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COMPETITION APPEAL COURT RULES

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GN R857 in GG 21504 of 1 September 2000

as amended by

GenN 1255 in GG 28234 of 18 November 2005
(as corrected by GenN 2003 in GG 28313 of 15 December 2005)

RULES FOR THE CONDUCT OF PROCEEDINGS IN THE COMPETITION APPEAL COURT

In terms of section 38(1)(c) of the Competition Act, 1998 (Act 89 of 1998), the Judge President of the Competition Appeal Court has made the following Rules relating to the functions of the Competition Appeal Court, to come into operation on 1 September 2000.

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COMPETITION APPEAL COURT RULES

REGULATING THE FUNCTIONS OF THE COMPETITION APPEAL COURT

PART 1
GENERAL PROVISIONS (rules 1-5)

DIVISION A - INTERPRETATION

1 Short title

These Rules may be cited as the *Competition Appeal Court Rules*.

2 Interpretation

(1) A word or expression that is defined in the Act bears the same meaning in these Rules as in the Act.

(2) In these Rules-

- (a) a reference to a section by number refers to the corresponding section of the Act;
- (b) a reference to a rule by number refers to the corresponding item of these Rules; and
- (c) a reference to a subrule or paragraph by number refers to the corresponding item of the rule in which the reference appears.

(3) In these Rules-

- (a) **'Act'** means the Competition Act, 1998 (Act 89 of 1998) as amended.
[Para. (a) substituted by GenN 1255 of 18 November 2005.]
- (b) **'Answer'** means a document as described in rule 24 and filed by a respondent;
- (c) **'appellant'** means a party who initiates an appeal from a decision of the Tribunal;
- (cA) **'business day'** shall mean any day other than Saturday, Sunday or Public holiday and only business days shall be included in the computation of any time expressed in days prescribed by these Rules or fixed in any order of Court or practice directions;
[Definition of 'business day' inserted by GenN 1255 of 18 November 2005.]
- (d) **'Commission'** means the body established by section 19;
- (e) **'Competition Commission Rules'** means the rules promulgated in terms of the Act for the regulation of the Commission;
- (f) **'Competition Tribunal Rules'** means the rules promulgated in terms of the Act for the regulation of the Tribunal;
- (g) **'Court'**, depending on the context, means either-
 - (i) the Competition Appeal Court established by section 36;
 - (ii) a judge of the Court, hearing a matter alone in terms of section 38(2A);
or
 - (iii) the registrar;
- (h) **'deliver'** means to file and serve and **'delivery'** shall have a corresponding meaning;
[Para. (h) substituted by GenN 1255 of 18 November 2005.]
- (i) **'Duty Judge'** means a judge contemplated in rule 15;
- (j) **'file'**, when used as a verb, means to deposit with the registrar;
- (k) **'High Court Rules'** means the *Rules Regulating the Conduct of the Several Provincial and Local Divisions of the High Court of South Africa*, published by

Government Notice R48 in *Government Gazette* 999 of 12 January, 1965, as amended;

- (l) **'Judge President'** means the Judge President of the Court;
- (m) **'Notice of Appeal'** means a document as described in rule 16;
- (n) **'Notice of Motion'** means a document described in rule 23;
- (o) **'party'**, when used in respect of particular proceedings before the court, means-
 - (i) the appellant,
 - (ii) a respondent; or
 - (iii) in the case of proceedings concerning a merger, the Minister;
- (p) **'public holiday'** means a public holiday referred to in section 1 of the Public Holidays Act, 1994 (Act 36 of 1994);
- (q) **'registrar'** means the officer of the Court appointed in terms of rule 5, and includes any acting or assistant registrar;
- (r) **'respondent'** means a party against whom the relief is sought;
- (s) **'Rule'** includes any Table attached as an annexure, and referred to in a rule;
- (t) **'serve'** means to serve in accordance with rule 6 and **'service'** has a corresponding meaning; and
[Para. (t) substituted by GenN 1255 of 18 November 2005.]
- (u) **'Tribunal'**, depending on the context, means either-
 - (i) the body established by section 26;
 - (ii) a panel convened in terms of section 31(1);
 - (iii) a member of the Tribunal sitting in terms of section 31(5); or
 - (iv) the registrar of the Tribunal.
[Para. (u) substituted by GenN 1255 of 18 November 2005.]

DIVISION B - COURT OFFICE FUNCTIONS

3 Office hours and address of Court

(1) The Offices of the registrar of the Court are open to the public every Monday to Friday, excluding public holidays, from 08h30 to 13h00 and from 13h30 to 15h30.

