



# Government Gazette

## Buitengewone Extraordinary

# Staatskoerant

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### GOVERNMENT NOTICE.

#### DEPARTMENT OF WATER AFFAIRS.

No. R. 1602.] [18 October 1963.]

It is hereby notified that the Minister of Water Affairs has been pleased, in terms of section *fifty-five* of the Water Act, 1956 (Act No. 54 of 1956), to make the following regulations for the water courts established by section *thirty-four* of the said Act:—

#### WATER COURT REGULATIONS FRAMED UNDER SECTION *FIFTY-FIVE* OF THE WATER ACT, 1956 (ACT No. 54 OF 1956).

##### DEFINITIONS.

In these regulations, unless inconsistent with the context—

- “Act” means the Water Act, 1956 (Act No. 54 of 1956), as amended;
- “applicant”, “respondent” and “party” include the attorney acting for any such party, and in the case of a corporation, company, local authority and irrigation board, also the person appointed by such body as its representative;
- “deliver” in relation to the delivery or service of any notices or pleadings, means to file with the registrar and to serve a copy of any such notice or pleading on the opposite party, and delivery has a corresponding meaning;
- “deputy-sheriff” means the deputy-sheriff appointed for the district concerned and includes the sheriff of the province;
- “registrar” means the registrar of the provincial or local division of the Supreme Court concerned, and includes an assistant registrar of such provincial or local division;
- “respondent” means a person, other than an applicant named in an application as a person whose rights may be affected thereby, and a person to whom under the Act or these regulations notice of the application must be given;
- “scheduled form” means a form set out in the Schedule to these regulations;

and any expression to which a meaning is assigned in the Act bears, when used in these regulations and the schedule thereto, the same meaning.

##### REPEAL OF REGULATIONS.

2. The regulations promulgated under Government Notice N°872, dated the twenty-fifth day of March, 1945 are hereby repealed; provided that any application referred to in paragraph (a) of sub-section (3) of section one *hundred and eighty-one* of the Act, shall be dealt with as if the said regulations had not been repealed; provided

### GOEWERMENSKENNISGEWING.

#### DEPARTEMENT VAN WATERWESE.

No. R. 1602.] [18 Oktober 1963.]

Hierby word bekendgemaak dat dit die Minister van Waterwese, kragtens artikel *vyf-en-vyftig* van die Waterwet, 1956 (Wet No. 54 van 1956), behaag het om onderstaande regulasies uit te vaardig vir die waterhowe wat by artikel *vier-en-dertig* van genoemde Wet ingestel is:—

#### WATERHOFREGULASIES OPGESTEL KRAGTENS ARTIKEL *VYF-EN-VYFTIG* VAN DIE WATERWET, 1956 (WET No. 54 VAN 1956).

##### WOORDOMSKRYWING.

1. In hierdie regulasies, tensy strydig met die samehang, beteken—
    - „afgee”, in verband met die afgifte of bestelling van enige kennisgewings of pleitstukke, om dit by die registrateur in te dien en om 'n afskrif van sodanige kennisgewing of pleitstuk aan die teenparty te bestel, en afgifte het 'n ooreenstemmende betekenis;
    - „applikant”, „respondent” en „party” ook die prokureur wat namens enige sodanige party optree, en in die geval van 'n korporasie, maatskappy, plaaslike bestuur en besproeiingsraad, ook die persoon wat deur sodanige liggaam as sy verteenwoordiger aangestel is;
    - „bylaagvorm”, 'n vorm soos in die bylaag van hierdie regulasies uiteengesit;
    - „onderbalju”, die onderbalju wat vir die betrokke distrik aangestel is en omvat die balju van die provinsie;
    - „registrateur”, die griffier van die provinsiale of plaaslike afdeling van die betrokke Hooggeregshof, en omvat 'n assistentgriffier van sodanige provinsiale of plaaslike afdeling;
    - „respondent”, 'n persoon, uitgesonderd 'n applikant in 'n aansoek genoem as 'n persoon wie se regte daardeur geraak kan word, en 'n persoon aan wie kragtens die Wet of hierdie regulasies kennis van die aansoek gegee moet word;
    - „Wet”, die Waterwet, 1956 (Wet No. 54 van 1956), soos gewysig;
- en het enige uitdrukking waaraan in die Wet 'n betekenis geheg word, dieselfde betekenis waar dit in hierdie regulasies en die bylaag daarvan voorkom.

##### HERROEPING VAN REGULASIES.

2. Die regulasie uitgevaardig by Goewermentskennisgewing No. 872, gedateer die vyf-en-twintigste dag van Mei 1945, word hierby herroep met dien verstande dat enige aansoek genoem in paragraaf (a) van subartikel (3) van artikel *honderd een-en-tagtig* van die Wet, behandel moet word asof genoemde regulasies nie herroep was nie; voorts met dien verstande dat daar met enige aansoek

Further that any application which has been commenced with prior to the date of promulgation of these regulations, shall be proceeded with in all respects as if the said regulations had not been repealed.

#### SERVICE OF PROCESS AND DOCUMENTS.

3. (1) Save where a judge grants leave to effect substituted service, service of a copy of the application, notice to plead, and notice as to the selection of an assessor, and the execution of any order of the court shall be effected by the deputy-sheriff; provided that where resistance has been met with or is reasonably anticipated the deputy-sheriff shall have the power to call upon any member of the police force to render aid.

(2) Service of any process or document shall be effected by delivery of a copy thereof to the person on whom it was to be served (or his duly authorised agent) or by delivery of such copy at his place of residence, business or employment, to some person apparently not less than sixteen years of age, and apparently residing or employed there, or at a place where such person has selected *domicilium citandi et executandi*; provided that if the deputy-sheriff is unable to effect service of such document or process in the manner hereinbefore described, the same may be served by leaving a copy thereof at the last known place of residence, or business, of the person on whom it has to be served.

(3) Service of any process or document on a corporation, company, local authority or irrigation board, shall be effected by leaving a copy thereof at the place where the business of such body is ordinarily carried on, or by service thereof in any other manner specially provided by law.

(4) After effecting service the deputy-sheriff shall forthwith notify the registrar, in writing, by due and proper return of service that service has been duly effected and of the date thereof or that he has been unable to effect service, personal or otherwise.

(5) A deputy-sheriff shall in performing any duties imposed on him by any of these regulations be deemed to be an officer of the court.

#### REPRESENTATION OF PARTIES.

4. It shall not be necessary for any attorney acting on behalf of any party in water court proceedings, to file a power of attorney authorising him to act on behalf of such party in such proceedings; but the authority of any person acting for a party may be challenged by the other party within a reasonable time after he has noticed that such person is acting, or with the leave of the court for good cause shown at any time before judgment, and thereupon such person may not, without the leave of the court, so act further until he has satisfied the court that he has authority so to act; and the court may adjourn the hearing of the action or application to enable him to do so.

#### INITIATION OF PROCEEDINGS.

5. (1) All proceedings before a court shall be initiated by way of application.

(2) The application shall state the name and address of the applicant and the names and addresses of all parties whose rights may be affected by the application and a proper description of properties owned by them; provided that it shall not be necessary, unless a judge orders otherwise, to set forth the names of respondents of a particular class (such as owners of land within the area of a local authority) in respect of whom the applicant applies for substituted service.

(3) Every application shall state truly and concisely the nature, extent and grounds of the cause of action, **complaint or demand, or relief claimed, and such conclusions as the applicant shall by law be entitled to deduce from the form of the application.**

(4) Where the applicant seeks relief in respect of several **distinct claims or causes of complaint founded on**

waarmee voor die datum van afkondiging van hierdie regulasies 'n aanvang gemaak is, in alle opsigte voortgegaan moet word asof genoemde regulasies nie herroep was nie.

#### BESTELLING VAN PROSESSTUKKE EN DOKUMENTE.

3. (1) Uitgesonderd waar 'n regter toestemming tot vervangende bestelling verleen, moet bestelling van 'n afskrif van die aansoek, kennisgewing om te pleit en kennisgewing aangaande die kiesing van 'n assessor, en die tenuitvoerlegging van enige bevel van die hof deur die onderbalju gedoen word; met dien verstande dat waar teenstand ondervind is of redelikerwys verwag word, die onderbalju die bevoegdheid besit om die hulp van enige lid van die polisiemag in te roep.

(2) Enige prosesstuk of dokument moet bestel word deur 'n afskrif daarvan af te gee aan die persoon aan wie dit bestel moet word (of sy behoorlik gemagtigde agent) of deur sodanige afskrif by sy woonplek, besigheidsplek of werkplek, af te gee aan 'n persoon wat oënskynlik nie jonger as 16 jaar is nie, en wat oënskynlik daar woon of daar werk of by 'n plek wat sodanige persoon as sy *domicilium citandi et executandi* gekies het; met dien verstande dat as die onderbalju nie sodanige dokument of prosesstuk op die hierbo voorgeskrewe wyse kan bestel nie, dit bestel kan word deur 'n afskrif daarvan te laat by die laasbekende woon- of besigheidsplek van die persoon aan wie dit bestel moet word.

(3) Die bestelling van enige prosesstuk of dokument aan 'n korporasie, maatskappy, plaaslike bestuur of besproeiingsraad moet geskied deur 'n afskrif daarvan te laat by die plek waar die besigheid van sodanige liggaam gewoonlik gedryf word, of deur bestelling daarvan op enige ander wyse spesiaal by wet voorgeskryf.

(4) Nadat die onderbalju 'n stuk bestel het, moet hy onverwyld die *registrateur skriftelik* by wyse van 'n paslike en behoorlike relaas van bestelling in kennis stel dat bestelling behoorlik geskied het, en van die datum waarop dit geskied het, of dat hy nie die bestelling persoonlik of andersins kon doen nie.

(5) 'n Onderbalju word by die vervulling van enige pligte by *enigeen van hierdie regulasies aan hom opgedra*, geag 'n beampete van die hof te wees.

#### VERTEENWOORDIGING VAN PARTYE.

4. Dit is nie vir 'n prokureur wat namens enige party by 'n waterhofgeding optree, nodig om 'n volmag in te dien wat hom magtig om namens sodanige party by sodanige geding op te tree nie; maar die bevoegdheid van enige persoon wat namens 'n party optree, kan deur die ander party betwis word binne redelike tyd nadat hy in kennis gestel is dat sodanige persoon optree, of met verlof van die hof indien goeie redes aangevoer word op enige tyd voor uitspraak gedoen word, en daarná mag sodanige persoon nie sonder verlof van die hof aldus verder optree alvorens hy die hof daarvan oortuig het dat hy bevoeg is om aldus op te tree nie; en die hof kan die verhoor van die geding of die aanhoor van die aansoek verdaag ten einde hom in staat te stel om dit te doen.

