

64 Destruction of documents

RS 22, 2023, D1 Rule 64-1

In any matter which has not been adjudicated upon by the court or a judge, and has not been withdrawn, the registrar may, subject to the provisions of the Archives Act, 1962 (Act 6 of 1962), after the lapse of three years from the date of the filing of the last document therein, authorise the destruction of the documents filed in his office relating to such matter.

Commentary

General. It is to be noted that the rule applies only to matters which have *not* been adjudicated upon by a court or judge, and have not been withdrawn.

The rule entitles but does not oblige the registrar to destroy documents, and there is no basis upon which the court, at the instance of a litigant, can compel the registrar to destroy documents. ¹

It is suggested that the rule should provide for the giving of notice to the parties of an intended destruction of documents.

If the registrar has not yet authorized the destruction of the documents the action still remains pending in the court. ²

'The Archives Act, 1962 (Act 6 of 1962).' The Archives Act 6 of 1962 was repealed by the National Archives and Record Service of South Africa [Act 43 of 1996](#).

¹ *Molala v Minister of Law and Order* [1993 \(1\) SA 673 \(W\)](#) at 675J.

² *Morgan-Smith v Elektro Vroomen (Pty) Ltd* [1977 \(2\) SA 191 \(O\)](#); and see *Molala v Minister of Law and Order* [1993 \(1\) SA 673 \(W\)](#).