

GOVERNMENT NOTICES GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT DEPARTEMENT VAN JUSTISIE EN STAATKUNDIGE ONTWIKKELING

No. R. 515

8 May 2009

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 and Constitutional Development, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

- [] Expressions in bold type in square brackets indicate omissions from existing rules.
 ____ Expressions underlined with a solid line indicate insertions into existing rules.

Definition

1. In this Schedule "the Rules" mean 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, R. 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, R. 1126 of 4 September 1998, R. 569 of 30 April 1999, R. 501 of 19 May 2000, R. 1087 of 26 October 2001, R. 37 of 18 January 2002, R. 38 of 18 January 2002, R. 1299 of 18 October 2002, R. 228 of 20 February 2004, R. 295 of 5 March 2004, R. 880 of 23 July 2004, R. 1294 of 5 December 2008, R. 1341 of 12 December 2008, R. 1342 of 12 December 2008 and R. 1344 of 12 December 2008.

Amendment of Part I of Table A of Annexure 2 to Rules

2. Part 1 of Table A of Annexure 2 to the Rules is hereby amended by -

(a) the substitution for item 8 of the following item:

“8. Where the amount allowed for an item is left blank—

- (a) the drawing of documents (not pleadings) shall be allowed at **[R11,00]** R19,00 for each folio;
- (b) copies for filing and service shall also be allowed;
- (c) **[R7,00]** R12,00 shall be allowed for each necessary service.”;

(b) the substitution for item 11 of the following item:

“11. (a) Unless otherwise provided, a charge for perusal shall be allowed at **[R4,00]** R7,00 per folio in respect of any document or pleading necessarily perused.

(b) Where a charge is allowed for copying, it shall be allowed at **[R1,50]** R2,60 per page, regardless of the number of words, unless otherwise provided.”; and

(c) the substitution for item 12 of the following item:

“12. Where there are more defendants than one **[R7,00]** R12,00 shall be added in respect of each additional defendant for each of items 2 and 3 of Part II and items 2 and 7 of Part III.”.

Amendment of Table A of Annexure 2 to Rules

3. Table A of Annexure 2 to the Rules is hereby amended by the substitution for Part II of the following Part:

"UNDEFENDED ACTIONS

	R
Item 1 - Registered letter of demand in terms of section 56 of the Act	[R17,00] <u>R25,00</u>
Item 2 - Summons, inclusive of a letter of demand other than the letter of demand referred to in item 1:	
(a) Claim or claims where the aggregate amount of the claim or claims does not exceed R3 000	[R56,00] <u>R81,00</u>
(b) Claim or claims where the aggregate amount of the claim or claims exceeds R3 000 but does not exceed R5 000	[R187,00] <u>R271,00</u>
(c) Claim or claims where the aggregate of the claim or claims exceeds R5 000	[R277,00] <u>R402,00</u>
Item 3 - Judgment:	
(a) Claim or claims where the aggregate of the claim or claims does not exceed the amount in 2(a)	[R56,00] <u>R81,00</u>
(b) Claim or claims where the aggregate of the claim or claims exceeds the amount in 2(b) but is not more than R5 000	[R143,00] <u>R207,50</u>
(c) Claim or claims where the aggregate of the claim or claims exceeds R5 000	[R233,00] <u>R338,00</u>
Item 4 - Notice in terms of rule 12 (2)	[R27,00] <u>R39,00</u>
Item 5 - Notice in terms of rule 54 (1)	[R27,00] <u>R39,00</u>
Item 6 - Affidavit or certificate	—

Item 7 - Attending court at the request of the magistrate when claim is referred to court for judgment or to obtain provisional sentence when claim is undefended	as allowed under item 15 on the scale for defended actions.
Item 8 - For each registered letter forwarded to the debtor in terms of section 57(1) or (3) or section 58(2), of the Act by the creditor or his attorney, including copies	[R17,00] <u>R25,00</u>
Item 9 - Admission of liability and undertaking to pay debt in instalments or otherwise (section 57 of the Act)	[R45,00] <u>R65,50</u>
Item 10 - Consent to judgment or to judgment and an order for the payment of judgment debt in instalments (section 58 of the Act)	[R45,00] <u>R65,50</u>

Note: The amount of fees allowable under items 4, 5, 6, 7, 8, 9 and 10 shall be included without taxation in the amount of the costs for which judgment is entered."