(2) Despite subparagraph (1)-

- (a) in exceptional circumstances the registrar may accept documents for filing on any day and at any time; and
- (b) the registrar must accept documents for filing as directed by either the Judge-President or a member of the Court assigned by the Judge-President.

(3) Subject to rules 6 and 7, any communication to the Court or to the registrar may be-

- (a) Delivered by hand at:
3rd Floor, Mulayo, the dti campus, 77 Meintjies Street, Sunnyside, Pretoria
- (b) Addressed by post to:
Private Bag X28, Lynnwood Ridge, 0040
- (c) Transmitted by fax on:
012 394 0169

(d) Communicated by telephone on:

012 394 3354

(e) Transmitted by electronic mail to:

cac@comptrib.co.za

[Subrule (3) substituted by GenN 1255 of 18 November 2005.]

4 Condonation of time limits

On good cause shown, the Court may condone late performance of an act in respect of which these Rules prescribe a time limit.

[Rule 4 substituted by GenN 1255 of 18 November 2005.]

5 Registrar

The Judge President must appoint a suitably qualified person to act as registrar of the Court, with the authority to carry out the functions of that office in terms of these Rules.

PART 2 **DELIVERY OF DOCUMENTS (rules 6-10)**

6 Delivery of documents

(1) A notice or document may be delivered in any manner permitted in accordance with Table 1.

[Subrule (1) substituted by GenN 1255 of 18 November 2005.]

(2) Subject to subrule (4), a document delivered by a method listed in the second column of Table 1 will be deemed to have been delivered to the intended recipient on the date and at the time shown opposite that method, in the third column of that Table.

(3) If, in a particular matter, it proves impossible to deliver a document in any manner provided for in these Rules, the person concerned may apply to the Court for an order of substituted service.

(4) Subject to rule 3(2), if a document referred to in Table 1 is delivered on a date or at a time that is outside of the office hours of the registrar as set out in rule 3(1), that document will be deemed to have been delivered on the next business day.

[Subrule (4) substituted by GenN 1255 of 18 November 2005.]

(5) A document that is delivered by fax must include a cover page, and a document that is transmitted by electronic mail must accompany a cover message, in either case setting out-

- (a) The name, address and telephone number of the sender;
- (b) The name of the person to whom it is addressed, and the name of that person's representative, if it is being sent to the representative of a person;
- (c) The date and time of the transmission;
- (d) The total number of pages sent, including the cover page; and
- (e) The name and telephone number of the person to contact if the transmission appears to be incomplete or otherwise unsuccessful.

7 Filing documents

(1) The registrar must assign distinctive case numbers to each proceeding commenced before the Court.

(2) A party intending to note an appeal or request a review must-

- (a) first obtain a case number from the registrar; and
- (b) note the case number on the Notice of Appeal or Notice of Motion before delivering it in terms of these Rules.

(3) The registrar may combine two or more proceedings under a common file if they concern substantially the same matter.

(4) The registrar must ensure that every document filed in respect of the same proceedings is marked with the same case number.

(5) The registrar may refuse to accept for filing a document that is not properly marked with the assigned case number.

(6) The registrar may require, and must allow, a person to correct any technical error or defect in any document filed by that person.

(7) If a person refuses to correct any document after being required to do so by the registrar, the registrar must refer the document to the Duty Judge for direction.

(8) A person who files any document in terms of the Act or these Rules must:

- (a) provide to the registrar, in writing on the face of the document or on a separate filing sheet, that person's-
 - (i) legal name;
 - (ii) address for service;
 - (iii) telephone number;
 - (iv) if available, e-mail address and fax number; and
 - (v) if that person is not an individual, the name and contact details of the individual authorised to deal with the Court on behalf of the person filing the document; and
- (b) if the person filing the document does so as a representative of another person, such person must comply with rule 31.

[Subrule (8) added by GenN 1255 of 18 November 2005.]

8 Service on Commission, Tribunal and Minister

(1) A person filing a document in any proceedings must serve a copy of the document on the Commission and the Tribunal.

[Subrule (1) deleted by GenN 1255 of 18 November 2005 (as corrected by GenN 2003 of 15 December 2005).]

(2) The party filing a document in any proceedings in terms of Chapter Three of the Act must serve a copy of the document on the Minister.

[Subrule (2) deleted by GenN 1255 of 18 November 2005 (as corrected by GenN 2003 of 15 December 2005).]

