

(7 October 1983 – to date)

EXPROPRIATION ACT 63 OF 1975

(Government Gazette 4780, dated 9 July 1975. Commencement date: 1 January 1977

[Proc. No. R.273, Gazette No. 5363])

REGULATIONS IN TERMS OF SECTION 25(1) OF THE EXPROPRIATION ACT, 1975

Government Notice R617 in Government Gazette 5519 dated 22 April 1977. Commencement date:

22 April 1977.

As amended by:

Government Notice R2209 in Government Gazette 8919 dated 7 October 1983. Commencement date:

7 October 1983.

The, State President has, under the powers vested in him by section 25(1) of the Expropriation Act, 1975 (Act 63 of 1975), made the following regulations:

TABLE OF CONTENTS

1. DEFINITIONS
2. OFFICERS OF THE COMPENSATION COURT AND THEIR DUTIES AND POWERS
3. DEPUTY SHERIFF
4. LEGAL REPRESENTATION OF PARTIES
5. SEAT OF A COMPENSATION COURT
6. COMMENCEMENT OF PROCEEDINGS
7. APPLICATION FOR THE DETERMINATION OF COMPENSATION WHEREBY PROCEEDINGS ARE INSTITUTED
8. DOCUMENTS TO ACCOMPANY THE APPLICATION FOR THE DETERMINATION OF COMPENSATION
9. THE SERVICE OF THE APPLICATION FOR THE DETERMINATION OF COMPENSATION
10. REPLY TO THE APPLICATION FOR THE DETERMINATION OF COMPENSATION
11. OFFER TO SETTLE
12. DISCOVERY OF DOCUMENTS
13. FURTHER PARTICULARS
14. FAILURE TO DELIVER REPLY TIMEOUSLY
15. INTERVENTION OF PARTIES IN THE PROCEEDINGS
16. POWERS OF A PRESIDENT OF A COMPENSATION COURT
17. MOTION PROCEEDINGS (GENERAL)
18. AMENDMENT OF DOCUMENTS

Prepared by:

19. SPECIAL CASE AND ADJUDICATION UPON QUESTIONS OF LAW OR FACT IN PENDING PROCEEDINGS
20. CURTAILMENT OF PROCEEDINGS
21. PROCEEDINGS IMMEDIATELY PRECEDING THE HEARING OF THE APPLICATION FOR THE DETERMINATION OF COMPENSATION BY A COMPENSATION COURT
22. SIGNING OF DOCUMENTS
23. EXTENSION OF TIME, CONDONATION AND NOTICE TO THIRD PARTIES
24. VARIATION AND RESCISSION OF ORDERS
25. EXCHANGE OF OPINIONS OF EXPERTS
26. FILING OF PLANS, DIAGRAMS, PHOTOGRAPHS OR MODELS
27. WITHDRAWAL, SETTLEMENT AND WAIVER OF RIGHTS
28. PROCEDURES TO BE OBSERVED BY THE COMPENSATION COURT
29. MANNER OF SECURING THE ATTENDANCE OF WITNESSES IN CASES IN THE COMPENSATION COURT AND PENALTIES FOR NON-ATTENDANCE
30. MANNER IN WHICH WITNESSES MAYBE DEALT WITH ON REFUSAL TO GIVE EVIDENCE OR PRODUCE DOCUMENTS
31. IMPEDING OR OBSTRUCTING THE COMPENSATION COURT
32. WITNESS FEES
33. SETTING DOWN FOR HEARING OF APPLICATION FOR THE DETERMINATION OF COMPENSATION
34. NOTICE OF DATE OF THE HEARING OF APPLICATION FOR THE DETERMINATION OF COMPENSATION
35. THE OBLIGATION TO BEGIN
36. PROCEDURE AT THE HEARING OF PROCEEDINGS
37. PROCEDURE DURING THE HEARING RELATING TO EVIDENCE
38. OATH BY THE PRESIDENT
39. DEATH OF AN ASSESSOR OR INCAPACITY TO TAKE A SEAT
40. COSTS AND FEES IN A COMPENSATION COURT
41. APPEALS
42. EXECUTION
43. FEES OF SHERIFF OR DEPUTY SHERIFF
44. REMUNERATION OF THE PRESIDENT OF THE COMPENSATION COURT
45. REMUNERATION OF AN ASSESSOR

SCHEDULE 1: FORMS

SCHEDULE 2: TARIFF OF FEES OF ATTORNEYS

1. DEFINITIONS

- (1) In these regulations, unless the context otherwise indicates, any expression to which a meaning has been assigned in the Expropriation Act, 1975 (Act 63 of 1975), has that meaning, and-

"deliver" means the serving of copies of any notice, process of a compensation court, document in an application referred to in regulation 17(1), or any other document, as the case may be, required in terms of these regulations on any other party and the filing of the original with the registrar;

"applicant" includes the practitioner, or the person referred to in regulation 4(2)(b) or (c), acting on behalf of an applicant;

"the Act" means the Expropriation Act, 1975 (Act 63 of 1975);

"Uniform Rules of Court" means the Rules governing the proceedings of the provincial and local divisions of the Supreme Court of South Africa, made in terms of section 43(2)(a) of the Supreme Court Act, 1959 (Act 59 of 1959), published under Government Notice R. 48 dated 12 January 1965, as amended from time to time;

"registrar" means the registrar of the compensation court and, except for the purposes of regulation 45(4), includes any assistant registrar;

"court" means the compensation court established by or in terms of section 16 of the Act;

"process" means any process of a compensation court;

"practitioner" means any advocate or attorney practising as such;

"president" means a president of a compensation court appointed in terms of section 16 of the Act; .

"respondent" includes any person who in terms of regulations 10(7) and 15 joins in the proceedings, and any practitioner, or the person referred to in regulation 4(2)(b) or (c) acting on behalf of a respondent.

- (2) A Saturday, Sunday or public holiday shall not, unless the contrary intention appears, be included in the calculation of any period of time under these regulations.
- (3) Service of any notice or document required in terms of these regulations but not required to be served by the deputy sheriff in terms of the provisions thereof may, subject to the provisions of the Act and these regulations, take place by dispatching such notice or document by registered post.

2. OFFICERS OF THE COMPENSATION COURT AND THEIR DUTIES AND POWERS

- (1) The registrar, assistant registrar, sheriff, deputy sheriffs and other officers appointed in terms of section 34 of the Supreme Court Act, 1959, for a provincial division of the Supreme Court shall in respect of any session of or compensation court held within the area of jurisdiction of such division, respectively be the registrar, assistant registrar, sheriff and deputy sheriffs for the court concerned and

the other appointed officers referred to in the said section 34 shall be officers in corresponding capacities for such court and shall exercise the powers and perform the functions and duties conferred upon or assigned or entrusted them in terms of the Act and these regulations.

- (2) Whenever by reason of absence or incapacity the registrar, assistant registrar or sheriff of a compensation court referred to in subregulation (1) is unable to carry out his official duties the officer authorised in terms of section 34(1)(b) of the Supreme Court Act, 1959, to act in the place of the absent or incapacitated officer during such absence or incapacity shall be deemed to be the registrar, assistant registrar or sheriff, as the case may be, of the court concerned and shall exercise the powers and perform the functions and duties conferred upon or assigned or entrusted to the registrar, assistant registrar or sheriff concerned in terms of subregulation (1).
- (3) Whenever a session of the compensation court is held or resumed in a district other than the one in which the compensation court has its seat, the clerk of the court appointed for that district in terms of section 13 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), shall for the duration of that session be the assistant registrar of that compensation court, save for the purposes of regulation 40(6).

