

No. R. 318

17 April 2015

RULES BOARD FOR COURTS OF LAW ACT, 1985 (ACT NO. 107 OF 1985)

**AMENDMENT OF RULES REGULATING THE CONDUCT OF THE PROCEEDINGS
OF THE MAGISTRATES' COURTS OF SOUTH AFRICA**

The Rules Board for Courts of Law has, under section 6 of the Rules Board for Courts of Law Act, 1985 (Act 107 of 1985), with the approval of the Minister of Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

GENERAL EXPLANATORY NOTE:

[] Words or expressions in bold type in square brackets indicate omissions from existing rules.

Words or expressions underlined with a solid line indicate insertions in existing rules.

Definition

1. In this schedule "the Rules" means the Rules Regulating the Conduct of the Proceedings of the Magistrates' Courts of South Africa published under Government Notice No. R. 740 of 23 August 2010, as amended by Government Notice Nos. R. 1222 of 24 December 2010, R. 611 of 29 July 2011, R. 1085 of 30 December 2011, R. 685 of 31 August 2012, R. 115 of 15 February 2013, R. 263 of 12 April 2013, R. 760 of 11 October 2013, R. 183 of 18 March 2014, R. 215 of 28 March 2014, R. 507 of 27 June 2014, R. 5 of 9 January 2015, R. 32 of 23 January 2015 and R. 33 of 23 January 2015.

Amendment of rule 14

2. Rule 14 of the Rules is hereby amended by substitution for sub-rules (1) and (2) of the following sub-rules:

“(1) Where the defendant has **[delivered]** served notice of intention to defend, the plaintiff may apply to court for summary judgment on each of such claims in the summons as is only-

- (a) on a liquid document;
- (b) for a liquidated amount in money;
- (c) for delivery of specified movable property; or
- (d) for ejectment,

together with any claim for interest and costs.

(2)(a) The plaintiff shall within 15 days after the date of **[delivery]** service of notice of intention to defend, deliver notice of application for summary judgment, together with an affidavit made by plaintiff or by any other person who can swear positively to the facts verifying the cause of action and the amount, if any, claimed and stating that in his or her opinion there is no *bona fide* defence to the action and that notice of intention to defend has been **[delivered]** served solely for the purposes of delay.

(b) A copy of the served notice of intention to defend must be annexed to such affidavit.

(c) If the claim is founded on a liquid document a copy of the document must be annexed to such affidavit.

(d) The notice of application for summary judgment must state that the application will be set down for hearing on a stated day not being less than 10 days from the date of the delivery thereof.”

Amendment of Rule 60

3. Rule 60 of the Rules is hereby amended by the insertion of the following sub-rule (9):

"(9) The court may, on good cause shown, condone non-compliance with these rules."

Amendment of Form 8 of Annexure 1 of the Rules

4. Form 8 of Annexure 1 of the Rules is hereby substituted for the following form:

"No. 8 - Affidavit in support of Application for Summary Judgment

***For use in the District Court**

In the Magistrate's Court for the District of
..... held at

Case No. of 20.....

In the matter between

.....Applicant

and

.....Respondent

I,, of

..... (address), declare **[on]** under oath/affirm as follows:

(a) I am the plaintiff (or state the relationship on which the authority to represent the plaintiff is based) in this action and am duly authorised to make this affidavit, the contents of which are within my personal knowledge.

(b) I verify that the defendant is indebted to me/to the plaintiff in the amount of R..... and on the grounds stated in the summons.

(c) I believe that the defendant does not have a bona fide defence to the claim and that **[appearance has been entered]** the notice of intention to defend has been served solely for purposes of delay.

(d) A copy of the notice of intention to defend served on (date) is annexed hereto.

(e) (If the claim is founded on a liquid document) A copy of the
 (describe the relevant liquid document) is annexed hereto.

.....

Signature

The deponent has acknowledged that he/she knows and understands the contents of this affidavit.

Signed and sworn to/affirmed before me at on this
 day of, 20.....

.....

Commissioner of Oaths

.....

Area

.....

Office held if appointment is held ex officio.

No. 8 - Affidavit in support of Application for Summary Judgment

*For use in the Regional Court

In the Regional Court for the Regional Division of
 held at

Case No. of 20.....

In the matter between

.....Applicant

and

.....Respondent

I,, of

..... (address), declare **[on]** under
oath/affirm as follows:

(a) I am the plaintiff (or state the relationship on which the authority to represent the plaintiff is based) in this action and am duly authorised to make this affidavit, the contents of which are within my personal knowledge.

(b) I verify that the defendant is indebted to me/to the plaintiff in the amount of R..... and on the grounds stated in the summons.

(c) I believe that the defendant does not have a bona fide defence to the claim and that **[appearance has been entered]** the notice of intention to defend has been served solely for purposes of delay.

(d) A copy of the notice of intention to defend served on (date) is annexed hereto.

(e) (If the claim is founded on a liquid document) A copy of the (describe the relevant liquid document) is annexed hereto.

.....

Signature

The deponent has acknowledged that he/she knows and understands the contents of this affidavit.

Signed and sworn to/affirmed before me at on this day of, 20.....

.....

Commissioner of Oaths

.....

Area

.....

Office held if appointment is held ex officio."

7. Commencement

These rules come into operation on **22 May 2015**.