(3) The Minister has the rights of a respondent in any proceedings in terms of Chapter Three of the Act.

[Subrule (3) deleted by GenN 1255 of 18 November 2005 (as corrected by GenN 2003 of 15 December 2005).]

9 Format of documents and preparation of the court record

(1) Every document filed in terms of the Act or these Rules must:

- (a) be typed or legibly written on white paper of A4 size. Typed documents shall be printed in a clear font of not less than 12 point on one side of the paper only and shall be double spaced. Documents filed by legal practitioners must, however, be typed;

- (b) have a margin of at least 35 mm on the left side to facilitate binding. No notes, signatures, initials, stamps or other matter shall be placed in the binding margin;
- (c) if smaller than A4 size, and intended to be placed before the Court, be affixed to a sheet of A4 paper;
- (d) if larger than A4 size, be folded to A4 size to facilitate binding of the Court record;
- (e) the registrar may refuse to accept for filing any document that does not comply with the requirements of this subrule.

(2) The attorney acting for an applicant (or similar party initiating the proceedings), shall, before applying for a date of hearing, collate, number consecutively and suitable [sic] bind all the documents delivered and forming the Court record and shall deliver a complete index thereof as also an index to each separate bound volume. On a date between 10 and 15 business days before the hearing, the aforesaid attorney shall ensure that the record to be used by each Judge hearing the matter is complete and fully indexed. The aforesaid attorney shall, not later than 5 business days before the hearing, file a certificate confirming that the above matters have been attended to.

(3) Whenever practical, the attorney acting for an applicant (or similar party initiating the proceedings) shall in consultation with the attorneys for all other represented parties and with unrepresented parties, prepared a separate bundle of essential core documents and/or a list of any pages in the record that the parties agree need not be read by the Court prior to the hearing. The essential core documents and/or aforesaid list shall be filed not less than 30 business days before the hearing.

[Rule 9 substituted by GenN 1255 of 18 November 2005.]

10 Fees

(1) No fee is payable for filing a document.

(2) The registrar may charge a fee of R1,00 per A4-size page or part thereof to any person wishing to copy a record in the possession of the Court and R2,00 each for the registrar's certificate on certified copies of documents.

PART 3 **ACCESS TO COURT RECORDS (rules 11-13)**

11 Identifying confidential information

When a party files a document, that party must identify to the registrar any included information-

- (a) in respect of which a claim of confidentiality was made in terms of the Competition Commission Rules or the Competition Tribunal Rules, that has not yet been determined by the Tribunal; or
- (b) that has been finally determined to be confidential information.

12 Use of confidential information

(1) From the time information comes into the possession of the Court, until a final determination has been made concerning it, the registrar must treat as confidential information-

- (a) any information that has been determined to be confidential information; and
- (b) any information that has been identified as being subject to a claim that it is confidential.

(2) Once a final determination has been made concerning any information, it is confidential only to the extent it has been held to be confidential information by the Court or the Tribunal.

13 Access to information

(1) Any person may inspect, or upon payment of the prescribed fee, may copy, any record of the Court's proceedings-

- (a) if it is not confidential information; or
- (b) if it is confidential information, to the extent permitted, and subject to any conditions imposed, by
 - (i) this rule; or
 - (ii) an order of the Court, or the Tribunal, as the case may be.

(2) In addition to the provisions of subrule (1) and subject to the terms of any order or determination, the registrar may release confidential information to, or permit access to it by, only the following persons:

- (a) the person who provided that information to the Court, the Tribunal, or the Commission, as the case may be;
- (b) the firm to whom the confidential information belongs;
- (c) a person who requires it for a purpose mentioned in section 69(2) (a) or (b);
- (d) a person mentioned in section 69(2) (c); or
- (e) the Minister, if the information concerns a merger.

[Subrule (2) amended by GenN 1255 of 18 November 2005.]

(3) A party wishing to refer to confidential information must apply to the Duty Judge for directions as to whether that information may be disclosed in documents to be filed with the registrar.

(4) The Duty Judge may give directions to protect confidential information, including ordering that a relevant affidavit, document or heads of argument be filed under a separate cover and sealed by the registrar.

(5) The registrar shall allow a person to inspect a document filed under seal subject to the terms of any order or if the Judge President has given written permission for such person to inspect the document.

[Subrule (5) substituted by GenN 1255 of 18 November 2005.]

PART 4 **THE COURT (rules 14-15)**

14 Sittings

(1) The Court will sit at a venue to be determined by the Judge President from time to time.