Amendment of Table A of Annexure 2 to Rules

4. Table A of Annexure 2 to the Rules is hereby amended by the substitution for Part III of the following Part:

"DEFENDED ACTIONS (AND INTERPLEADER PROCEEDINGS)

Item	Scale A R	Scale B R	Scale C R
1. Instructions to sue or defend or to counterclaim or defend a counterclaim, perusal of all documentation and consideration of merits and all necessary consultations to issue summons	[225,00] <u>326,50</u>	[300,00] <u>435,00</u>	[360,00] <u>522,00</u>
2. Summons	[113,00] <u>164,00</u>	[157,00] <u>228,00</u>	[188,00] <u>273,00</u>
3. Appearance	[19,00] <u>27,50</u>	[19,00] <u>27,50</u>	[23,00] <u>33,50</u>
4. Notice under rule 12 (1) (b) and (2)	[19,00]	[19,00]	[23,00]

	<u>27,50</u>	<u>27,50</u>	<u>33,50</u>
5. Plea	[113,00]	[157,00]	[188,00]
	<u>164,00</u>	<u>228,00</u>	<u>273,00</u>
6. Claim in reconvention	[113,00]	[157,00]	[188,00]
	<u>164,00</u>	<u>228,00</u>	<u>273,00</u>
7. Reply, if necessary	[113,00]	[157,00]	[188,00]
	<u>164,00</u>	<u>228,00</u>	<u>273,00</u>
8. Drawing up of all documents not specifically mentioned, including request for further particulars, schedule of documents, all affidavits, subpoenas, any notice not otherwise provided for and drawing up of statements by witnesses	-	-	-
9. Production of documents for inspection, or inspecting documents, per quarter of an hour or part thereof of the time spent	[67,00]	[67,00]	[80,00]
	<u>97,00</u>	<u>97,00</u>	<u>116,00</u>
10. Each copy of service, per page	[1,50]	[1,50]	[1,50]
	<u>2,00</u>	<u>2,00</u>	<u>2,00</u>
11. The recording of statements by witnesses, per quarter of an hour or part thereof	[67,00]	[67,00]	[80,00]
	<u>97,00</u>	<u>97,00</u>	<u>116,00</u>
12. Notice of trial or reinstatement	[19,00]	[19,00]	[23,00]
	<u>27,50</u>	<u>27,50</u>	<u>33,50</u>
13. Preparing for trial (if counsel not employed)	[375,00]	[510,00]	[612,00]
	<u>544,00</u>	<u>739,50</u>	<u>887,50</u>
14. Attendance at settlement negotiations, for each quarter of an hour or part thereof actually spent in such negotiations	[67,00]	[67,00]	[80,00]
	<u>97,00</u>	<u>97,00</u>	<u>116,00</u>
15. Attending court during trial, or at an on-the-spot inspection, or at postponement or examination on commission, for each quarter of an hour or part thereof spent in court while the case is actually being heard-			
(a) if counsel not employed	[67,00]	[67,00]	[80,00]
	<u>97,00</u>	<u>97,00</u>	<u>116,00</u>
(b) if counsel employed	Nil	[27,00]	[32,00]
		<u>39,00</u>	<u>46,50</u>
16. Attending pre-trial conference, for each quarter of an hour or part thereof actually spent in such conference	[67,00]	[67,00]	[80,00]
	<u>97,00</u>	<u>R97,00</u>	<u>116,00</u>