#### AANVANG VAN VERRIGTINGE.

5. (1) Alle verrigtinge voor 'n hof moet by wyse van aansoek begin word.

(2) In die aansoek moet verstrek word die naam en adres van die applikant en die name en adresse van alle partye wie se regte deur die aansoek geraak mag word en 'n behoorlike beskrywing van die eiendomme wat hulle besit; met dien verstande dat tensy 'n regter anders gelas, dit nie nodig is om die name van respondente van 'n besondere klas (soos eienaars van grond binne die gebied van 'n plaaslike bestuur) ten opsigte van wie die applikant om vervangende bestelling aansoek doen, te vermeld nie.

(3) Elke aansoek moet getrou en saaklik die reg meld uit hoofde waarvan die applikant sodanige aansoek doen, asook die aard, omvang en die gronde vir die geding-oorsaak, klagte of eis, of verligting wat geëis word, en sodanige gevolgtrekkings as wat die applikant uit die vorm van die aansoek volgens wet geregtig is om te maak.

(4) Wanneer die applikant aansoek doen om verligting ten opsigte van verskeie afsonderlike eise of oorsake van klagte wat op aparte en afsonderlike feite berus, moet

(5) In any application wherein compensation is claimed, or the amount thereof required to be determined by the court, the applicant shall furnish in his application such facts as may reasonably be necessary to show how the amount of the compensation is arrived at, and the respondent shall likewise furnish in his plea such facts as are within his knowledge and which may reasonably be necessary to show how he determines the amount of the compensation.

(6) In this regulation "local authority" means any municipal, borough, town or village council, town board, local board, village management board, health committee, or any institution or other body which is constituted in accordance with any law and which under any law has powers for safeguarding the health of the inhabitants of the area under its jurisdiction.

6. (1) Every applicant shall, when lodging his application with a registrar, lodge the original and four copies thereof for the use of the court.

(2) If the whereabouts of a respondent cannot be established, the applicant may apply to court by petition, *ex parte*, verified by affidavit, for directions as to service, and the court may make such order thereon as it may deem just.

**PROCEDURE AFTER LODGING OF AN APPLICATION.**

7. After the filing of an application to a water court, the registrar shall, after consultation with the judge, fix a place for the hearing of the application and shall forthwith inform the applicant or his attorney of the place, and the applicant or his attorney shall then—

(a) cause to be served upon each respondent a copy of the application and a notice in scheduled form No. 1, the period to be provided in the said notice for the filing of the exemption, plea or counter-claim to be not less than thirty days from the date of service;

(b) cause to be published in both the English and Afrikaans languages in the *Gazette* and in a newspaper circulating in the area affected a notice in scheduled form No. 2, the period to be provided in the said notice to be not less than thirty days from the date of publication; provided that such publication shall not be necessary in relation to any respondent in respect of whom substituted service has been effected in terms of any order of a Water Court.

**PAYMENT INTO COURT.**

8. (1) A respondent may at any time pay into court unconditionally the amount claimed in the application, whereupon all further proceedings shall be stayed save as hereinafter provided for the recovery of costs not included in such payment.

(2) (a) A respondent may without prejudice at any time pay an amount into court as an offer in settlement of applicant's claim.

(b) An applicant may within fourteen days of receipt of notice of such payment, deliver by notice to the registrar a request for payment to him of the amount paid in, and further proceedings shall thereafter be stayed save as hereinafter provided for the recovery of costs, not included in such payment.

(3) A respondent paying money into court shall at the same time deliver a notice setting out that an amount has been paid into court, and stating whether it has been paid unconditionally under sub-regulation (1) or as an offer of settlement under sub-regulation (2), and if in the case of payment under sub-regulation (2) the amount paid is offered in settlement of both claim and costs, such fact shall be stated.

(4) If payment into court is made at the time of filing a plea, respondent may, if he so wishes, set out in such plea details of such payment as will comply with the requirements of sub-regulation (3) without delivering the

notice therein mentioned.

(5) By enige aansoek waarin vergoeding geëis word of waar die bedrag daarvan deur die hof vasgestel moet word, moet die applikant in sy aansoek sodanige feite verstrek, as wat redelikerwys nodig is om te bewys hoe die bedrag van die vergoeding bereken word, en die respondent moet insgelyks in sy verweerskrif sodanige feite verstrek, waarvan hy kennis dra en wat redelikerwys nodig is om aan te dui hoe hy die bedrag van die vergoeding bepaal.

(6) In hierdie regulasie beteken „plaaslike bestuur” enige munisipale-, stads- of dorpsraad, plaaslike raad, dorpsbestuur, gesondheidskomitee, of enige inrigting of ander liggaam wat ooreenkomstig enige wet ingestel is en wat kragtens enige wet die bevoegdheid besit om die gesondheid van die bewoners van sy regsgebied te beveilig.

6. (1) Elke applikant moet by indiening van sy aansoek by 'n registrateur, die oorspronklike en vier afskrifte daarvan vir gebruik deur die hof indien.

(2) Indien die verblyfplek van 'n respondent nie vasgestel kan word nie, kan die applikant by wyse van 'n petisie *ex parte*, gestaaf deur 'n beëdigde verklaring, by die hof aansoek doen om 'n bevel betreffende bestelling en die hof kan ten opsigte daarvan sodanige bevel uitreik as wat hy regverdig mag ag.

**PROSEDURE NA INDIENING VAN AANSOEK.**

7. Na indiening van 'n aansoek by 'n waterhof moet die registrateur, na oorlegpleging met die regter, 'n plek vir die aanhoor van die aansoek bepaal, en onverwyld die applikant of sy prokureur van sodanige plek in kennis stel, en die applikant of sy prokureur moet dan—

(a) aan elke respondent 'n afskrif van die aansoek en 'n kennisgewing op bylaagvorm No. 1 laat bestel; en die tydperk wat in die kennisgewing bepaal moet word vir die indiening van die eksepsie, verweerskrif of teënis, moet nie korter as dertig dae na die datum van bestelling wees nie.

(b) 'n kennisgewing in bylaagvorm No. 2 in beide die Engelse en Afrikaanse tale laat publiseer in die *Staatskoerant* en in 'n koerant wat in die betrokke gebied gelees word, en die tydperk wat in genoemde kennisgewing bepaal moet word, moet nie korter as dertig dae na die datum van publikasie wees nie; met dien verstande dat sodanige publikasie nie nodig is nie met betrekking tot enige Respondent ten opsigte van wie vervangende bestelling plaasgevind het ooreenkomstig 'n bevel van die Waterhof.

**GEREGTELIKE INBETALING.**

8. (1) 'n Respondent kan op enige tyd onvoorwaardelik die bedrag wat in die aansoek geëis word, geregteelik inbetaal, en daarna moet alle verdere stappe opgeskort word, uitgesonderd soos hieronder bepaal vir die verhaal van koste nie in sodanige inbetaling ingesluit nie.

(2) (a) 'n Respondent kan op enige tyd met voorbehoud van regte 'n bedrag geregteelik inbetaal as 'n aanbod ter vereffening van die applikant se eis.

(b) 'n Applikant kan binne veertien dae na ontvangs van kennisgewing van sodanige inbetaling, by kennisgewing aan die registrateur 'n versoek afgee dat die bedrag wat inbetaal is, aan hom uitbetaal moet word, en verdere stappe word daarna opgeskort, uitgesonderd soos hieronder bepaal vir die verhaal van koste nie in sodanige inbetaling ingesluit nie.

(3) 'n Respondent wat geld geregteelik inbetaal, moet terselfdertyd 'n kennisgewing afgee waarin vermeld word dat 'n bedrag geregteelik inbetaal is, en waarin verklaar word of dit onvoorwaardelik ingevolge subregulasie (1) of as 'n aanbod ter vereffening ingevolge subregulasie (2) inbetaal is, en as in die geval van inbetaling ingevolge subregulasie (2), die bedrag inbetaal ter vereffening van sowel die eis as koste aangebied word, moet sodanige feit vermeld word.

(4) Indien geregteelike inbetaling tydens die indiening van 'n verweerskrif gedoen word kan die respondent as hy wil, in sodanige verweerskrif besonderhede van sodanige inbetaling uiteensit as wat aan die vereistes van subregulasie (3) sal voldoen, sonder om die kennisgewing

(5) The registrar shall pay out to the applicant any moneys paid into court under sub-regulation (1) or (2); provided that moneys paid into court under sub-regulation (2) shall only be paid out on delivery of the request mentioned in paragraph (b) of that sub-regulation.

(6) Save when a respondent paying in under sub-regulation (2) states in his notice of payment or plea that the amount paid in is inclusive of costs, an applicant entitled to payment under sub-regulation (5) shall be entitled to recover from the respondent the costs incurred by him up to the time of payment into court in the same manner as if an order for such costs had been made by the court.

(7) Where money has been paid into court under sub-regulation (2) as an offer of settlement and the court finds on trial that applicant has failed to prove that there is any more due to him than the amount so paid in, the court shall first order payment to the applicant of so much thereof as may be awarded to him (subject to any order against him for respondents' costs) and shall order applicant to pay the costs incurred by respondent after payment into court, and shall make such order as may be just regarding costs previously incurred.

(8) Save as provided in sub-regulation (5) moneys paid into court under this regulation shall be paid out only upon a judgment declaring who is entitled thereto, or upon the written consent of the parties.

(9) Where the claim is for compensation, or for a determination of the amount thereof by the court, the fact and amount of a payment into court shall not be disclosed to the court in the pleadings, or in any other manner until after an award of compensation has been made, save in such cases where respondent has elected under sub-regulation (4) to set out particulars of such payment in his plea. An order for costs shall be made only after disclosure of the amount paid into court, and the court in awarding costs shall proceed as provided in sub-regulation (7).

(10) Money paid into court shall be paid to the registrar who shall give a receipt therefor.

#### CLAIMS IN RECONVENTION.

9. (1) The provisions of these regulations, save for the provisions relating to the service of a notice and the notice referred to in regulation 7 (a) and (b) respectively, shall be *mutatis mutandis* applicable to claims in reconvention and all periods of time applicable to claims in convention shall in the case of claims in reconvention, run from the date of delivery of such claims.

(2) A claim in reconvention shall have the same effect as a cross action so as to enable the court to pronounce final judgment in the same action both on the claim in convention and on the claim in reconvention.