(2) At any time at least one Duty Judge will be available to perform the duties that the Judge President directs, including hearings in terms of section 38(2A) of the Act. Whenever a Duty Judge has not been appointed, the Judge President or the next most senior available Judge will be deemed to be the Duty Judge.

[Rule 14 substituted by GenN 1255 of 18 November 2005.]

15 Matters before a single judge

(1) Each matter to be heard before a single judge in terms of rule 14(3), when set down for hearing, will be entered in the registry in a list, and the applicant-

- (a) may be set down on a date determined by the registrar after consultation with the Judge President or the Duty Judge;

[Para. (a) substituted by GenN 1255 of 18 November 2005.]

- (b) must, so far as is practical, indicate whether it is of a time-consuming or contentious nature.

(2) An application will be heard in a place open to the public, unless the Court, in the case of a particular application, directs that for special reasons the application ought to be dealt with in private.

(3) On an application the Duty Judge may-

- (a) grant or refuse the relief claimed in whole or in part, or dispose of any question arising on the application; and
- (b) adjourn the application from time to time, either to a particular date or generally.

(4) If on the hearing of an application the Court is of the opinion that a person to whom notice has not been given ought to have had notice, the Court may either dismiss the application or adjourn the hearing.

(5)

[Subrule (5) deleted by GenN 1255 of 18 November 2005.]

PART 5 **PROCEDURE ON APPEAL (rules 16-22)**

16 Notice of Appeal

(1) A person who has a right of appeal to the Court may file a Notice of Appeal, which must satisfy the requirements of subrule (3)-

- (a) within the time, if any, prescribed by the Act or the Competition Tribunal Rules, within 15 business days after the date of the decision or order that is the subject to the appeal; [sic]¹
- (b) if no time is prescribed by the Act or the Competition Tribunal Rules, within 15 business days after the date of the decision or order that is the subject of the appeal.

(2) A copy of the Notice of Appeal must be delivered to any person who was a party to the matter before the Tribunal.

(3) A Notice of Appeal-

- (a) must identify the decision appealed against;
- (b) must state whether the whole or only part of the decision is the subject of the appeal;
- (c) if only part of the decision is appealed against, must state which part is the subject of the appeal and specify the finding of fact or ruling of law that is the subject of the appeal;
- (d) must set out the grounds on which the appeal is founded; and
- (e) must state the relief sought.

¹ *Editorial note:* The Competition Tribunal has informed us that this rule was published erroneously in the *Government Gazette* and should read as follows: '(a) within the time, if any, prescribed by the Act or the Competition Tribunal Rules; or'.

17 Urgent matters

(1) Any party to an appeal or any application may address a request to the Court to expedite the hearing of the matter. Such request shall contain full reasons therefor and be delivered to all other parties.

(2) A request in terms of subrule (1) will be decided by the Judge President or, in his absence, by the Duty Judge.

(3) Upon determining a request in terms of subrule (1), the Judge President or Duty Judge may give directions for the expeditious hearing of the appeal or application.

[Rule 17 substituted by GenN 1255 of 18 November 2005.]

18 Cross appeals

A respondent who wishes to cross-appeal must deliver a Notice of Cross-Appeal, which must satisfy the requirements of rule 16, read with the changes required by the context, within ten business days after receiving a Notice of Appeal from the appellant.

19 Appeal Record

(1) Within 40 business days after filing a Notice of Appeal, the appellant must-

- (a) serve on the Commission and on each respondent a copy of the record of the proceedings in the Tribunal; and
- (b) file with the registrar four copies of that record, one of which must be certified by the registrar of the Tribunal.

(2) An appellant may apply to the Judge President for an order to extend the time for delivery of the Appeal Record, if-

- (a) the Appellant has requested the respondent to consent[sic] to an extension; and
- (b) the respondent has refused that request.

[Subrule (2) amended by GenN 1255 of 18 November 2005.]

(3) An appellant who fails to deliver the Appeal Record as required by this rule will be deemed to have withdrawn the appeal, unless, within the prescribed period the appellant has either-

- (a) filed the respondent's consent to extend the time; or
- (b) served on the respondent an order granted in terms of subrule (2) extending the time for delivery of the Appeal Record.

[Subrule (3) substituted by GenN 1255 of 18 November 2005.]

(4) If an appellant has withdrawn the appeal, or, in terms of subrule (3), is deemed to have withdrawn the appeal, any respondent who has noted a Cross-Appeal may, within ten business days of the date on which a notice of withdrawal is delivered by the appellant or the date on which the appellant is deemed to have withdrawn the appeal, deliver a notice of intention to prosecute the cross-appeal.