3. DEPUTY SHERIFF

- (1) The deputy sheriff shall have, with respect to the service in terms of the provisions of these regulations, of any process or any document by which an application referred to in regulation 17(1) is commenced, *mutatis mutandis* the same powers and duties in regard to the compensation court concerned as he has in regard to the provincial division of the Supreme Court concerned.
- (2) Subject to the provisions of the Act and these regulations, the provisions of Rule 4 of the Uniform Rules of Court shall apply *mutatis mutandis* to the service in terms of these regulations by the deputy sheriff of any process or document in an application referred to in subregulation (1).

4. LEGAL REPRESENTATION OF PARTIES

- (1) Any practitioner may act in any proceedings before a compensation court.
- (2)
 - (a) Any applicant or respondent may act personally or through a practitioner in the proceedings before a compensation court. .
 - (b) Any local authority, company or other body corporate may, in proceedings to which it is a party, act through any of its officials whom it designates for this purpose.
 - (c) A partnership or group of persons acting jointly for a common purpose may, in proceedings to which it is a party, act through any of its members whom it designates for this purpose.

- (d) No person except a practitioner acting in terms of paragraph (a), (b) or (c) shall be entitled to recover any costs, except necessary expenses.
- (3) Should a party to the proceedings before a compensation court die or become incapacitated to continue with such proceedings, such proceedings shall on application be suspended until an executor, curator, guardian or other competent person is appointed in his place, or until such incapacity ceases.
- (4) It shall not be necessary for any person acting on behalf of any party to any proceedings before a compensation court to file a power of attorney authorising him to act on behalf of such party at such proceedings, but the competence of any person acting on behalf of any party may be disputed by the other party within a reasonable time after it has come to his notice that such party is acting or, by leave of the court if good cause be shown, at any time before judgement, and thereupon such person shall not without leave of the court further so act until he has satisfied the court that he has competence so to act and the court may adjourn the hearing of the application to enable him so to do.

5. SEAT OF A COMPENSATION COURT

The seat of a compensation court-

- (a) established by or in terms of section 16(1) of the Act shall be the same as that of the provincial division of the Supreme Court within the area of jurisdiction for which the court concerned was established; and
- (b) established in terms of section 16(2) of the Act shall be the seat as designated by the Minister of Justice for such court.

6. COMMENCEMENT OF PROCEEDINGS

- (1) Proceedings in regard to the determination of compensation before a compensation court shall be instituted by means of an application for the determination of compensation, which application shall be duly signed and dated by the applicant and filed with the registrar of the court.
- (2) The court fees payable in regard to an application referred to in subregulation (1) shall be the same as those for a summons in the Supreme Court as referred to in Rule 67(a)(i) of the Uniform Rules of Court.

7. APPLICATION FOR THE DETERMINATION OF COMPENSATION WHEREBY PROCEEDINGS ARE INSTITUTED

- (1) The application for the determination of compensation shall state-

- (a) the full name and address, if known, of the applicant and the respondent;
 - (b) the full address where the applicant will accept service of any notice, process, document in an application referred to in regulation 17(1) or any other document, as the case may be, required in terms of these regulations, which address shall be within a distance of 15 kilometres of the building of the seat of the court;
 - (c) the provincial division or divisions of the Supreme Court in the area of jurisdiction in which the property to which the application relates is situated or is;
 - (d) the right virtue of which the applicant makes such application, as well as the nature of and grounds for the application;
 - (e) a clear and complete description of the property expropriated, and, if the property expropriated is land, full particulars of all improvements thereon, and, in the case of the taking of the right to use property temporarily, also of the right taken;
 - (f) the amount, if any, last claimed and offered as compensation for the expropriation or the taking of the right to use property temporarily before institution of the proceedings;
 - (g) the names and addresses of any persons who have an interest in the property or proceedings concerned and the nature of their interest, if known.
- (2) Whenever the applicant applies for the determination of compensation with respect to various separate disputes based upon separate facts, such facts shall, as far as possible, be mentioned separately.
- (3) The applicant shall, in his application for the determination of compensation, furnish all the particulars which are necessary to calculate the amount of the compensation concerned, including full particulars in connection with how much of that amount represents each of the various amounts contemplated in section 12(1)(a)(i) and (ii) or (b) of the Act, with full particulars as to how such amounts are made up.
- (4) The parties may at any time in writing agree that an address further than 15 kilometres from the building of the seat of the court (but within the area of jurisdiction of the court) be accepted for the service of any other notices, process, documents in applications referred to in regulation 17(1) or any other documents, as the case may be, required in terms of these regulations.

8. DOCUMENTS TO ACCOMPANY THE APPLICATION FOR THE DETERMINATION OF COMPENSATION

Every application for the determination of compensation shall be accompanied by the original or a copy of-

- (a) the expropriation notice concerned;
- (b) if the application is made in accordance with the provisions of section 10 of the Act by the expropriator concerned, proof of the service of the expropriation notice or of the publication thereof in terms of section 7(5) of the Act;
- (c) any request for further particulars in terms of section 9(2) of the Act;
- (d) any written statement, particulars and documents delivered by the expropriated party in terms of section 9(1) or (2) of the Act;
- (e) any notice referred to in section 10(5)(b) of the Act;
- (f) if the property which has been expropriated or with respect to which the right to use such property temporarily has been taken is immovable property, the title deed thereof, if in the possession of the applicant;
- (g) any particulars which the expropriator concerned has furnished in terms of section 10(4) of the Act.

9. THE SERVICE OF THE APPLICATION FOR THE DETERMINATION OF COMPENSATION

- (1) The applicant shall, after the filing of the application for the determination of compensation, cause a copy thereof to be served on the respondent by the deputy sheriff along with a notice substantially in the form set out in Form 1 in Schedule 1, in which is mentioned the time within which the respondent shall deliver his reply in terms of these regulations.
- (2) The applicant shall cause to be delivered a notice substantially in the form set out in Form 2 in Schedule 1 to every such person as may appear from the application for the determination of compensation to have an interest in the property.
- (3) The applicant shall, within seven days of receipt of a written request thereto, make available to a mortgagee or other person who according to the application for the determination of compensation is an interested party to the proceedings, a copy of the application for the determination of compensation and of the documents which accompany such application free of charge.

10. REPLY TO THE APPLICATION FOR THE DETERMINATION OF COMPENSATION

- (1) A respondent shall cause a written reply to be delivered to the applicant within a period of 21 days of the date of service of the application for the determination of compensation on such respondent.