(3) Where both the claim in convention and the claim in reconvention proceed to trial, each action may be tried separately but judgment may be given on both *pari passu*.

(4) Where an application is withdrawn, stayed, discontinued or dismissed it shall nevertheless be competent to proceed separately with the claim in reconvention, if any.

#### FURTHER PARTICULARS.

10. (1) Any respondent in proceedings in a water court may by written notice delivered prior to the expiration of the period of time provided for in the notice described in regulation 7, require the applicant to deliver such further particulars as may be reasonably necessary to enable such respondent to plead.

(5) Die registrateur moet enige gelde wat ingevolge sub-regulasie (1) of (2) geregteelik inbetaal is, aan die applikant uitbetaal; met dien verstande dat gelde ingevolge sub-regulasie (2) geregteelik inbetaal, slegs uitbetaal word op afgifte van die versoek in paragraaf (b) van daardie sub-regulasie vermeld.

(6) Uitgesonderd wanneer 'n respondent wat ingevolge subregulasie (2) inbetaal, in sy kennisgewing van inbetaling of verweerskrif verklaar dat die bedrag wat inbetaal is ook koste insluit, is 'n applikant wat geregtig is op uitbetaling ingevolge subregulasie (5), geregtig om op die respondent die koste wat deur hom tot op die tydstop van geregtelike inbetaling aangegaan is, te verhaal op dieselfde wyse asof 'n bevel vir sodanige koste deur die hof gegee was.

(7) Wanneer geld ingevolge subregulasie (2) as 'n aanbod ter vereffening geregteelik inbetaal is, en die hof by die verhoor bevind dat applikant nie daarin geslaag het om te bewys dat aan hom meer toekom as die bedrag wat aldus inbetaal is nie, gelas die hof eers uitbetaling aan die applikant van soveel daarvan as wat hom toegeken mag word (onderworpe aan enige bevel teen hom vir die respondent se koste), en beveel die hof die applikant om die koste te betaal wat deur respondent na geregtelike inbetaling aangegaan is, en gee hy sodanige bevel as wat regverdig mag wees, aangaande die koste wat voorheen aangegaan is.

(8) Uitgesonderd soos in subregulasie (5) bepaal, moet geld ingevolge hierdie regulasie geregteelik inbetaal, slegs uitbetaal word na 'n uitspraak wat verklaar wie daarop geregtig is, of by skriftelike toestemming van die partye.

(9) Wanneer die eis om vergoeding is, of vir 'n bepaling van die bedrag daarvan deur die hof, moet die feit en die bedrag van 'n geregtelike inbetaling nie aan die hof geopenbaar word in die pleitstukke of op enige ander manier tot na 'n toekenning van vergoeding gemaak is nie, uitgesonderd in sodanige gevalle waar die respondent ingevolge subregulasie (4) verkies het om besonderhede van sodanige betaling in sy verweerskrif uiteen te sit. 'n Bevel oor koste word slegs gegee na openbaarmaking van die bedrag wat geregteelik inbetaal is, en die hof moet, wanneer hy koste toeken, handel soos bepaal in sub-regulasie (7).

(10) Geld wat geregteelik inbetaal word, moet betaal word aan die registrateur wat 'n kwitansie daarvoor moet uitreik.

#### EISE IN REKONVENSIE.

9. (1) Die bepalings van hierdie regulasies, uitgesonderd dié met betrekking tot die bestelling van 'n kennisgewing, en die kennisgewing waarvan onderskeidelik in regulasie 7 (a) en (b) melding gemaak word, is *mutatis mutandis* van toepassing op eise in rekonvensie en alle tydperke op eise in konvensie van toepassing, loop in die geval van eise in rekonvensie van die datum of waarop sodanige eise afgegee is.

(2) 'n Eis in rekonvensie het dieselfde uitwerking as 'n teengeding ten einde die hof in staat te stel om 'n finale uitspraak te doen in dieselfde geding op sowel die eis in konvensie as die eis in rekonvensie.

(3) Wanneer sowel die eis in konvensie as die eis in rekonvensie verhoor moet word, kan elke geding afsonderlik verhoor word, maar uitspraak kan ten opsigte van albei *pari passu* gedoen word.

(4) Wanneer 'n aansoek teruggetrek, opgeskort, gestaak of afgewys word, is dit nietemin toelaatbaar om afsonderlik voor te gaan met die eis in rekonvensie, as daar een is.

#### NADERE BESONDERHEDE.

10. (1) By verrigtinge voor 'n waterhof kan enige respondent by skriftelike kennisgewing afgegee voor die verstryking van die tydperk bepaal in die kennisgewing in regulasie 7 beskryf, van die applikant vereis dat hy sodanige nadere besonderhede afgee, as wat redelikerwys nodig mag wees om sodanige respondent in staat te stel om te pleit.

(2) Subject to the provisions of sub- regulation (1) of regulation 9, any party may by notice delivered not more than fourteen days after the delivery of any other pleading, or any amendment thereof, or after judgement dismissing an exception to such pleading, require the party delivering such pleading to deliver such further particulars as may be reasonably necessary to enable the party delivering such notice to plead.

(3) The party to whom such notice is delivered, shall within fourteen days after receipt of such notice, deliver such particulars, which shall thereupon comprise part of the pleadings.

#### EXCEPTIONS AND MOTIONS TO STRIKE OUT.

11. (1) A respondent shall within the time limit specified in the notion mentioned in regulation 7, deliver particulars of any exception to the application; provided that where the delivery of further particulars has been requested under regulation 10, particulars of such exception may be delivered within fourteen days of delivery of such particulars.

(2) Where more than one claim is made in an application, exception may be taken to any one or more of such claims.

(3) The court shall not uphold an exception, unless it is satisfied that the respondent would be prejudiced in his defence were the application to be allowed to stand.

(4) The court shall not uphold an exception that the application is vague and embarrassing unless the respondent has prior to the taking of exception, by delivery of notice given applicant an opportunity of removing the cause of complaint.

(5) (a) A respondent may move to strike out any of two or more claims in an application which not being in the alternative, are mutually inconsistent averments of facts or to strike out any argumentative, irrelevant superfluous or contradictory matter contained in the application.

(b) The provisions of sub-regulation (1) shall apply *mutatis mutandis* to the delivery of particulars of such a motion.

(6) A respondent delivering a notice of exception or motion to strike out shall not be obliged in such notice to plead over on the merits of the case.

#### PLEADS

(1) A respondent shall:

(i) within the time specified in the notice described in regulation 7 or

(ii) within fourteen days of

(a) the delivery of further particulars as provided for in regulation 10, or

(b) the dismissal of any exception or motion to strike out or

(c) any amendment of the application allowed by the court, unless a longer period is prescribed by these regulations

deliver a statement in writing called a plea.

- (2) The respondent shall in his answer or plea admit .....(**illegible text**...) and avoid all the materials facts alleged application, and shall clearly and concisely state all material facts on which he relies.
- (3) It shall not be sufficient for a respondent in his plea, for the applicant in his plea in reconvention, to deny ...(**illegible text**) the facts alleged in the application, or claim in convention, as the case may be.
- (4) The Parties must deal specifically with each allegation of fact of which they do not admit the truth, and every allegation of fact contained in the application or claim in a convention which is not specifically denied in the plea.

5) (a) For purposes of this regulation respondent includes a person upon whom an application has been served and who alleges he is not the respondent cited in the application, and who wishes to defend on that ground. The court may at the hearing of such defence order costs to be paid or by such person as if he were a party to the application.

(b) If such defence be sustained, the court instead of dismissing the application may upon application by the applicant allow any necessary amendment and order that be served upon the real respondent.

(6) An applicant may within fourteen days of delivery of plea, or further particulars requested in respect thereof, and with or before delivery of a reply, take exception to the plea.

(7) The provisions of sub-regulations (3) and (4) of regulation 11 shall *mutatis mutandis* apply to any such exception.

(8) (a) An applicant may move to strike out any of one or more defences which not being pleaded in the alternative, are mutually contradictory, or any argumentative, irrelevant, superfluous, or contradictory matter which may be stated in a plea.

(b) The provisions of sub-regulation (6) shall *mutatis mutandis* be applicable to any such motion to strike out.

#### REPLICATION.

13. (1) Where the defence is other than a bare denial of one or more of the allegations in the application, the applicant may within fourteen days of delivery of the plea or further particulars in respect thereof, as provided in sub-regulations (2) and (3) of regulation 10, deliver a written replication.

(2) The regulations relating to the plea shall *mutatis mutandis* apply to the replication.

(3) Where applicant does not deliver a replication, he shall be deemed to have denied all allegations of fact in the plea.

(4) Upon the delivery of a replication or where no replication is delivered upon expiry of the time limit for delivery of replication, the pleadings shall be deemed to be closed.

#### FAILURE TO FILE PLEADINGS TIMEOUSLY.

14. (1) Any person who fails, within the time limits provided in these regulations, to file or serve any pleading or notice, shall seven days after service of notice requesting him to file such pleadings, be barred from so filing or serving such pleading or notice, provided that any such time limit may at any time, whether before or after the expiry of the period prescribed, be extended by the consent of the opposite party, and if such consent be refused then by the court on application on such terms as to costs and otherwise, as may be just.

(2) Where there has been short service without leave, the court may, instead of dismissing the application, adjourn it until (at earliest) the expiration of the period required for full service, and thereupon the objection to such short service shall lapse.

15. In order to facilitate replies thereto all applications, pleas and other documents filed and served shall bear the address (not being a post office box or poste restante) of the party filing it, or his attorney.

16. The court may at any time upon application, after notice to the opposite party before judgment, allow any pleadings to be amended on such terms as it may deem just.

#### MOTION PROCEEDINGS.

17. (1) Subject to the provisions of the Act and these regulations, all matters which can be brought by any party by application in the Supreme Court, may be brought by such party by way of application in the Water Court and the rules applicable in the Supreme Court having jurisdiction in the area of jurisdiction of such water court.

(5) (a) Vir die toepassing van hierdie regulasie omvat respondent 'n persoon aan wie 'n aansoek bestel is en wat beweer dat hy nie die respondent is wat in die aansoek genoem word nie, en wat op grond daarvan wil verdedig. Die hof kan by die verhoor van sodanige verweer gelas dat koste aan of deur sodanige persoon betaal word asof hy 'n party tot die aansoek was.

(b) Indien sodanige verweer gehandhaaf word, kan die hof in plaas daarvan om die aansoek af te wys, op aansoek deur die applikant enige nodige wysiging toelaat en gelas dat dit aan die werklike respondent bestel word.

