991, R.2407 of 27 September 1991, R.2409 of 30 September 1991, R.405 of 7 February 1992, R.1510 of 29 May 1992, R.1882 of 3 July 1992, R.871 of 21 May 1993, R.959 of 28 May 1993, R.1134 of 25 June 1993, R.1355 of 30 July 1993, R.1844 of 1 October 1993, R.2530 of 31 December 1993, R.150 of 28 January 1994, R.180 of 28 January 1994, R.498 of 11 March 1994, R.625 of 28 March 1994, R.710 of 12 April 1994, R.1062 of 28 June 1996, R.1130 of 5 July 1996, R.419 of 14 March 1997, R.492 of 27 March 1997, R.570 of 18 April 1997, R.790 of 6 June 1997, R.797 of 13 June 1997, R.784 of 5 June 1998, R.910 of 3 July 1998, R.1025 of 7 August 1998 and R.1126 of 4 September 1998.

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing rules.

— Words underlined with a solid line indicate insertions in existing rules.

Substitution of rule 67 of the Rules

2. The following rule is hereby substituted for rule 67 of the Rules:

- "67. (1) An accused who wishes to apply for leave to appeal in terms of section 309B(1) of the Criminal Procedure Act, 1977(Act No. 51 of 1977), shall do so in writing to the clerk of the court and shall also send a copy of the application to the attorney-general concerned, or, in a case in which the prosecution was not at the public instance, to the prosecutor concerned.
- (2) (a) Notice in terms of section 309B(2)(b) of the Criminal Procedure Act, 1977(Act No. 51 of 1977), shall be given by the clerk of the court at least 10 days before the date fixed for the hearing of the application for leave to appeal, unless the accused or his or her attorney and the attorney-general or other prosecutor concerned have agreed to a shorter period, and shall correspond substantially to Form 60.
- (b) The notice referred to in paragraph (a) shall -
- (i) be handed to the accused or his or her attorney and the attorney-general or other prosecutor concerned and proof of receipt of such notice shall be indicated on a copy of the notice, which shall be kept by the clerk of the court; or
- (ii) be sent by registered post.
- [(1)](3) (a) [A convicted person desiring to appeal under section 309(1)(a) of the Criminal Procedure Act, (Act No. 51 of 1977), shall within 15 days after the date of conviction, sentence or order in question, lodge with the clerk of the court a notice of appeal in writing in which he shall set out clearly and specifically the grounds, whether of fact or law or both fact and law, on which the appeal is based: Provided that if such appeal is noted by an] An attorney appearing on behalf of [a convicted person] an accused, [he] shall simultaneously with the lodging of the [notice of] application for leave to appeal lodge a power of attorney authorising him or her to [note an appeal and to] act on behalf of the [convicted person] accused or, if an attorney is employed after an application for leave to appeal has been lodged, forthwith after such appointment. [A convicted person who, after a judge of the court of appeal has refused to certify that there are reasonable grounds for appeal, still desires to prosecute an appeal which he has noted shall, within 15 days after being notified of such refusal, in writing indicate or cause to be indicated to the clerk of the court whether he intends prosecuting the appeal other than in person and unless he so indicates and takes the necessary steps to prosecute the appeal

within the said period, the noted appeal shall be deemed to have lapsed.]

- (b) [A convicted person] An accused shall state in the [notice of] application for leave to appeal referred to in [paragraph (a),] subrule (1) a postal address where any notice may be served on him or her by registered post if he or she is not represented by an attorney or if he or she ceases to be represented by an attorney.

[(2)](4) If the [appellant] accused is unable, owing to illiteracy or physical defect, to write out such notice of appeal, the clerk of the court shall, upon his or her request, do so.

[(3)](5) Upon an application for leave to appeal being [noted] granted[-
(a) by a person other than a person referred to in section 305, read with section 309(4)(a) of the Criminal Procedure Act, 1977(Act No. 51 of 1977); or

- (b) by a person referred to in section 305, read with section 309(4)(a), of the Criminal Procedure Act, 1977(Act No. 51 of 1977), and a judge of the court of appeal has certified that there are reasonable grounds for appeal or if the appeal is proceeded with by an attorney on behalf of such a person,] the clerk of the court shall [cause to be prepared] prepare a copy of the record of the case, including a transcript thereof if it was recorded in accordance with the provisions of rule 66(1), and then place such copy before the judicial officer who shall within 15 days thereafter furnish to the clerk of the court a statement in writing showing -

- [(i)](a) the facts he or she found to be proved;
[(ii)](b) his or her reasons for any finding of fact specified in the [notice as appealed against] accused's statement of grounds of appeal; and
[(iii)](c) his or her reasons for any ruling on any question of law or as to the admission or rejection of evidence so specified as appealed against.

