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A G. Government Notice

Office of the

ADMINISTRATOR-GENERAL FOR THE TERRITORY OF SOUTH WEST AFRICA

DEPARTMENT OF JUSTICE

No. AG. 86 1989

MAGISTRATES' COURTS: AMENDMENT OF THE RULES OF THE COURT

The Administrator-General has under subsection (5) of section 25 of the Magistrates' Courts Act, 1944 (Act 32 of 1944), confirmed the amendments set out in the Schedule which were made to the Rules of Court, promulgated under Government Notice R.1108 of 21 June 1968, by the Rules Board under subsection (3) of the said section 25, and which are hereby expressed to take effect on 15 November 1989.

A G. Goewermentskennisgewing

Kantoor van die

ADMINISTRATEUR-GENERAAL VIR DIE GEBIED SUIDWES-AFRIKA

DEPARTEMENT VAN JUSTISIE

No. AG. 86 1989

LANDDROSHOWE: WYSIGING VAN DIE REËLS VAN DIE HOF

Die Administrateur-generaal het kragtens subartikel (5) van artikel 25 van die Wet op Landdroshowe, 1944 (Wet 32 van 1944), die wysigings wat in die Bylae uiteengesit is en wat deur die Reglementsraad kragtens subartikel (3) van genoemde artikel 25 aangebring is aan die Reëls van die Hof, afgekondig by Goewermentskennisgewing R.1108 van 21 Junie 1968, en wat hierby verklaar word op 15 November 1989 in werking te tree, bekragtig.

SCHEDULE

1. Table A of Annexure 2 is hereby amended –

(a) by the substitution in subparagraph (b) of paragraph 13 of Part I for the amount "R75" of the amount "R100";

(b) by the addition to Part I of the following item:

"17. The costs taxed and allowed in accordance with Parts I, III and IV of this Table for acts performed after the date of commencement of this item, shall be increased by an amount equal to 50 percent of the total amount of such costs:";

(c) by the substitution for Part II of the following Part:

"PART II

UNDEFENDED ACTIONS

		R
Item 1	Registered letter of demand in terms of section 56 of the Act .	6,00
Item 2	Summons, inclusive of a letter of demand other than the letter of demand referred to in item 1 –	
	(a) where the claim is not more than R1 500	30,00
	(b) where the claim is more than R1 500, but not more than R5 000	100,00
	(c) where the claim is more than R5 000	150,00

BYLAE

1. Tabel A van Bylae 2 word hierby gewysig –

(a) deur in subparagraaf (b) van paragraaf 13 van Deel I die bedrag "R75" deur die bedrag "R100" te vervang;

(b) deur die volgende item by Deel I te voeg:

"17. Die koste getakseer en toegelaat ooreenkomstig Dele I, III en IV van hierdie Tabel vir handelinge verrig ná die datum van inwerkingtreding van hierdie item, word met 'n bedrag gelykstaande aan 50 persent van die totaal van sodanige koste verhoog:";

(c) deur Deel II deur die volgende Deel te vervang:

"DEEL II

ONBESTREDE AKSIES

		R
Item 1	Geregistreerde aanmaning ingevolge artikel 56 van die Wet	6,00
Item 2	Dagvaarding, met inbegrip van 'n ander aanmaning as die aanmaning in item 1 bedoel –	
	(a) waar die eis nie meer is nie as R1 500	30,00
	(b) waar die eis meer is as R1 500 maar nie meer is nie as R5 000	100,00
	(c) waar die eis meer is as R5 000	150,00

Item 3	Judgement –	
	(a) where the claim is not more than R1 500	30,00
	(b) where the claim is more than R1 500, but not more than R5 000	75,00
	(c) where the claim is more than R5 000	125,00
Item 4	Notice in terms of rule 12(2)	12,00
Item 5	Notice in terms of rule 54(1)	12,00
Item 6	Affidavit or certificate	–
Item 7	Attending court at the request of the magistrate when claim referred to court for judgement	As allowed under item 26 of the scale for defendent actions (part III)
Item 8	For each registered letter which is forwarded to the debtor in terms of section 57(1), 57(3) or section 58(2) of the Act by the creditor or his attorney, including copies	6,00
Item 9	Admission of liability and undertaking to pay debt in instalments or otherwise (section 57 of the Act)	18,00

