RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA

2nd Floor, Centre Walk East Tower, 266 Pretorius Street, PRETORIA • P.O. Box 13106, The Tramshed, 0126 • Tel (012) 326 8014/ 8045, Fax (012) 326 8018

3 October 2018 Our ref: Raj Daya /C Kemp Your ref:

Per email

Dear Sir/Madam

RE: REQUEST FOR COMMENT: PROPOSED AMENDMENTS TO UNIFORM RULE 70 AND MAGISTRATES' COURTS RULE 33 TO PROVIDE FOR *INTER ALIA, DIES NON* PROVISIONS AND TIME LIMITS FOR THE NOTICE OF OPPOSITION

The Rules Board for Courts of Law is considering amending Uniform Rule 70, Form 26 and Magistrates' Courts Rule 33.

The purpose of the proposed amendments is to provide for:

(i) the extension of *dies non* to the hearing of a taxation, the inspection of documents or notes to a bill of costs and the filing of a notice of opposition; and

(ii) the time period for the filing of a notice of opposition.

As part of its consultative process in rule making and amendment, the Rules Board invites your comments and input on the proposed draft amendments referred to hereinabove. The draft amendments to Uniform Rule 70, Form 26 (First Schedule) and Magistrates' Courts Rule 33 as well as proposed Form 58 of Annexure 1 to the Magistrates' Courts Rules are attached as

ANNEXURE A

Role-players to note that the proposed amendments to Magistrates' Courts Rule 33 include amendments previously sent to role-players that incorporate within the rule, the pre-taxation process in Uniform Rule 70(3B).

For ease of reference, copies of the existing Uniform Rule 70, Form 26 (First Schedule) and Magistrates' Courts Rule 33 are attached as **ANNEXURE B**

Board members appointed in terms of Section 3 of the Rules Board for Courts of Law Act 107 of 1985
Justice N Dambuza(Chairperson)| Justice FE Mokgohloa(Vice-Chairperson)| Mr.M Kutama | Adv.L Haupt SC | Mr.A Essa | Ms.J Wessels
Mr.P Hundermark | Ms.N Ndlovu | Mr.R Isaacs | Mr.T Seboka | Adv.M Sishuba | Prof.E Hurter | Adv.M Basdew | Mr.G Bellairs | Mr.T Thupaatlase

Kindly submit your comments to the Secretariat by not later than **23 November 2018**.

Same can be sent via hand delivery, post, facsimile or email as follows:
Physical address: 2nd Floor, Centre Walk East Tower, 266 Pretorius Street, Pretoria;
Postal address: P.O. Box 13106, The Tramshed, 0126;
Facsimile: (012) 326 - 8018;

Email: Charmaine Kemp (ChKemp@justice.gov.za).
Further enquiries may be directed to 012 326 8014.

Yours Faithfully,



Raj Daya
Deputy Chief State Law Adviser
Secretary to the Rules Board
w: +27 (0)12 3268014 | **fx** : +27 (0)12 3268018
efx:+27 (0)86 7540681| **m** : +27 (0)834392150
rajdaya@justice.gov.za
www.justice.gov.za

ANNEXURE A

PROPOSED DRAFT AMENDMENT TO UNIFORM RULE 70

GENERAL EXPLANATORY NOTE:

[ ] Expressions in bold type in square brackets represent omissions from existing rules

_____ Expressions underlined with a solid line represent insertions into existing rules

70 Taxation and Tariff of Fees of Attorneys

(3B) (a)Prior to enrolling a matter for taxation, the party who has been awarded an order for costs shall, by notice as near as may be in accordance with Form 26 of the First Schedule-

[*(a)*] (i) afford the party liable to pay costs at the time therein stated, and for a period of ten (10) days thereafter, by prior arrangement, during normal business hours and on any one or more such days, the opportunity to inspect such documents or notes pertaining to any item on the bill of costs; and

[*(b)*] (ii) require the party to whom notice is given, to deliver to the party giving the notice within **[twenty (20)]** ten (10) days after the expiry of the period in subparagraph (i), a written notice of opposition, specifying the items on the bill of costs objected to, and a brief summary of the reason for such objection.