[(4)](6) The clerk of the court shall upon receipt of the judicial officer's statement forthwith inform the [person who noted the appeal] accused that the statement has been furnished.

[(5)](7) Within 15 days after the [person who noted the appeal] accused has been so informed, [the appellant] he or she may by notice to the clerk of the court[,], amend his or her [notice] statement of grounds of appeal and the judicial officer may, in his or her discretion, within 10 days thereafter furnish to the clerk of the court a further or amended statement of his or her findings of fact and reasons for judgment.

[(6)](8) When an appeal is noted in a case in which the prosecution was not at the public instance[, the notice referred to in subrule (1) and] any amended [notice] statement provided for in subrule [(5)](7) shall be served by the [appellant] accused also upon the prosecutor.

- [(7)](9)** An attorney-general desiring to appeal under section 310 of the Criminal Procedure Act, 1977(Act No. 51 of 1977), against the dismissal of a summons or charge shall, within 20 days after such dismissal, deliver a notice of appeal.
- [(8)](10)** Upon an appeal being noted as provided in subrule **[(7)](9)** the clerk of the court shall ~~[cause to be prepared]~~ prepare a copy of the record of the case, including a transcript thereof if it was recorded in accordance with the provisions of rule 66(1), and then place the record before the judicial officer who shall within 15 days thereafter furnish to the clerk of the court a statement in writing of his or her reasons for dismissing the summons or charge.
- [(9)](11)** An attorney-general or other prosecutor who contemplates an appeal under section 310 of the Criminal Procedure Act, 1977(Act No. 51 of 1977), shall within 20 days after the conclusion of the criminal proceedings, in writing request the judicial officer to state a case.
- [(10)](12)** (a) Upon receipt of the request referred to in subrule **[(9)](11)**, the clerk of the court shall ~~[cause to be prepared]~~ prepare a copy of the record of the case, including a transcript thereof if it was recorded in accordance with the provisions of rule 66(1), and then place the record before the judicial officer who shall within 15 days thereafter furnish a stated case to the clerk of the court who shall forthwith transmit a copy thereof to the attorney-general or other prosecutor, as the case may be.
- (b) The stated case shall be divided into paragraphs numbered consecutively and shall be arranged in the following order:
- [(a)](i)** The judicial officer's findings of fact in so far as they are material to the questions of law on which decision in favour of the accused was given;
- [(b)](ii)** questions of law;
- [(c)](iii)** the judicial officer's decision on such questions and his or her reasons therefor.
- [(11)](13)** The attorney-general or other prosecutor may, within 15 days after the receipt by him or her of the stated case, deliver notice of appeal against the decision on questions of law.
- [(12)](14)** Every notice of appeal, statement of grounds of appeal, judicial officer's statement and stated case filed of record with or furnished to the clerk of the court under the provisions of this rule shall become part of the record.
- [(13)](15)** (a) The clerk of the court shall within 10 days after receipt by him or her of the statement referred to in subrule **[(5)](7)** or **[(8)](10)** or of the notice of appeal delivered in terms of subrule **[(11)](13)**, as the case may be, transmit to the registrar of the court of appeal the record of the criminal proceedings or the stated case, together with 3 copies thereof.
- (b) When the prosecution is at the public instance he or she shall also transmit one such copy to the attorney-general: Provided that if the appellant has not amended his or her [notice] statement of grounds of appeal as provided in subrule **[(5)](7)**, the clerk of the court shall so transmit the record without delay after the period allowed for an amendment of the [notice]

statement of grounds of appeal has lapsed."

Amendment of the Numerical List of Forms in Annexure 1 to the Rules

3. The Numerical List of Forms in Annexure 1 to the Rules is hereby amended by the insertion of the following reference after the reference to Form 59:

"60. Notice in terms of section 309B(2)(b) of the Criminal Procedure Act, 1977(Act No. 51 of 1977)."