(6) 'n Applikant kan binne veertien dae na afgifte van die verweerskrif of nadere besonderhede wat ten opsigte daarvan aangevra is, en by of voor afgifte van 'n antwoord, eksepsie teen die verweerskrif aanteken.

(7) Die bepalings van subregulasies (3) en (4) van regulasie 11 is *mutatis mutandis* op enige sodanige eksepsie van toepassing.

(8) (a) 'n Applikant kan 'n mosie indien vir deurhaling van enigeen van twee of meer verweere wat, aangesien dit nie as alternatief gepleit is nie, onderling teenstrydig is, of van enige betwisbare, irrelevante, oorbodige of teenstrydige inhoud wat in 'n verweerskrif vermeld mag wees.

(b) Die bepalings van subregulasie (6) is *mutatis mutandis* van toepassing op enige sodanige mosie vir deurhaling.

#### REPLIEK.

13. (1) Wanneer die verweer anders is as 'n blote ontkenning van een of meer van die bewerings in die aansoek, kan die applikant binne veertien dae na afgifte van die verweerskrif of nadere besonderhede ten opsigte daarvan, soos bepaal in subregulasies (2) en (3), van regulasie 10, 'n skriftelike repliek afgee.

(2) Die regulasies met betrekking tot die verweerskrif is *mutatis mutandis* op die repliek van toepassing.

(3) Wanneer die applikant nie 'n repliek afgee nie, word geag dat hy alle feitebewerings in die verweerskrif ontken het.

(4) By afgifte van 'n repliek of wanneer geen repliek by verstryking van die tydgrens vir die afgifte van die repliek afgegee word nie, word die pleitstukke geag gesluit te wees.

#### VERSUIM OM PLEITSTUKKE BETYDS IN TE DIEN.

14. (1) Iedereen wat versuim om binne die tydsgrense in hierdie regulasies bepaal, enige pleitstukke of kennisgewing in te dien of te bestel word sewe dae na bestelling van 'n kennisgewing waarin hy versoek word om sodanige pleitstukke in te dien, belet word om sodanige verweerskrif of kennisgewing aldus in te dien of te bestel: met dien verstande dat enige sodanige tydsgrense of enige tyd, hetsy voor of na verstryking van die voorgeskrewe tydperk, met toestemming van die teenparty verleng kan word, en indien sodanige toestemming geweier word, kan deur die hof op aansoek en wel op sodanige voorwaardes met betrekking tot koste en andersins as wat regverdig mag wees.

(2) Wanneer kort bestelling sonder verlof geskied het kan die hof in plaas daarvan om die aansoek af te wys, dit verdaag totdat (op die vroegste) die tydperk wat vir behoorlike bestelling vereis, verstryk het, en daarna vanaf die beswaar teen sodanige kort bestelling.

15. Ten einde antwoorde daarop te vergemaklik, moet op alle aansoeke, verweerskrifte en ander dokumente wat ingedien en bestel word, die adres (uitgesonderd 'n postbus of poste restante) van die party of sy prokureur wat dit indien, voorkom.

16. Die hof kan op enige tyd op aansoek, na kennisgewing aan die teenparty voordat uitspraak gedoen is, toelaat dat enige pleitstukke gewysig word op sodanige voorwaardes as wat hy regverdig mag ag.

#### VERRIGTINGE BY WYSE VAN MOSIE.

17. (1) Behoudens die bepalings van die Wet en hierdie regulasies, kan alle sake wat deur enige party by wyse van aansoek voor die Hooggeregshof gebring kan word, deur sodanige party by wyse van aansoek voor die waterhof gebring word, en die reëls wat van toepassing is in die Hooggeregshof wat regsbevoegdheid het in die regsgebied van sodanige waterhof met betrekking tot sodanige

(2) Notice of any application shall be given to any party affected by such application at least fourteen days prior to the hearing of such application.

#### INTERVENTION OF PARTIES.

18. (1) Any interested party who considers himself affected and who wishes to intervene and object, must do so in writing and state his grounds within thirty days of publication of scheduled form No. 2, and the provisions of these regulations in so far as they apply to respondents shall apply to him *mutatis mutandis*.

(2) The court may on application by a person desiring to intervene in an action at any time subsequent to the expiry of the time limit specified in sub-regulation (1), and having an interest therein, grant leave to such person to intervene on such terms as may be just.

(3) The court may, at any time, upon application by any party in a proceeding before the court, order that another person shall be added as an applicant or respondent, on such terms as may be just.

#### LODGING AND SIGNING OF PLEADINGS.

19. (1) All pleadings or notices lodged with the registrar shall be signed by the applicant, respondent or party responsible for filing such pleading, or by the duly authorised attorney of such applicant, respondent or party.

(2) Any party lodging any pleading or notice with the registrar shall lodge the original and four copies thereof for use by the court.

#### HEARING OF SPECIAL DEFENCES.

20. (1) Any defence (including any exception or motion to strike out) which can be adjudicated upon without the necessity of going into the main case, may be set down by either party for separate hearing, prior to hearing on the merits, and the procedure prevailing in the provincial or local division of the Supreme Court having jurisdiction in the area of the water court concerned for setting down such defence, shall be applicable to the setting down for hearing thereof before the water court.

(2) The delivery of notice of set down of hearing, as provided in sub-regulation (1), shall *ipso facto* operate to set down for hearing at the same time any claim in reconvention.

#### SET DOWN OF HEARING.

21. After the pleadings have been closed, the applicant may set down the case for hearing on a date to be arranged with the registrar, and he shall thereafter lodge the notice of set down with the registrar at least fourteen days before the date appointed for the hearing.

#### NOTICE OF HEARING.

22. (1) Notice of the hearing shall be given by the applicant to the respondent and to any other interested person who has notified his intention to oppose, at least six weeks previous to the hearing and the notice shall state the date, time and place of the hearing.

(2) If the applicant shall fail to take any steps to set the application down for hearing within a period of six weeks after the pleadings have been closed, the respondent may either apply to court to dismiss the application with costs, and the court may on such application either dismiss the action with costs or make such other order as may be just, or the respondent may himself take steps to have the case set down for hearing.

23. Any application which has been placed on the roll for hearing may at any time before the case is called, be removed from the roll by any party to such application provided the consent of all parties to such application is

(2) Kennis van enige aansoek moet minstens veertien dae voor die aanhoor van sodanige aansoek gegee word aan enige party wat deur sodanige aansoek geraak word.

#### TOETREE VAN PARTYE.

18. (1) Enige belanghebbende persoon wat meen dat hy geraak is en wat wil toetree en beswaar wil maak moet dit skriftelik doen en binne dertig dae na publikasie van Bylaagvorm No. 2 sy redes aanvoer, en die bepalinge van hierdie regulasies vir sover hulle op respondente van toepassing is, is *mutatis mutandis* op hom van toepassing.

(2) Die hof kan op aansoek deur 'n persoon wat tot 'n geding wil toetree op enige tyd na verstryking van die tydsgrens in subregulasie (1) bepaal, en wat daarby belang het, aan sodanige persoon verlof verleen om toe te tree op sodanige voorwaardes as wat regverdig mag wees.

(3) Die hof kan op enige tyd op aansoek deur enige party by 'n geding voor die hof, gelas dat iemand anders as 'n aplikant of respondent bygevoeg moet word, op sodanige voorwaardes as wat regverdig mag wees.

#### INDIENING EN ONDERTEKENING VAN PLEITSTUKKE.

19. (1) Alle pleitstukke of kennisgewings by die registrateur ingedien, moet onderteken word deur die aplikant, respondent of die party wat vir die indiening van sodanige pleitstukke verantwoordelik is, of deur die behoorlik gemagtigde prokureur van sodanige aplikant, respondent of party.

(2) Enige party wat 'n pleitstuk of kennisgewing by die registrateur indien, moet die oorspronklike en vier afskrifte daarvan vir gebruik deur die hof indien.

#### VERHOOR VAN SPESIALE VERWERE.

20. (1) Enige verweer (met inbegrip van enige eksepsie of mosie vir deurahaling) waarvoor beslis kan word sonder die noodsaaklikheid om op die hoofsaak in te gaan, kan deur eenige van die partye vir aparte verhoor op die rol geplaas word, voor die verhoor op die meriete, en die prosedure wat vir die ter rolle plasing van sodanige verweer geld in die provinsiale of plaaslike afdeling van die Hooggeregshof wat regsbevoegdheid het in die gebied van die betrokke waterhof, is van toepassing op die ter rolle plasing vir verhoor daarvan voor die waterhof.

(2) Die afgifte van 'n kennisgewing van ter rolle plasing van 'n verhoor, soos bepaal in subregulasie (1), geld *ipso facto* om enige eis in rekonvensie tegelykertyd op die rol te plaas.

#### TER ROLLE PLASING VIR VERHOOR.

21. Nadat die pleitstukke gesluit is, kan die aplikant die saak op die rol plaas vir verhoor op 'n datum wat met die registrateur gereël moet word, en daarna moet hy minstens veertien dae voor die datum wat vir die verhoor vasgestel is, die kennisgewing van ter rolle plasing by die registrateur indien.

#### KENNISGEWING VAN VERHOOR.

22. (1) Kennis van verhoor moet minstens ses weke voor die verhoor deur die aplikant gegee word aan die respondente en enige ander belanghebbende persoon wat kennis gegee het van sy voorneme om te opponer, en die datum, tyd en plek van die verhoor moet in die kennisgewing vermeld word.

(2) Indien die aplikant versuim om stappe te doen om binne 'n tydperk van ses weke nadat die pleitstukke gesluit is, die aansoek vir aanhoor op die rol te plaas, kan die respondent of by die hof aansoek doen om die saak met koste af te wys en die hof kan op sodanige aansoek of die saak met koste afwys of sodanige ander bevel uitreik as wat regverdig is, of die respondent kan self stappe doen om die saak vir verhoor op die rol te laat plaas.

23. Enige aansoek wat vir aanhoor op die rol geplaas is, kan enige tyd voor die saak aangebring is, deur enige party tot sodanige aansoek van die rol verwyder word, mits die skriftelike toestemming van alle partye tot sodanige aansoek verkry en by die registrateur ingedien

24. (1) After the close of pleadings any party shall be entitled, by written request, to require the other party to furnish such further particulars as may be necessary to enable the former party to prepare for hearing; provided that in any case where the amount of compensation payable is to be determined by the water court, the particulars to be furnished in terms of this regulation shall include a reference to the Deeds Registry title of any property or properties the qualities, nature and extent of which such party intends to rely upon at the hearing as relevant for purposes of determination of the compensation payable.