(b) for the purposes of this subrule, the days between 16 December and 15 January, both inclusive, must not be counted in the time allowed for inspecting documents or notes pertaining to any item on a bill of costs or the giving of a written notice of opposition.

(3C) No taxation shall be set down in the days between 16 December and 15 January, both inclusive, except-

(a) where the period for delivery of the notice of opposition has expired before the commencement of the period 16 December and 15 January, both inclusive, and no notice of intention to oppose has been delivered;

(b) where the party liable to pay the costs has consented in writing to the taxation in his or her absence; or

(c) for the taxation of writ and post-writ bills.

(4) The taxing master shall not proceed with the taxation of any bill of costs unless he or she is satisfied that the party liable to pay the costs has received-

(a) due notice in terms of subrule (3B); and

(b) not less than 10 days' notice of the date, time and place of such taxation and that he or she is entitled to be present thereat: Provided that such notice shall not be necessary-

(i) if the party liable to pay the costs has consented in writing to taxation in his or her absence;

(ii) if the party liable to pay the costs failed to give notice of intention to oppose in terms of subrule (3B); or

(iii) for the taxation of writ and post-writ bills:

Provided further that, if any party fails to appear after having given notice of opposition in terms of subrule (3B)**[*(b)*]**(a)(ii), the taxation may proceed in their absence.

FORM 26
NOTICE OF INTENTION TO TAX BILL OF COSTS

IN THE HIGH COURT OF SOUTH AFRICA (..... DIVISION)	
	CASE NO _____
In the matter between _____	Plaintiff/Applicant
and	
_____	Defendant/Respondent

TAKE NOTICE THAT ..... (party) intends submitting the attached bill of costs to the taxing master at ..... (place) for taxation.

You may inspect the documents or notes pertaining to any item on the bill of costs at ..... (address) between the hours of ..... (business hours) for a period of ten (10) days after receipt of this notice.

You may furthermore file a notice of intention to oppose the taxation within **[twenty (20)]** 10 (ten) days after **[receipt of this notice]** the expiry of the period permitted for the inspection.

In your notice of intention to oppose you shall list all the items on the bill of costs to which you object, and a brief summary of the reason for your objection.

Should you fail to file your notice of intention to oppose within the time specified, the bill of costs will be submitted to the taxing master for taxation without further notice to you.

If you do give notice of intention to oppose within the specified time, you may at the taxation object to the items specified in your notice of opposition.

DATED at _____ on this _____day of _____ 20_____

	_____ Attorney for ..... (Address)
To: _____ Attorney for ..... (Address)	

PROPOSED AMENDMENT TO MAGISTRATES' RULE 33 AND PROPOSED FORM 58 – TAXATION (*DIES NON*)

GENERAL: EXPLANATORY NOTE:

Expressions with solid underline indicate insertions into existing rule.

Expressions with bold type **[ ]** in square brackets indicate omissions from existing rules

Magistrates' Courts Rule 33

(15) Where costs or expenses are awarded to any party by the court, otherwise than by a judgment in default of the defendant's delivery of notice of intention to defend or on the defendant's consent to judgment before the time for such notice has expired, the party to whom such costs or expenses have been awarded shall **[deliver a bill of such costs or expenses and give at least 5 days' notice of taxation for an hour to be fixed (generally or specially) by the registrar or clerk of the court and he or she may include in such bill all such payments as have been necessarily and properly made by him or her.]**

:

(a) draw a bill of such costs or expenses and he or she may include in such bill all such payments as have been necessarily and properly made by him or her; and

(b) Prior to enrolling a matter for taxation, by notice as near as may be in accordance with Form 58 of Annexure 1-

(i) afford the party liable to pay costs at the time therein stated, and for a period of ten (10) days thereafter, by prior arrangement, during normal business hours and on any one or more such days, the opportunity to inspect such documents or notes pertaining to any item on the bill of costs; and

(ii) require the party to whom notice is given, to deliver to the party giving the notice within ten (10) days, *after the expiry of the period in subparagraph (i)*, a written notice of opposition, specifying the items on the bill of costs objected to, and a brief summary of the reason for such objection.