Amendment of the Alphabetical List of Forms in Annexure 1 to the Rules

4. The Alphabetical List of Forms in Annexure 1 to the Rules is hereby amended by the insertion of the following reference after the reference to Form 36:

"60. Notice in terms of section 309B(2)(b) of the Criminal Procedure Act, 1977(Act No. 51 of 1977)."

Insertion in Annexure 1 to the Rules

5. Annexure 1 to the Rules is hereby amended by the insertion after Form 59 of the following Form:

"FORM 60

**NOTICE IN TERMS OF SECTION 309B(2)(b) OF THE CRIMINAL PROCEDURE ACT,
1977(ACT NO. 51 OF 1977)**

In the district/regional court.....held at

Case No.....

THE STATE vs

TO THE ATTORNEY-GENERAL(OR OTHER PROSECUTOR *),.....
AND TO THE ACCUSED,.....

TAKE NOTICE THAT the application by the accused for leave to appeal in terms of section 309B of the Criminal Procedure Act, 1977(Act No. 51 of 1977), has been set down for hearing on(date), at.....(time)or so soon thereafter as the matter may be heard, in Court No.....Magistrate's Office.

CLERK OF THE COURT,

TO THE ATTORNEY-GENERAL,.....

(Address)

TO THE PROSECUTOR*,.....

(Address)

TO THE ACCUSED,.....

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

OR TO:.....
.....
.....

(Address of accused's attorney, if any)

**ACKNOWLEDGEMENT OF RECEIPT OF NOTICE IN TERMS OF SECTION 309B(2)(b)
OF THE CRIMINAL PROCEDURE ACT, 1977**

Receipt of the above-mentioned notice is hereby acknowledged.

FOR ATTORNEY-GENERAL.....(Signature)
FOR OTHER PROSECUTOR.....(Signature)*
FOR ACCUSED.....(Signature)

* Only to be completed in a case in which the prosecution was not at the public instance."

Commencement

6. These rules shall come into operation on 31 May 1999.

LANDDROSHOWE: WYSIGING VAN DIE REËLS VAN DIE HOF

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

BYLAE**Woordomskrywing**

1. In hierdie reëls beteken "die Reëls" die reëls afgekondig by Goewermentskennisgewing No. R.1108 van 21 Junie 1968, soos gewysig by Goewermentskennisgewings Nos. R.3002 van 25 Julie 1969, R.490 van 26 Maart 1970, R.947 van 2 Julie 1972, R.1115 van 28 Junie 1974, R.1285 van 19 Julie 1974, R.689 van 23 April 1976, R.261 van 25 Februarie 1977, R.2221 van 28 Oktober 1977, R.327 van 24 Februarie 1978, R.2222 van 10 November 1978, R.1449 van 29 Junie 1979, R.1314 van 27 Junie 1980, R.1800 van 28 Augustus 1981, R.1139 van 11 Junie 1982, R.1689 van 29 Julie 1983, R.1946 van 9 September 1983, R.1338 van 29 Junie 1984, R.1994 van 7 September 1984, R.2083 van 21 September 1984, R.391 van 7 Maart 1986, R.2165 van 2 Oktober 1987, R.1451 van 22 Julie 1988, R.1765 van 26 Augustus 1988, R.211 van 10 Februarie 1989, R.607 van 31 Maart 1989, R.2629 van 1 Desember 1989, R.186 van 2 Februarie 1990, R.1887 van 8 Augustus 1990, R.1928 van 10 Augustus 1990, R.1967 van 17 Augustus 1990, R.1261 van 30 Mei 1991, R.2407 van 27 September 1991, R.2409 van 30 September 1991, R.405 van 7 Februarie 1992, R.1510 van 29 Mei 1992, R.1882 van 3 Julie 1992, R.871 van 21 Mei 1993, R.959 van 28 Mei 1993, R.1134 van 25 Junie 1993, R.1355 van 30 Julie 1993, R.1844 van 1 Oktober 1993, R.2530 van 31 Desember 1993, R.150 van 28 Januarie 1994, R.180 van 28 Januarie 1994, R.498 van 11 Maart 1994, R.625 van 28 Maart 1994, R.710 van 12 April 1994, R.1062 van 28 Junie 1996, R.1130 van 5 Julie 1996, R.419 van 14 Maart 1997, R.492 van 27 Maart 1997, R.570 van 18 April 1997, R.790 van 6 Junie 1997, R.797 van 13 Junie 1997, R.784 van 5 Junie 1998, R.910 van 3 Julie 1998, R.1025 van 7 Augustus 1998 en R.1126 van 4 September 1998.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vetdruk tussen vierkantige hake dui skappings uit bestaande reëls aan.
____ Woorde met 'n volstreep daaronder, dui invoegings in bestaande reëls aan.