- (2) A respondent shall in his reply deny, admit or confess and avoid all material facts averred in the application for the determination of compensation, or shall mention which of the facts averred are not admitted and to what extent, and shall state clearly and concisely all the material facts on which his case rests.
- (3) It shall not be sufficient for a respondent to make any general denial of the facts averred in the application for the determination of compensation in his reply.
- (4) The respondent shall specifically deal with each averment of facts whose correctness he does not admit, and each averment of facts contained in the application for the determination of compensation not specifically denied in the reply shall be deemed to have been admitted.
- (5) The respondent shall furnish in his reply such facts as are reasonably necessary to determine how he calculated the amount of compensation.
- (6)
 - (a) For the purposes of this regulation, "respondent" shall include any person to whom an application for the determination of compensation has been delivered and who alleges that he is not the respondent named in the application for the determination of compensation and who wishes to defend on this ground. The compensation court may direct that costs be paid by or to such person as if he were a party to the proceedings.
 - (b) Should such defence be upheld, the court may, instead of rejecting the application for the determination of compensation, allow any necessary amendment upon application by the applicant and may direct that details of such amendment be delivered to the actual respondent.
- (7) Any mortgagee or other person appearing from the application for the determination of compensation to be a party interested in the proceedings may join as a party to the proceedings within seven days of receipt by him of a copy of Form 2, by delivering a notice in the form of Form 3 in Schedule 1 together with the documents which indicate the nature of his interest to all parties to the proceedings. Such joining party shall within 14 days of delivery by him of a notice in the form of Form 3 deliver a written reply to the application for the determination of compensation. The provisions of these regulations shall *mutatis mutandis* apply to such reply. If no such reply is delivered within the fixed time or such longer period as the parties may agree upon or as the court may on application order, the proceedings may be proceeded with without further notice to the joining party concerned.
- (8) The expropriator may at any time prior to the hearing of the application for the determination of compensation urge that such joining party furnish security for costs at such amount as may be agreed upon by the parties or as may be fixed by the registrar.

11. OFFER TO SETTLE

- (1) Any party may, at any time before the hearing of the application for the determination of compensation has been concluded, by written notice without prejudice of rights make an offer to any other party for the settlement of the proceedings.
- (2) Such notice shall at the same time state whether or not liability for costs or a portion thereof is admitted. Should the notice not mention this matter, it shall be presumed that the party who made the offer offered to pay the other party's costs up to the date of the offer.
- (3) The party to whom the offer is made may within five days of receipt of the notice accept the offer, if the offer was made not less than five days prior to the hearing of the application or within 24 hours of such receipt if the offer was made after the commencement of the hearing of the application but prior to the disposal of the proceedings concerned and after expiry of such periods, only with the consent of the party who made the offer or of the president. Such acceptance shall, subject to the provisions of the Act and these regulations, suspend all further proceedings.
- (4) Should the offer to settle not be accepted and should the compensation court at the hearing of the application determine the compensation at an amount less advantageous to the party who did not accept the offer-
 - (a) the court shall order the last-named party to pay to the party who made the offer such of his costs which were incurred after the date of the notice referred to in subregulation (1);
 - (b) the court shall decide, at its discretion, as to costs incurred before the date of the notice;
 - (c) payment of the amount of compensation to the expropriated person shall, where appropriate, be made subject to any order made in favour of the expropriator in terms of subparagraph (a) or (b).
- (5) An offer made in terms of subregulation (1) shall not be disclosed to the court before judgment is given and shall not be placed on a file in the registrar's office containing the documents relating to the application for the determination of compensation. An order as to costs shall be made only after disclosure of the offer, if any, referred to in subregulation (1) and shall be made in accordance with the provisions of sub regulation (4).
- (6) Any party who mentions or discloses such offer personally or through his advocate or attorney to the compensation court in contravention of this regulation shall notwithstanding the fact that he succeeds in the proceedings, be liable to and order as to costs being made against him, which order may also provide for costs as between attorney and client.
- (7) If a compensation court has made an order as to costs without taking note of the offer and this fact is brought to the notice of the compensation court within five days of the date of the determination of the compensation by the compensation court, the costs shall be reconsidered in the light of the offer.

- (8) After acceptance of the offer to settle referred to in subregulation (1) the amount of compensation stated therein shall be paid as soon as possible.
- (9) After acceptance of the amount of compensation stated in the notice concerned, the applicant shall as soon as possible notify the registrar and any other parties to the proceedings accordingly, whereupon the proceedings so far as he is concerned shall lapse.

12. DISCOVERY OF DOCUMENTS

- (1) Every party shall within 21 days of the date of delivery of the reply by the respondent deliver a statement making discovery on oath of all documents which are or were in his possession or under his control and which are relevant to the issues in the application for the determination of compensation.
- (2)
 - (a) Should privilege be claimed with regard to any of the documents specified in the statement, such documents shall be specified separately and the grounds upon which privilege is claimed in relation to such documents shall be stated.
 - (b) For the purposes of paragraph (a) a document shall be regarded as being privileged against discovery under the same circumstances as those under which documents are for the purposes of Rule 35 of the Uniform Rules of Court not required to be specified in discovery affidavits.
- (3) No document not so discovered shall be used in the hearing of the application for any purpose by the party in whose possession or under whose control it is, but the other party concerned shall be entitled to use or claim such document during the cross-examination of any witness: Provided that the compensation court may at any time, on such conditions relating to adjournment and costs as it may deem reasonable, grant permission for such use.
- (4) A party shall, upon request, forthwith allow the other party to inspect all documents discovered in terms of subregulation (1) or books and documents as referred to in subregulation (5), and to make copies thereof, excluding documents in respect of which privilege is claimed, and shall forthwith furnish the other party with such copies thereof or extracts therefrom as may be requested.
- (5) Any party may by notice require any other party to produce, at the hearing of the application, the documents discovered in terms of subregulation (1), as well as any other books and documents which may be relevant to the proceedings.

13. FURTHER PARTICULARS

- (1) Any party may, at any time after the respondent's reply but not later than 14 days after discovery of documents by a party in terms of regulation 12(1), by notice demand that any other party provide such

further particulars as may be necessary to enable the first-mentioned party to prepare his case for the hearing of the application.

- (2) The notice referred to in subregulation (1) may require the party to whom it is delivered to furnish details-
 - (a) concerning the date of purchase, purchase prices paid, the sizes and registry descriptions, if available, of all properties which such party intends to use as comparable transactions at the hearing of the application;
 - (b) in the form of an abridged résumé, concerning the basis upon which the compensation offered or claimed, as the case may be, was calculated.
- (3) The party to whom the notice referred to in subregulation (1) is delivered shall, within 14 days of the date of delivery of the demand referred to in subregulation (1) deliver the particulars so demanded.

14. FAILURE TO DELIVER REPLY TIMEOUSLY

- (1) Any party failing to deliver his reply within the prescribed period shall, after expiry of a period of seven days as calculated from the date of delivery to him of a notice which complies with the provisions of subregulation (2), be barred from delivering such reply: Provided that any such period either before or after expiry of the prescribed period may be extended with the consent of the opposite party, and if such consent be withheld, such period may be extended by the court on application on such conditions with regard to costs and otherwise as may in the discretion of the court be just.
- (2) The notice prescribed in subregulation (1) shall state that, in the event of failure to deliver the reply within the period specified in such notice, application will be made for the summary determination of the compensation by the court without reference to the other party.
- (3) At the hearing of the application the compensation court may take such steps as it may deem necessary or expedient to determine the compensation as soon as possible: Provided that the court may determine the compensation after hearing the evidence produced by only the applicant.

15. INTERVENTION OF PARTIES IN THE PROCEEDINGS

- (1) Any party having an interest in the property or proceedings concerned and wishing to join in the proceedings may at any stage before or during the proceedings apply to a compensation court to join in the proceedings, and if the application is granted the provisions of these regulations in so far as they relate to respondents shall, *mutatis mutandis*, apply to such party.
- (2) The compensation court may grant the application referred to in subregulation (1) on such conditions as the court may deem necessary or expedient.