(c) for the purposes of this subrule, the days between 16 December and 15 January, both inclusive, must not be counted in the time allowed for inspecting documents or notes pertaining to any item on a bill of costs or the giving of a written notice of intention to oppose.

(15A) No taxation shall be set down in the days between 16 December and 15 January, both inclusive, except-

(a) where the period for delivery of the notice of opposition has expired before the commencement of the period 16 December and 15 January, both inclusive, and no notice of intention to oppose has been delivered;

(b) where the party liable to pay the costs has consented in writing to the taxation in his or her absence.

(16) The registrar or clerk of the court shall not proceed with the taxation of any bill of costs and allow the relevant costs and expenses unless he or she is satisfied that the party liable to pay the costs has received-

(a) due notice in terms of subrule 15*(b)*; and

(b) not less than 10 days' notice of the date, time and place of such taxation and that he or she is entitled to be present thereat: Provided that such notice shall not be necessary-

(i) if the party liable to pay the costs has consented in writing to taxation in his or her absence; or

(ii) if the party liable to pay costs failed to give notice of intention to oppose in terms of subrule (15)*(b)*(ii):

Provided further that, if any party fails to appear after having given notice of opposition in terms of subrule (15)*(b)*(ii), the taxation may proceed in their absence.

(c) Witness fees shall not be allowed in taxation unless properly vouched for. **[(16) After subrule (15) has been complied with the registrar or clerk of the court shall tax and**

allow the relevant costs and expenses: Provided that witness fees shall not be allowed in taxation unless properly vouched for.]

Proposed Form 58 of Annexure 1 to the Magistrates' Courts Rules:

"No. 58 - Notice of intention to tax bill of costs in terms of rule 33(15)*(b)*

***For use in the District Court**

In the Magistrate's Court for the District of .....
held at..... Case No .....
In the matter between:

.....
Plaintiff/Applicant
A.B.
and
C.D.

.....
Defendant/Respondent

TAKE NOTICE THAT ..... (party) intends submitting the attached bill of costs to the Clerk of the court at ..... (place) for taxation.

You may inspect the documents or notes pertaining to any item on the bill of costs at.....(address) between the hours of.....(business hours) for a period of ten (10) days after receipt of this notice.

You may furthermore file a notice of intention to oppose the taxation within ten (10) days after the expiry of the period permitted for the inspection.

In your notice of intention to oppose you shall list all the items on the bill of costs to which you object, and a brief summary of the reason for your objection.

Should you fail to file your notice of intention to oppose within the time specified, the bill of costs will be submitted to the Clerk of the court for taxation without further notice to you.

If you do give notice of intention to oppose within the specified time, you may, at the taxation, object to the items specified in your notice of opposition.

DATED at ..... this ..... day of ..... 20.....

.....
Plaintiff/Defendant/Plaintiff's/Defendant's Attorneys

.....
(Address)"

"No. 58 - Notice of intention to tax bill of costs in terms of rule 33(15)*(b)*

***For use in the Regional Court**

In the Regional Court for the Regional Division of .....
held at..... Case No .....
In the matter between:

.....
Plaintiff/Applicant
A.B.
and
C.D.

.....
Defendant/Respondent

TAKE NOTICE THAT ..... (party) intends submitting the attached bill of costs to the Registrar at ..... (place) for taxation.

You may inspect the documents or notes pertaining to any item on the bill of costs at.....(address) between the hours of.....(business hours) for a period of ten (10) days after receipt of this notice.

You may furthermore file a notice of intention to oppose the taxation within ten (10) days after the expiry of the period permitted for the inspection.

In your notice of intention to oppose you shall list all the items on the bill of costs to which you object, and a brief summary of the reason for your objection.

Should you fail to file your notice of intention to oppose within the time specified, the bill of costs will be submitted to the Registrar for taxation without further notice to you.

If you do give notice of intention to oppose within the specified time, you may, at the taxation, object to the items specified in your notice of opposition.

DATED at ..... this ..... day of ..... 20.....