(5) A respondent who has delivered a notice in terms of subrule (4)-

- (a) is, for the purposes of subrule (1), deemed to be the appellant; and
- (b) must deliver the Appeal Record within 40 business days after the date upon which the appellant withdrew the appeal, or on which the appeal was deemed to have been withdrawn.

[Para (b) substituted by GenN 1255 of 18 November 2005.]

[Subrule (5) amended by GenN 1255 of 18 November 2005.]

20 Contents of Appeal Record

(1) Every copy of the Appeal Record must-

- (a) be clearly typed or printed in double spacing on A4 standard paper;
- (b) be paginated;
- (c) be numbered on every tenth line, beginning the numbering afresh on each page;
- (d) be securely bound in suitable covers disclosing the names of the parties and the names of the representatives of the parties;
- (e) be divided into separate conveniently-sized volumes;
- (f) include the decision and written reasons given by the Tribunal;
- (g) contain a correct and complete index of the evidence and of all the documents and exhibits in the case, the nature of the exhibits being briefly stated in the index; and
- (h) contain only those documents that were referred to in the Tribunal proceedings.

(2) The Appeal Record must not include-

- (a) more than one copy of a document; or
- (b) any of the following procedural documents, unless they affect the merits of the appeal:
 - (i) Copies of subpoenas.
 - (ii) Notices of hearing.
 - (iii) Consents to postponement.
 - (iv) Schedules of documents.
 - (v) Notices to produce or permit inspection.
 - (vi) Other documents of a formal nature.
 - (vii) Opening addresses.
 - (viii) The record of oral argument.
 - (ix) Heads of argument before the Commission and/or the Tribunal.
[Subpara. (ix) substituted by GenN 1255 of 18 November 2005.]

(3) The Appeal Record must include a statement listing any documents referred to in subrule (2) that are excluded from the Appeal Record.

(4) The documents that were referred to in the Tribunal proceedings must be arranged in chronological order.

(5) The record of the evidence of any witness must contain references to the bundle of documents in the Tribunal and to documents in the Tribunal and to documents contained in the Appeal Record.

(6) The costs of preparing copies of the Appeal Record are part of the costs of appeal.

(7) The registrar may refuse to accept an Appeal record that does not, in the registrar's opinion, comply with the provisions of this rule.

21 Heads of argument

- (1) The appellant must file four copies of the heads of arguments not later than-
 - (a) fifteen business days before the hearing; or
 - (b) any earlier date determined by the Judge President.
- (2) The respondent must file four copies of the heads of argument not later than-
 - (a) ten business days before the hearing; or
 - (b) any earlier date that may be determined by the Judge President.
- (3) The heads of argument of the applicant and the respondent must each include-
 - (a) a summary of the main contentions on matters of fact and/or law;
 - (b) a chronology of the material facts; and
 - (c) a list of the authorities referred to in the heads of argument.

22 Hearing date

The registrar must notify the parties of the date, time and place for the hearing.

PART 6 **PROCEDURE ON REVIEW (rules 23-27)**

23 Application to review

- (1) An application to review a decision of the Tribunal must be brought within the time period set out in subrule (2), by Notice of Motion, which must satisfy the requirements of subrules (4) and (5).
- (2) An application in terms of subrule (1) must be brought:
 - (a) within the time, if any, prescribed by the Act or the Competition Tribunal Rules; or
 - (b) if no time is prescribed by the Act or the Competition Tribunal Rules, within 15 business days after the date of the decision or order that is the subject of the review.
- (3) A copy of the Notice of Motion must be served on any person who was a party to the matter before the Tribunal.
- (4) An application must contain the following information:
 - (a) The title of the matter.
 - (b) The case number assigned by the registrar of the Court to the matter.
 - (c) The relief sought.
 - (d) A notice requiring the Tribunal to provide a written record of the proceedings, and the reasons for the decision, within fifteen business days of delivery of the application.
 - (e) An address of the party delivering the document at which that party will accept notices and service of all documents in the proceedings.
 - (f) A notice advising the other party that-
 - (i) if it intends opposing the matter, that party must deliver an answering affidavit within fifteen business days after the application has been served; and
[Subpara. (i) substituted by GenN 1255 of 18 November 2005.]
 - (ii) that if the party fails to do so, the matter may be heard in the party's absence and an order of costs may be made.

(g) A schedule listing the documents that are material and relevant to the application.