- (3) The compensation court may at any time upon application by any party to proceedings before such court, or *mero motu*, order that some person otherthan[sic] the applicant or the respondent be joined on such condition as the court may deem necessary or expedient

16. POWERS OF A PRESIDENT OF A COMPENSATION COURT

- (1) The president of a compensation court shall be competent at any time before or after delivery of an application for the determination of compensation-
- (i) to authorise the substituted service on any person of any notice, process of a compensation court, documents in an application referred to in regulation 17(1) or any other document required in terms of these regulations, including an application for the determination of compensation;
 - (ii) to make other order, as to the delivery of the application for the determination of compensation or any other notice, process of a compensation court, documents in an application referred to in regulation 17(1) or any other document required in terms of these regulations;
 - (iii) to adjourn the hearing of the application for the determination of compensation, or a continuation thereof;
 - (iv) to grant leave for the taking of evidence on commission or in the form of affidavits;
 - (v) to grant leave to withdraw an application for the determination of compensation or any other process of the compensation court subject to the conditions, including such conditions relating to notice to such other person as the president may deem necessary or expedient;
 - (vi) to make an order permitting an applicant or a respondent to make inventories or surveys on the property of a respondent or an applicant respectively;
 - (vii) to permit any amendment to any notice or other process of the compensation court on such conditions as the president may deem necessary or expedient;
 - (viii) generally to make any such order or do any such act as may be necessary for the due compliance with any provision contained in these regulations or with any provision relating to practice and procedure in a compensation court contained in the Act;
 - (ix) to make an order that any party comply with the provisions of any of these regulations within a time fixed by the court, and in the event of such order not being complied with, to make a further order for the further continuation and disposal of the case without further reference to the party who did not comply with the order aforementioned;

- (x) to make an order that more than one case shall be heard jointly, on such conditions with regard to costs or otherwise as the president may deem necessary or expedient.
- (2) The president shall be competent to make such orders as to costs in connection with any order made or authorisation or leave granted by him, as he may deem fit.

17. MOTION PROCEEDINGS (GENERAL)

- (1) Subject to the provisions of the Act and these regulations, the procedure provided for in Rule 6 of the Uniform Rules of Court shall with respect to applications by notice of motion *mutatis mutandis* apply to any proceedings in a compensation court instituted by a written application in terms of these regulations, excluding an application referred to in regulation 6: Provided that-
 - (a) the provisions of regulation 7(1)(b) shall, *mutatis mutandis*, apply regarding the address indicated for the service of any document by any party to such application;
 - (b) a notice of motion shall indicate the date of hearing thereof and shall be delivered at least 14 days before such date;
 - (c) any person contesting the granting of an order sought in the notice of motion shall deliver his replicatory affidavit together with any relevant documents at least seven days before the date of the hearing thereof;
 - (d) the applicant shall be entitled to cause a replicatory affidavit to be delivered at least three days prior to the date of hearing of the motion, and no further affidavit shall be delivered without leave by either the compensation court or the parties.
- (2) Any issue which can be decided without it being necessary to go into the main issue may be set down for separate hearing by anyone of the parties before the hearing of the application on its merits, and the procedures for the setting down of such issue in the provincial division of the Supreme Court having jurisdiction in the area where the compensation court concerned has its seat shall apply to the setting down of the issue.

18. AMENDMENT OF DOCUMENTS

- (1) Any party wishing to amend any notice, process or any other document (other than an affidavit) filed in terms of these regulations in connection with any proceedings shall give all other parties notice of his intention to amend.

- (2) The notice shall state that, unless written objection is made to the proposed amendment within seven days of delivery of the notice, process or other document referred to in subregulation (1), the party giving notice will amend the notice, process or other document concerned accordingly.
- (3) Should no written objection be so made, the party receiving the notice shall be deemed to have agreed to the amendment.
- (4) Should objection be made within the above-mentioned period, the party wishing to proceed with the amendment shall, within 14 days of receipt of the objection, apply to the court for permission in terms of regulation 16(1)(vii) to amend.
- (5) When an amendment has been granted, or when no objection has been made within the period prescribed by subregulation (2), the amending party shall deliver the amendment within the time fixed by the order, or within seven days of the expiry of the time prescribed in sub-regulation (2), as the case may be.
- (6) When an amendment is delivered under this regulation, the other party concerned may reply thereto or amend accordingly any document referred to in subregulation (1) handed in by him within 14 days of receipt of the amendment referred to.
- (7) Any party giving notice of amendment shall, unless the compensation court otherwise directs, be liable for the costs thereby incurred by the other party.
- (8) A compensation court may, during the hearing of an application for the determination of compensation at any stage before judgment, grant leave for the amendment referred to in subregulation (1) of any notice, process or any other document on such conditions and with such orders relating to costs as it may deem fit.
- (9) An amendment granted in terms of these regulation[sic] shall appear on a separate page, which shall be joined to the notice, process or other document concerned at a suitable place.

19. SPECIAL CASE AND ADJUDICATION UPON QUESTIONS OF LAW OR FACT IN PENDING PROCEEDINGS

- (1) The parties to a case may, after institution of the proceedings but before the hearing thereof by the compensation court concerned, agree upon a written statement of facts in the form of a special case for adjudication by the said court.
- (2)
 - (a) The statement shall contain the facts agreed upon, the questions of law in dispute and the parties' contentions thereon in numbered paragraphs, together with copies of any relevant documents, and shall be signed by the various parties.

- (b) The provisions of regulations 33 and 34 shall, *mutatis mutandis*, apply to the set-down and notice of the hearing of a special case.
- (3) Should a compensation court, upon application by any party, be of the opinion that there is a question of law or of fact in the pending proceedings before it which may conveniently be decided before evidence is led or which may be decided separately from some other question, such court may prescribe, at its discretion, the settling of such question and direct that all further proceedings be suspended until then.
- (4) When the compensation court so decides such question, it may give judgment accordingly and determine how any remaining issues shall be tried in order to dispose of the case finally.
- (5) Should the issue be a question of law and should the parties agree upon the facts, the facts may be admitted and recorded at the hearing of the proceedings and the compensation court may give judgment without hearing evidence.

20. CURTAILMENT OF PROCEEDINGS

- (1)
 - (a) Any party wishing to set down a case with respect to an application for the determination of compensation, shall as soon as possible after delivery of the reply and before delivery of a notice of set-down, request the other parties, in writing, to attend a consultation at a mutually suitable time for the purpose of agreeing on ways of curtailing the proceedings, and more particularly on as many as possibly of the following:
 - (i) The admission of facts and documents;
 - (ii) the holding of any inspection or examination;
 - (iii) the discovery of documents;
 - (iv) the giving of any further particulars reasonably required for the purposes of the hearing of the application for the determination of compensation;
 - (v) the plans, diagrams, photographs, models and the like to be used at the hearing of the application;
 - (vi) the preparation and handing in at the proceedings of copies of correspondence and other documents in the form of a volume with copies for the court and all parties.
 - (b) After the consultation the parties shall draw up a minute of the matters upon which they-

- (i) agreed; and
- (ii) did not agree;

and shall sign such minute.

- (c) The consultation contemplated in paragraph (a) may be held at any time after the delivery of the reply but before the commencement of the proceedings.

- (2) At the commencement of the proceedings the parties shall report to the court whether such consultation was held and, if so, shall hand in the signed minute referred to in paragraph (b).