.....
Plaintiff/Defendant/Plaintiff's/Defendant's Attorneys

.....
(Address)"

ANNEXURE B

UNIFORM RULE

70 Taxation and Tariff of Fees of Attorneys

(1)*(a)* The taxing master shall be competent to tax any bill of costs for services actually rendered by an attorney in his capacity as such in connection with litigious work and such bill shall be taxed subject to the provisions of subrule (5), in accordance with the provisions of the appended tariff: Provided that the taxing master shall not tax costs in instances where some other officer is empowered so to do.

(b) The provisions relating to taxation existing prior to the promulgation of this subrule shall continue to apply to any work done or to be done pursuant to a mandate accepted by a practitioner prior to such date.

(2) At the taxation of any bill of costs the taxing master may call for such books, documents, papers or accounts as in his opinion are necessary to enable him properly to determine any matter arising from such taxation.

(3) With a view to affording the party who has been awarded an order for costs a full indemnity for all costs reasonably incurred by him in relation to his claim or defence and to ensure that all such costs shall be borne by the party against whom such order has been awarded, the taxing master shall, on every taxation, allow all such costs, charges and expenses as appear to him to have been necessary or proper for the attainment of justice or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the taxing master to have been incurred or increased through over-caution, negligence or mistake, or by payment of a special fee to an advocate, or special charges and expenses to witnesses or to other persons or by other unusual expenses.

(3A) Value added tax may be added to all costs, fees, disbursements and tariffs in respect of which value added tax is chargeable.

[Subrule (3A) inserted by GN R406 of 7 February 1992 and substituted by GN R798 of 13 June 1997.]

(3B) Prior to enrolling a matter for taxation, the party who has been awarded an order for costs shall, by notice as near as may be in accordance with Form 26 of the First Schedule-

(a) afford the party liable to pay costs at the time therein stated, and for a period of ten (10) days thereafter, by prior arrangement, during normal business hours and on any one or more such days, the opportunity to inspect such documents or notes pertaining to any item on the bill of costs; and

(b) require the party to whom notice is given, to deliver to the party giving the notice within twenty (20) days, a written notice of opposition, specifying the items on the bill of costs objected to, and a brief summary of the reason for such objection.

[Subrule (3B) inserted by GN R90 of 12 February 2010 (wef 12 March 2010).]

(4) The taxing master shall not proceed with the taxation of any bill of costs unless he or she is satisfied that the party liable to pay the costs has received-

(a) due notice in terms of subrule (3B); and

(b) not less than 10 days' notice of the date, time and place of such taxation and that he or she is entitled to be present thereat: Provided that such notice shall not be necessary-

(i) if the party liable to pay the costs has consented in writing to taxation in his or her absence;

(ii) if the party liable to pay the costs failed to give notice of intention to oppose in terms of subrule (3B); or

(iii) for the taxation of writ and post-writ bills:

Provided further that, if any party fails to appear after having given notice of opposition in terms of subrule (3B)*(b)*, the taxation may proceed in their absence.

[Subrule (4) substituted by GN R90 of 12 February 2010 (wef 12 March 2010) and by GN R1055 of 29 September 2017 (wef 1 November 2017).]

(5)*(a)* The taxing master shall be entitled, in his discretion, at any time to depart from any of the provisions of this tariff in extraordinary or exceptional cases, where strict adherence to such provisions would be inequitable.

(b) In computing the fee allowed in respect of items 1, 2, 3, 6, 7 and 8 of Section A; 1 and 2 of Section B and 2 of Section C, the taxing master shall take into account the time necessarily taken, the complexity of the matter, the nature of the subject matter in dispute, the amount in dispute and any other factors which he or she considers relevant.

[Para. *(b)* substituted by GN R31 of 23 January 2015 (wef 24 February 2015).]

(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.

[Subrule (5A) inserted by GN R1723 of 30 December 1998.]

(6)*(a)* In order to diminish as far as possible the costs arising from the copying of documents to accompany the briefs of advocates, the taxing master shall not allow the costs of any unnecessary duplication in briefs.

(b) Fees may be allowed by the taxing master in his discretion as between party and party for the copying of any document which, in his view, was reasonably required for any proceedings.

(7) Fees for copying shall be disallowed to the extent by which such fees could reasonably have been reduced by the use of printed forms in respect of bonds, credit agreements or other documents.