Vervanging van reël 67 van die Reëls

2. Reël 67 van die Reëls word hierby deur die volgende reël vervang:

- "67. (1) 'n Beskuldigde wat kragtens artikel 309B(1) van die Strafproseswet, 1977 (Wet No. 51 van 1977), aansoek wil doen om verlof om te appelleer, moet dit skriftelik aan die klerk van die hof doen en ook 'n afskrif van die aansoek aan die betrokke prokureur-generaal stuur of, in 'n saak waarin die vervolging nie van staatsweë ingestel is nie, aan die betrokke aanklaer.
- (2) (a) Kennis kragtens artikel 309B(2)(b) van die Strafproseswet, 1977 (Wet No. 51 van 1977), moet deur die klerk van die hof gegee word minstens 10 dae voor die datum wat vir die aanhoor van die aansoek om verlof om te appelleer vasgestel is, tensy die beskuldigde of sy of haar prokureur en die betrokke prokureur-generaal of ander aanklaer oor 'n korter tydperk ooreengekom het, en moet wesenlik met Vorm 60 ooreenstem.
- (b) Die kennisgewing bedoel in paragraaf (a) moet-
- (i) aan die beskuldigde of sy of haar prokureur en aan die betrokke prokureur-generaal of ander aanklaer oorhandig word en bewys van ontvangs van sodanige kennisgewing moet op 'n afskrif van die kennisgewing, wat deur die klerk van die hof bewaar word, aangebring word; of
- (ii) per geregistreerde pos gestuur word.
- [(1)] (3) (a) 'n [Veroordeelde beskuldigde wat verlang om kragtens artikel 309(1)(a) van die Strafproseswet, 1977 (Wet No. 51 van 1977), te appelleer moet binne 15 dae na die datum van die betrokke skuldigbevinding, vonnis of bevel, 'n skriftelike kennisgewing van appél by die klerk van die hof indien waarin hy duidelik en in besonderhede die gronde, hetsy feitlike of regsgronde of feitlike sowel as regsgronde, waarop die appél berus, uiteensit: Met dien verstande dat indien sodanige appél deur 'n]Prokureur wat namens 'n [veroordeelde persoon] beskuldigde aansoek doen om verlof om te appelleer moet [aangeteken word, hy] tegelyk met die indiening van die [kennisgewing van appél] aansoek om verlof om te appelleer of, indien 'n prokureur aangestel word na die indiening van die aansoek om verlof om te appelleer, onmiddellik daarna, 'n volmag [moet] indien wat hom of haar magtig om 'n appél aan te teken en om namens die [veroordeelde persoon] beskuldigde op te tree. [n Veroordeelde wat, nadat 'n regter van die hof van appél geweier het om te sertifiseer dat daar redelike gronde vir appél bestaan, nogtans verlang om 'n deur hom aangetekende appél voort te sit, moet binne 15 dae nadat hy van sodanige weiering in kennis gestel is, skriftelik by die klerk van die hof aandui of laat aandui of hy die appél anders as in eie persoon gaan voortsit en tensy hy so aandui en die nodige stappe binne die genoemde tydperk doen om die appél voort te sit, word geag dat die aangetekende appél verval het.]
- (b) 'n [Veroordeelde] Beskuldigde moet in die [kennisgewing van appél] aansoek om verlof om te appelleer bedoel in [paragraaf (a)] subreël (1) 'n posadres verstrek waar enige kennisgewing per geregistreerde pos

aan hom of haar beteken kan word indien hy of sy nie deur 'n prokureur verteenwoordig word nie of indien hy of sy ophou om deur 'n prokureur verteenwoordig te word.