(5) An application must be supported by affidavit, which must clearly and concisely set out-

- (a) the names, description and addresses of the parties;
- (b) a statement in chronological order of the material facts on which the application is based, with sufficient detail to enable a person opposing the application to reply to the document; and
- (c) a statement of the legal issues that arise from the material facts, with sufficient detail to enable a party to reply to the document.

(6) Within ten business days after the Tribunal has made the record available, the applicant may amend, add to or vary the terms of the application, or supplement the supporting affidavit.

(7) Rule 17, read with the changes required by the context, applies to an application.

(8) Rule 20, read with the changes required by the context, applies to the record.

24 Answer

(1) The Commission, Tribunal or any party wishing to oppose an application may deliver an Answer and supporting affidavit within fifteen business days after receiving the application or amended application.

(2) An answer must include the address at which that party will accept notices and service of all documents in the proceedings.

(3) An answering affidavit must contain the following information:

- (a) A statement of the material facts, in chronological order, on which the opposition to the application is based. The statement of facts must be sufficiently particular to enable the applicant to reply to the document.
- (b) A statement of the local issues that arise from the material facts. The statement of legal issues must be sufficiently particular to enable the applicant to reply to the document.

(4) If a party fails to file an Answer as provided for in this rule, the matter may be heard in that party's absence and an order of costs may be made.

25 Reply

(1) [sic] If an Answer raises new issues of fact or law, the applicant may deliver a replying affidavit within five business days after the date on which the Answer is filed.

26 Set down

(1) The registrar must allocate a date for the hearing of an application once a replying affidavit is delivered, or once the time limit for delivering a replying affidavit has lapsed, whichever occurs first.

(2) The registrar must notify the parties of the date, time and place for the hearing of the application.

27 Heads of argument

Rule 21, read with the changes required by the context, applies to the heads of argument in an application.

PARTS 7-8 inclusive

[Parts 7-8 inclusive not published.]

PART 9
MISCELLANEOUS PROVISIONS (rules 28-36)

28 Amicus curiae submissions

Rule 16 of the *Rules of the Supreme Court of Appeal*, read with the changes required by the context, apply to proceedings before the Court, except that a reference in that rule to the Chief Justice must be read as a reference to the Judge President.

29 Procedure for leave to appeal a decision of the Court

(1) An application for leave or special leave to appeal to the Constitutional Court or the Supreme Court of Appeal from a decision of the Court-

- (a) may be-
 - (i) made before the Court when the decision is handed down, stating the grounds for the proposed appeal; or
 - (ii) brought on notice stating the grounds for the proposed appeal, within ten business days of the decision that is the subject of the proposed appeal; and
- (b) if brought on notice, be delivered to the registrar and to all parties to the proceedings.

(2) The Judge President may, on good cause, extend the period within which a notice of appeal is to be delivered.

(3) An application for leave to appeal must be considered by all the Judges who sat at the hearing when the decision was made.

(4) The judge or judges considering an application under this rule my[sic] require oral argument at a time and place of which the registrar will give notice to all the parties.

(5) After considering the application, the judge or judges may grant or refuse the application.

[Rule 29 inserted by GenN 1255 of 18 November 2005.]

30 Consolidation of Proceedings

(1) The Judge President may make an order consolidating any separate proceedings pending before the Court if it is expedient and just to do so.

(2) The Judge President may make an order referred to in subrule (1) on application by any interested party, or on the motion of the Court.

31 Representation of parties

(1) A person who represents a party in any proceedings must notify the registrar and all other parties, advising them of the following particulars:

- (a) The representative's name;
- (b) The representative's postal address and place of employment or business; and
- (c) The representative's fax and telephone numbers, if available.

(2) A party who terminates a representative's authority to act, and then acts in person or appoints another representative, must give notice to the registrar and all other parties concerned of that termination, and of the appointment of any other representative, and include the particulars referred to in subrule (1)(a)-(c).

(3) Upon filing a notice in terms of subrule (1) or (2), the address of the representative or the party, as the case may be, will become the address for notice to, or service of documents on, the relevant party.

(4) A representative who ceases to act for a party must deliver a notice to that effect to the registrar, that party and to all other parties concerned.

(5) Upon filing a notice referred to in subrule (4), the address of the party formerly represented becomes the address for notices to and for service on that party, until a new address is notified in terms of subrule (1).

(6) Despite subrule (3), if, before receiving a notice referred to in this section, a person sends a notice to, or serves a document on, a party at that party's former address for service, that person will have validly sent the notice or served the document as the case may be, unless the Court orders otherwise.