(8) Where, in the opinion of the taxing master, more than one attorney has necessarily been engaged in the performance of any of the services covered by the tariff, each such attorney shall be entitled to be remunerated on the basis set out in the tariff for the work necessarily done by him.

(9) Save for the forms set out in the First Schedule to these Rules, a page shall contain at least 250 words and four figures shall be counted as a word.

[Subrule (9) substituted by GN R1557 of 20 September 1996.]

(10) The costs taxed and allowed in terms of the tariff for acts performed after the date of commencement5 of the rules published by Government Notice R210 of 10 February 1989 shall be increased by an amount equal to 70 per cent of the total amount of such costs, for acts performed after the date of commencement6 of the rules published by Government Notice R2410 of 30 September 1991 shall be increased by an amount equal to 100 per cent of the total amount of such costs and for acts performed after 1 July 1993 only the Tariff of Fees of Attorneys in rule 70, published by Government Notice R974 of 1 June 1993, shall apply.

[Subrule (10) inserted by GN R1996 of 7 September 1984, amended by GN R2094 of 13 September 1985, by GN R2164 of 2 October 1987 and by GN R210 of 10 February 1989, substituted by GN R2410 of 30 September 1991 (as corrected by GN R2479 of 18 October 1991) and by Government Notice R974 of 1 June 1993 and amended by GN R1557 of 20 September 1996.]

TARIFF OF FEES OF ATTORNEYS

A - CONSULTATIONS, APPEARANCES, CONFERENCES AND INSPECTIONS	
1 Consultation with a client and witnesses to institute or to defend an action, for advice on evidence or advice on commission, for obtaining an opinion or an advocate's guidance in preparing pleadings, including exceptions, and to draft a petition or affidavit, per quarter of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
2 Consultation to note, prosecute or defend an appeal, per quarter of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
3 Attendance by an attorney in court at proceedings in terms of rule 37 of these Rules, per quarter of an hour or part thereof	R292.50
4 Attendance by a candidate attorney, where necessary, to assist at a contested proceeding, per quarter of an hour or part thereof	R90.50
5 Any conference with an advocate, with or without witnesses, on pleadings, including exceptions and particulars to pleadings, applications, petitions, affidavits and testimony, and on any other matter which the taxing officer may consider necessary, per quarter	

of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
6 Any other conference which the taxing officer may consider necessary, per quarter of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
7 Any inspection i*n situ*, or otherwise, per quarter of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
8 Attending to give or take disclosure, per quarter of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
9 Inclusive fee for necessary consultations and discussions with a client, witness, other party or advocate not otherwise provided for, per quarter of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
10 Appearance by an attorney in court or the performance by an attorney of any of the other functions of an advocate, in terms of the Right of Appearance in Courts Act, 1995 (Act 62 of 1995)	The tariff under rule 69 shall apply.
11 The rates of remuneration in items 1 to 9 do not include time spent travelling or waiting and the taxing officer may, in respect of time necessarily so spent, allow such additional remuneration as he or she in his or her discretion considers fair and reasonable, but not exceeding R292.50 per quarter of an hour or part thereof in the case	

of an attorney and R90.50 per quarter of an hour or part thereof in the case of a candidate attorney plus a reasonable amount for necessary conveyance.	
B - DRAFTING AND DRAWING	
1 The drawing up of a formal statement in a matrimonial matter, verifying affidavits, affidavits of service or other formal affidavits, index to brief, short brief, statements of witnesses, powers of attorney to sue or defend, as well as other formal documents and summonses, including all documents such as the prescribed forms in the First Schedule to these Rules, but not the particulars of claim in an annexure to the summons: an inclusive tariff - drawing up, checking, typing, printing, copies, delivery and filing thereof, per page of the original only	R117.50
2 The drawing up of other necessary documents, including-	
(a) instructions for an opinion, for an advocate's guidance in preparing pleadings, including further particulars and requests for same, including exceptions;	
(b) instructions to advocate in respect of all classes of pleadings;	
(c) a petition, exception or affidavit, any notice (except a formal notice), particulars of claim or an annexure to the summons, opinion by an attorney or any other important document not otherwise provided for,	
an inclusive tariff - drawing up, checking, typing, printing, copies, delivery and filing thereof, per page of the original only	R292.00
3 Letters, telegrams and facsimiles: Inclusive tariff for drawing up, checking, typing, printing, delivery, copies, postage, posting thereof, per page	R117.50
NOTE 1: Particulars of dispatched letters, telegrams and facsimiles need not be specified in a bill of costs. The number of letters written must be specified, as well as the total amount charged. The opposing party, as well as the taxing officer, is entitled to inspect the papers should the correctness of the item be disputed.	
NOTE 2: Whenever an attorney performs any of the work listed in this section, the fees set out herein in respect of such work shall apply and not any fees which would be applicable in terms of the	