17. Attending court to hear reserved judgment, per quarter of an hour or part thereof	[13,00] <u>19,00</u>	[13,00] <u>19,00</u>	[16,00] <u>23,00</u>
18. Correspondence -			
(a) for each necessary letter or telegram, per folio	[11,00] <u>16,00</u>	[11,00] <u>16,00</u>	[13,00] <u>19,00</u>
(b) for each letter or telegram received, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for	[7,00] <u>10,00</u>	[11,00] <u>16,00</u>	[13,00] <u>19,00</u>
19. Attendances: For each necessary attendance not otherwise provided for, per attendance	[7,00] <u>10,00</u>	[11,00] <u>16,00</u>	[13,00] <u>19,00</u>
20. Necessary formal telephone calls, per call	[7,00] <u>10,00</u>	[11,00] <u>16,00</u>	[13,00] <u>19,00</u>
21. Telephone consultations: For every 5 minutes or part thereof, subject to a maximum of R113,00 per consultation	[19,00] <u>R27,50</u>	[19,00] <u>R27,50</u>	[23,00] <u>R33,50</u>
22. Each necessary consultation, per quarter of an hour or part thereof	[67,00] <u>R97,00</u>	[67,00] <u>R97,00</u>	[80,00] <u>116,00</u>
23. The court may, on request made at the hearing, allow in addition to the fee prescribed in item 13 above a refresher fee in postponed or partly heard trials	[233,00] <u>R338,00</u>	[330,00] <u>R478,50</u>	[396,00] <u>R574,50</u>
24. Time spent waiting at court (owing to no court being available) per quarter of an hour or part thereof	[45,00] <u>R65,50</u>	[45,00] <u>R65,50</u>	[54,00] <u>R78,50</u>
25. Travelling time [subject to the provisions of rule 33 (9)] per quarter of an hour or part thereof	[45,00] <u>R65,50</u>	[45,00] <u>R65,50</u>	[54,00] <u>R78,50</u>
26. Subsistence and travelling expenses as laid down in rule 33 (9)	The actual reasonable subsistence and travelling expenses as laid down in rule 33 (9)"		

Amendment of Table A of Annexure 2 to Rules

5. Table A of Annexure 2 to the Rules is hereby amended by the substitution for Part IV of the following Part:

"OTHER MATTERS

Exceptions, applications to strike out, applications for summary judgment, appearance to obtain provisional sentence when claim is defended, interlocutory applications, arrest, interdict, *ex parte* applications under rule 27(9), applications to review judgment, order or taxation, applications for liquidation of close corporations and applications in terms of section 65J of the Act.

Item	Scale A R	Scale B R	Scale C R
1. (a) Instructions to make application or to oppose or to show cause (the court may on request allow a higher amount)	[56,00] 81,00	[113,00] 164,00	[135,00] 196,00
(b) Instructions to make application for liquidation of close corporation, perusal of all documentation and consideration of merits, and all necessary consultations	[277,00] 402,00	[277,00] 402,00	[332,00] 481,50
2. Drawing up of all documents, affidavits, applications and notices, orders, etc	—	—	—
3. Attending court on hearing:			
(a) If unopposed or opposed (if counsel not employed), for each quarter of an hour or part thereof actually spent in court	[67,00] 97,00	[67,00] 97,00	[80,00] 116,00
(b) If opposed (if counsel employed), for each quarter of an hour actually spent in court or part thereof	Nil	[27,00] 39,00	[32,00] 46,50
4. Fee for preparing for trial, when opposed, if allowed by the court on request	[233,00] 338,00	[277,00] 402,00	[332,00] 481,50
5. Consultations and settlement negotiations - when opposed, per quarter of an hour or part thereof	[67,00] R97,00	[67,00] R97,00	[80,00] R116,00
<i>Note:</i> The court may on request made at the hearing allow, as an alternative to the fees prescribed in item 4, a fee for preparing argument under items 13 and 23 of the scale for defended actions.			

Item	Scale
TAXATION OF COSTS	R
6. Drawing up bill of costs:	5% of the fees allowed.
7. Attending taxation:	5% of the total of the bill allowed.
8. Attending on review of taxation, for each quarter of an hour or part thereof in court while review is actually being heard ..	[67,00] <u>R97,00</u>
9. Notice of application for review of taxation and service	—
10. Affidavit, where necessary	—

EXECUTION

11. (a) Issue of warrant of execution, ejectment, and delivery up of possession	[45,00] <u>R65,50</u>
(b) For each reissue thereof	[19,00] <u>R27,50</u>
12. Inclusive fee for work done in connection with releasing of immovable property attached	[56,00] <u>R81,00</u>
13. Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work in respect of which fees are already provided for elsewhere and the drawing up of the conditions of sale)	[143,00] <u>R207,50</u>
14. (a) Drawing up of notice of sale in terms of rule 41(8) or rule 43(6), or conditions of sale in terms of rule 43(7)	—
(b) For all other work done and papers and documents supplied to the sheriff of the magistrate's court in connection with a sale in execution of movable property, an inclusive fee of	[97,00] <u>R141,00</u>
15. Security for restitution, where necessary	[37,00] <u>R54,00</u>