32 Court may condone non-compliance with Rules

The Court may, for sufficient cause shown:

- (a) excuse the parties from compliance with any of these Rules; or
- (b) condone any technical irregularity arising in any of its proceedings.

33 Costs and taxation

(1) If the Court has made an award of costs, the following provisions apply:

- (a) The fees of one advocate and one attorney may be allowed between party and party, unless the Court, on application authorises the fees of additional advocates and attorneys.
- (b) The fees of each additional advocate or attorney authorised in terms of paragraph (a) must not exceed half of those of the first advocate or attorney unless the Court directs otherwise.
[Para. (b) substituted by GenN 1255 of 18 November 2005.]
- (c) The cost between party and party allowed in terms of an order of the Court, or any agreement between the parties, must be calculated and taxed by the taxing master at the tariff determined by the order or agreement, but if no tariff has been determined, the tariff applicable in a provincial division of the High Court will apply.
[Para. (c) amended by GenN 1255 of 18 November 2005.]
- (d) Qualifying fees for expert witnesses may not be recovered as costs between party and party unless otherwise directed by the Court during the proceedings.

(2) The registrar and/or any other person who in the opinion of the Judge President is fit to perform the functions and duties assigned to and imposed on a taxing master by these Rules, shall perform the functions and duties of a taxing master.
[Subrule (2) substituted by GenN 1255 of 18 November 2005.]

(3) The taxing master is empowered to tax any bill of costs for services actually rendered in connection with proceedings in the Court.

(4) At the taxation of any bill of costs, the taxing master may call for any book, document, paper or account that in the taxing master's opinion is necessary to determine properly any matter arising from the taxation.

(5) The taxation master must not proceed to the taxation of any bill of cost unless the taxing master has been satisfied by the party requesting the taxation (if that party is not the party liable to pay the bill) that the party liable to pay the bill has received due notice as to the time and place of the taxation and of that party's entitlement to be present at the taxation.

(6) Despite subrule (5), notice need not be given to a party-

- (a) who failed to appear at the hearing either in person or through a representative; or

(b) who consented in writing to the taxation taking place in that party's absence.

(7) (a) The provisions of Uniform Rule 48 made pursuant to the provisions of section 43(2) of the Supreme Court Act 59 of 1959 and applicable in the various divisions of the High Court shall apply.

(b) The 'judge' referred to in Uniform Rule 48 shall be a Judge of this Court appointed by the Judge President.

[Subrule (7) substituted by GenN 1255 of 18 November 2005.]

34 Conduct of hearings

(1) The Judge President may give any directions that are considered just and expedient in matters of practice and procedure.

(2) If, in the course of proceedings, a person is uncertain as to the practice and procedure to be followed, the presiding judge-

(a) may give directions on how to proceed; and

(b) for that purpose, if a question arises as to the practice or procedure to be followed in cases not provided for by these Rules or by a direction of the Judge President in terms of subrule (1), the judge may have regard to the *High Court Rules* or the *Rules of the Supreme Court of Appeal*.

(3) If a matter is not disposed of on the return date, the parties must, from time to time, attend at the appointed time for the matter to continue, without further notice.

35 Heads of argument

(1) [sic] In all matters not dealt with in rules 21 and 27 which are to be argued before the Court or a single judge, heads of argument shall be filed-

(a) by the applicant or party initiating the hearing not later than-

(i) fifteen business days before the hearing; or

(ii) any earlier or later date determined by the Judge President or Duty Judge;

(b) by the respondent or party opposing or intervening not later than-

(i) fifteen business days before the hearing; or

(ii) any earlier or later date determined by the Judge President or Duty Judge;

(c) The number of copies of the heads of argument which must be filed shall be one more than the number of judges who are to hear the matter.

[Rule 35 substituted by GenN 1255 of 18 November 2005.]

36

[Rule 36 deleted by GenN 1255 of 18 November 2005.]