21. PROCEEDINGS IMMEDIATELY PRECEDING THE HEARING OF THE APPLICATION FOR THE DETERMINATION OF COMPENSATION BY A COMPENSATION COURT

- (1) A compensation court may, before proceeding to the hearing of an application for the determination of compensation, direct that the parties set forth concisely the questions of fact and of law that are at issue and may note the points at issue so set forth.
- (2) When it appears from the documents to a compensation court that there are various questions of fact at issue and such court is of the opinion that the deciding of anyone of such issues may settle the whole matter or materially curtail the proceedings, such court may require the parties to deal with that issue before proceeding with other issues and such court may thereupon give final judgment without dealing with such other issues.
- (3) Should the issue be a question of law and the parties agree in regard to the facts, the facts before the compensation court may be admitted by the parties, either by verbal or by written statement, and be noted by the compensation court and judgment may be given thereon without further evidence.
- (4) When questions of law and of fact arise in the same proceedings and the compensation court is of the opinion that the dispute can be dealt with solely on the questions of law, then such court may require the parties to argue only those questions and may give its decision thereon before evidence is taken regarding the questions of fact at issue and may give final judgment without dealing with such questions of fact.
- (5) The president may, before the hearing of an application for the determination of compensation is proceeded with, call the parties into his chambers with a view to securing agreement on any matters likely to curtail the proceedings.

22. SIGNING OF DOCUMENTS

Any notice, process of a compensation court, document in an application referred to in regulation 17(1) or any other document which is filed with the registrar shall be signed by the person concerned who is responsible for the filing thereof.

23. EXTENSION OF TIME, CONDONATION AND NOTICE TO THIRD PARTIES

- (1) In the absence of agreement between the parties, a compensation court may, upon application on notice and on good cause shown, extend or abridge any period of time prescribed by these regulations or by any order of such court in connection with any proceedings, upon such conditions as it may deem necessary or expedient, and may also extend or abridge any period of time fixed by an order extending or abridging the time for doing any act or taking any step in connection with such proceedings.
- (2) Any such extension may be granted although the application therefor is not made until after the expiry of the time prescribed or fixed, and the compensation court may, at its discretion, make such order as to the cancelling or varying of the results of the expiry of any time so prescribed or fixed, whether such results flow from any order of the compensation court or from these regulations.
- (3) The compensation court may, on good cause shown, condone the non-compliance with any of these regulations.
- (4) If it appears, at any stage during the hearing of an application or case, that the rights of persons, excluding those notified thereof, may be affected by the judgment in such application or case, a compensation court may order that a notice of the application or copy of any process of the compensation court or of any other document be served on such other persons in such manner as the compensation court may order, and the court concerned may to that end adjourn the hearing of the application or the case concerned.
- (5) The compensation court may, upon such conditions as it may deem necessary or expedient, permit a respondent to be heard at the hearing of the application, notwithstanding the fact that such respondent has failed to file a reply.

24. VARIATION AND RESCISSION OF ORDERS

- (1) A compensation court shall have the right to rescind or vary, *mero motu* or upon the application of any party affected, any order which-
 - (a) was erroneously sought or erroneously made in the absence of any party affected thereby;
 - (b) contains an ambiguity or a patent error or omission, but only to the extent of such ambiguity, error or omission;

- (c) was made as the result of a mistake common to the parties concerned;
 - (d) was made because the respondent is in default, with his reply or failed to appear at the hearing of the proceedings: Provided that such order shall be rescinded or varied only on good cause shown for such rescission or variation.
- (2) Any party applying under this regulation shall give notice of his application to all parties whose interests may be affected by any rescission or variation sought.
 - (3) The compensation court shall not rescind or vary any order unless it is satisfied that all parties whose interests may be affected have notice of the rescission or variation proposed.

25. EXCHANGE OF OPINIONS OF EXPERTS

No person shall, save by leave of the compensation court or with the consent of all parties to the case, be entitled to call as a witness any person to give evidence as an expert upon matters upon which expert evidence may be received, unless he shall have delivered a notice, not less than 21 days before the hearing of the relevant application for the determination of compensation to the effect that he wishes so to do, together with a summary of such expert's opinions and his reasons therefor.

26. FILING OF PLANS, DIAGRAMS, PHOTOGRAPHS OR MODELS

- (1) No person shall, except by leave of a compensation court or with the consent of all parties, adduce as evidence a plan, diagram, photograph or model unless he has, at least 14 days before the hearing of the application or case concerned, delivered a notice that he intends so to do, that he tenders it for inspection and that he requires the party receiving the notice to admit the exhibit within seven days of receipt of the notice.
- (2) Should the party receiving the notice fail to respond within the time specified, the plan, diagram, photograph or model shall be accepted as evidence by the mere submission thereof without further proof. Should such party refuse to admit, then the plan, diagram, photograph or model may be proved at the hearing of the application or case, but the party who refused may be ordered to pay the costs of the proof thereof.

27. WITHDRAWAL, SETTLEMENT AND WAIVER OF RIGHTS

- (1)
 - (a) Any person instituting proceedings may, at any time before the matter has been set-down and thereafter by consent of the parties or leave of the president as referred to in regulation 16(1)(v), withdraw such proceedings, in any of which events he shall deliver a notice of withdrawal wherein he consents to pay costs, which shall be taxed by the taxing master on the request of the other party.

- (b) Consent to pay costs as contemplated *[sic]* in paragraph (a) shall have the effect of an order of the compensation court for such costs.
 - (c) Should the notice of withdrawal not contain any consent to pay costs, the other party may apply to the compensation court by notice for an appropriate order as to costs.
- (2) Any party in whose favour any determination of compensation has been made may waive such determination either in whole or in part by delivering a notice to this effect, and where there has been a waiver in part, only the remaining portion of the award shall hold. The provisions of subregulation (1) relating to costs shall, *mutatis mutandis*, apply in the case of a notice delivered under this subregulation unless the compensation court on application by notice otherwise orders or the parties otherwise agree.
 - (3) When a settlement has been reached or the parties agree to postpone or withdraw, it shall be the duty of the applicant immediately to inform the registrar accordingly.
 - (4) Any party to any settlement in writing not yet carried out may, unless the application has been withdrawn, request a determination of compensation in accordance with the settlement on at least seven days notice to all other parties.
 - (5) Anyone of the parties may at any time apply to the compensation court to note the provisions of a settlement of the case. The compensation court may make such deed of settlement an order of the court.
 - (6) Such application shall take place after notice, unless the application is made in the court during any proceedings where the other party is represented or when a written waiver of this right (which may be contained in the deed of settlement) is submitted to the court by such other party.
 - (7) The applicant shall, at the hearing of the application, file with the court a deed of settlement signed by the parties to the case and, if no objection is raised by any other party, the court shall note that the case has been settled in pursuance of the provisions contained in the deed of settlement, and thereafter all further proceedings, save as provided hereunder, shall be discontinued.
 - (8) Where the deed of settlement provides for the future compliance with specific conditions by any party and such conditions are not complied with by such party, the other party may request an order in pursuance of the provisions of the deed of settlement at any time within 12 months of the first-mentioned party's having failed to comply with such conditions. Such application shall take place after notice to the party alleged*[sic]* to be in default, setting forth the details of the breach of the conditions of the deed of settlement by the said party.
 - (9) The compensation court may, after hearing the parties-

- (a) dismiss the application;
- (b) give an order in pursuance of the deed of settlement;
- (c) set aside the deed of settlement and issue such orders for the further continuation of the case as the court may deem necessary or expedient;
- (d) make such order as to costs of the application as the court may deem necessary or expedient.