(2) Any party receiving such notice shall within a period of fourteen days from date of receipt of such notice, furnish the required particulars to the party requesting it.

#### DISCOVERY OF DOCUMENTS.

25. (1) Any party to an application may, after the pleadings have closed, serve a notice on any other party compelling upon him to deliver a schedule specifying the books and documents which are or have been in his possession or under his control relating to any matter in issue in the application.

(2) Such Schedule certified by affidavit shall be delivered by the party thereto required within fourteen days of the delivery of the aforesaid notice; provided that if the party hereto required be the State, such Schedule certified by affidavit shall be delivered within one month of the delivery of the aforesaid notice.

(3) If privilege be claimed in respect of any of the documents scheduled, such documents shall be set out in the schedule and the grounds on which the privilege is claimed in respect of each shall be set out; provided that no such privilege shall be claimed in respect of any report by an engineer, chemist or geologist made to any party in an apportionment suit, or any documentary data acquired or furnished to any person by such engineer, chemist or geologist in proceedings instituted in the water court and in which such person is a party.

(4) A book or document not so disclosed may not be used for any purpose at the hearing of the application by the party in whose possession or under whose control it is without the leave of the court on such terms as to adjournment and costs as may be just but the other party may call for or use such book or document in the cross-examination of a witness.

(5) Each party shall on notice forthwith allow the other party to inspect and take copies of all books and documents disclosed in terms of sub-regulation (2) or specified in the notice delivered in terms of sub-regulation (6), other than documents in respect of which privilege is claimed, and shall on payment therefor at the rates prescribed forthwith furnish the other party with such copies thereof or extracts therefrom as may be requested.

(6) Any party may by notice to produce require any other party to produce at the hearing of the application the books and documents so disclosed, and such notice shall have the effect of a subpoena as regards all such books or documents as are in the possession or under the control of the party to whom the notice is given.

#### NON-COMPLIANCE WITH REGULATIONS AND TIME LIMITS.

26. (1) Where any provision of these regulations or any request made in pursuance of any such provision has not been fully complied with, the court may on application order compliance therewith within a stated time.

24. (1) Na sluiting van die pleitstukke is enige party geregtig om by wyse van skriftelike versoek van die ander party te vereis dat hy sodanige nadere besonderhede verstrek, as wat nodig mag wees om eersgenoemde party in staat te stel om sy saak vir die verhoor voor te berei. Met dien verstande dat in enige saak waarin die bedrag van die vergoeding betaalbaar deur die waterhof vasgestel moet word, daar in die besonderhede wat ingevolge hierdie regulasie verstrek moet word, ook vermeld moet word die Akteskantoor-titelbewys van enige eiendom of eiendomme op die eienskappe, aard en grootte waarvan sodanige party voornemens is by die verhoor te steun as ter sake vir doeleindes van die vasstelling van die vergoeding betaalbaar.

(2) Enige party wat sodanige kennisgewing ontvang, moet binne 'n tydperk van veertien dae van die datum van ontvangs van sodanige kennisgewing, die vereiste besonderhede verstrek aan die persoon wat daarom vra.

#### OOPLEGGING VAN DOKUMENTE.

25. (1) Enige party by 'n aansoek kan nadat die pleitstukke gesluit is, 'n kennisgewing aan enige ander party bestel waarin sodanige party aangesê word om 'n lys af te gee waarin opgegee word die boeke en dokumente wat in sy besit of onder sy beheer is of was en betrekking het op enige saak waarom dit in die aansoek gaan.

(2) Sodanige lys, by beëdigde verklaring gesertifiseer, moet binne veertien dae na afgifte van voormelde kennisgewing afgegee word deur die party van wie dit vereis word; met dien verstande dat indien die party van wie dit vereis word die Staat is, sodanige lys, by beëdigde verklaring gesertifiseer, binne één maand na afgifte van voormelde kennisgewing afgegee moet word.

(3) Indien daar op privilegie aanspraak gemaak word ten opsigte van enige van die dokumente in die lys opgegee, moet sodanige dokumente in die lys uiteengesit word en moet die gronde waarop ten opsigte van elke dokument op privilegie aanspraak gemaak word, uiteengesit word; met dien verstande dat op geen sodanige privilegie aanspraak gemaak mag word ten opsigte van 'n verslag deur 'n ingenieur, skeikundige of geoloog in verband met 'n toewysingsgeding aan enige party gedoen, of enige dokumentêre gegewens wat deur sodanige ingenieur, skeikundige of geoloog verkry is vir of verstrek is aan enige persoon in 'n saak in die waterhof aanhangig gemaak en waarin sodanige persoon 'n party is nie.

(4) Sonder die toestemming van die hof en wel op sodanige voorwaardes betreffende verdaging en koste as wat regverdig mag wees, mag 'n boek of dokument wat nie aldus oopgelê is nie, by die aanhoor van die aansoek vir geen doel gebruik word deur die party in wie se besit of onder wie se beheer dit is, nie, maar die ander party kan sodanige boek of dokument by die kruisverhoor van 'n getuie opeis of gebruik.

(5) Elke party moet na kennisgewing onverwyld die ander party toelaat om alle boeke en dokumente ingevolge subregulasie (2) oopgelê of opgegee in die kennisgewing afgegee ingevolge subregulasie (6), in te sien en afskrifte daarvan te maak, uitgesonderd dokumente ten opsigte waarvan daar op privilegie aanspraak gemaak word, en moet by betaling daarvoor volgens die voorgeskrewe tariewe, die ander party onverwyld voorsien van sodanige afskrifte daarvan of uittreksels daaruit, as wat aangevra is.

(6) Enige party kan by kennisgewing tot oorlegging van 'n ander party vereis dat hy die boeke en dokumente, aldus oopgelê, by die aanhoor van die aansoek moet oordel, en sodanige kennisgewing het die regsgeldigheid van 'n getuigdagvaarding wat betref alle sodanige boeke en dokumente as wat in besit of onder die beheer van die party is aan wie kennis gegee word.

#### NIE-NAKOMING VAN REGULASIES EN TYDSGRENSE.

26. (1) Wanneer daar nie ten volle voldoen is aan 'n bepaling van hierdie regulasies of enige versoek ingevolge enige sodanige bepaling gedoen nie, kan die hof op aansoek gelas dat daaraan binne 'n vasgestelde tyd voldoen moet word.

(2) Where any order so made is not fully complied with within the time so stated, the court may on application forthwith enter judgment in the action against the party so in default or may adjourn the application and grant an extension of time for compliance with the order on such terms as to costs and otherwise as may be just.

(3) The court may on either such application order such stay of proceedings as may be necessary.

#### PROCURING OF EVIDENCE FOR HEARING.

27. (1) (a) The process for compelling the attendance of any person to give evidence or to produce any books, papers, documents or things shall be by subpoena (as near as is material in scheduled form No. 3), issued by the registrar and taken out by the party desiring the attendance of such person; provided that in the case of evidence taken on commission such process shall be issued by the commissioner.

(b) Whenever it is necessary to procure the attendance of a witness who is resident outside the jurisdiction of the water court concerned, the rules of the provincial or local division of the Supreme Court having jurisdiction at the place of hearing of the application, shall *mutatis mutandis* apply.

(2) (a) There shall be delivered to the deputy-sheriff together with the said subpoena so many copies thereof as there are witnesses to be summoned, and also such sums of money as the party for whom they are to be summoned intends that the deputy-sheriff shall pay or offer to the said witnesses respectively for their conduct money.

(b) All subpoenas shall be served by the deputy-sheriff.

(3) The court may set aside any subpoena if it appears that the witness served was not given reasonable time to enable him to appear in pursuance of the subpoena or if it appears that the witness demanded but was not given sufficient conduct money.

(4) (a) If the judge grants leave to take evidence on commission, the person appointed to take such evidence shall put to such witness such questions, if any, as have been transmitted to him by agreement between the parties, and shall allow the parties if they so desire to examine with witness, and may himself examine such witness as if such witness were being examined in court, and shall record the evidence or cause it to be recorded, whereupon the evidence taken down shall be read over to the witness, who shall append his signature, and that signature shall be witnessed by the said commissioner.

(b) The said record shall (subject to all lawful objections) be received as evidence at the hearing of the application.

#### OATH OF ASSESSORS

28 Every assessor of a water court shall, before taking to seat on the court for the first time, following oath, -  
I.....do solemnly swear that I have no direct or indirect personal interest in the matter of the application of.....

that I am not related within the third degree consanguinity or affinity to any part of this suit, and that I will to the best of my ability give judgment upon the matter to be heard in accordance with the evidence submitted.  
So help me God."

#### HEARING OF APPLICATION

29 (1) The court shall hold its first sitting at the venue fixed in terms of regulation 7, and it may adjourn the hearing of any application from place to place and from time to time as it may deem fit.

(2) Wanneer daar nie binne die aldus vastgestelde tyd aan enige bevel aldus uitgereik, ten volle voldoen word nie, kan die hof op versoek onverwyld in die saak uitspraak doen teen die party wat aldus in gebreke is, of hy kan die aansoek verduag en 'n verlenging van tyd vir voldoening aan die bevel toestaan op sodanige voorwaardes betreffende koste en andersins as wat regverdig mag wees.

(3) Die hof kan op enige sodanige aansoek sodanige opskorting van verrigtinge as wat nodig is, gelas.

#### VERKRYGING VAN GETUENIS VIR VERHOOR.

27. (1) (a) Die proses om enige persoon te verplig om voor die hof te verskyn om getuie af te lê of om boeke, stukke, dokumente of dinge oor te lê geskied by getuiedagvaarding (vir sover dit saaklik is, in bylaagvorm No. 3) deur die registrateur uitgereik en uitgeneem deur die party wat wil hê dat sodanige persoon voor die hof moet verskyn; met dien verstande dat in die geval van getuie op kommissie afgeneem, sodanige prosesstuk deur die kommissaris uitgereik moet word.

(b) Wanneer dit nodig is om 'n getuie wat buite die regsgebied van die betrokke waterhof woonagtig is, te laat verskyn, is die reëls van die provinsiale of plaaslike afdeling van die Hooggeregshof met regsbevoegdheid op die plek waar die aansoek aangehoor word, *mutatis mutandis* van toepassing.

(2) (a) Tesame met voornoemde getuiedagvaarding moet daar aan die onderbalju soveel afskrifte daarvan afgegee word as wat daar getuies is om te dagvaar, asook sodanige somme geld as wat die party vir wie hulle gedagvaar moet word, wil dat die onderbalju aan voornoemde getuies onderskeidelik as padgeld moet betaal of aanbied.

