

When the Rules Aren't Clear: The Applicable Timeframes for the Delivery of a Plea After the Dismissal of an Exception

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INTRODUCTION

Rule 22(1) of the Uniform Rules of Court (*'the Uniform Rules'*) provides that where a defendant has delivered a notice of intention to defend, it must deliver a plea within 20 days after service of a declaration, or within 20 days after delivery of such notice in respect of a combined summons.

However, the Uniform Rules do not specify when the delivery of the plea is due in circumstances where an exception to the particulars of claim is heard and dismissed by the Court, and when the judgment dismissing such exception does not stipulate a date for delivery.

CASE LAW

The Dismissal of an Exception

The case of *Ingqwele Consulting and Projects Management (Pty) Ltd v Cummins South Africa (Pty) Ltd*¹ held:

"when an exception taken by any defendant, who has not yet pleaded, is dismissed, without the court that dismisses such exception specifying a period within which the defendant's plea is to be delivered, then that defendant must plead within twenty (20) days, which period of twenty (20) days is to be reckoned as from the date upon which such exception is dismissed."

The Court followed the approach in prior judgments, which confirm that the prescribed periods in the Uniform Rules apply in the absence of a specific directive by the Court or Rule.

The Court stated that the approach followed in *Oos Vrystaat Kaap Operations Ltd v Frelon Boerdery (Pty) Ltd*² was to be preferred. In this case, the Court held that the defendant was entitled to 20 days to deliver its plea in terms of Rule 22(1) after an exception was withdrawn.

JUDGEMENTS FOLLOWING THE PRINCIPLE

The case of *Nqabeni Attorneys Inc v God Never Fails Revival Church and Others*³ confirmed that the timeframe of 20 days set out in Rule 22(1) applied to the defendant delivering a plea after the plaintiff effected amendments to its declaration in terms of Rule 28(8).

Similarly, the Court in *Mncube v Wesbank*⁴ held that the 15-day period prescribed by Rule 32 commenced afresh following the amendment of the plea. Thus, the respondent had 15 days to deliver its notice of application for summary judgment.

CONCLUSION

The applicable timeframe for the delivery of a plea after the dismissal of an exception, where no date is specified in the judgment, is 20 days, in accordance with the principle that the Uniform Rules govern timeframes absent specific rules or express judicial direction.

¹ 2025 JDR 1315 (GP).

² 2021 JDR 0985 (FB) paras 32–33.

³ 40739/2017) [2019] ZAGPJHC 51 (7 March 2019) para 38.4.

⁴ 2023 JDR 2968 (GJ) para 38.5.



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