



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Government Notice

MINISTRY OF JUSTICE

No. 178

2005

DIRECTIVES REGULATING THE CONDUCT OF PROCEEDINGS BEFORE A JUDGE OF THE HIGH COURT OF NAMIBIA WITH REGARD TO APPLICATIONS UNDER SECTIONS 19 AND 25 OF THE NAMIBIA CENTRAL INTELLIGENCE SERVICE ACT, 1997

The Judge-President of the High Court of Namibia, after consultation with the Director-General of the Namibia Central Intelligence Service, has under section 27 of the Namibia Central Intelligence Service Act, 1997 (Act No. 10 of 1997), issued the directives set out in the Schedule.

SCHEDULE

Definitions

1. In these directives a word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates -

“counsel” means a person, who in terms of the Legal Practitioners Act, 1995 (Act No. 15 of 1995), has been admitted and authorised to practice as a legal practitioner or is deemed to have been so admitted and authorised;

“designated judge” means a judge of the High Court of Namibia designated under directive 2(2)(b);

“Judge-President” means the Judge-President of the High Court of Namibia; and

“the Act” means the Namibia Central Intelligence Service Act, 1997 (Act No. 10 of 1997).

Notification

2. (1) Where the Director-General intends to make an application referred to in section 19(1) or 25(1) of the Act, the Director-General shall notify the Judge-President, in writing, of such intention, but notice need not be given of the name of the person, body or organisation in respect of which the application is to be made.

(2) The Judge-President may –

- (a) personally hear the application; or
- (b) designate any other judge to hear the application.

(3) Where a judge is designated under subdirective (2) to hear an application the Judge-President shall, in writing, notify the Director-General of the name of the designated judge.

Form and manner of application

3. (1) An application under section 19(1) or (4) or 25(1) or (4) of the Act shall –

- (a) be directed to the Judge-President or, where applicable, to the designated judge;
- (b) request a date and time for the application to be heard in chambers; and
- (c) be signed by the Director-General.

(2) An application referred to in section 19(1) or (4) of the Act shall be brought on notice substantially in the form set out in Form A of the Annexure, and shall contain the following:

- (a) the name of the person, body or organisation in respect of which the direction is sought;
- (b) the specific terms of the direction sought, as contemplated in section 19(1) or (4) of the Act;
- (c) the period or extended period, not exceeding 3 months, for which the direction is sought; and
- (d) where applicable, an accompanying supporting affidavit complying with section 19(2)(a) of the Act.

(3) An application referred to in section 25(1) or (4) of the Act shall be brought on notice substantially in the form set out in Form B of the Annexure, and shall contain the following:

- (a) the name of the person, body or organisation or class of persons, bodies or organisations in respect of which the direction is sought;
- (b) the specific terms of the direction sought, as contemplated in section 24(2) or 25(4) of the Act;
- (c) the period or extended period, not exceeding 3 months, for which the direction is sought; and
- (d) where applicable, an accompanying supporting affidavit complying with section 25(2) of the Act.

(4) The Director-General shall, once notice of the name of the judge to hear the application is received, deliver or cause to be delivered the application referred to in subdirective (1).

(5) The Director-General shall ensure that the application referred to in subdirective (4) is contained in a sealed envelope and placed in a container which is thereafter sealed.

(6) The Judge-President or designated judge shall, within 24 hours from receipt of the application referred to in subdirective (1), give written notice to the Director-General of the date and time upon which the application is to be heard.

Hearing of application

4. (1) An application referred to in directive 3(1) shall be heard, by the Judge-President or designated judge, in chambers as a matter of urgency.

(2) The Director-General may, at the hearing of an application, appear in person or be represented by a duly instructed counsel.

(3) The Judge-President or designated judge hearing the application may, upon application by the Director-General and on good cause shown, condone any non-compliance with these directives.

- (4) The Judge-President or designated judge may after hearing the application -
 - (a) grant the application and issue a direction;
 - (b) dismiss the application and refuse to issue a direction;
 - (c) adjourn the application upon such terms as to the filing of further affidavits by the Director-General as the Judge-President or designated judge may consider necessary;
 - (d) grant leave to the Director-General to renew the application on the same papers duly amplified by further affidavits;
 - (e) make any other order as the Judge-President or designated judge may consider necessary.

(5) Where the Judge-President or designated judge issues a direction such direction shall be made in writing and signed by such Judge-President or designated judge.

(6) The Judge-President or designated judge who heard the application shall order that the application and the duplicate original of the direction issued by him or her be filed in such manner as the Judge-President may from time to time determine, having due regard to the need for secrecy and confidentiality.

Non-availability of Judge-President

5. If the Judge-President is for any reason absent, or has recused himself or herself by reason of any direct or substantial interest in an application brought under these directives, the functions entrusted to the Judge-President under these directives shall be performed by the next most senior available judge.

Withdrawal of directives

6. Any directive previously issued under section 27 of the Act is withdrawn.

ANNEXURE**FORM A**

(Directive 3(2))

Application No.

BEFORE A JUDGE OF THE HIGH COURT OF NAMIBIA

Ex parte:

The Director-General of the Namibia Central Intelligence Service Applicant

In re:

(insert the name of the person, body or organisation in respect of which the direction is being sought)

Respondent

**Notice of Application in terms of Section 19(1) or (4) of the Namibia
Central Intelligence Service Act, 1997**

PLEASE TAKE NOTICE that the above-named applicant intends to bring an application before a judge of the High Court of Namibia at a date and time to be determined, or as soon thereafter as the applicant or counsel acting on his or her behalf can be heard, for a direction to be issued in the following terms:

1. That *(insert name of banking institution)* release to the applicant or his or her duly appointed representative accounts of the following financial transactions on the account number *(specify the account number)* of the respondent:
(specify transactions, e.g by dates, periods of time, parties to the transactions, amounts, etc.)
2. That this direction be of force and effect until *(insert date)*.

KINDLY set the application down for hearing and inform the applicant of the date and time thereof.

PLEASE TAKE FURTHER NOTICE that the affidavit of *(specify name)* hereto will be used in support of this application.

DATED AT WINDHOEK ON THIS DAY OF

APPLICANT

TO: JUDGE-PRESIDENT (OR DESIGNATED JUDGE)
HIGH COURT OF NAMIBIA
WINDHOEK

FORM B
(Directive 3(3))

Application No.

BEFORE A JUDGE OF THE HIGH COURT OF NAMIBIA

Ex parte:

The Director-General of the Namibia Central Intelligence Service Applicant

In re:

*(insert the name of the person, body or organisation in respect
of which the direction is being sought)*

Respondent

**Notice of Application in terms of Section 25(1) or (4) of the Namibia
Central Intelligence Service Act, 1997**

PLEASE TAKE NOTICE that the above-named applicant intends to bring an application before a judge of the High Court of Namibia at a date and time to be determined, or as soon thereafter as the applicant or counsel acting on his or her behalf can be heard, for a direction to be issued in the following terms:

1. That the applicant, or any staff member or other person authorised thereto by the applicant under section 26(1) of the Namibia Central Intelligence Service Act, 1997, be authorised to *(specify with particularity the terms of the direction sought in respect of the respondent)*.
2. That this direction be of force and effect until *(insert date)*.

KINDLY set the application down for hearing and inform the applicant of the date and time thereof.

PLEASE TAKE FURTHER NOTICE that the affidavit of *(specify name)* hereto will be used in support of this application.

DATED AT WINDHOEK ON THIS DAY OF

APPLICANT

TO: JUDGE-PRESIDENT (OR DESIGNATED JUDGE)
HIGH COURT OF NAMIBIA
WINDHOEK