(b) Alle getuiedagvaardings moet deur die onderbalju bestel word.

(3) Die hof kan enige getuiedagvaarding ter syde stel as blyk dat die getuie aan wie dit bestel is, nie redeliké tyd gegee is om hom in staat te stel om ingevolge die dagvaarding te verskyn nie, of as blyk dat die getuie voldoende padgeld geëis maar nie ontvang het nie.

(4) (a) As die regter daartoe toestemming verleen dat getuie op kommissie afgeneem word, moet die persoon aangestel om sodanige getuie af te neem, aan sodanige getuie sodanige vrae, as daar is, stel as wat by ooreenkoms tussen die partye aan hom oorgedra is, en moet hy die partye, as hulle dit verlang, toelaat om sodanige getuie te ondervra, en kan hy self sodanige getuie ondervra asof sodanige getuie in die hof ondervra word, en hy moet die getuie notuleer of laat notuleer, en die getuie wat afgeneem is, moet vervolgens voorgelees word aan die getuie, wat dit moet onderteken, en genoemde kommissaris moet as getuie van daardie handtekening teken.

(b) Genoemde notule word (behoudens alle wettige besware) by die aanhoor van die aansoek as getuie aanvaar.

#### EED DEUR ASSESSORS.

28. Elke assessor van 'n waterhof moet voordat hy vir die eerste maal sitting in die hof neem, die volgende eed aflê:—

„Ek..... sweer plegtig dat ek geen regstreekse of onregstreekse persoonlike belang by die aansoek van.....

het nie, dat ek tot geen party by hierdie regsding binne die derde graad van bloedverwantskap of aanverwantskap staan nie en dat ek na my beste vermoë ooreenkomstig die voorgelegde getuie uitspraak sal doen oor die saak wat verhoor staan te word. So help my God."

#### AANHOOR VAN AANSOEK.

29. (1) Die hof moet sy eerste sitting hou op die plek ooreenkomstig regulasie 7 bepaal, en kan die aanhoor van enige aansoek na goeëdunke van plek tot plek en van tyd tot tyd verduag.

(2) If at any time during the hearing of the application it appears that the rights of persons other than those who have received notice of the application may be affected, the court may direct that such other persons, if they have not been granted leave to intervene, be served with notice of the application in such manner as it may direct, and for this purpose the court may adjourn the hearing of the application.

(3) Notwithstanding the fact that a respondent has failed to file a plea to an application the court may, on such terms (if any) as it deems fit, allow such respondent to be heard at the hearing.

(4) All evidence shall be taken down in or reduced to writing and any objection made by any party in respect of any evidence or of any document tendered by any party or received by the court shall be noted on the record.

(5) A witness who is not a party to an application, may be ordered by the court—

(a) to leave the court until his evidence is required, or after his evidence has been given; or

(b) to remain in court after his evidence has been given until the hearing is terminated or adjourned.

(6) Subject to the provisions of the Act and these regulations, the conduct of proceedings at the hearing of the application or other cause shall be in the discretion of the presiding judge, to the same extent as that exercised by a judge of the Supreme Court.

#### FEE'S AND EXPENSES OF ASSESSORS.

30. (1) An assessor, other than a Government employee, shall, on production of vouchers duly certified by the registrar, be paid from public funds an allowance of—

(a) in the case of a lay assessor, ten rand fifty cents (R10.50) a day or portion of a day of attendance at court (attendance to be reckoned as covering the sittings of the court on any one day of twenty-four hours); and

(b) in the case of an engineer assessor, so much per day or portion of a day of attendance at court as the Minister may from time to time determine.

(2) An assessor shall, in addition to the allowance referred to in sub-regulation (1), be paid a subsistence allowance at the rate of seventeen and a half cents (17½c) per hour for each completed hour of the time of necessary absence from home; provided that if such assessor resides within five miles of the court, the amount paid to him in respect of subsistence shall not exceed his actual reasonable out-of-pocket expenses with a maximum of fifty cents (50c) per day.

(3) Actual transport expenses of any assessor referred to in sub-regulation (1), shall be paid from public funds in the following manner:—

(a) A first-class return railway ticket shall be provided if any assessor desires to travel by rail, and in the case of other public conveyance such assessor shall be entitled to a refund of actual expenditure incurred;

(b) whenever an assessor desires to travel by road, he shall be paid a transport allowance at the current Public Service tariff for the use of his privately owned or of hired motor transport in the case where railway or other public conveyance is not available, or the cost to the Government of a journey by rail or other public conveyance where such railway or other public conveyance is available.

#### COSTS AND FEES.

31. (1) All costs of attorneys in connection with proceedings in a water court, whether between party and party or as between attorney and client, shall be subject to taxation by the registrar who shall exercise the function of a taxing officer in respect of such costs.

(2) Indien op enige tyd tydens die aanhoor van die aansoek blyk dat die regte van persone, uitgesonderd diegene wat van die aansoek in kennis gestel is, geraak kan word, kan die hof gelas dat 'n kennisgewing van die aansoek op sodanige wyse as wat hy mag gelas, aan sodanige ander persone bestel moet word, as aan hulle nie verlof toegestaan is om toe te tree nie, en die hof kan die aanhoor van die aansoek vir dié doel verdaag.

(3) Ondanks die feit dat 'n respondent versuim het om 'n verweerskrif teen die aansoek in te dien, kan die hof sodanige respondent op sodanige voorwaardes (as daar is) as wat hy goed ag, toelaat om by die verhoor gehoor te word.

(4) Alle getuienis moet skriftelik afgeneem of op skrif gestel word en enige beswaar deur 'n party geopper ten opsigte van enige getuienis of van enige dokument deur enige party aangebied of deur die hof ontvang, moet genotuleer word.

(5) 'n Getuie wat nie 'n party by die aansoek is nie, kan deur die hof gelas word—

(a) om die hof te verlaat totdat sy getuienis nodig is, of nadat hy getuienis afgelê het; of

(b) om in die hof te bly nadat hy getuienis afgelê het totdat die verhoor beëindig of verdaag word.

(6) Behoudens die bepalinge van die Wet en hierdie regulasies, berus die reëling van die verrigtings by die aanhoor van die aansoek of ander saak by die voorsittende regter, in dieselfde mate as in die geval van 'n regter van die Hooggeregshof.

#### GELDE EN ONKOSTE VAN ASSESSORS.

30. (1) 'n Assessor, uitgesonderd 'n staatsamptenaar, ontvang by oorlegging van bewysstukke behoorlik deur die registrateur gesertifiseer, openbare fondse uit 'n toelae van—

(a) in die geval van 'n leke-assessor, tien rand vyftig sent (R10.50) vir elke dag of gedeelte van 'n dag waarop hy 'n hofsitting bywoon (bywoning geag te word die sittings van die hof op enige een dag van vier-en-twintig uur te dek); en

(b) in die geval van 'n ingenieur-assessor, soveel per dag of gedeelte daarvan vir bywoning van 'n hofsitting as wat die Minister van tyd tot tyd mag bepaal.

(2) Benewens die toelae genoem in subregulasie (1), word daar aan 'n assessor 'n verblyftoelae betaal teen die tarief van sewentien en 'n half sent (17½c) per uur vir elke hele uur van die tyd wat hy noodwendig van sy huis afwesig is; met dien verstande dat indien sodanige assessor binne vyf myl van die hof woonagtig is, die bedrag aan hom ten opsigte van verblyf betaalbaar is, nie meer mag wees as sy werklike redelike persoonlike uitgawes tot 'n maksimum van vyftig sent (50c) per dag nie.

(3) Die werklike vervoerkoste van enige assessor in subregulasie (1) genoem, word op die volgende wyse uit openbare fondse betaal:—

(a) 'n Eersteklas-retoertreinkaartjie word verskaf indien enige assessor verkies om per spoor te reis, en in die geval van ander publieke vervoer is sodanige assessor geregtig op 'n terugbetaling van die werklike uitgawe deur hom aangegaan;

(b) wanneer 'n assessor verkies om per pad te reis, word 'n vervoertoelae vir die gebruik van sy private of van gehuurde motorvervoer teen die geldende Staatsdienstarief aan hom betaal in die geval waar spoorweg- of ander publieke vervoer nie beskikbaar is nie, of wanneer sodanige spoorweg- of ander publieke vervoer wel beskikbaar is, die koste vir die Staat van 'n rit per spoor of ander publieke vervoer.

#### KOSTE EN GELDE.

31. (1) Alle prokureurskoste in verband met 'n geskied in 'n waterhof, hetsy tussen party en party of tussen prokureur en kliënt, is onderworpe aan taksering deur die registrateur wat ten opsigte van sodanige koste die pligte van 'n taksermeester vervul.

(2) (a) The fees which may be charged by attorneys as between party and party and between attorney and client in connection with proceedings in a water court, shall be those prescribed by the rules of the provincial or local division of the Supreme Court in the area of jurisdiction of which such proceedings are instituted, in so far as such fees are applicable to the procedure of a water court, save that in all proceedings in which the number of respondents exceeds five the charges for the additional necessary copies of pleadings and notices to be prepared for the conduct of the case shall be one-fourth of those prescribed; provided that if in the opinion of the presiding judge the proceedings do not justify the taxation of costs on the scale prescribed by the rules of the provincial or local division of the Supreme Court in the area of jurisdiction of which such proceedings are instituted, he may order costs as between party and party to be taxed on the highest scale applicable from time to time in proceedings in magistrates' courts.

(b) If an attorney appears without counsel, he may charge, as between party and party, double the fees allowed to attorneys for attending proceedings in the Supreme Court.

(3) The fees which may be allowed for counsel as between party and party, shall be such fees as are allowed in the provincial or local division of the Supreme Court in the area of jurisdiction of which proceedings before a water court are instituted, and such fees shall be fixed by the registrar concerned in accordance with the importance of the matter in issue.

(4) With a view to affording a party who has been awarded an order for costs, a full indemnity for all costs reasonably incurred by him in relation to his claim or defence, and to ensure that such costs shall be borne by the party against whom such order has been awarded, the registrar concerned shall, subject to the provisions of section forty-seven of the Act and of this regulation, on every taxation allow all such costs, charges, fees and expenses as appear to him to have been necessary or proper for the attainment of or for defending the rights of any party, but save as against the party who incurred the same, no costs shall be allowed which appear to the registrar to have been incurred or increased through over-caution, negligence or mistake, or by payment of a special fee to counsel, or special charges and expenses to witnesses or other persons or by other unusual expenses.

