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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1634.

31 July 1985

It is hereby notified that the State President has assented to the following Act which is hereby published for general information:—

† No. 107 of 1985: Rules Board for Courts of Law Act, 1985.

No. 1634.

31 Julie 1985

Hierby word bekend gemaak dat die Staatspresident sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 107 van 1985: Wet op die Reëlsraad vir Gereghowe, 1985.

Act No. 107, 1985

RULES BOARD FOR COURTS OF LAW ACT, 1985

ACT

To provide for the making of rules for the efficient, expeditious and uniform administration of justice in the Supreme Court and lower courts; for that purpose to make provision for the establishment of the Rules Board for Courts of Law; and to provide for matters connected therewith.

*(Afrikaans text signed by the State President.)
(Assented to 10 July 1985.)*

BE IT ENACTED by the State President and the Parliament of the Republic of South Africa, as follows:—

Definitions.

1. In this Act, unless the context indicates otherwise—
- (i) "Appellate Division" means the Appellate Division of the Supreme Court of South Africa; (i) 5
 - (ii) "Board" means the Rules Board for Courts of Law established by section 2; (ix)
 - (iii) "clerk of the court" means a person appointed as such in terms of section 13 (1) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944); (iv) 10
 - (iv) "commissioner" means a commissioner referred to in section 32 of the Supreme Court Act, 1959 (Act No. 59 of 1959); (vi)
 - (v) "committee" means a committee of the Board established under section 5 (1); (v) 15
 - (vi) "lower court" means a court of a regional division and a magistrate's court established in terms of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944), and "lower courts" has a corresponding meaning; (vii)
 - (vii) "Minister" means the Minister of Justice; (viii) 20
 - (viii) "registrar" means a person appointed as such under section 34 (1) of the Supreme Court Act, 1959 (Act No. 59 of 1959); (ii)
 - (ix) "Supreme Court" means a provincial or local division of the Supreme Court of South Africa. (iii) 25

Establishment of Rules Board for Courts of Law.

2. There is hereby established a board called the Rules Board for Courts of Law and having the powers and duties conferred or imposed upon it by this Act or any other law.

Constitution of Board and period of office of members.

3. (1) The Board shall consist of the following members appointed by the Minister, namely— 30
- (a) a judge of the Supreme Court, whom the Minister designates as the chairman;
 - (b) a judge of the Supreme Court, whom the Minister designates as the vice-chairman;
 - (c) a magistrate appointed under section 9 (1) (a) of the 35 Magistrates' Courts Act, 1944 (Act No. 32 of 1944);

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- (d) two practising advocates, after consultation with the General Council of the Bar of South Africa;
- (e) two practising attorneys, after consultation with the Association of Law Societies of the Republic of South Africa; 5
- (f) a lecturer in law at a university in the Republic;
- (g) an officer of the Department of Justice;
- (h) not more than three persons who, in the opinion of the Minister, have the necessary expertise to serve as members of the Board. 10

(2) A member of the Board shall be appointed for a period of not more than five years, and any such appointment may be terminated at any time by the Minister if in his opinion there are sound reasons for doing so.

(3) Any person whose period of office as a member of the 15 Board has expired, may be reappointed.

Meetings of Board.

4. (1) Meetings of the Board shall be held at the times and places determined by the chairman or, if he is not available, by the vice-chairman of the Board.

(2) The majority of the members of the Board shall constitute 20 a quorum for a meeting.

(3) If the chairman is absent from a meeting, the vice-chairman shall act as chairman, and if both the chairman and the vice-chairman are absent, the members present shall elect one of their number to preside at that meeting. 25

(4) The Board may regulate the proceedings at its meetings as it may think fit and shall cause minutes to be kept of the proceedings.

Committees of Board.

5. (1) The Minister or the Board may establish committees consisting of such members of the Board as may be designated 30 by the Board and such other persons, if any, as the Minister may appoint for that purpose and for the period determined by him.

(2) The Minister may at any time extend the period of any appointment made by him under subsection (1) or, if in his opinion there are sound reasons for doing so, terminate such appoint- 35 ment.

(3) The Board shall designate a chairman for every committee and, if the Board deems it necessary, a vice-chairman.

(4) A committee shall, subject to the directions of the Board, perform such functions of the Board as either the Minister or the 40 Board may assign to it.

(5) On completion of all functions assigned to it in terms of subsection (4), a committee shall submit a full report thereon to the Board, whereupon the committee shall automatically dis- 45 solve.

(6) The Minister or the Board may at any time dissolve any committee.

(7) The provisions of section 4 shall *mutatis mutandis* apply to meetings of a committee.

Powers of Board.