WHERE COUNSEL IS EMPLOYED	
16. Instructions for exception or application, where allowed	[67,00] <u>R97,00</u>
17. Instructions on trial	[83,00] <u>R120,50</u>
18. Drawing brief on exception or application, where allowed	—
19. Drawing brief on trial	—
20. Attending each necessary consultation with counsel, per quarter of an hour or part thereof	[27,00] <u>R39,00</u>
FEES TO COUNSEL	
21. With brief to argue exception or application	[330,00] <u>R478,50</u>
Note: A fee to counsel on application shall be allowed only where the court certifies that the briefing of counsel was warranted.	
22. With trial brief for the first day, not exceeding	[937,00] <u>R1360,00</u>
23. In any court held more than 30 km from the nearest town where a provincial or local division (other than a Circuit Court) of the High Court sits, a travelling allowance (in addition to the fee on brief) may be allowed by special order of the court at	1,50 per km <u>2,50 per km</u>
24. Each necessary consultation, per quarter of an hour	[67,00] <u>R97,00</u>
25. For every day exceeding one on which evidence is taken or arguments heard, a refresher not exceeding .	[563,00] <u>R816,50</u>

26. Drawing up pleadings	[150,00] <u>R217,50</u>
Notes:	
(a) In regard to items 22 and 25 a fee in lieu of the fee for the first day's hearing shall be allowed as follows when the case is settled or withdrawn or postponed at the instance of any party on or before the date of hearing:	
(i) not more than two days prior to the date of hearing: The fee otherwise allowable on taxation for the first day's hearing:	
(ii) not less than three days and not more than seven days prior to the date of hearing: Two thirds of the fee under (i); and	
(iii) not less than eight days and not more than 21 days prior to the date of hearing: Half of the fee under (i).	
(b) The court may on request allow a a higher fee for counsel in regard to items 22, 24, 25 and 26.	
(c) A fee for travelling time by counsel shall be allowed at the same rate as for attorneys under rule 33(9).	
MISCELLANEOUS	
27. Obtaining certified copy of judgment	[34,00] <u>R49,50</u>
28. Obtaining payment in terms of rule 18(4)	[23,00] <u>R33,50</u>
29. Request for security in terms of rule 62(1)	—
30. Furnishing security in terms of rule 62(1)	—

Amendment of Item 3 of Part I of Table B of Annexure 2 to Rules

6. Item 3 of Part I of Table B of Annexure 2 to the Rules is hereby amended by the substitution for paragraph (d) for the following paragraph:

“(d) Any amount necessarily and actually disbursed in tracing the judgment debtor, where the capital amount of the debt at the time the tracing agent was employed was

not less than **[R187,00]** R270,00. The total amount to be allowed for each tracing shall not exceed **[R143,00]** R200,00."

Amendment of Part I of Table B of Annexure 2 to Rules

7. Part I of Table B of Annexure 2 to the Rules is hereby amended by the substitution for the Tariff of the following Tariff:

	R
(a) Where the claim does not exceed the amount of R1 000,00	[94,00] <u>136,50</u>
(b) Where the claim exceeds the amount of R1 000,00 but is not more than R2 000,00	[143,00] <u>207,50</u>
(c) Where the claim exceeds the amount of R2 000,00	[169,00] <u>245,00</u>
(d) Warrant of Arrest (Form 40A)	[37,00] <u>54,00</u>
(e) (i) Emoluments Attachment Order (Form 38)	[75,00] <u>109,00</u>
(ii) Reissue (Certificates included)	[60,00] <u>87,00</u>
(f) Application for costs on notice (including appearance in court)	[37,00] <u>54,00</u>
(g) Obtaining a certified copy of a judgment	[37,00] <u>54,00</u>
(h) Affidavit or certificate by the judgment creditor or his or her attorney	[27,00] <u>39,00</u>
(i) For each registered letter forwarded to the debtor in terms of sections	[17,00]