(5) The said registrar shall not proceed to the taxation of any bill of costs unless he is satisfied that the party liable to pay the same has received notice either personally or through his attorney as to the time and place of such taxation and notice that he is entitled to be present thereat and any such notice may be served by registered post

#### DEPUTY-SHERIFF'S FEES

32 (1) Fees and charges in connection with the service and execution of the process and orders of the Court shall be in accordance with the tariff from time to time in force in the Supreme Court, and the same provisions with regard to taxation thereof shall apply.

(2) Such fees and charges shall be payable by the party on whose behalf the deputy-sheriff performed his services and may be recovered from the other side if party and party and party costs are allowed.

#### EXPENSES OF WITNESSES

33 (1) Witnesses shall be paid for their attendance over and above their travelling expenses in accordance with tariffs framed from time to time under section twenty-five of the administration of justice Act, 1912 9 Act No 27 of 1912)

(2) The charges for witnesses as fixed by tariff, shall be considered as payable to the witness by the party who (?) or produced him, and in the event of such party being awarded his costs against the other party the said charges shall be allowed against such other party in

(2) (a) Die gelde wat deur prokureurs tussen party en party en tussen prokureur en kliënt in verband met 'n geding in 'n waterhof gevorder mag word, is dié soos voorgeskryf in die reëls van die provinsiale of plaaslike afdeling van die Hooggeregshof in die regsgebied waarvan sodanige geding ingestel word, vir sover sodanige gelde van toepassing is op die prosedure van 'n waterhof, uitgesonderd dat in alle gedinge waarin die getal respondente meer as vyf is, die koste van die bykomstige nodige afskrifte van pleitstukke en kennisgewings wat vir die verhoor van die saak opgestel moet word, 'n kwart van sodanige voorgeskrewe gelde is; met dien verstande dat indien die voorsittende regter van mening is dat die geding nie die taksering van die koste volgens die tarief voorgeskryf in die reëls van die provinsiale of plaaslike afdeling van die Hooggeregshof in die regsgebied waarvan sodanige geding ingestel word, regverdig nie, hy kan gelas dat koste tussen party en party getakseer moet word teen die hoogste tarief wat van tyd tot tyd by gedinge in magistraatshowe van toepassing is.

(b) As 'n prokureur sonder 'n advokaat verskyn, kan hy tussen party en party dubbel die gelde vorder wat aan prokureurs vir bywoning van gedinge in die Hooggeregshof toegelaat word.

(3) Die gelde wat vir advokate tussen party en party toegelaat kan word, is dié wat toegelaat word in die provinsiale of plaaslike afdeling van die Hooggeregshof in die regsgebied waarvan 'n geding in 'n waterhof ingestel word, en sodanige gelde moet deur die betrokke registrateur vasgestel word volgens die belangrikheid van die saak waarom dit gaan.

(4) Ten einde 'n party aan wie 'n bevel vir koste toegestaan is, ten volle skadeloos te stel vir alle koste redelikerwys deur hom aangegaan in verband met sy eis of verweer en te verseker dat die koste gedra word deur die party teen wie koste toegestaan is, moet die betrokke registrateur, behoudens die bepalinge van artikel sewe-en-veertig van die Wet en hierdie regulasie, by elke taksasie alle sodanige koste, vorderings, gelde en uitgawes toestaan as wat hom voorkom nodig of behoorlik te gewees het vir die verkryging of vir die verdediging van die regte van enige party, maar uitgesonderd teen die party wat die koste aangegaan het, moet geen koste wat na dit die registrateur voorkom, aangegaan of verhoog is weens oorversigtigheid, nalatigheid of fout of weens betaling van 'n spesiale honorarium aan die advokaat of spesiale koste en uitgawes ten opsigte van getuies of ander persone, of weens buitengewone uitgawes, nie toegelaat word nie.

(5) Genoemde registrateur moet nie met die taksasie van 'n kosterekening voortgaan nie, tensy hy daarvan oortuig is dat die party wat vir die betaling daarvan aanspreeklik is, of persoonlik of deur bemiddeling van sy prokureur van die tyd en plek van sodanige taksasie in kennis gestel is en meegedeel is dat hy geregtig is om daarby teenwoordig te wees, en sodanige kennisgewing kan per geregistreerde pos bestel word.

#### GELDE VAN ONDERBALJU.

32. (1) Alle gelde en vorderings in verband met die bestelling en tenuitvoerlegging van die prosesstukke en bevels van die hof is ooreenkomstig die tarief wat van tyd tot tyd in die Hooggeregshowe van krag is, en dieselfde bepalinge met betrekking tot die taksering daarvan is van toepassing.

(2) Sodanige gelde en vorderings is betaalbaar deur die party ten behoeve van wie die onderbalju sy dienste gelewer het en kan op die teenparty verhaal word indien koste tussen partye toegestaan word.

#### ONKOSTE VAN GETUIES.

33. (1) Getuies word bo en behalwe hul reiskoste vir hul bywoning betaal volgens tariewe van tyd tot tyd opgestel kragtens artikel vyf-en-twintig van die Wet op die Rechtspleging, 1912 (Wet No. 27 van 1912).

(2) Die vorderings vir getuies volgens tarief vastgestel word geag aan die getuie betaalbaar te wees deur die party wat hom gedagvaar of gebring het, en ingeval die koste van sodanige partye teen die ander party toegestaan word, word voormelde vorderings by die taksering van koste

(3) In the taxation of costs between party and party no amount shall be allowed for any witness for attendance or travelling expenses unless there has been produced to the registrar concerned proof that such an amount has already been paid or tendered to or claimed by such witness.

(4) In the taxation of costs between party and party nothing shall be allowed for any witness not examined except upon proof that his evidence could reasonably have been material and necessary.

(5) If a number of witnesses manifestly greater than was reasonably necessary have been subpoenaed by any party, there shall only be allowed against the other party the charges for such witnesses as were reasonably necessary.

(6) In the taxation of costs between party and party no amount shall be allowed for any witness in respect of personal attendance or travelling expenses if the fact which such witness has been subpoenaed to prove has, before the issue of such subpoena, been admitted by the opposite party to the party making out the subpoena; provided that such admission was made in writing by the party making it, or his attorney, as the case may be.

(7) When the same person is a witness in more cases than one on the same day, he shall be entitled to no more than one fee for personal attendance and one allowance for travelling expenses, which shall be equally divided between such cases.

(8) There shall be allowed such just and reasonable charges and expenses as may in the opinion of the registrar have been properly incurred in procuring the evidence and attendance of witnesses whose fees have been allowed on taxation.

#### REVIEW OF TAXATION.

34. Any party who feels himself aggrieved by the decision of the taxing officer may take such decision on review in the manner prescribed by the rules and practice of the division of the Supreme Court concerned.

#### EXECUTION.

35. The law in force from time to time relating to execution in Supreme Courts shall *mutatis mutandis* apply to any judgment given or order or award made by a water court.

#### GENERAL AND MISCELLANEOUS.

36. (1) The registrar shall, as soon as may be, prepare copies of any judgment given or order made and shall transmit one copy thereof to the Secretary for Water Affairs.

(2) The registrar shall keep and preserve all the records of proceedings in a place of safe custody in his office.

#### REGISTRATION OF ORDERS OF A WATER COURT.

37. (1) Whenever a court has ordered that any order, including an order granting a servitude, made by it shall be registered upon the title deeds of any land, the applicant's attorney shall cause a notice under the hand of the registrar to be served on every owner of land upon the title deeds of which registration of the order must be effected requiring him within one month of the date of the notice to deliver his said title deed to the said applicant's attorney.

(2) The applicant's attorney shall deliver to the registrar of deeds of the deeds registry in which the title of the said land is registered, all the title deeds which he has received together with two copies of the order of court, an annexes thereto and such revenue stamps as are required for the purpose of registration in respect of each title deed upon which the registration of the said order or servitude is to be effected.

(3) The registrar of deeds concerned shall, subject to the provisions of sub-section (2) of section one hundred (.....texte illegible.....)

(3) By die taksering van koste tussen partye moet geen bedrag ten opsigte van enige getuie vir bywoning of reiskoste toegelaat word nie, tensy aan die betrokke registrateur bewys gelewer is dat sodanige bedrag reeds aan sodanige getuie betaal of hom aangebied is of deur hom geëis is.

(4) By die taksering van koste tussen partye word niks toegelaat ten opsigte van enige-getuie wat nie ondervra is nie, tensy bewys gelewer word dat sy getuienis redelikerwys ter sake en nodig kon gewees het.

(5) As 'n klaarblyklik groter aantal getuies as wat redelikerwys nodig was, deur enige party gedagvaar is, word teen die ander party slegs die koste toegelaat vir sodanige getuies as wat redelikerwys nodig was.

(6) By die taksering van koste tussen partye word geen bedrag vir enige getuie ten opsigte van persoonlike bywoning of reiskoste toegelaat nie as die feit ter stawing waarvan sodanige getuie gedagvaar is, voor die uitreiking van die getuiedagvaarding deur die teenparty erken is, aan die party wat die dagvaardiging uitgeneem het; met dien verstande dat sodanige erkenning deur die partye wat dit doen, of deur sy prokureur, na gelang van die geval, skriftelik ingedien is.

(7) As dieselfde persoon op dieselfde dag 'n getuie in meer as een saak is, is hy geregtig tot hoogstens een vordering vir persoonlike bywoning en een toelae vir reiskoste, wat dan gelykop tussen sodanige sake verdeel moet word.

(8) Daar word sodanige billike en redelike vorderings en uitgawes toegelaat as wat na die registrateur se mening behoorlik aangegaan is ter verkryging van die getuienis en bywoning van getuies wie se gelde by taksasie toegelaat is.

#### HERSIENING VAN TAKSASIE.

34. Enige party wat meen dat hy deur die beslissing van die takseermeester benadeel is, kan sodanige beslissing laat hersien op die wyse in die reëls en prosedure van die afdeling van die betrokke Hooggeregshof voorgeskryf.

#### TENUITVOERLEGGING.

35. Die wet wat van tyd tot tyd van krag is betreffende tenuitvoerlegging in Hooggeregshowe is *mutatis mutandis* van toepassing op enige uitspraak, bevel of toekenning van 'n waterhof.

#### ALGEMEEN EN DIVERSE.

36. (1) Die registrateur moet so spoedig moontlik afskrifte maak van enige uitspraak of bevel en moet een afskrif daarvan aan die Sekretaris van Waterwese stuur.

(2) Die registrateur moet alle notule van verrigtinge in veilige bewaring op 'n plek in sy kantoor hou en bewaar.