28. PROCEDURES TO BE OBSERVED BY THE COMPENSATION COURT

The procedures relating to the proceedings in a compensation court shall take place in accordance with the provisions of the Act and these regulations: Provided that if in any particular case no such provision applies the compensation court concerned may, notwithstanding the fact that some other rule of procedure or practice is followed in a provincial division of the Supreme Court or in the magistrate's court in such a case, act in such manner as it may deem most appropriate to such case and in the circumstances in pursuing the objects of the Act and these regulations in order to cause material justice to be done in such case and to the parties concerned.

29. MANNER OF SECURING THE ATTENDANCE OF WITNESSES IN CASES IN THE COMPENSATION COURT AND PENALTIES FOR NON-ATTENDANCE

- (1) The provisions of Rule 38 of the Uniform Rules of Court, as amended from time to time, in regard to the obtaining and the giving of evidence at a hearing shall, *mutatis mutandis*, apply to the obtaining and the giving of evidence at the hearing of an application for the determination of compensation in a compensation court.
- (2) The compensation court may set aside any subpoena if it appears that the witness upon whom it has been served has not been given reasonable time to enable him to attend in obedience to the subpoena, or where it appears that the witness claimed but did not receive a sufficient travelling allowance, or where there are special circumstances which justify the setting aside of such subpoena.
- (3) Whenever any person subpoenaed to attend a case as a witness fails without reasonable excuse, to obey the subpoena, and it appears from the return of the officer who served the subpoena concerned or from evidence given under oath that the subpoena was served on the person to whom it was directed and that his reasonable expenses, calculated in accordance with the tariff framed under section 42 of the Supreme Court Act, 1959, have been paid or offered to him or that he is evading service of the subpoena, or if any person who has attended in obedience to a subpoena fails to remain in attendance, the compensation court in which the said proceedings are conducted may issue a warrant directing that he be arrested and brought before the compensation court at a time and place stated in the warrant or as soon thereafter as possible.

- (4) Any person arrested under any such warrant may be detained thereunder before the compensation court which issued it or in any prison or lock-up or other place of detention or in the custody of the person who is in charge of him with a view to securing his presence as a witness at the said proceedings: Provided that the compensation court may release him on recognizance with or without sureties for his appearance to give evidence as required.
- (5) A witness who evades the service of a subpoena or fails to obey the subpoena or to remain in attendance shall, unless it is proved that such person has a reasonable excuse for such evasion or failure, be guilty of an offence and upon conviction be liable to a fine not exceeding R200 or imprisonment for a period not exceeding six months.
- (6) If a person who has entered into any recognizance for his appearance to give evidence at such proceedings fails so to appear, the compensation court may declare his bail forfeit, and any such forfeiture shall have the effect of a judgment on the recognizance for the amounts therein specified against him and his sureties respectively, and in addition to such forfeiture, he may be dealt with as if he had failed to obey a subpoena to attend such proceedings.

30. MANNER IN WHICH WITNESSES MAYBE DEALT WITH ON REFUSAL TO GIVE EVIDENCE OR PRODUCE DOCUMENTS

- (1) Whenever any person who appears either in obedience to a subpoena or in compliance with a warrant issued under regulation 29 or is present and is verbally required by the compensation court to give evidence, refuses to be sworn or to make an affirmation, or, having been sworn or having made an affirmation, refuses to answer such questions as are put to him or refuses or fails to produce any document or thing which he is required to produce without just excuse for such refusal or failure, the compensation court may adjourn the proceedings for any period not exceeding seven days and may, in the mean time, by warrant commit the person so refusing or failing to prison unless he sooner consents to do what is required of him: Provided that the law relating to privilege as applicable to a witness subpoenaed to give evidence or to produce a document or thing before a court of law shall apply *mutatis mutandis* to the interrogation of any person or the production of any document or thing in terms of this regulation.
- (2) If any person referred to in subregulation (1) again refuses at the resumed hearing of the proceedings concerned to do what is required of him the court may again adjourn the proceedings and commit him for a like period, and so again from time to time until such person consents to do what is required of him or until he is otherwise released by the compensation court.
- (3) Nothing in this regulation contained shall prevent the compensation court from giving judgment in any case or otherwise disposing of the proceedings according to any other sufficient evidence taken.

- (4) No person shall be bound to produce any document or thing not specified or otherwise sufficiently described in the subpoena unless he actually has it in his possession in the compensation court.
- (5) When a subpoena is issued to procure the attendance of a judicial officer to give evidence or to produce any book, paper or document in any proceedings before a compensation court, and it appears-
 - (a) that he is unable to give any evidence or to produce any book, paper or document which would be relevant to any issue in such proceedings; or
 - (b) that such book, paper or document could properly be produced by some other person; or
 - (c) that the compelling of his attendance would be an abuse of the process of the court;the compensation court may, notwithstanding anything in this regulation contained, after reasonable notice by the registrar to the party who sued out the subpoena, and after hearing that party in chambers if he appears, make an order setting aside such subpoena.

31. IMPEDING OR OBSTRUCTING THE COMPENSATION COURT

Any person intentionally disturbing the proceedings before a compensation court or intentionally impeding or obstructing a compensation court in the fulfilling of its duties shall be guilty of an offence, and, upon conviction, shall be liable to a fine not exceeding R200 or imprisonment for a period not exceeding six months.

32. WITNESS FEES

Any witness subpoenaed to give evidence before a compensation court shall be entitled to the fees and costs as stated in the tariff mentioned in regulation 29(3) to which he would have been entitled if he had given evidence in a civil case in a provincial division of the Supreme Court.

33. SETTING DOWN FOR HEARING OF APPLICATION FOR THE DETERMINATION OF COMPENSATION

- (1) After the last process required in terms of these regulations has been filed, the applicant may set down the case on a date to be arranged with the registrar in consultation with the parties.
- (2) Should the applicant fail to apply, within 14 days of such last process having been filed, for a date of hearing of the application, the respondent shall be entitled to make such application.
- (3) If the provisions of regulation 14 apply to the further continuation of the hearing of the application, the applicant may, without any reference to any other party, arrange a date for the hearing of the application in consultation with the registrar.

34. NOTICE OF DATE OF THE HEARING OF APPLICATION FOR THE DETERMINATION OF COMPENSATION

Notice of the date of the hearing of the application for the determination of compensation shall be given to the other party by the applicant or, as the case may be, the respondent at least 30 days before the hearing of the application and the time and place of the hearing shall be mentioned in the notice.

35. THE OBLIGATION TO BEGIN

The obligation to adduce evidence first shall rest upon the applicant in any proceedings under the provisions of these regulations for the determining of compensation as a result of any expropriation of property or the taking of the right of temporary use thereof.

36. PROCEDURE AT THE HEARING OF PROCEEDINGS

- (1) The hearing before a compensation court shall, subject to the provisions of any law to the contrary and these regulations, take place in public.
- (2) Should the applicant appear at the commencement of the proceedings and the respondent fail to appear, the applicant may adduce evidence in so far as it is necessary for his case, whereupon the court may make a determination.

37. PROCEDURE DURING THE HEARING RELATING TO EVIDENCE

- (1) Any witness who is not a party to a case may be ordered by the compensation court to-
 - (a) leave the court until his evidence is necessary or after he has given evidence; or
 - (b) remain in court after he has given evidence until the session is concluded or adjourned.
- (2) After the respondent has adduced evidence[sic], the applicant shall have the right to adduce rebutting evidence on any issue in regard to which the onus rested on the respondent: Provided that should the applicant have adduced evidence on any such issue before he closed his case, he shall be precluded from adducing further evidence on that issue.
- (3) No provision of subregulation (2) shall prevent the respondent from cross-examining any witness who was called, at any stage, by the applicant on any issue, and the applicant shall be entitled to re-examine such witness[sic] after such cross-examination without prejudice to the right conferred upon him by subregulation (2) to adduce evidence at a later stage on an issue on which such witness was

cross-examined. The applicant may further call the witness who was so re-examined to give evidence at a later stage on any such issue.

