



**RULES BOARD FOR COURTS OF LAW
REPUBLIC OF SOUTH AFRICA**

2nd Floor, Centre Walk East Tower, 266 Pretorius Street, PRETORIA • P.O. Box 13106, The Tramshed, 0126 • Tel (012) 326 8014/ 8045, Fax (012) 326 8018

7 February 2017

Our ref: Raj Daya

Your ref:

Dear Sir/Madam,

INVITATION FOR COMMENTS ON PROPOSED AMENDMENTS TO MAGISTRATES' COURTS RULES 9(3)(g) and (i) – SERVICE OF PROCESS, NOTICES AND OTHER DOCUMENTS

The purpose of this letter is to invite comments on the proposed amendments to paragraphs (g) and (i) of Rule 9(3) of the Magistrates' Courts Rules ("the Rules").

The Rules Board for Courts of Law ("Rules Board") recently reviewed some of the rules and/or legislation concerning service of processes, notices and other documents in the Magistrates' Courts. The review process included a comparative analysis of corresponding High Court Rules provisions, other legislative prescripts and jurisdictions.

The process culminated in the Rules Board resolving in principle to substitute paragraph 9(3)(g) of the Rules – dealing with service on organs of state and executive members, and to delete in its entirety paragraph 9(3)(i) of the Rules – regulating service on local authorities. This is informed in part by the fact that the draft Judicial Matters Amendment Bill, 2016 proposes to amend sections of the State Liability Act, 1957 (Act No. 20 of 1957), including section 2(2) thereof to provide for:

- (a) Service in all matters that could result in litigation against the State; and
- (b) To expressly provide for service on State Departments and the State Attorney.

Board members appointed in terms of Section 3 of the Rules Board for Courts of Law Act 107 of 1985

Judge SA Majiedt (Chairperson), Judge W van der Merwe (Deputy-Chairperson), Mr. M Motimele SC, Ms. J Wessels, Mr. Hundermark, Mr. Farlam SC, Ms. A Platt SC(alt-GCB), Prof. M Paleker, Ms. de Klerk, Mr. G Bellairs, Ms. Ndlovu, Mr. M Kutama, Mr. A Essa (alt-LSSA), Mr. R Isaacs

Relevant extracts from the stated Bill are annexed hereto.

[ANNEXURE A]

The proposed amendments are contained in the annexure hereto.

[ANNEXURE B]

Your comments to the proposed amendments of the Magistrates' Courts Rules are invited, for submission by no later than **24 March 2017**.

Submissions can be sent via hand delivery, post, facsimile or email as follows:

PHYSICAL ADDRESS: 2nd Floor, Centre Walk East Tower, 266 Pretorius Street, Pretoria.

POSTAL ADDRESS: P. O. Box 13106, The Tramshed, 0126.

FACSIMILE: (012) 326 8018.

EMAIL: Nkosinathi Maseko (NMaseko@justice.gov.za).

Further enquiries may be directed to (012) 326 8014.

Yours sincerely,

Raj Daya (signed electronically)

Raj Daya

Deputy Chief State Law Adviser

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