#### REGISTRASIE VAN BEVELE VAN 'N WATERHOF.

37. (1) Wanneer 'n hof gelas het dat enige bevel, insluitende 'n bevel wat 'n servituut toeken en wat deur sodanige hof uitgereik is, teen die titelbewyse van enige grond geregistreer moet word, moet die applikant se prokureur aan elke eienaar van grond op die titelbewyse waarvan registrasie van die bevel aangeteken moet word, 'n kennisgewing, deur die registrateur onderteken, laat bestel, waarby sodanige eienaar aangesê word om genoemde titelbewys binne een maand na die datum van die kennisgewing by die applikant se prokureur af te gee.

(2) Die applikant se prokureur moet aan die registrateur van aktes van die akteskantoor waarin die titelbewys van genoemde grond geregistreer is, alle titelbewyse wat hy ontvang het afgee tesame met twee afskrifte van die bevel van die hof, alle aanhangsels daarvan en sodanige inkomsteseëls wat vereis word vir die doeleindes van registrasie, ten opsigte van elke titelbewys waarop registrasie van genoemde bevel of servituut aangeteken moet word.

(3) By ontvangs van genoemde titelbewyse, afskrifte van die bevel van die hof en inkomsteseëls en mits hy daarvan oortuig is dat die titelbewyse die titelbewyse is

of the properties upon which the court has ordered registration of its order—

- (a) cause the order to be registered upon the title deeds of such properties; and
- (b) thereafter cause the title deeds to be returned to the applicant's attorney.

(4) When for the purpose of effecting registration a formal or other minor alteration is required in the wording of the order of court, such alteration may be effected by the judge who presided at the proceedings, and the registrar of deeds concerned shall accept his signature for the said alteration.

(5) Whenever an order of court has been made affecting Crown Land the dominium of which has never passed from the Government, a copy of the order of court shall be forwarded by the registrar to the Department of Lands and to the Surveyor-General of the Province in which the said land is situated, and should such land be subsequently leased, allotted or granted by the Government to any person a condition referring to the said order of court shall be embodied in the said lease or deed of grant.

STAMPING OF DOCUMENTS.

38. All original documents filed with and issued by the registrar shall be stamped in accordance with the tariff in force from time to time in the Supreme Courts.

SCHEDULE.

FORM NO. 1.

IN THE ..... WATER COURT.

In the matter of: ....., Applicant,

versus

....., Respondents.

1. Take notice that if you wish to file an exception, plea or counter-claim to the application, copy of which is being served upon you herewith, you are hereby required to file such exception, plea or counter-claim, as the case may be, within thirty days from the date of service of this notice upon you, by lodging the original and four copies thereof with the registrar and at the same time to serve a copy thereof on the applicant or his attorney; and further

2. Take notice that if you fail to file and serve such exception, plea or counter-claim within the period specified, an order will be sought in terms of the application without any further notice to you.

Dated at ..... this ..... day of ..... 196.....

To: 1. The Registrar

and

2. (Respondent)

Applicant's Attorney.  
(Address.)

FORM NO. 2.

IN THE ..... WATER COURT.

In the matter of: ....., Applicant,

versus

....., Respondent,

for ..... (here specify the nature of the application, the public streams and the farms affected by the application).

Notice is hereby given that the above-mentioned application has been lodged in the ..... Water

registrateur van aktes, behoudens die bepalinge van sub-artikel (2) van artikel honderd-een-en-vyftig van die Wet—

- (a) die bevel teen die titelbewyse van sodanige eiendomme laat registreer; en
- (b) daarna die titelbewyse aan die applikant se prokureur laat terugstuur.

(4) Wanneer 'n formele of ander geringe wysiging in die bewoording van die bevel van die hof vir registrasiedoeleinde nodig is, kan sodanige wysiging aangebring word deur die regter wat by die verrigtinge gepresideer het, en neem die betrokke registrateur van aktes sy handtekening ten opsigte van genoemde wysiging aan.

(5) Wanneer 'n bevel van die hof uitgereik word wat staatsgrond raak waarvan die eiendomsreg nog nooit van die staat vervreem is nie, moet die registrateur 'n afskrif van die bevel van die hof stuur aan die Departement van Lande en aan die Landmeter-generaal van die provinsie waarin genoemde grond geleë is, en indien sodanige grond later deur die Staat aan enigiemand verhuur, toegeken of uitgegee word, moet 'n voorwaarde wat na genoemde bevel van die hof verwys, in genoemde huurkontrak of grondbrief vervat word.

FRANKERING VAN DOKUMENTE.

38. Op alle oorspronklike dokumente by die registrateur ingedien en deur hom uitgereik, moet seëls aangebring word ooreenkomstig die tarief wat van tyd tot tyd in die Hooggeregshowe van krag is.

BYLAAG.

VORM NO. 1.

IN DIE ..... WATERHOF.

Insake die aansoek van: ....., Applikant,

teen

....., Respondente.

1. Geliewe kennis te neem dat indien u 'n eksepsie, verweerskrif of teeneis wil indien teen die aansoek, waarvan 'n afskrif hierby aan u bestel word, hierby van u vereis word om sodanige eksepsie, verweerskrif of teeneis, na gelang van die geval, binne dertig dae na die datum waarop hierdie kennisgewing aan u bestel word, in te dien deur die oorspronklike en vier afskrifte daarvan aan die registrateur af te gee en terselfdertyd 'n afskrif daarvan aan die applikant of sy prokureur te bestel; en voorts

2. Geliewe kennis te neem dat indien u versuim om sodanige eksepsie, verweerskrif of teeneis binne die vasgestelde tydperk in te dien en te bestel, daar sonder enige verdere kennisgewing aan u, om 'n bevel ooreenkomstig die aansoek gevra sal word.

Gedateer te ..... op hede die ..... dag van ..... 196.....

Aan:

1. Die Registrateur

en

2. (Respondent)

Applikant se prokureur  
(adres).

VORM NO. 2.

IN DIE ..... WATERHOF.

Insake die aansoek van: ....., Applikant,

teen

....., Respondent

of (moet die aard van die aansoek, die openbare strome en die plase deur die aansoek geraak).

Hierby word kennis gegee dat bovermelde aansoek ingedien is by die ..... Waterhof op

Further take notice that any interest party or parties who consider themselves affected and who wish to except, plead or file a counter-claim to the application are required to file their exception, plea or counter-claim in writing, within thirty days from date of publication of this notice, by lodging the original and four copies thereof with the registrar at....., and at the same time to serve a copy thereof on the applicant or his attorney.

Further take notice that a notice of set down stating the time and date of the hearing will be served on all parties who file their exception, plea or counter-claim as provided above, but that no such notice will be served on any party who omits to file such exception, plea or counter-claim.

Dated at.....this.....day of....., 196.....

Applicant's Attorney.  
(Address)

FORM No. 3.

IN THE.....WATER COURT.

To sit at.....

To the Sheriff or his lawful deputy.....  
summon.....

and.....  
that, laying aside all and singular business and excuses, they and each of them appear in person before the Court at.....on the.....day of.....

next, at.....of the clock, in the.....noon,  
and thereafter until they are discharged and also that he, the said.....bring with him and produce at the time and place aforesaid.....(describe the books, papers, documents or things to be produced) to testify and declare all and singular those things which they or any of them know concerning a certain application now pending in the said Court, wherein.....

is the applicant, and.....  
are the.....remaining parties to the record; and they or any of them shall by no means omit so to do at their peril.

Serve on each of them, the said.....

a copy of this summons and pay, if such is demanded, to the said.....

the sum of.....

to the said.....

the sum of.....

and to the said.....

the sum of.....

for their travelling expenses respectively, and return to the said court what you have done thereupon.

Dated at.....this.....day of.....196.....

Registrär.

Attorney for.....

(Adress.)

This notice is in substitution for Government Notice No. 135 of 25th January, 1957, as amended by Government Notices Nos. 1223 of 22nd August, 1958, 1954 of 27th November, 1959, and 71 of 16th June, 1961.

Geliewe voorts ook kennis te neem dat enige belanghebbende party of partye wat meen dat hulle geraak word en wat teen die aansoek 'n eksepsie, verweerskrif of teeneis wil indien, binne dertig dae van die datum van publikasie van hierdie kennisgewing hul eksepsie, verweerskrif of teeneis skriftelik moet indien deur die oorspronklike en vier afskrifte daarvan aan die registrateur te.....af te gee en terselfdertyd 'n afskrif daarvan aan die applikant of sy prokureur moet bestel.

Geliewe voorts ook kennis te neem dat 'n kennisgewing van ter rolle plasing, waarin die uur en datum van die verhoor vermeld word, bestel sal word aan alle partye wat hul eksepsie, verweerskrif of teeneis indien soos hierbo voorgeskryf, maar dat geen sodanige kennisgewing bestel sal word aan enige party wat versuim om sodanige eksepsie, verweerskrif of teeneis in te dien nie.

Gedateer op.....hede die.....  
dag van.....196.....

Applicant's prokureur.  
(Adres.)

FORM No. 3.

IN DIE.....WATERHOF.

Om sitting te hou op.....

Aan die Balju of sy wettige gevolmagtigde.....  
dagvaar.....van.....en.....

van.....dat elkeen van hulle ondanks alle en besondere besigheid en verskonings, en persoonlik voor die hof verskyn te.....

op die.....dag van eersvolgende.....  
om.....uur.....middag en daarna tot hulle ontslaan word en ook dat hy, voormelde.....

met hom saambring en oorleë op voormelde tyd en plek en enigiets anders wat oorgeleë moet word) om almal gesamentlik en elk afsonderlik te getuig en te verklaar ten opsigte van alles wat hulle of enigeen van hulle weet aangaande 'n sekere aansoek tans in genoemde hof ahangig, waarin.....die applikant is, en die ander partye is, en hulle of enigeen van hulle wat versuim om hieraan te voldoen, doen dit op eie risiko.

Bestel aan elk van hulle, genoemde.....  
'n afskrif van hierdie dagvaarding en betaal, indien dit geëis word, aan genoemde.....

die som van.....  
aan genoemde.....  
die som van.....  
en aan genoemde.....  
die som van.....

as hul onderskeie reiskoste, en doen aan genoemde hof verslag oor wat u hierin gedoen het.

Gedateer op.....hede die.....  
dag van.....196.....

Registrateur.

Prokureur vir.....  
(Adres.)

Hierdie kennisgewing vervang Goewermetskennisgewing No. 135 van 25 Januarie 1957, soos gewysig by Goewermetskennisgewing Nos. 1223 van 22 Augustus 1958, 1954 van 27 November 1959, en 71 van 16 Junie 1961.

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