



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$8.00

WINDHOEK - 28 July 2023

No. 8157

CONTENTS

Page

GOVERNMENT NOTICES

No. 227	Commencement of Prevention of Organised Crime Amendment Act: Prevention of Organised Crime Amendment Act, 2023	1
No. 228	Amendment of Prevention of Organised Crime Regulations: Prevention of Organised Crime Act, 2004	2

Government Notices

MINISTRY OF JUSTICE

No. 227

2023

COMMENCEMENT OF PREVENTION OF ORGANISED CRIME AMENDMENT ACT: PREVENTION OF ORGANISED CRIME AMENDMENT ACT, 2023

Under section 24 of the Prevention of Organised Crime Amendment Act, 2023 (Act No. 9 of 2023), I determine that the Act comes into operation on the date of publication of this notice in the *Gazette*.

Y. DAUSAB
MINISTER OF JUSTICE

Windhoek, 28 July 2023

MINISTRY OF JUSTICE

No. 228

2023

**AMENDMENT OF PREVENTION OF ORGANISED CRIME REGULATIONS:
PREVENTION OF ORGANISED CRIME ACT, 2004**

Under section 100 of the Prevention of Organised Crime Act, 2004 (Act No. 29 of 2004), I have amended the Regulations set out in the Schedule.

Y. DAUSAB
MINISTER OF JUSTICE

Windhoek, 28 July 2023

SCHEDULE**Definitions**

1. In these regulations “the Regulations” means the Prevention of Organised Crime Regulations published under Government Notice No. 78 of 5 May 2009.

Amendment of regulation 4 of Regulations

2. Regulation 4 of the Regulations is amended by the insertion after subregulation (4) of the following subregulations:

“(4A) Notice of an unexplained wealth order made pursuant to section 50A(1) of the Act must be given by serving a notice, which substantially corresponds to Form 4A of the Annexure, on the owner, holder, custodian or *bona fide* possessor of an unexplained asset.

(4B) If the owner, holder, custodian or *bona fide* possessor of an unexplained asset who is served with the notice under subregulation (4A) delivers an affidavit to the Prosecutor-General in terms of section 50A(5) of the Act within 21 days of being served such notice, the Prosecutor-General may if he or she is -

- (a) satisfied with the explanation set out in that affidavit, let the unexplained wealth order expire as contemplated in section 50A(6) of the Act; or
- (b) not satisfied with the explanation set out in that affidavit, within 30 days of delivery of such affidavit, make an application in terms of section 51 of the Act for a preservation order as contemplated in section 50A(6) of the Act.

(4C) If the owner, holder, custodian or *bona fide* possessor of an unexplained asset who is served with the notice under subregulation (4A) fails to deliver an affidavit within 21 days of such service of the notice as provided for in section 50A(2) and (5) of the Act, the Prosecutor-General may, within 30 days after the expiry of the 21 day period, make an application in terms of section 51 of the Act for a preservation order.”.

Substitution of regulation 7 of Regulations

3. The Regulations are amended by the substitution for regulation 7 of the following regulation:

“Procedure for certain applications

7. Subject to section 91(2), (3) or (4) of the Act, every application made pursuant to section 25, 43, 50A, 51, 59 or 64 of the Act is made as follows -

- (a) it must be in writing;
- (b) where notice is required in terms of the Act and a notice period is not provided, a notice of the application of at least seven days must be given to the respondents to an application and to any other person upon whom an application is required to be served unless leave to serve short notice is given by the High Court; and
- (c) it must be supported by affidavit evidence, unless otherwise stated in the Act or by an order of the High Court.”.

Insertion of Form 4A in Regulations

4. The Annexure to the Regulations is amended by the insertion after Form 4 of the following form:

“ANNEXURE**FORM 4A****MINISTRY OF JUSTICE****NOTICE OF UNEXPLAINED WEALTH ORDER**

PREVENTION OF ORGANISED CRIME REGULATIONS:
PREVENTION OF ORGANISED CRIME ACT, 2004 (ACT NO. 29 OF 2004)

(Section 50A(1) and (2), Regulation 4(4A))

To

Insert name and address of person to whom notice is given

IMPORTANT – DO NOT IGNORE THIS DOCUMENT

Upon receipt of this notice you should obtain legal advice to help you understand this document and your rights and obligations under the Unexplained Wealth Order.

WHY YOU HAVE RECEIVED THIS NOTICE

The High Court has made an unexplained wealth order over property pursuant to section 50A of the Prevention of Organised Crime Act, 2004. You have been identified to be either the owner, holder, custodian or *bona fide* possessor of an unexplained asset. A copy of the unexplained wealth order is attached to this notice. The order describes the property that has been declared an unexplained asset and may contain directions relating to the seizure of that property. It may also contain other orders that the court considers appropriate.

You have received this notice because the Prosecutor-General considers that you might be the owner, holder, custodian or *bona fide* possessor of an unexplained asset and you have to file an affidavit in accordance with the provisions of section 50A(2) and (5) of the Act within 21 days after service of this notice.

The unexplained wealth order has been made for the purpose of establishing the source and the manner in which the unexplained asset was obtained.

WARNING

The unexplained wealth order may prohibit any person from dealing, in any manner, with the property to which the order relates. A person who intentionally refuses or fails to comply with a court order made under this Act commits an offence punishable by a fine not exceeding N\$300,000 or to imprisonment for a period not exceeding 15 years.

Dated:

.....

For Prosecutor-General?
