



13 April 2017

Via e-mail: NMaseko@justice.gov.za / rajdaya@justice.gov.za

Mr Raj Daya
Deputy Chief State Law Advisor
Secretary to the Board
The Rules Board for Courts of Law

Dear Mr Daya

**COMMENTS ON THE PROPOSED AMENDMENTS TO MAGISTRATES' COURTS RULE 63
– FILING, PREPARATION AND INSPECTION OF DOCUMENTS**

We refer to your letter dated 17 February 2017 in the above regard.

It is the view of the attorneys' profession that:

1. The attorneys' profession agrees that the Magistrate's Court rules providing for the indexing and pagination of court files should be aligned with High Court Rule 62(4). Consequently the compliance with this obligation will be reduced from 10 to 5 days.
2. The Rules Board should consider whether the phrase "the matter" where it appears in the proposed rule may require definition, as nowhere in the Rules is the word defined. However, it is understood that a matter would refer to any matter, be it a trial, application opposed or unopposed, which comes before court for determination by a Magistrate.
3. The attorneys' profession is of the firm view that not all matters which come before court should be indexed and paginated. Once again, it is recommended that the requirement be harmonized with that which is followed in the High Court; namely, any matter which comes before court (whether opposed or unopposed) and where the papers are in excess of 50 pages, the papers should be paginated and indexed.
4. It is noted that at present there is a requirement in some Magistrates' Courts that the papers in financial enquiries held in terms of Section 65A(1) of the Magistrates' Courts Act should be paginated and indexed. This, with respect, is unnecessary, as the papers hardly ever extend to more than 5 to 10 pages and the costs and time consumed to comply with this requirement are excessive and cannot be justified.

The Law Society of South Africa brings together the Black Lawyers Association, the Cape Law Society, the KwaZulu-Natal Law Society, the Law Society of the Free State, the Law Society of the Northern Provinces and the National Association of Democratic Lawyers in representing the attorneys' profession in South Africa.

These costs will be passed on to and recoverable from the debtor and place more of a financial burden on the debtor.

We submit this for your Board's consideration.

Yours faithfully



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