Annexure 1

Table 1 - Methods and times for delivery of Documents

Nature of person	Method of delivery	Date and time of deemed delivery
ANY PERSON (OTHER THAN THE COURT)	By faxing the notice or a certified copy of the document to the person, if the person has a fax number; or	On the date and at the time recorded by the fax receiver, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a copy of the document by electronic mail, if the person has an address for receiving electronic mail; or	On the date and at the time recorded by the computer used by the sender, unless there is conclusive evidence that it was delivered on a different date or at a different time.
	By sending the notice or a certified copy of the document by registered post to the person's last-known address; or	On the 7th day following the day on which the notice or document was posted as recorded by a post office, unless there is conclusive evidence that it was delivered on a different day.
	If the person is a participant in any proceedings of the Court, and is represented by a representative, by delivering the notice, or handing a certified copy of the document to that representative; or	On the date and at the time recorded on a receipt for the delivery.
	By any other means authorised by the High Court; or	In accordance with the order of the High Court.
	By any other method allowed for that person in terms of the following rows of this Table.	As provided for that method of delivery.
ANY NATURAL PERSON	By handing the notice or a certified copy of the document to the person, or to any representative authorised in writing to accept service on behalf of the person; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document [at] the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time; or	On the date and at the time recorded on a receipt for the delivery.
	By leaving the notice or a certified copy of the document at the person's place of employment with any person who is apparently at least 16 years old and apparently in authority.	On the date and at the time recorded on a receipt for the delivery.
THE TRIBUNAL	By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Tribunal, if the document is a prescribed form; or	On the date and at the time recorded by the Tribunal's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the registrar of the Tribunal; or	On the date and at the time recorded by the Tribunal's computer system, unless, within 1 business day after that date, the registrar advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the registrar of the Tribunal;	On the date and at the time of delivery of the registered post to the registrar of the Tribunal, as recorded by the post office, unless, within 1 business day after that date, the registrar advises the sender that the disk is unreadable.

	By handing the document, or a computer disk containing the document in electronic form, to the registrar of the Tribunal.	On the date and at the time noted in a receipt issued by the registrar of the Tribunal unless, the document is on a computer disk, and, within 1 business day after that date, the registrar advises the sender that the disk is unreadable.
THE COMMISSION	By entering the required information in an electronic representation of that form on the Internet Web site, if any, maintained by the Commission, if the document is a prescribed form; or	On the date and at the time recorded by the Commission's computer system, as verified by fax reply to the sender of the information.
	By transmitting the document as a separate file attached to an electronic mail message addressed to the Commission; or	On the date and at the time recorded by the Commission's computer system, unless, within 1 business day after that date, the Commission advises the sender that the file is unreadable.
	By sending a computer disk containing the document in electronic form, by registered post addressed to the Commission; or	On the date and at the time of delivery of the registered post to the Commission as recorded by the post office, unless, within 1 business day after that date, the Commission advises the sender that the disk is unreadable.
THE COURT	By handing the document to the Registrar of the Court.	On the date and time noted by the Registrar.
A COMPANY OR SIMILAR BODY CORPORATE	By handing the notice or a certified copy of the document to a responsible employee of the company or body corporate at its registered office or its principal place of business within the Republic; or	On the date and at the time recorded on a receipt for the delivery.
	If there is no employee willing to accept service, by affixing the notice or a certified copy of the document to the main door of the office or place of business.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A TRADE UNION	By handing the notice or a certified copy of the document to a responsible employee who is apparently in charge of the main office of the union or for the purposes of section 13(2), if there is a union office within the magisterial district of the firm required to notify its employees in terms of these Rules, at that office.	On the date and at the time recorded on a receipt for the delivery.
	If there is no person willing to accept service, by affixing a certified copy of the notice or document to the main door of that office.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
EMPLOYEES OF FIRM	By fixing the notice or certified copy of the document, in a prominent place in the workplace where it can be easily read by employees.	On the date and at the time sworn to by affidavit of the person who affixed the document, unless there is conclusive evidence that the document was affixed on a different date or at a different time.
A PARTNERSHIP, FIRM OR ASSOCIATION	By handing the notice or a certified copy of the document to a person who is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of the partnership, firm or association; or	On the date and at the time recorded on a receipt for the delivery.
	If the partnership, firm or association has no place of business, by handing the notice or a certified copy of the document to a partner, the owner of the firm, or the chairman or secretary of the managing or other controlling body of the association, as the case may be.	On the date and at the time recorded on a receipt for the delivery.
A MUNICIPALITY	By handing the notice or a certified copy of the document to the town clerk, assistant town clerk or any person acting on behalf of that person.	On the date and at the time recorded on a receipt for the delivery.

A STATUTORY BODY OTHER THAN THE COMMISSION AND TRIBUNAL	By handing the notice or a certified copy of the document to the secretary or similar officer or member of the board or committee of that body, or any person acting on behalf of that body.	On the date and at the time recorded on a receipt for the delivery.
THE STATE OR A PROVINCE	By handing the notice or a certified copy of the document to a responsible employee in any office of the State Attorney.	On the date and at the time recorded on a receipt for the delivery.

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