- [(2)](4) As die [appellant] beskuldigde weens ongeletterdheid of liggaamsgebrek nie in staat is om sodanige [kennisgewing van appél] aansoek om verlof om te appelleer op te stel nie, moet die klerk van die hof, op sy of haar versoek, dit doen.
- [(3)](5) As 'n aansoek om verlof om te appelleer toegestaan word, [appél aangeteken word-
- (a) deur 'n ander persoon as 'n persoon in artikel 305, gelees met artikel 309(4)(a), van die Strafproseswet, 1977 (Wet No. 51 van 1977), bedoel; of
 - (b) deur 'n persoon in artikel 305, gelees met artikel 309(4)(a) van die Strafproseswet, 1977 (Wet No. 51 van 1977), bedoel en 'n regter van die hof van appél gesertifiseer het dat daar redelike gronde vir appél bestaan of as die appél deur 'n prokureur namens so 'n persoon voortgesit word,] moet die klerk van die hof 'n afskrif van die notule van die saak, insluitende 'n transkripsie daarvan as dit kragtens die bepalings van reël 66(1) afgeneem is, [(i)] maak en sodanige afskrif aan die regterlike amptenaar voorlê wat binne 15 dae daarna aan die klerk van die hof 'n skriftelike verklaring moet verstrek waarin aangegee word-
 - [(i)] (a) die feite wat hy of sy bevind het bewys te wees;
 - [(ii)] (b) sy of haar redes vir enige feitlike bevinding wat in die [appellant se kennisgewing] beskuldigde se verklaring van gronde van appél vermeld is en waarteen geappelleer word; en
 - [(iii)] (c) sy of haar redes vir enige beslissing oor 'n regspraak of ten opsigte van die toelating of verwerping van getuienis aldus vermeld en waarteen geappelleer word.
- [(4)](6) Die klerk van die hof moet by ontvangs van die regterlike amptenaar se verklaring onverwyld die [persoon wat die appél aangeteken het,] beskuldigde verwittig dat die verklaring verstrek is.
- [(5)](7) Binne 15 dae nadat die [persoon wat die appél aangeteken het] beskuldigde aldus verwittig is, kan [die appellant] hy of sy by kennisgewing aan die klerk van die hof sy of haar [kennisgewing] verklaring van gronde van appél wysig en die regterlike amptenaar kan, na goeddunke, binne 10 dae daarna 'n verdere of gewysigde verklaring van sy of haar feitlike bevindings en redes vir vonnis aan die klerk van die hof verstrek.
- [(6)] (8) Wanneer 'n appél aangeteken word in 'n saak waarin die vervolging nie van staatsweë ingestel is nie, moet [die kennisgewing in subreël (1) genoem en] enige gewysigde [kennisgewing] verklaring in subreël [(5)](7) genoem, deur die [appellant] beskuldigde ook aan die [staatsaanklaer] aanklaer beteken word.
- [(7)] (9) 'n Prokureur-generaal wat verlang om kragtens artikel 310 van die

Strafproseswet, 1977 (Wet No. 51 of 1977), teen 'n afwysing van die dagvaarding of klagte te appelleer, moet binne 20 dae na sodanige afwysing 'n kennisgewing van appél aflower.

