



GOVERNMENT NOTICE

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT

No. R.....

.....2015

PROMOTION OF ADMINISTRATIVE JUSTICE ACT, 2000 ADMINISTRATIVE REVIEW RULES

The Rules Board for Courts of Law has under section 7 of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), with the approval of the Minister of Justice and Correctional Services, made the rules in the Schedule.

SCHEDULE

Definitions

1. In these rules any word or expression to which a meaning has been assigned in the Act shall have that meaning and, unless the context otherwise indicates: -

“applicant” means a person, whether natural or juristic, who institutes proceedings for judicial review in terms of these rules;

“days” means court days;

“High Court Rules” means the Uniform Rules of the High Court;

“Magistrates’ Courts Rules” means the Rules Regulating the Conduct of Proceedings of the Magistrates’ Courts of South Africa;

“the Act” means the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000);

“the Promotion of Access to Information Act” means the Promotion of Access to Information Act, 2000 (Act No. 2 of 2000).

Application to High Court where no record, or incomplete record, has been furnished

2. (1) An application for judicial review in terms of the Act that is instituted in the High Court, in circumstances where no record or only part of the record has been furnished, shall be brought in terms of rule 6 or 53 of the High Court Rules, at the election of the applicant, as the case may be.

(2) Where an application is brought in terms of rule 53 of the High Court Rules –

(a) it shall, despite rule 53(1) of the High Court Rules, not be necessary when the application for judicial review is directed at a decision of a tribunal or board, to cite the chairperson of such tribunal or board as a respondent;

(b) the record to be produced in terms of rule 53(1)(b) of the High Court Rules shall include all documents and reports, and any other material in whatever form, which were before the administrator at the time of the making of the decision in question: Provided that where any document, report or other material has already been furnished by the administrator to the applicant, whether in terms of the Promotion of Access to Information Act or otherwise, it will be sufficient for any such document, report or material to be identified by the administrator in a schedule in such a way that it is readily identifiable; and

- (c) the application shall otherwise proceed in terms of rule 53 of the High Court Rules, with the relevant High Court Rules applying to the application to the same extent as in any application proceedings brought in terms of that rule.
- (3) Where an application has been brought in terms of rule 6 of the High Court Rules –
- (a) the applicant shall make any portion of the record of proceedings with which it may previously have been furnished by the administrator available to every respondent who opposes the application within 10 days of receipt of a notice of opposition from such respondent, and the time allowed by rule 6 of the High Court Rules for a respondent to deliver an answering affidavit shall be reckoned from the date on which the record of proceedings is provided to such respondent; and
- (b) the application shall otherwise proceed in terms of rule 6 of the High Court Rules, with the relevant High Court Rules applying to the application to the same extent as in any application proceedings brought in terms of that rule.

Applications to High Court where record has been furnished

3. (1) An application for judicial review in terms of the Act which is instituted in the High Court, in circumstances where the administrator has already provided the applicant with the record of the proceedings sought to be reviewed or set aside, whether in terms of the Promotion of Access to Information Act or otherwise, shall be brought in terms of rule 6 of the High Court Rules: Provided that where there is reason for the applicant to believe that the full record of proceedings may not have been provided by the administrator, the applicant may proceed in terms of rule 53 of the High Court Rules, at its election, but shall indicate in its founding affidavit why there is reason to believe that the full record has not been provided.

- (2) Where an application is brought in terms of rule 6 of the High Court Rules –
- (a) the applicant shall make the record of proceedings with which it was previously furnished by the administrator available to every respondent who opposes the application within 10 days of receipt of a notice of opposition from such respondent, and the time allowed by rule 6 of the High Court Rules for a respondent to deliver an answering affidavit shall be reckoned from the date on which the record of proceedings is provided to such respondent; and
 - (b) the application shall otherwise proceed in terms of rule 6 of the High Court Rules, with the relevant High Court Rules applying to the application to the same extent as in any application proceedings brought in terms of that rule.
- (3) Where an application is brought under rule 53 of the High Court Rules in terms of the proviso to sub-rule (1), rule 2(2) shall apply to that application.

Application to Magistrates' Court

4. (1) An application for judicial review brought in terms of the Act before a Magistrates' Court having jurisdiction in terms of the Act –
- (a) may be brought in accordance with the procedure set out in rule 53 of the High Court Rules or in terms of rule 55 of the Magistrates' Courts Rules if no record or an incomplete record has been furnished by the administrator; and

- (b) shall be brought in terms of rule 55 of the Magistrates' Courts Rules, in the event of the record already having been furnished by the administrator: Provided that where there is reason for the applicant to believe that the full record of proceedings may not have been provided by the administrator, the applicant may proceed in accordance with the procedure set out in rule 53 of the High Court Rules, at its election, but shall indicate in its founding affidavit why there is reason to believe that the full record has not been provided.
- (2) When an application is brought in accordance with the procedure set out in rule 53 of the High Court Rules, whether in terms of paragraph (a) of subrule (1) or the proviso to paragraph (b) of subrule (1) –
- (a) rule 2(2)(a) and (b) shall apply;
- (b) the application shall otherwise proceed in accordance with the procedure set out in rule 53 of the High Court Rules; and
- (c) except to the extent indicated in paragraphs (a) and (b), the Magistrates' Courts Rules shall apply to the application to the same extent as in any application brought in the Magistrates' Court.
- (3) When an application is brought in terms of rule 55 of the Magistrates' Courts Rules, whether in terms of rule 4(1)(a) or (b) –
- (a) rule 2(3)(a) shall apply, but the reference in that rule to rule 6 of the High Court Rules shall be regarded as a reference to rule 55 of the Magistrates' Courts Rules; and

- (b) the application shall otherwise proceed in terms of rule 55 of the Magistrates' Courts Rules, with the relevant Magistrates' Courts Rules applying to the application to the same extent as in any application proceedings brought in terms of that rule.

Condonation

5. Where an application for judicial review is brought in terms of rule 2, 3 or 4, a court has the same powers of condonation in respect of those rules as a court would have under the High Court Rules or the Magistrates' Courts Rules, as the case may be.

Repeal

6. The Rules of Procedure for Judicial Review of Administrative Action, promulgated by Government Notice No. R. 966 of 9 October 2009, are hereby repealed.

Title and commencement

7. These Rules are called the Administrative Review Rules, 2015, and come into operation on a date to be fixed by the Minister by notice in the *Gazette*.