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GOVERNMENT NOTICES

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R. 317 **17 April 2015**

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)

AMENDMENT OF 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 and Correctional Services, made the rules in the Schedule.

SCHEDULE

Definition

1. In this Schedule 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. 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

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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 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. 181of 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 20 October 1997, R. 785 of 5 June 1998, R. 881 of 26 June 1998, R. 1024 of 7 August 1998, R. 1723 of 30 December 1998, R. 315 of 12 March 1999, R. 568 of 30 April 1999, R. 1084 of 10 September 1999, R. 1299 of 29 October 1999, R. 502 of 19 May 2000, R. 849 of 25 August 2000, R. 373 of 30 April 2001, R. 1088 of 26 October 2001, R. 1755 of 5 December 2003, R. 229 of 20 February 2004, R. 1343 of 12 December 2008, R. 1345 of 12 December 2008, R. 516 of 8 May 2009 and R.518 of 8 May 2009, R. 88 of 12 February 2010, R500 in GG 33273 of 11 June 2010, R. 591 of 8 July 2010, R. 980 of 19 November 2010, R. 981 of 19 November 2010, R. 464 of 22 June 2012, R. 992 of 7 December 2012, R. 144 of 15 February 2013, R. 262 of 12 April 2013, R. 471 of 12 July 2013, R. 472 of 12 July 2013, and R. 759 of 11 October 2013, R. 212 of 28 March 2014, R. 213 of 28 March 2014, R. 214 of 28 March 2014, R. 30 of 23 January 2015 and R. 31 of 23 January 2015.

Substitution of rule 10A of Rules

2. The following rule is hereby substituted for rule 10A of the Rules:

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"10A. Joinder of provincial or national executive authorities and service on Rules Board for Courts of Law

(1) If in any proceedings before the court, the validity of a law is challenged, whether in whole or in part and whether on constitutional grounds or otherwise, the party challenging the validity of the law must join the provincial or national executive authorities responsible for the administration of the law in the proceedings.

(2) Where a challenge referred to in subrule (1) is made against a rule made by the Rules Board for Courts of Law, the party challenging the rule must, at the time when the challenge is made, serve on the Rules Board for Courts of Law, a notice setting out the basis of the challenge, together with copies of all documents in which the challenge is referred to."

Amendment of rule 49 of the Rules

3. Rule 49 of the Rules is hereby amended by the repeal of subrule (11).

Amendment of rule 53 of the Rules

4. Rule 53 of the Rules is hereby amended—

(a) by the substitution for subrule (1) of the following subrule:

"(1) Save where any law otherwise provides, all proceedings to bring under review the decision or proceedings of any inferior court and of any tribunal, board or officer performing judicial, quasi-judicial or administrative functions shall be by way of notice of motion directed and delivered by the party seeking to review such decision or proceedings to the magistrate, presiding officer or chairperson of the court, tribunal or board or to the officer, as the case may be, and to all other parties affected-

(a) calling upon such persons to show cause why such decision or proceedings should not be reviewed and corrected or set aside, and

(b) calling upon the magistrate, presiding officer, chairperson or officer, as the case may be, to despatch, within fifteen days after receipt of the notice of motion, to the registrar the record of such proceedings sought to be corrected or

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set aside, together with such reasons as he or she is by law required or desires to give or make, and to notify the applicant that he or she has done so."

(b) by the substitution for subrule (3) of the following subrule:

"(3) The registrar shall make available to the applicant the record despatched to him or her as aforesaid upon such terms as the registrar thinks appropriate to ensure its safety, and the applicant shall thereupon cause copies of such portions of the record as may be necessary for the purposes of the review to be made and shall furnish the registrar with two copies and each of the other parties with one copy thereof, in each case certified by the applicant as true copies. The costs of transcription, if any, shall be borne by the applicant and shall be costs in the cause."

(c) by the substitution for subrule (4) of the following subrule:

"(4) The applicant may within ten days after the registrar has made the record available to him or her, by delivery of a notice and accompanying affidavit, amend, add to or vary the terms of his or her notice of motion and supplement the supporting affidavit."

(d) by the substitution for subrule (5) of the following subrule:

"(5) Should the presiding officer, chairperson or officer, as the case may be, or any party affected desire to oppose the granting of the order prayed in the notice of motion, he or she shall-

(a) within fifteen days after receipt by him or her of the notice of motion or any amendment thereof deliver notice to the applicant that he or she intends so to oppose and shall in such notice appoint an address within 15 kilometres of the office of the registrar at which he or she will accept notice and service of all process in such proceedings; and

(b) within thirty days after the expiry of the time referred to in subrule (4) hereof, deliver any affidavits he or she may desire in answer to the allegations made by the applicant."

Commencement

5. These rules commence on **22 May 2015.**