- [(8)] (10) As 'n appél aangeteken word soos in subreël [(7)](9) bepaal, moet die klerk van die hof 'n afskrif van die notule van die saak, met inbegrip van 'n transkripsie daarvan as dit kragtens die bepalings van reël 66(1) afgeneem is, [laat] maak en dit aan die regterlike amptenaar voorlê wat binne 15 dae daarna aan die klerk van die hof 'n skriftelike verklaring verstrek waarin sy of haar redes vir die afwysing van die dagvaarding of klagte aangegee word.
- [(9)] (11) 'n Prokureur-generaal of ander aanklaer wat 'n appél kragtens artikel 310 van die Strafproseswet, 1977 (Wet No. 51 of 1977), beoog, moet binne 20 dae na beëindiging van die strafregtelike verrigtinge die regterlike amptenaar skriftelik versoek om 'n saak te stel.
- [(10)] (12) (a) By ontvangs van die versoek in subreël [(9)] (11) genoem, moet die klerk van die hof 'n afskrif van die notule van die saak, met inbegrip van 'n transkripsie daarvan as dit kragtens die bepalings van reël 66(1) afgeneem is, [laat] maak en dit dan aan die regterlike amptenaar voorlê wat binne 15 dae daarna 'n gestelde saak aan die klerk van die hof moet voorlê wat onverwyld 'n afskrif daarvan aan die prokureur-generaal of ander aanklaer, na gelang van die geval, moet stuur.
- (b) Die gestelde saak moet in agtereenvolgende genommerde paragrawe verdeel word en in die volgende volgorde gerangskik wees -
- [(a)](i) Die regterlike amptenaar se feitlike bevindings vir sover hulle wesenlik betrekking het op die regsrae waarop ten gunste van die beskuldigde beslis is;
- [(b)](ii) die regsrae;
- [(c)](iii) die regterlike amptenaar se beslissing ten opsigte van sodanige vrae en sy of haar redes daarvoor.
- [(11)] (13) Die prokureur-generaal of ander aanklaer kan, binne 15 dae nadat hy of sy die gestelde saak ontvang het, 'n kennisgewing van appél teen die beslissing op regsrae aflower.
- [(12)] (14) Elke kennisgewing van appél, verklaring van gronde van appél, verklaring van die regterlike amptenaar en gestelde saak wat kragtens die bepalings van hierdie reël by die klerk van die hof ingedien of aan hom of haar verstrek is, maak deel uit van die stukke in die saak.
- [(13)] (15) (a) Die klerk van die hof moet binne 10 dae na ontvangs deur hom of haar van die verklaring in subreël [(5)] (7) of [(8)] (10) genoem, of van die kennisgewing van appél wat kragtens subreël [(11)] (13) afgelewer is, na gelang van die geval, die notule van die strafverrigtinge of gestelde saak, tesame met 3 afskrifte daarvan, aan die griffier van die hof van appél stuur.
- (b) Wanneer die vervolging van staatsweë ingestel is, moet hy of sy een sodanige afskrif ook aan die prokureur-generaal stuur. Met dien verstande dat indien die appellant nie sy of haar [kennisgewing] verklaring van gronde van appél, soos in subreël [(5)] (7) bepaal,

gewysig het nie, die klerk van die hof die notule onverwyld aldus moet aanstuur nadat die tydperk wat vir 'n wysiging van die [kennisgewing] verklaring van gronde van appél bepaal is, verstryk het."

Wysiging van die Numeriese Lys van Vorms in Bylae 1 van die Reëls

3. Die Numeriese Lys van Vorms in Bylae 1 van die Reëls word hierby gewysig deur die invoeging van die volgende verwysing na die verwysing na Vorm 59:

"60. Kennisgewing kragtens artikel 309B(2)(b) van die Strafproseswet, 1977 (Wet No. 51 van 1977)."

Wysiging van die Alfabetiese Lys van Vorms in Bylae 1 van die Reëls

4. Die Alfabetiese Lys van Vorms in Bylae 1 van die Reëls word hierby gewysig deur die invoeging van die volgende verwysing na die verwysing na Vorm 40:

"60. Kennisgewing kragtens artikel 309B(2)(b) van die Strafproseswet, 1977 (Wet No. 51 van 1977)."

Invoeging in Bylae 1 van die Reëls

5. Bylae 1 van die Reëls word hierby gewysig deur die invoeging van die volgende Vorm na Vorm 59:

"VORM 60

KENNISGEWING KRAGTENS ARTIKEL 309B(2)(b) VAN DIE STRAFPROSESWET, 1977 (WET NO. 51 VAN 1977)

In die distrikshof/streekhofgehou te

Saakno.

DIE STAAT

vs

AAN DIE PROKUREUR-GENERAAL (OF ANDER AANKLAER*),
EN AAN DIE BESKULDIGDE,

NEEM KENNIS DAT die aansoek deur die beskuldigde om verlof om te appelleer kragtens artikel 309B van die Strafproseswet, 1977 (Wet No. 51 of 1977), ter rolle geplaas is vir aanhoor op (datum) om(tyd) of so gou moontlik daarna as wat die saak aangehoor kan word, in Hof No, Landdroskantoor,

.....
KLERK VAN DIE HOF,

AAN DIE PROKUREUR-GENERAAL,
.....
.....

(Adres)

AAN DIE AANKLAER*,
.....

(Adres)

AAN DIE BESKULDIGDE,

(Adres)

OF AAN:

(Adres van beskuldigde se prokureur, indien enige)

**ERKENNING VAN ONTVANGS VAN KENNISGEWING KRAGTENS ARTIKEL 309B(2)(b)
VAN DIE STRAFPROSESWET, 1977**

Ontvangs van bogemelde kennisgewing word hiermee erken.