tariff under rule 69 if an advocate had performed the work in question.	
C - ATTENDANCE AND PERUSAL	
1 Attending the receipt, entry, perusing, considering and filing of-	
(a) any summons, petition, affidavit, pleading, advocate's advice and drafts, report, important letter, notice or document;	
(b) any formal letter, record stock sheets in voluntary surrenders, judgments or any other material document not elsewhere specified;	
(c) any plan or exhibit or other material document which was necessary for the conduct of the action, per page	R59.50
2 Sorting, arranging and paginating papers for pleadings, advice on evidence or brief on trial or appeal, per quarter of an hour or part thereof-	
(a) by an attorney	R292.50
(b) by a candidate attorney	R90.50
NOTE: Particulars of received papers need not be specified in bills of costs. The number of papers and pages received, as well as the total amount charged therefor, must be specified. The opposing party as well as the taxing officer is entitled to inspect the papers received if the correctness of the item is disputed.	
D - MISCELLANEOUS	
1 For making necessary copies, including photocopies, of any document or papers not already provided for in this tariff, per A4 size page	R4.00
2 Attending to arrange translation and thereafter to procure same, per quarter of an hour or part thereof-	R292.50
(a) by an attorney	

(b) by a candidate attorney	R90.50
3 Necessary telephone calls: The actual cost thereof, plus for every five minutes or part thereof-	
(a) by an attorney	R98.00
(b) by a candidate attorney	R30.00
4 Sending facsimile letters: The actual cost of sending the facsimile letter, in addition to the fee allowed for the drawing thereof under item B3 above.	
5 Testimony: Fair and reasonable charges and expenses which in the opinion of the taxing officer were duly incurred in the procurement of the evidence and the attendance of witnesses whose witness fees have been allowed on taxation: Provided that the preparation fees of a witness shall not be allowed without an order of the court or the consent of all interested parties.	

E - BILL OF COSTS
In connection with a bill of costs for services rendered by an attorney, the attorney shall be entitled to charge:
1 For drawing the bill of costs, making the necessary copies and attending settlement, 10.60 per cent of the attorney's fees, either as charged in the bill, if not taxed, or as allowed on taxation.
2 In addition to the fees charged under item 1, if recourse is had to taxation for arranging and attending taxation and obtaining consent to taxation, 10.60 per cent on the first R10 000.00 or portion thereof, 5.10 per cent on the next R10 000.00 or portion thereof and 2.12 per cent on the balance of the total amount of the bill.
3 *(a)* Whenever an attorney employs the services of another person to draft his or her bill of costs, a certificate shall accompany that bill of costs in which that attorney certifies that-
(i) the bill of costs thus drafted was properly perused by him or her and found to be correct; and
(ii) every description in such bill with reference to work, time and figures is consistent with what was necessarily done by him or her.

(b) The taxing officer may-	
(i) if he or she is satisfied that one or more of the requirements referred to in 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 items 1 and 2 of this section, if more than 20 per cent of the number of items in the bill of costs, including expenses, or of the total amount of the bill of costs, including expenses, is taxed off.	
NOTE: The minimum fees under items 1 and 2 shall be R234.50 for each item.	
F - EXECUTION	
1 Drafting, issue and execution of a warrant of execution and attendances in connection therewith, excluding sheriffs fees (if not taxed)	R583.50
2 Reissue	R146.00

Form 26

Notice of intention to tax bill of costs

[Form 26 inserted by GN R90 of 12 February 2010 (wef 12 March 2010).]