- (4) Where a party is represented, every witness shall be examined, cross-examined and re-examined, as the case may be, by only one representative of such party, although not necessarily the same representative.
- (5) The applicant may, after the evidence in the case has been closed on both sides, address the court, after which the respondent may do the same and the applicant may reply to anything arising therefrom.
- (6) The court may, notwithstanding any provision to the contrary in these regulations contained, penalise, in the award of costs, any party, where it is of the opinion that the proceedings have been unnecessarily protracted by him by calling unnecessary witnesses or by excessively lengthy examination or cross-examination or by labouring the point.
- (7) The rules and procures of the Supreme Court in relation to the recording of proceedings in civil cases shall, *mutatis mutandis*, apply in relation to the proceedings before a compensation court.

38. OATH BY THE PRESIDENT

- (1) Judges and magistrates shall, when they are appointed president, be bound to the oath or affirmation which they made in the office of judge or magistrate respectively.
- (2)
 - (a) A former judge, former magistrate, advocate or attorney appointed president shall, before he commences his functions, make an oath or affirmation, which shall be signed by him in the form set out below, namely:

I,

(full name)

do hereby swear/solemnly and sincerely affirm that I will, in my capacity as President of the Compensation Court for the area of jurisdiction of

(mention division)

of the Supreme Court of South Africa, administer justice to all persons alike without fear, favour or prejudice.

- (b) Any such oath or affirmation shall be taken or made before a judge or magistrate who shall at the foot thereof endorse a statement of the fact that it was taken or made before him and of the date on which it was so taken or made and his signature *[sic]* thereto.

39. DEATH OF AN ASSESSOR OR INCAPACITY TO TAKE A SEAT

If an assessor during the hearing of a case, or so shortly before the commencement of the proceedings in connection therewith that the vacancy cannot be filled in time for the hearing, dies or his estate is sequestrated or otherwise becomes incapable, or is not in a position to take his seat or, after he has taken his seat, is unable to carry on therewith, the president concerned may at his discretion adjourn the proceedings in order to call in the help of some other assessor or proceed with the hearing with the remaining assessor only, if there be one, or without any assessor should there be no remaining assessor.

40. COSTS AND FEES IN A COMPENSATION COURT

- (1) Costs in any case in a compensation court shall be calculated and taxed as follows:
 - (a) Should the compensation awarded or last claimed prior to the commencement of the case be less than ten thousand rand, the amounts allowable to attorneys shall be the highest scale of the table of costs applicable in a magistrate's court in relation to contested actions.
 - (b) Should the compensation awarded or last claimed prior to the commencement of the case be ten thousand rand or more, the costs in a case shall be calculated in terms of the tariff of costs as prescribed in Schedule 2 to these regulations.
- (2) Should the compensation awarded by the compensation court in a case-
 - (a) be equal to or exceed the amount last claimed by the expropriated party on the date of the commencement of the proceedings in the court, all costs incurred after the date referred to shall be awarded against the expropriator;
 - (b) be equal to or less than the amount last offered by the expropriator on the date referred to in paragraph (a), such costs shall be awarded against the expropriated party concerned;
 - (c) be less than the amount last so claimed by the expropriated party but exceed the amount last so offered by the expropriator, then there shall be awarded against the expropriator so much of the expropriated party's costs (which do not exceed taxed costs) incurred after the date referred to in paragraph (a) as bears to such costs the same proportion as the difference between the compensation so awarded and the amount so offered bears to the difference between the amount of compensation so awarded and the amount so claimed: Provided that, should any offer of settlement have been made by the expropriator in accordance with these regulations, the provisions of this paragraph shall not apply, and the date referred to in paragraph (a) shall, for the purposes of any such offer of settlement, be the date thereof.

- (3) In a case not mentioned in subregulation (2), the court shall at its discretion decide in regard to costs.
- (4) The court shall in any other case not mentioned in subregulation (2), exercise its discretion in relation to costs, and may, in exercising such discretion, order a party to pay part of the costs should he or his representative have failed to attend a consultation in terms of regulation 20.
- (5) Should any costs be awarded against the party to whom the compensation is payable, such an order as to costs shall be a preferential claim against any amount payable to such party under section 12(3) of the Act, and that money and interest shall, in so far as is necessary, be applied for the settlement of those costs and fees.
- (6) The taxing master of the provincial division of the Supreme Court concerned shall be the taxing master of the compensation court concerned, and the said taxing master shall tax bills of costs in accordance with the provisions of the Act and these regulations.
- (7) Any costs awarded, whether so ordered by the court or so agreed to by the parties, shall include the fees of expert witnesses. Such fees shall be subject to taxation by the taxing master of the compensation court concerned.
- (8) Any party to a case may apply to the provincial division of the Supreme Court concerned for review of any costs or expenses awarded or refused in such bill of costs, and such application shall be made *mutatis mutandis* in accordance with the same procedures as those that apply to applications for review of taxations by the taxing master of the said division.

41. APPEALS

Any appeal in terms of section 17 of the Act shall be pursued as if it were an appeal against the decision of a single judge in motion proceedings arising from an application to the Supreme Court, and the provisions of section 13 of the Supreme Court Act, 1959, in so far as they relate to appeals, shall, *mutatis mutandis*, apply to such appeals.

42. EXECUTION

The rules of procedure in force from time to time relating to execution in the Supreme Court shall, subject to the provisions of section 3 of the State Liability Act, 1957 (Act 20 of 1957), *mutatis mutandis*, apply to any order or award of a compensation court.

43. FEES OF SHERIFF OR DEPUTY SHERIFF

- (1) The tariff of fees and claims in force on 1 July 1976 in the Supreme Court relating to the service of documents and execution of orders, and the provisions relating to the taxation thereof, shall, apply *is[sic]* relation to the service of documents and execution of orders of the compensation court.

- (2) Such fees and claims shall be payable by the party in whose behalf the services were rendered and recovery may be taken against the opposite party if the costs are awarded between parties.

44. REMUNERATION OF THE PRESIDENT OF THE COMPENSATION COURT

- (1) A president other than a judge or a magistrate shall be entitled to a remuneration of not more than *[sic]* R250 per day for every day on which the court is in session and not more than R30 for every completed hour that such a president devotes to the activities of the court on days other than session days.

(Regulation 44(1) substituted by regulation 1(a) of Government Notice R2209 in Government Gazette 8919 dated 7 October 1983)

- (2) A president of a compensation court who is a former judge of the Supreme Court of South Africa, a former magistrate, advocate or attorney may, in respect of every 24 hours of actual absence from his permanent place of residence in connection with business of the court, be paid an all-inclusive subsistence allowance of R59. The allowance for an imcompleted *[sic]* period of 24 hours shall be calculated proportionally according to the number of hours of absence: Provided that, where such absence is less than 24 hours, an amount equal to the reasonable actual expenses of such a president shall be paid.

(Regulation 44(2) substituted by regulation 1(b) of Government Notice R2209 in Government Gazette 8919 dated 7 October 1983)

- (3) A president of a compensation court may travel at Government expense and in such manner as he may deem fit to and from the place of session of the court and to any place which, in his opinion, is necessary to visit in connection with business of the court: Provided that, where a president makes use of his private transport under the said circumstances, he shall be entitled to a compensation of 30 cents per kilometre.