6. (1) The Board may, with a view to the efficient, expeditious 50 and uniform administration of justice in the Supreme Court and the lower courts, from time to time on a regular basis review existing rules of court and, subject to the approval of the Minister, make, amend or repeal rules for the Supreme Court and the lower courts regulating— 55

- (a) the practice and procedure in connection with litigation, including the time within which and the manner in which appeal to a court of law other than the Appellate Division shall be noted; 60
- (b) the form, contents and use of process;
- (c) the practice and procedure in connection with the service of process or other documents, including the issue of interrogatories; 65
- (d) the practice and procedure in connection with the execution of process, including writs and warrants;

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- (e) the practice and procedure in connection with the reference of any matter to a referee under section 19*bis* of the Supreme Court Act, 1959 (Act No. 59 of 1959), and the remuneration payable to any such referee; 5
- (f) the compulsory examination by one or more registered medical practitioners of any party to proceedings in which damages or compensation in respect of alleged bodily injury is claimed and whose state of health is relevant for the determination of such damages or compensation, as well as the manner, time, place and responsibility for the cost of the examination, and the making available to the opposing party of any documentary report on the examination; 10
- (g) the procedure at or in connection with any enquiry as to the mental state of any person, and the findings or orders which may be made or issued at any such enquiry; 15
- (h) the appointment and admission of commissioners to take evidence and examine witnesses;
- (i) the manner in which documents executed outside the Republic may be authenticated to permit of their being produced or used in any court or produced or lodged in any public office in the Republic; 20
- (j) the appointment and admission of sworn translators;
- (k) the duties of sheriffs and other officers of court; 25
- (l) fees and costs, including the fees payable in respect of the service or execution of process (except subpoenas or warrants issued at the request of the State in criminal matters) or in respect of the summoning of persons to answer interrogatories; 30
- (m) the manner of determining the amount of security in any case where it is required that security shall be given, and the form and manner in which such security may be given;
- (n) the hours during which the offices of registrars and clerks of the court shall be open for official purposes; 35
- (o) the manner of recording or noting evidence and proceedings;
- (p) the custody and disposal of records or minutes of evidence and proceedings in the Supreme Court; 40
- (q) the appointment of assessors in proceedings in lower courts;
- (r) the tariff of fees chargeable by advocates, attorneys and notaries;
- (s) the taxation of bills of costs and the recovery of costs; 45
- (t) generally any matter which may be necessary or useful to be prescribed for the proper despatch and conduct of the functions of the Supreme Court and the lower courts in civil as well as in criminal proceedings.

(2) Different rules may be made in respect of the Supreme Court and the lower courts and in respect of different kinds of proceedings. 50

(3) Rules made under any provision of a law repealed by this Act and in force at the commencement of this Act, shall, subject to the provisions of this Act and notwithstanding the repeal of that provision by section 10 or 11 of this Act, remain in force until amended or repealed under this section. 55

(4) No new rule or amendment or repeal of a rule shall commence unless it was published in the *Gazette* at least one month before the day upon which such rule, amendment or repeal is determined to commence. 60

(5) Every rule and every amendment or repeal thereof shall within 14 days after it commenced be laid upon the Table in Par-

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liament if Parliament is then in session, or if it is not then in session, within 14 days after the commencement of its next ensuing session.

(6) The Board may advise the Minister on the monetary jurisdiction limits of lower courts, the limitation of the costs of litigation and any other matter referred to the Board by the Minister. 5

(7) The power to make, amend or repeal rules under subsection (1) shall include the power to make, amend or repeal rules in order to give effect to the provisions of sections 2 and 3 of the Foreign Courts Evidence Act, 1962 (Act No. 80 of 1962). 10

(8) The power to make, amend or repeal rules under subsection (1) shall include the power to make, amend or repeal rules in relation to the application of the Admiralty Jurisdiction Regulation Act, 1983 (Act No. 105 of 1983), prescribing the following: 15

- (a) The appointment of any person or body for the assessment of fees and costs, and the manner in which such fees and costs are to be assessed;
- (b) measures aimed at avoiding circuity or multiplicity of actions; 20
- (c) the practice and procedure for referring to arbitration any matter arising out of proceedings relating to a maritime claim, and the appointment, remuneration and powers of an arbitrator. 25

Reports of Board.

7. The Board shall submit a full report to the Minister—

- (a) regarding each function of the Board or a committee, on completion thereof;
- (b) annually, on the date determined by the Minister from time to time, regarding all the functions of the Board and its committees during the period determined by the Minister. 30

Remuneration and expenses of members.

8. (1) A member of the Board who is a judge of the Supreme Court shall be entitled to such allowance for travelling and subsistence expenses incurred by him in the performance of his functions in terms of this Act as the Minister with the concurrence of the Minister of Finance may determine. 35

(2) A member of the Board or of a committee who is not a judge or who is not subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984), shall be entitled to such remuneration, including reimbursement for travelling and subsistence expenses incurred by him in the performance of his functions in terms of this Act, as the Minister with the concurrence of the Minister of Finance may determine. 40

Secretary and staff.

9. The work incidental to the performance by the Board of its functions shall be performed by the Secretary of the Board and such other officers and employees as may be required, who shall be appointed in terms of the laws governing the public service. 45

Repeal of section 25 of Act 32 of 1944, as amended by section 19 of Act 50 of 1956, section 2 of Act 93 of 1963, section 2 of Act 101 of 1969 and section 8 of Act 53 of 1970.

10. Section 25 of the Magistrates' Courts Act, 1944, is hereby repealed. 50

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Amendment of section 43 of Act 59 of 1959, as amended by section 39 of Act 93 of 1962, section 11 of Act 85 of 1963, section 42 of Act 80 of 1964, section 10 of Act 15 of 1969 and section 1 of Act 37 of 1976.

Short title and commencement.

11. Section 43 of the Supreme Court Act, 1959, is hereby amended—

- (a) by the deletion of paragraph (a) of subsection (2); and
- (b) by the deletion of subsection (3).

12. This Act shall be called the Rules Board for Courts of Law Act, 1985, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 5