IN THE HIGH COURT OF SOUTH AFRICA (_____ DIVISION)	
	CASE NO _____
In the matter between ----------	Plaintiff/ Applicant
and	
----------	Defendant/Respondent

TAKE NOTICE THAT ..... (party) intends submitting the attached bill of costs to the taxing master at ..... (place) for taxation.

You may inspect the documents or notes pertaining to any item on the bill of costs at .....(address) between the hours of .....(business hours) for a period of ten (10) days after receipt of this notice.

You may furthermore file a notice of intention to oppose the taxation within twenty (20) days after receipt of this notice.

In your notice of intention to oppose you shall list all the items on the bill of costs to which you object, and a brief summary of the reason for your objection.

Should you fail to file your notice of intention to oppose within the time specified, the bill of costs will be submitted to the taxing master for taxation without further notice to you.

If you do give notice of intention to oppose within the specified time, you may at the taxation object to the items specified in your notice of opposition.

DATED at _____on this __day of _____20_	
	_____ Attorney for .....

	(Address)
To: Attorney for ..... (Address)	

MAGISTRATES' COURTS RULE

33 Costs

(1) The court in giving judgment or in making any order, including any adjournment or amendment, may award such costs as it deems fit.

(2) The costs of any application or order or issue raised by the pleadings may-

(a) be awarded by the court irrespective of the judgment in the action; or

(b) may be made costs in the action; or

(c) may be reserved to be dealt with on the conclusion of the action,

but if no order is made, such costs shall be costs in the action.

(3) Unless the court shall for good cause otherwise order, costs of interim orders shall not be taxed until the conclusion of the action, and a party may present only one bill for taxation up to and including the judgment or other conclusion of the action.

(4) Where a judgment or order for costs is made against two or more persons it shall, unless the contrary is stated, have effect against such persons severally as well as jointly.

(5)*(a)* In district court civil matters, the scale of fees to be taken by attorneys as between party and party shall-

(i) be that set out in Table A of Annexure 2 in addition to the necessary expenses;

(ii) in relation to proceedings under sections 65, 65A to 65M, inclusive, and 72 of the Act and all matters ancillary thereto be that set out in Parts I and II, respectively, of Table B of the said Annexure; and

(iii) in relation to proceedings under sections 74 and 74A to 74W, inclusive, of the Act and all matters ancillary thereto be that set out in Part III of Table B of the said Annexure.

(b) The scale of fees referred to in paragraph *(a)*(iii) of this subrule shall also be the scale of fees to be taken between attorney and client in relation to proceedings under sections 74 and 74A to 74W, inclusive, of the Act.

(c) In regional court civil matters, including matters in respect of causes of action in terms of section 29(1B)*(a)* of the Act, the scale of fees to be taken by attorneys as between party and party shall be that set out in scale D of Table A of Annexure 2 in addition to the necessary expenses.

[Subrule (5) substituted by GN R760 of 11 October 2013 (wef 15 November 2011).]

(6) Save as to appearance in open court without counsel, the fees in subrule (5) shall be allowable whether the work has been done by an attorney or by his or her clerk, but shall, except in the case of the fee referred to in paragraph 13 of the general provisions under Table A of Annexure 2, be allowable only in so far as the work to which such fees have been allocated has in fact and necessarily been done.

(7) The magistrate presiding over any civil proceedings which last for the period of a quarter of an hour or longer, shall note on the record of the proceedings in respect of each day thereof-

(a) the time of the day when the proceedings actually commenced and actually ended; and

(b) the time of the day of the commencement and conclusion of each adjournment on that day.

(b) the time of the day of the commencement and conclusion of each adjournment on that day.

(8) The court may on request made at or immediately after the giving of judgment in any contested action or application in which-

(a) is involved any difficult question of law or of fact; or

(b) the plaintiff makes two or more claims which are not alternative claims; or

(c) the claim or defence is frivolous or vexatious; or

(d) costs have been reasonably incurred and in respect of which costs there is no specific provision in these Rules,

award costs on any scale higher than that on which the costs of the action would otherwise be taxable: Provided that the court may give direction as to the manner of taxation of such costs as may be necessary.