	65A(2), 65E(6) or 65J(2) of the Act by the creditor or his or her attorney ..	<u>25,00</u>
(j)	Affidavit or affirmation by debtor [Rule 45(7)]	[45,00] <u>65,50</u>
(k)	Request for an order under section 65 of the Act	[27,00] <u>39,00</u>
(l)	Attending postponed proceedings in terms of section 65E(3) of the Act or attending proceedings at court pursuant to the arrest of a judgment debtor, director or officer or pursuant to a notice referred to in 65A(8)(b) ..	[37,00] <u>54,00</u>
(m)	Subpoena:	
	(i) Drawing up of subpoena, per folio	[11,00] <u>16,00</u>
	(ii) Every necessary attendance, per attendance	[7,00] <u>10,00</u>
(n)	(i) Correspondence: For every necessary letter or telegram written or received, including copy to retain, provided that a fee for perusal shall not be allowed in addition to the fee herein provided for, per folio	[11,00] <u>16,00</u>
	(ii) Attendances: For each necessary attendance not otherwise provided for, per attendance	[11,00] <u>16,00</u>
	(iii) Necessary formal telephone calls, per call	[11,00] <u>16,00"</u>

Amendment of Part II of Table B of Annexure 2 to Rules

8. Part II of Table B of Annexure 2 to the Rules is hereby amended by the substitution for the Tariff of the following Tariff:

	R
"(a) Where the claim does not exceed R200,00	[56,00] <u>R81,00</u>

(b) Where the claim exceeds R200,00	[120,00] <u>R174,00</u>
(c) Obtaining certified copy of a judgment	[34,00] <u>R49,50</u>
(d) Application for an order of execution against the garnishee	[34,00] <u>R49,50</u>
(e) Garnishee Order (Form 39)	[45,00] <u>R65,50"</u>

Amendment of Part III of Table B of Annexure 2 to Rules

9. Part III of Table B of Annexure 2 to the Rules is hereby amended by the substitution for the Tariff of the following Tariff:

"Item	One to ten creditors	Eleven to twenty creditors	Twenty-one or more creditors
	R	R	R
1. Instructions to apply for administration order, including the necessary perusal of summonses, demands, etc, and ascertaining the amount of assets and liabilities, including all attendances and correspondence necessary in connection therewith	[67,00] <u>R97,00</u>	[94,00] <u>R136,50</u>	[150,00] <u>217,50</u>
2. Instructions on application under section 74Q (1) or to oppose such application or the granting of administration order	[53,00] <u>R77,00</u>	[53,00] <u>R77,00</u>	[53,00] <u>R77,00</u>
3. Drawing up application for administration order or review thereof and affidavit, including all annexures thereto and all attendances, excluding attendance in court	[94,00] <u>R136,50</u>	[94,00] <u>R136,50</u>	[94,00] <u>R136,50</u>

4. Making copies of application, affidavit and annexures for creditors, per page	[1,50] <u>R2,00</u>	[1,50] <u>R2,00</u>	[1,50] <u>R2,00</u>
5. Perusal of application and other documents served, if any, per folio <i>Note: The fees under this item are only claimed by the attorney or an opposing party.</i>	[4,00] <u>R6,00</u>	[4,00] <u>R6,00</u>	[4,00] <u>R6,00</u>
6. Attending court:			
(a) On postponement or setting aside, if not occasioned by the attorney or his client.	[25,00] <u>R36,00</u>	[25,00] <u>R36,00</u>	[25,00] <u>R36,00</u>
(b) On any other hearing	[53,00] <u>R77,00</u>	[101,00] <u>R146,50</u>	[101,00] <u>R146,50</u>
7. For furnishing to a creditor by the administrator of the information referred to in section 74M(a) of the Act, per application	[7,00] <u>R10,00</u>	[7,00] <u>R10,00</u>	[7,00] <u>R10,00</u>
8. For furnishing of a copy of the debtor's statement of affairs referred to in sections 74 and 74A (1) of the Act by the administrator in terms of section 74M (b) or of a list or account referred to in section 74G (1) or 74J of the Act or of the debtor's statement of affairs referred to in section 65I (2) of the Act, per page	[1,20] <u>R1,50</u>	[1,20] <u>R1,50</u>	[1,20] <u>R1,50</u>
9. Correspondence and attendances	[11,00] <u>R16,00</u>	[11,00] <u>R16,00</u>	[11,00] <u>R16,00"</u>

Commencement

10. These rules shall come into operation on **15 June 2009**.