



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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No. 8150

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Government Notice

MINISTRY OF JUSTICE

No. 221

2023

AMENDMENT OF REGULATIONS FOR INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS: INTERNATIONAL CO-OPERATION IN CRIMINAL MATTERS ACT, 2001

Under section 36 of the International Co-operation in Criminal Matters Act, 2001 (Act No. 9 of 2001), I have amended the Regulations for International Co-operation in Criminal Matters as set out in the Schedule.

Y. DAUSAB
MINISTER OF JUSTICE

Windhoek, 19 July 2023

SCHEDULE

Definition

1. In these regulations “the Regulations” means the Regulations for International Co-operation in Criminal Matters published in Government Notice No. 186 of 15 September 2001.

Amendment of Regulations

2. The Regulations are amended by -
- (a) the addition after Part V of the following Part:

“PART VI FOREIGN PRESERVATION OR FORFEITURE ORDERS

Registration of a foreign preservation or forfeiture order

18. Whenever a certified copy of a foreign preservation or forfeiture order is lodged with the registrar of the High Court as contemplated in section 26B(1) of the Act, the registrar must register that order -

- (a) by numbering it with a consecutive civil case number for the year during which it is lodged; and
- (b) by recording the preservation or forfeiture in respect of the property concerned and full particulars of that property, in so far as such particulars are available.

Notice of registration of a foreign preservation or forfeiture order

19. (1) The written notice of registration of a foreign preservation or forfeiture order contemplated in section 26B(3) of the Act must be in Form 5 set out in the Annexure, and must contain -

- (a) a consecutive civil case number referred to in regulation 18(a);
- (b) the date on which the foreign preservation or forfeiture order was registered; and
- (c) the preservation or forfeiture in respect of the property concerned and full particulars of that property in so far as those particulars are available.

(2) Where the person against whom the foreign preservation or forfeiture order has been made is present in Namibia the written notice must, together with a copy of the preservation or forfeiture order, be delivered to the deputy sheriff of the district in which the person against whom the order has been made resides who must serve the notice on that person in accordance with the manner provided for in regulation 7(3) to (10).

- (3) Where the person against whom the foreign preservation or forfeiture order has been made is not present in Namibia, that person must -
- (a) be informed of the registration of the foreign preservation or forfeiture order in the manner provided for in an agreement contemplated in section 27 of the Act or any other agreement concluded with the foreign State where that person is present; or
 - (b) in the absence of an agreement referred to in paragraph (a) providing for the manner in which such a person must be informed of the registration of the foreign preservation or forfeiture order, be informed of that registration in a manner specified by the High Court.

Period in which a person may apply for the setting aside of the registration of a foreign preservation or forfeiture order

20. An application for the setting aside of the registration of a foreign preservation or forfeiture order contemplated in section 26D of the Act may be made within 21 court days from -

- (a) where the person against whom the foreign preservation or forfeiture order has been made is present in Namibia, the date of service of the written notice contemplated in section 26B(3) of the Act; or
- (b) where the person against whom the order has been made is not present in Namibia, the date on which that person is informed of the registration of the foreign preservation or forfeiture order.

Manner in which an application for the setting aside of the registration of a foreign preservation or forfeiture order may be lodged

21. (1) An application for the setting aside of the registration of a foreign preservation or forfeiture order must be on notice made to the High Court, and delivered to the office of the Government Attorney not later than 20 days before the date of the hearing, in which the applicant must state -

- (a) that an order for the setting aside of the registration of a foreign preservation or forfeiture order is applied for;
- (b) the ground or grounds contemplated in section 26D(1) of the Act on which the application is based; and
- (c) the time when the application will be made to the High Court.

(2) The application referred to in subregulation (1) must be accompanied by an affidavit, made by the applicant or a person who can swear positively to the facts, in support of the ground or grounds referred to in paragraph (b).”;

- (b) by the addition after Form 4 of the following Form:

IN THE HIGH COURT OF NAMIBIA
NOTICE OF REGISTRATION OF A FOREIGN PRESERVATION OR FORFEITURE ORDER

Case No

To:

Name:

Residential address:

.....

Business/Employment address:

.....

.....

You are hereby notified that a foreign preservation/forfeiture* order with the effect and in respect of the property described hereunder has been registered at the High Court of Namibia on the day of

Particulars of the preservation or forfeiture and property concerned:

.....

.....

.....

.....

* *Delete whichever is not applicable*".