(9) When it is reasonable in any proceedings for a party to employ the services of an attorney other than a local attorney, the court may on proof thereof, and if costs are awarded to him or her, order that such costs shall include the reasonable travelling time, travelling expenses and subsistence expenses of such attorney as determined by the court: Provided that the court may order that the determination of such costs be done on taxation by the registrar or clerk of the court.

(10) Where the court is of the opinion that at the hearing the party to whom costs are awarded has occupied time unnecessarily or in relation to matters not relevant to the issue, the court may disallow a proportionate part of the hearing fee payable to his or her attorney or counsel.

(11) The court may in its discretion order that the whole of the costs of an action (including the costs of any claim in reconvention) be paid by the parties in such proportions as it may direct.

(12) Where the court is of the opinion that expense has been unnecessarily incurred because of the successful party's failure to take a course which would have shortened the proceedings and decreased the costs it shall award only such costs as would have been incurred if the successful party had taken such course.

(13) Where costs in convention and reconvention are awarded to different parties, the registrar or clerk of the court shall on taxation subject to any order which has been made by the court, allow each party to submit a bill of costs in respect of all costs and charges incurred in instituting and defending the claim in convention and reconvention, and defending the claim in convention and reconvention, respectively, and then to award the successful parties a proportionate amount of their costs in accordance with the award given by the court.

(14)*(a)* The costs of issuing any warrant of execution or arrest shall, where they are payable by the party against whom the warrant is issued, be assessed by the registrar or clerk of the court without notice and inserted in the warrant.

(b) The costs payable by the judgment debtor in respect of any proceedings under section 65 or 65A to 65 m inclusive, or 72 of the Act shall be inserted by the judgment creditor or his or her attorney on the face or reverse side of any process issued under either of those sections and assessed by the registrar or clerk of the court before issue.

(c) The registrar or clerk of the court may refuse to issue any process under section 65 or 65A to 65 m, inclusive, or 72 of the Act in which the costs are not inserted or inserted but not according to tariff.

(15) Where costs or expenses are awarded to any party by the court, otherwise than by a judgment in default of the defendant's delivery of notice of intention to defend or on the defendant's consent to judgment before the time for such notice has

expired, the party to whom such costs or expenses have been awarded shall deliver a bill of such costs or expenses and give at least 5 days' notice of taxation for an hour to be fixed (generally or specially) by the registrar or clerk of the court and he or she may include in such bill all such payments as have been necessarily and properly made by him or her.

(16) After subrule (15) has been complied with the registrar or clerk of the court shall tax and allow the relevant costs and expenses: Provided that witness fees shall not be allowed in taxation unless properly vouched for.

(17)*(a)* Where more than one-fourth of the bill (excluding expenses) is taxed off, the party presenting the bill shall not be allowed any costs of taxation.

(b) Where a party to whom a bill of costs is presented makes a written offer of payment in respect of such costs, and such offer is refused, the party presenting the bill shall not be allowed any costs of taxation if the bill is taxed in an amount which is smaller than the amount of the offer.

(18) Where a bill of costs as between attorney and client is required to be taxed, taxation shall take place on at least 5 days' notice thereof to the attorney or client, whether or not an action therefor is pending: Provided that, notwithstanding the provisions of subrule (3), a bill of costs as between attorney and client may be taxed at any time after termination of the mandate.

(19) Where liability for costs is determined without judgment of the court by virtue of the provisions of these Rules or by a settlement recorded in terms of rule 27(8), such costs shall be taxable by the registrar or clerk of the court as if they had been awarded by the court.

(20) On failure of a party giving notice of taxation to appear at the appointed time for taxation, such bill of costs may be taxed in his or her absence but such party shall not be allowed any costs of taxation.

(21) If a party consents to pay the costs of another party, the registrar or clerk of the court shall, in the absence of an order of the court, tax such costs, as if they had been awarded by the court.

(22) Value added tax may be added to all costs, fees, disbursements and tariffs in respect of which value added tax is chargeable.