

(1 October 1969 – to date)

## **SUPERIOR COURTS ACT 10 OF 2013**

*(Gazette No. 36743, Notice No. 615 dated 12 August 2013. Commencement date: 23 August 2013 [Proc. No. R36, Gazette No. 36774]- with the exception of sections 29, 37 and 45 and Items No. 11 of Schedule 1 and No. 1.1 of Schedule 2)*

### **RULES REGULATING THE CONDUCT OF THE PROCEEDINGS OF THE EASTERN CAPE DIVISION OF THE SUPREME COURT OF SOUTH AFRICA**

*Government Notice R3289 in Government Gazette 2518 dated 12 September 1969. Commencement date: 1 October 1969*

Notice is hereby given that the following rules regulating the conduct of the proceedings of the Eastern Cape Division of the Supreme Court of South Africa have, in terms of section 43(2)(b) of the Supreme Court Act, 1959 (Act 59 of 1959), been made by the Judge President of that division with effect from 1 October 1969.

#### **1. Definitions**

In these rules, unless the context otherwise indicates-

**"court"** shall mean the Eastern Cape Division of the Supreme Court of South Africa;

**"uniform rules"** shall mean the rules regulating the conduct of the proceedings of the several provincial and local divisions of the Supreme Court of South Africa, promulgated by Government Notice R. 48, dated 12 January 1965;

and a word or expression to which a meaning has been assigned in the uniform rules shall bear that meaning.

#### **2. Sittings of the Court and Vacations**

- (1) The year shall be divided in terms, vacations, circuits and circuit periods and the work, both civil and criminal, distributed and arranged as the Judge President, after consultation with the other judges, the Bar, the Side Bar and the Attorney-General of the court, may direct and cause to be published in a calendar not later than 31 October of the preceding year.
- (2) During vacations one judge shall be competent to execute all the powers, jurisdictions and authorities vested in the court.

#### **3. Setting Down of Defended Cases**

(1) Whenever -

- (a) an exception has been filed to any pleadings; or
- (b) the parties have stated a special case for the opinion of the court on a question of law; or
- (c) in cases not carried on by default, the pleadings have been closed,

the plaintiff or, if he fails to do so within 30 days, the defendant may set down the case on the roll for trial by entering the particulars in the register, kept by the registrar, and by forthwith giving notice in writing to the opposite party and the registrar, in the form set out in the First Schedule hereto, that he has done so.

- (2) The registrar shall compile and publish a list of the cases to be tried which shall be called the weekly list.
- (3) The weekly list shall be the list of cases which will be tried during the week to which the list relates. A weekly list shall be compiled and published relating to the week commencing on the Monday of the week in which the first day of term occurs and thereafter for each week during term. The registrar shall set down for trial and shall enter in the weekly list as many cases as will be tried during the week to which the list relates and shall set down the said cases for trial on specified dates in the said week. The weekly list shall be published on Friday, six weeks before the commencement of the week to which it relates or if the said Friday is a holiday on the next business day, save that the registrar may set down cases on at least 14 days' notice if any withdrawals should occur on any of the said lists.
- (4) The weekly list shall be published by being posted on the notice board at the registrar's office. On the day upon which the weekly list is published the registrar shall give notice of trial by registered post to the parties in each case in the said list by posting a written notice to the attorneys for each party or, if the parties have no attorneys, to the parties at their addresses as stated in the notice mentioned in subrule (1). The said notice shall inform the parties of the date for which the case has been set down for trial. Cases shall be entered on the weekly list in the chronological order in which they were set down on the roll and they shall be tried in the said order: Provided that-
  - (a) the court may order that the cases be tried in a different order and may order that a case be promoted on the roll or on any list or that a case be postponed either *sine die* or to some particular date or dates;
  - (b) the court may set down a case for trial on a particular date or dates;

- (c) a case which is not reached on the date for which it was set down for trial shall be tried at the conclusion of the trial of the case next before it on the list or on a date to be fixed by the court or by the registrar on the instructions of the court;
- (d) defended matrimonial cases may be set down for trial at the end of third division rolls.

(5)

- (a) With the consent of all parties a case may be withdrawn from the roll of cases for trial by notice in writing addressed to the registrar. A case which has been so withdrawn, if replaced on the said roll, shall be placed next after the last matter already on the roll: Provided that the court may on the application of either party order that such case be placed on the roll in some other position.
- (b) Save as aforesaid no case shall be withdrawn from the roll save, on cause shown, with the consent of the court and on such terms as the court may deem just.

(6) This rule shall *mutatis mutandis* apply to the setting down for hearing of opposed motion proceedings and opposed provisional sentence proceedings.

(7) Nothing in this rule contained shall be construed as dispensing with the requirements of rule 33(2)(c) of the uniform rules in regard to a special case when the interests of married women, minors or persons of unsound mind may be affected.

4. Repeal

The Government Notices specified in the Second Schedule hereto are hereby repealed to the extent set out in the third column thereof.

#### **FIRST SCHEDULE**

#### **FORM OF NOTICE UNDER RULE 3**

Case No \_\_\_\_\_

**IN THE SUPREME COURT OF SOUTH AFRICA**  
**(Eastern Cape Division)**

In the matter of \_\_\_\_\_  
\_\_\_\_\_  
Plaintiff/Applicant

versus

\_\_\_\_\_  
Defendant/Respondent

NOTICE OF SET-DOWN IN TERMS OF RULE 3(1) OF THE RULES OF THIS COURT

Kindly take notice that the above-mentioned matter has been set down for hearing.

The following counsel will be briefed to appear:

\_\_\_\_\_  
for Plaintiff / Applicant

and  
\_\_\_\_\_

\_\_\_\_\_  
for Defendant /Respondent

Dated at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_

\_\_\_\_\_  
Attorney for Plaintiff / Applicant

Address \_\_\_\_\_  
\_\_\_\_\_

To: The Registrar of the above Honourable Court; and to:

\_\_\_\_\_  
\_\_\_\_\_  
Attorney for Defendant /Respondent

Address \_\_\_\_\_  
\_\_\_\_\_

**SECOND SCHEDULE-**

<i>Number and year of Government notice</i>	<i>Title or subject matter</i>	<i>Extent of repeal</i>
Government Notice 1639 of 25 October 1957	Sittings and vacations	Rule 2(b) and (c)
Government Notice 43 of 13 January 1938, as amended	Setting down of defended cases and exceptions	Rule 34.