(Regulation 44(3) substituted by regulation 1(c) of Government Notice R2209 in Government Gazette 8919 dated 7 October 1983)

45. REMUNERATION OF AN ASSESSOR

- (1) Should an assessor be a person not in the full-time employment of the State, he shall be entitled to a remuneration of not more than R86 per day for every day or part thereof on which the court is in session.

(Regulation 45(1) substituted by regulation 2(a) of Government Notice R2209 in Government Gazette 8919 dated 7 October 1983)

- (2)

- (a) An assessor who is not in the full-time employment of the State, may, in respect of every 24 hours of actual absence from his permanent place of residence in connection with business of

the court, be paid an all-inclusive subsistence allowance of R59. The allowance for an imcompleted *[sic]* period of 24 hours shall be calculated proportionally according to the number of hours of absence: Provided that, where such absence is less than 24 hours, an amount equal to the reasonable actual expenses of such assessor shall be paid.

- (b) An assessor may travel at Government expense and in such manner as he may deem fit to and from the place of session of the court and to any place which, in the opinion of the president of the court, is necessary to visit in connection with business of the court: Provided that, where an assessor makes use of his private transport under the said circumstances, he shall be entitled to a compensation of 30 cents per kilometre.

(Regulation 45(2) substituted by regulation 2(b) of Government Notice R2209 in Government Gazette 8919 dated 7 October 1983)

- (3) The remuneration and allowances referred in subregulations (1) and (2) shall be paid by the State: Provided that where the services of assessors are called in by the court at the request of all the parties to the proceedings, the court shall order which party or parties shall refund the amounts referred to in the said subregulations (1) and (2) to the State.
- (4) Any certificate issued by the registrar specifying the amount paid to the assessors in terms of subregulations (1) and (2) shall be prima facie proof of such payment, and the expropriator may deduct from any moneys due by him to any other party or parties to the case the amount which is payable by any such party or parties under an order in terms of the proviso to subregulation (3).

SCHEDULE 1

FORM 1

IN THE COMPENSATION COURT FOR THE AREA OF JURISDICTION OF THE
.....
SUPREME COURT OF SOUTH AFRICA

In the case between

....., Applicant
and
....., Respondent

Take notice that if you wish to file a reply in relation to the application for the determination of compensation, a copy of which is hereby served upon you, you are hereby required to deliver such reply within 21 days of the date of service of this notice upon you by lodging the original thereof (in which is set forth the full address where you will accept service of process or other documents) with the registrar and to cause a copy thereof to be served on the applicant.

Dated at, this
day of, 19.....

To:

1. The Registrar

.....

2. Respondent

.....

.....
.....
Applicant or his attorney
(name and address)

FORM 2

IN THE COMPENSATION COURT FOR THE AREA OF JURISDICTION OF THE
.....
SUPREME COURT OF SOUTH AFRICA

In the case between

....., Applicant
and
....., Respondent

1. Take notice that the applicant has instituted proceedings against the respondent, in which the applicant claims the following legal aid:
.....
.....
2. The application for the determination of compensation and the documents which accompany it are open to inspection at the office of the registrar and copies may be obtained free of charge from the applicant on request.
3. Take notice that, should you wish to file a reply in relation to the application for the determination of compensation, you are hereby required to deliver such reply within 21 days of the date of service of this notice upon you by lodging the original thereof (in which is set forth the full address where you will accept service of process or other documents) with the registrar and to cause a copy thereof to be served on the applicant.
4. Further take notice that, if you fail to deliver such reply within the period specified, the determination of the compensation owing by virtue of the expropriation mentioned in the applicant's application for the determination of compensation will be proceeded with without any further notice to you.

Dated at, this
day of, 19.....

To:

1. The Registrar
.....
2. Mortgagee or other interested party
.....

.....
.....
Applicant or his attorney
(name and address)

FORM 3

IN THE COMPENSATION COURT FOR THE AREA OF JURISDICTION OF THE
.....
SUPREME COURT OF SOUTH AFRICA

In the case between

....., Applicant
and
....., Respondent

1. Take notice that I, (full name)
.....
of (full address)
.....
hereby join as a party to the above-mentioned case. The nature of my interest is as follows
(particulars)
.....

The address where I shall accept service of process or other documents is stated hereunder.

2. The documents which indicate the nature of my interest are attached.

Dated at, this
day of, 19.....

To:

1. The Registrar

.....

2. Applicant

.....

.....

(name and address)

3. Respondent

.....

.....

(name and address)

.....

.....

Joining party
(name and address)

SCHEDULE 2
TARIFF OF FEES OF ATTORNEYS

	R
1. Instructions to institute proceedings or to defend	5,00 – 50,00
2. Perusing and considering-	
(a) of a process, affidavit, advice on evidence, report, important letter or important document, per folio	1,00
(b) of a letter, record of evidence or other relevant document not elsewhere specified, 20c per folio subject to a minimum of	0,50
(c) where, in the opinion of the taxing master, a time-tariff would be appropriate, per half hour or part thereof	10,00
3. Making searches in office of record, per half hour or part thereof:	
Attorney	5,00
Clerk	2,50
4. Sorting, arranging and paginating of documents and compiling of index	1,50 – 10,00
5. Telephone calls	2,00
6. Formal attendances, each	1,00
7. Drafting and drawing of-	
(a) subpoenas and formal notices, per folio	0,50
(b) statements of witnesses, memoranda and instructions to advocates, per folio	1,00
(c) affidavits, notices (except formal notices), minutes and important documents not otherwise provided for, per folio	2,00
(d) a process	10,00 – 30,00
8. Letters, per folio	1,00
9. Short brief to advocate	1,00
10. Consultation or conference with a client, advocate, witness or opposite party or attendance of an inspection <i>in situ</i> , per half hour or part thereof	15,00
The above rate of remuneration shall not apply to time spent in travelling, but the taxing master shall in respect of time necessarily so spent allow additional remuneration not exceeding R21,00 <i>per diem</i> and shall also allow the reasonable cost of necessary conveyance.	
11. Hearing of case-	
(a) if advocate employed in the case:	
(i) Attendance in court by attorney, per half hour or part thereof	15,00
(ii) Attendance in court by clerk, per half hour or part thereof	5,00

thereof

(b) if advocate not employed in the case:

- | | |
|---|---------------|
| (i) Appearance by attorney, per half hour or part thereof | 15,00 – 45,00 |
| (ii) attendance in court by a clerk to assist attorney who appears, per half hour or part thereof | 5,00 |

The above rates of remuneration shall not apply to time spent in travelling, but the taxing master shall, in respect of time necessarily so spent, allow such additional remuneration not exceeding R21,00 *per diem* as he in his discretion may deem fair and reasonable and shall also allow a reasonable amount to cover the costs of necessary conveyance. The above rates of remuneration shall also not apply to time spent in waiting. Remuneration for such time shall be, per half hour or part thereof.

10,00

12. Making of copies:

- | | |
|---------------------------|------|
| (a) First copy, per folio | 0,20 |
| (b) thereafter, per folio | 0,10 |

13. Bill of costs:

- | |
|--|
| (a) Drawing of bill of costs, 5 per cent of the fees as allowed on taxation. |
| (b) Taxation of bill of costs, 2½ per cent of the fees as allowed on taxation. |