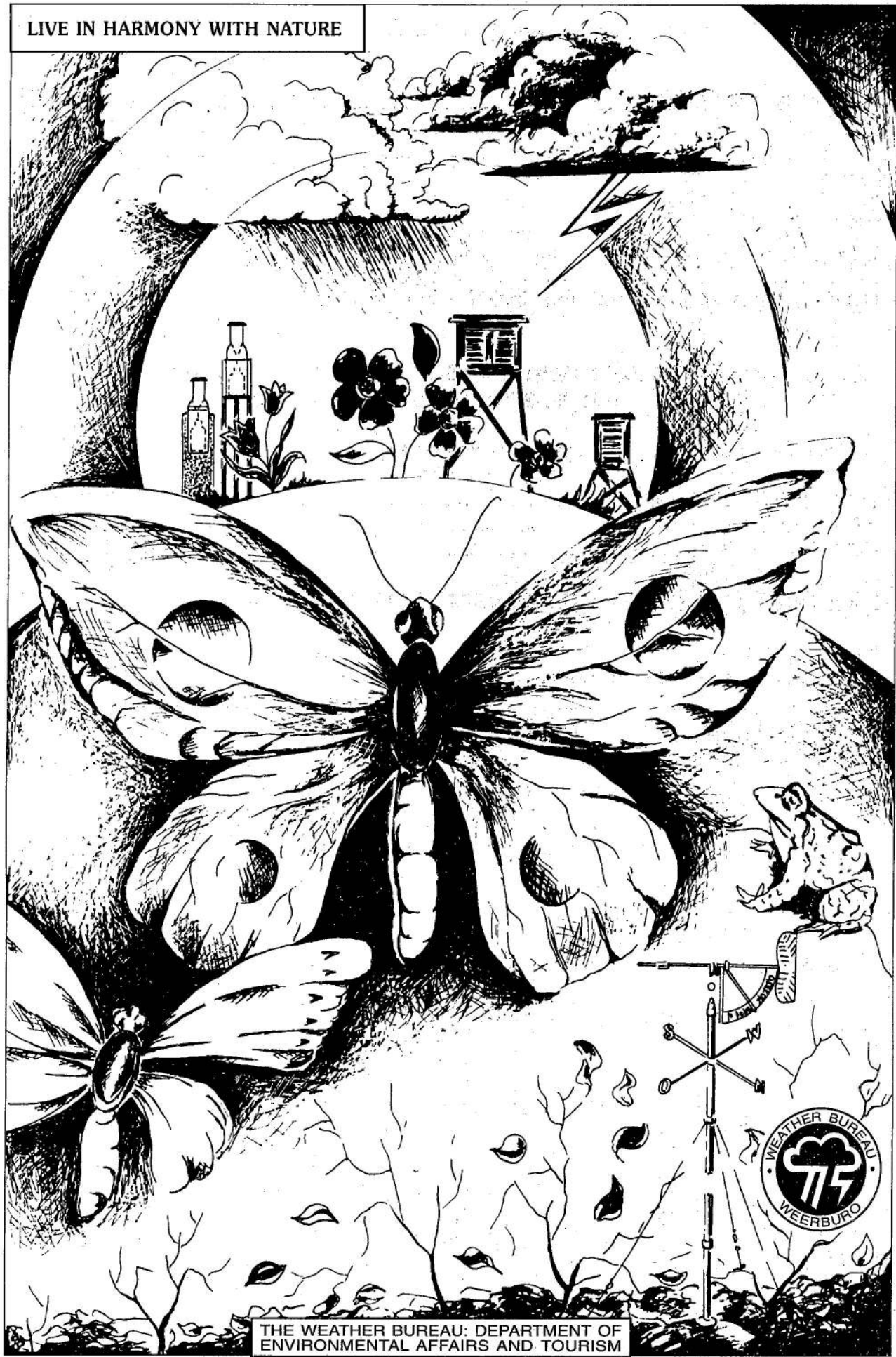
VIR PROKUREUR-GENERAAL (Handtekening)
VIR ANDER AANKLAER (Handtekening)*
VIR BESKULDIGDE (Handtekening)

Moet slegs ingevul word wanneer vervolging nie van staatsweë ingestel is nie.

Inwerkingtreding

6. Hierdie reëls tree op 31 Mei 1999 in werking.

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DIE WEERBURO: DEPARTEMENT VAN OMGEWINGSAKE EN TOERISME



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