



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

2<sup>nd</sup> Floor, Centre Walk East Tower, 266 Pretorius Street, PRETORIA • Fax (012) 326 8018

30 May 2023

Our ref: 13/3/2/6 – May 2023

F Njobe/Z Mbombo

Your ref:

Dear Sir/Madam,

**NEW PROPOSED MAGISTRATES' COURTS RULE 26A – EVIDENCE BY AUDIO-VISUAL LINK**

The Rules Board, for purposes of harmonisation of the Magistrates' Courts Rules (MCRs) and High Court Rules, is embarking on a process of introducing new MCR 26A along the lines of corresponding High Court rule 38(9), with some adjustments. The proposed rule amendments are intended to:

- (a) provide a procedure whereby litigants who intend to lead evidence in a trial by audio-visual link will make an application for permission by the court for such evidence to be taken via audio-visual link; and
- (b) avoid potential injustices and problems or a *lacuna* which could occur in the rules.

The proposed rule 26A is contained in the annexure hereto.

**[Annexure A]**

As part of its consultative process, the Rules Board hereby invites your comments on the new proposed rule 26A, for submission to the Secretariat by no later than **25 July 2023**.

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

**PHYSICAL ADDRESS:** 2<sup>nd</sup> Floor, Centre Walk East Tower, 266 Pretorius Street, Pretoria.

**FACSIMILE:** (012) 326 8018.

**EMAIL:** Zintle Mbombo (ZMbombo@justice.gov.za).

Office telephone lines via switchboard are temporarily inoperative pending an upgrading process.

Yours sincerely,



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**F NJOBE**

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**“26A Evidence by audio-visual link**

(1) (a) A court may, on application on notice by any party and where it appears convenient or in the interests of justice, make an order for evidence to be taken through audio-visual link.

**Note to role-players:**

Role-players are asked to comment on the alternative sub-rule (1)(a) phrased as follows:

“(a) Subject to a directive in terms of rule 25 a court may, on application on notice by any party and where it appears convenient or in the interests of justice, make an order for evidence to be taken through audio-visual link.”.

(b) A court making an order in terms of paragraph (a) must give such directions which it considers appropriate for the taking and recording of such evidence.

(c) An application in terms of this rule must be accompanied by a draft order setting out the terms of the order sought, including particulars of—

(i) the witness who is required to adduce evidence through audio-visual link;

(ii) the address of the premises from where such evidence will be given; and

(iii) the address of the premises to where the evidence will be transmitted by audio-visual link.

(d) For purposes of this rule “audio-visual link” means facilities that enable both audio and visual communications between a witnesses and persons in a courtroom, to be transmitted in real-time as they take place.”.