Item 3	Vonnis –	
	(a) waar die eis nie meer is nie as R1 500	30,00
	(b) waar die eis meer is as R1 500, maar nie meer is nie as R5 000	75,00
	(c) waar die eis meer is as R5 000	125,00
Item 4	Kennisgewing ingevolge reël 12(2)	12,00
Item 5	Kennisgewing ingevolge reël 54(1)	12,00
Item 6	Beëdigde verklaring of sertifikaat	–
Item 7	Verskyning in hof op versoek van die landdros wanneer eis na hof verwys is vir vonnis	Soos toegelaat onder Item 26 van die skaal vir bestrede aksies (Deel III)
Item 8	Vir elke geregistreerde brief wat die eiser of sy prokureur ingevolge artikel 57(1), 57(3) of artikel 58(2) van die Wet aan die skuldenaar stuur, insluitende afskrifte	6,00
Item 9	Erkenning van aanspreeklikheid en onderneming om skuld in paaiemente of andersins te betaal (artikel 57 van die Wet)	18,00

Item 10 Consent to judgement or to judgement and an order for the payment of judgement debt in instalments (section 58 of the Act)	18,00

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

(d) by the substitution for the heading before item 14, and items 14 up to and including 18, of Part IV of the following heading and items:

"EXECUTION

	R
14. (a) Issue of warrant of execution, ejectment, arrest and committal in terms of section 109, delivery up of possession	19,50
(b) For each reissue thereof	9,00
15. Inclusive fee for work involved in releasing of attachment of immovable property	18,00
16. Inclusive fee for work done in connection with sale in execution of immovable property only (excluding work for which fees are already provided for elswhere and the drawing up for the conditions of sale)	65,00
17. (a) Drawing up of notice of sale in terms of rule 41(8) or rule 43(6), or conditions of sale in	

Item 10 Toestemming tot vonnis of tot vonnis en 'n bevel vir die betaling van vonnisskuld in paaiemente (artikel 58 van die Wet)	18,00

Opmerking: Die bedrag van die gelde wat ingevolge items 4, 5, 6, 7, 8, 9 en 10 toegelaat kan word, word sonder taksasie ingesluit by die bedrag van koste waarvoor vonnis aangeteken word."; en

(d) deur die opskrif voor item 14, en items 14 tot en met 18, van Deel IV deur die volgende opskrif en items te vervang:

"TENUITVOERLEGGING

	R
14. (a) Uitreiking van lasbrief vir eksekusie, uitsetting, inhegtenisneming en gevangesetting ingevolge artikel 109, inbesitstelling	19,50
(b) Vir elke heruitreiking daarvan	9,00
15. Allesinsluitende gelde vir werk verrig in verband met vrystelling van onroerende goed waarop beslag gelê is	18,00
16. Allesinsluitende gelde vir werk verrig in verband met die eksekusieverkoping van slegs onroerende goed (uitgesonderd werk waarvoor gelde reeds elders voorgeskryf is en die opstel van verkoopvoorwaardes)	65,00
17. (a) Opstel van kennisgewing van verkoping ingevolge reël 41(8) of reël 43(6), of voorwaar-	

terms of rule 43(7), per folio .... —

(b) For all other work done and papers and documents supplied to the messenger in connection with the sale in execution of movable property, and inclusive fee of 45,00

18. Security for restitution, where necessary .... 18,00".

2. Table B of Annexure 2 is hereby amended —

(a) by the substitution in subparagraph (b) of paragraph 3 of Part I for the amount "R75" of the amount "R100";

(b) by the substitution in subparagraph (d) of paragraph 3 of Part I for the amount "R35" of the amount "R70";

(c) by the substitution for the Tariff to Part I of the following Tariff:

"TARIFF

		R
(a)	Where the claim is less than R40	30,00
(b)	Where the claim is R40 or more, but less than R100 ..	45,00
(c)	Where the claim is R100 or more, but less than R1 000	50,00
(d)	Where the claim is R1 000 or more, but less than R2 000.................	65,00
(e)	Where the claim is R2 000 or more	80,00

des van verkoop ingevolge reël 43(7), per folio .... —

(b) Vir alle ander werk gedoen en stukke en dokumente verskaf aan die geregsbode in verband met 'n geregtelike verkoping van roerende goed, allesinsluitende gelde van 45,00

18. Sekerheidstelling vir restitusie, waar nodig .... 18,00".

2. Tabel B van Bylae 2 word hierby gewysig —

(a) deur in subparagraaf (b) van paragraaf 3 van Deel I die bedrag "R75" deur die bedrag "R100" te vervang;

(b) deur in subparagraaf (d) van paragraaf 3 van Deel I die bedrag "R35" deur die bedrag "R70" te vervang;

(c) deur die Tarief by Deel I deur die volgende Tarief te vervang:

"TARIEF

		R
(a)	Waar die eis minder as R40 is	30,00
(b)	Waar die eis R40 of meer is, maar minder as R100.....	45,00
(c)	Waar die eis R100 of meer is, maar minder as R1 000 ...	50,00
(d)	Waar die eis R1 000 of meer is, maar minder as R2 000	65,00
(e)	Waar die eis R2 000 of meer is	80,00

(f)	Warrant of Arrest and Detention (Form 42)	20,00
(g)	Emoluments Attachment Order (Form 38).........	18,00
(h)	Warrant of Liberation (Form 43) or Certificate of Liberation (Form 59).....	6,00
(i)	Application for costs on notice (including appearance in court)...........	20,00
(j)	Obtaining a certified copy of a judgment...........	18,00
(k)	Affidavit of certificate by the judgment creditor or his attorney................	13,50
(l)	For each registered letter which is forwarded to the debtor in terms of section 65A(2), 65E(3), 65E(6) or 65J(2) of the Act by the creditor or his attorney	6,00
(m)	Affidavit of affirmation by debtor (Rule 45(7))	27,00
(n)	Request for an order under section 65 of the Act	13,50
(o)	Attending postponed proceedings in terms of section 65E(3)	20,00";

(d) by the substitution for the Tariff to Part II of the following Tariff:

"TARIFF

		R
(a)	Where the claim is less than R40	30,00

(f)	Lasbrief vir inhegtenisneming en aanhouding (Vorm 42)	20,00
(g)	Besoldigingsbeslagbevel (Vorm 38)	18,00
(h)	Lasbrief vir Invryheidstelling (Vorm 43) of Invryheidstellingsertifikaat (Vorm 59)	6,00
(i)	Aansoek om koste op kennisgewing (verskyning in hof ingesluit)	20,00
(j)	Verkryging van 'n gewaarmerkte afskrif van 'n vonnis	18,00
(k)	Beëdigde verklaring of sertifikaat deur die vonnisskuldeiser of sy prokureur .	13,50
(l)	Vir elke geregistreerde brief wat die skuldeiser of sy prokureur ingevolge artikel 65A(2), 65E(3), 65E(6) of 65J(2) van die Wet aan die skuldenaar stuur	6,00
(m)	Beëdigde verklaring of bevestiging deur skuldenaar (Reël 45(7))	27,00
(n)	Versoek om 'n bevel kragtens artikel 65 van die Wet	13,50
(o)	Bywoning van uitgestelde verrigtinge ingevolge artikel 65E(3)	20,00";

(d) deur die Tarief by Deel II deur die volgende Tarief te vervang:

"TARIEF

		R
(a)	Waar die eis minder as R40 is	30,00

(b) Where the claim is R40 or more 65,00

(c) Obtaining certified copy of a judgement 18,00

(d) Application for an order of execution against the garnishee............... 18,00

(e) Garnishee order (Form 39) 10,00";

and

(e) by the substitution for the Tariff to Part III of the following Tariff:

"TARIFF

Item	One to ten creditors	Eleven to twenty creditors	More than twenty creditors
	R	R	R
1. Instructions to apply for administration order, including necessary perusal of summonses, demands, etc., and ascertaining amount of assets and liabilities, including all attendances and correspondence necessary thereto..............	22,50	36,00	54,00
2. Instruction on application under section 74Q(1) or to oppose such application or granting of administration order, including drawing of application (where necessary).....	18,00	18,00	18,00
3. Drawing application for administration order and affidavit, including all annexures thereto and all attendances excluding attendance in court	18,00	18,00	18,00
4. Making copies of application, affidavit and annexures for creditors	0,20*	0,20*	0,20*

(b) Waar die eis r40 of meer is 65,00

(c) Verkryging van 'n gewaarmerkte afskrif van 'n vonnis 18,00

(d) Aansoek om 'n bevel tot eksekusie teen die beslagskuldenaar 18,00

(e) Skuldbeslagbevel (Vorm 39) .... 10,00";

en

(e) deur die Tarief by Deel III deur die volgende Tarief te vervang:

"TARIEF

Item	Een tot tien skuldeisers	Elf tot twintig skuldeisers	Meer as twintig skuldeisers
	R	R	R
1. Instruksies om aansoek te doen om administrasiebevel, insluitende die nodige deurlees van dagvaardings, aanmanings, ens., en vasstelling van die bedrag van bates en laste, insluitende alle verskynings en briefwisseling nodig in verband daarmee...	22,50	36,00	54,00
2. Instruksies op aansoek kragtens artikel 74Q(1) of om sodanige aansoek of die toestaan van administrasiebevel te opponeer, insluitende die opstel van 'n aansoek (waar nodig)	18,00	18,00	18,00
3. Opstel van aansoek om administrasiebevel en beëdigde verklaring, insluitende alle bylaes daarvan en alle verskynings, uitgesonderd verskyning in hof	18,00	18,00	18,00
4. Maak van afskrifte van aansoek, beëdigde verklaring en bylaes vir skuldeisers	0,20*	0,20*	0,20*

5. Perusing application and other documents served, if any, per folio	0,40	0,40	0,40
Note: This item is chargeable only by the attorney for an opposing party.			
6. Attending court:			
(a) On postponement, if not occasioned by the attorney or his client	9,00	9,00	9,00
(b) On hearing, other than for rescission of order	18,00	36,00	36,00
(c) On application for rescission or review of order	9,00	9,00	9,00
7. For furnishing to a creditor by the administrator of information referred to in section 74M(a) of the Act, per application	3,00		
8. For furnishing a copy of the debtor's statement of affairs referred to in section 74 and 74A(1) of the Act by the administrator in terms of section 74M(b), or 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	As under item 8 of Part 1 of Table A.		
9. Correspondence and attendances	3,00	3,00	3,00

*Per folio for each of the first 10 copies and 33c per complete copy thereafter, subject in any event to a maximum of R30.".

5. Deurlees van aansoek en ander betekende dokumente, as daar is, per folio	0,40	0,40	0,40
Opmerking: Die gelde onder hierdie item kan slegs deur die prokureur vir 'n teenparty geëis word.			
6. Verskyning in hof:			
(a) By verdaging, indien nie deur die prokureur of sy kliënt veroorsaak nie	9,00	9,00	9,00
(b) By ander verhoor as verhoor van aansoek om tenietdoening of hersiening van order	18,00	36,00	36,00
(c) By aansoek om tenietdoening of hersiening van order	9,00	9,00	9,00
7. Vir verstrekking deur die administrateur aan 'n skuldeiser van die inligting bedoel in artikel 74M(a) van die Wet, per aansoek	3,00		
8. Vir verstrekking deur die Administrateur ingevolge artikel 74M(b) van 'n afskrif van die skuldenaar se staat van sake in artikels 74 en 74A(1) van die Wet genoem, of van 'n lys of rekening in artikel 74G(1) of 74J van die Wet genoem, of van die skuldenaar se staat van sake in artikel 65I(2) van die Wet genoem	Soos onder item 8 van Deel 1 van Tabel A.		
9. Briefwisseling en bywonings	3,00	3,00	3,00

*Per folio vir elk van die eerste tien afskrifte en daarna 33c per volledige afskrif, onderworpe in enige geval aan 'n maksimum van R30.".

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