

**WITWATERSRAND LOCAL DIVISION OF THE HIGH  
COURT OF SOUTH AFRICA**

**PRACTICE DIRECTIVE**

**APPLICATIONS UNDER THE PREVENTION OF ILLEGAL EVICTIONS  
FROM AND THE UNLAWFUL OCCUPATION OF LAND ACT, 1998**

In order to meet the requirements enunciated in recent Court decisions, the following procedure should be followed in all eviction applications under the Act:

1. The eviction application must be a separate application. The procedure to be adopted (except in urgent applications) is as follows:
  - (a) The notice of motion must follow Form 2(a).
  - (b) The notice of motion must allow not less than five days from date of service of the application for delivery of a notice of intention to oppose.
  - (c) The notice of motion must give a date when the application will be heard, in the absence of a notice of intention to oppose.
  
2. After the eviction application has been served and
  - if no notice of intention to oppose has been delivered; or
  - if a notice of intention to oppose has been delivered and at a stage where a date for the hearing of the application has been determined,the applicant may bring an *ex parte* interlocutory application for authorising a section 4(2) notice and for directions on service.

3. When determining a date for the hearing of an eviction application, sufficient time must be allowed for bringing the *ex parte* application, for serving the section 4(2) notice and for the 14 day notice period to expire.
  4. The Court Order in which the section 4(2) notice was authorised, must be served together with the notice.
  5. If the eviction application is postponed in open court on a day of which notice in terms of section 4(2) was duly given, and if the postponement is to a specific date, it will not be necessary to serve another section 4(2) notice in respect of the latter date.
- B. A number of *pro forma* orders are attached hereto for the guidance of practitioners. The orders must be adapted to meet the exigencies of each case.

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**PM MOJAPELO**  
**DEPUTY JUDGE PRESIDENT**

26 October 2007

## **SPECIMEN ORDERS**

### **I ORDER FOR SUBSTITUTED SERVICE**

IT IS ORDERED:

1. That the applicant be permitted and directed to serve -  
the notice of motion and the founding papers in the main  
application; and also  
this Order and the section 4(2) notice,  
on the respondents occupying the premises/building on the property  
known as ..... in the following manner:-
  - 1.1 The sheriff must -
    - 1.1.1 assign numbers to each living unit within the  
premises/building on the property that appears to  
be occupied; and
    - 1.1.2 establish the name or names of the principal  
occupier or occupiers of each living unit (as  
identified in 1.1.1 above) who are prepared to  
identify themselves.
2. The sheriff must serve the documents:
  - 2.1 by affixing a copy thereof to the front door of the building  
on the property; and
  - 2.2 by serving copies thereof on each principal occupier who  
has been identified as described in 1.1.2 above, in the

manner set forth in rule 4(1) of the Uniform Rules of the Court; or

- 2.3 in instances where the sheriff is unable to establish the name or names of the occupier or occupiers of a living unit, or where there is nobody present at that living unit at the time of service, by affixing copies thereof to the principal door of the living unit, alternatively by sliding copies thereof under the door of the living unit.
3. The sheriff must in his return of service, set forth in respect of each living unit that appears to be occupied -
  - 3.1 the number assigned to that living unit;
  - 3.2 the name or names of the principal occupier or occupiers of that living unit, if established in terms of 1.1.2 above; and
  - 3.3 the manner of service of the documents in respect of that living unit.
4. The costs of this Application will be costs in the cause / are reserved for consideration at the hearing of the main application.

## **II ORDER FOR THE AUTHORISATION OF A SECTION 4(2) NOTICE**

It is ordered:

1. That the form and contents of the draft notice in terms of s 4(2) of the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act, 1998, which is annexed to the founding affidavit and marked "....", be hereby authorised.
2. That the applicant is directed to serve the notice together with a copy of this order on the respondents in accordance with the provisions of rule 4(1) of the Uniform Rules of Court.

3. That the costs of this application will be costs in the cause.

NOTE: A different order for service may be given if service under the Uniform Rules is not feasible.

**III NOTICE IN TERMS OF SECTION 4(2) OF THE PREVENTION OF  
ILLEGAL EVICTION FROM AND UNLAWFUL OCCUPATION OF LAND  
ACT, NO 19 OF 1998**

TAKE NOTICE THAT ..... (hereinafter referred to as "the applicant") has instituted proceedings against you in terms of Section 4(1) of Act 19 of 1998 for your eviction and the eviction of all persons occupying under or through you, from the property/premises known as .....

TAKE NOTICE FURTHER THAT an order for your eviction and the eviction of all persons occupying under or through you from the abovementioned property/premises will be sought on ..... the ..... day of ..... at 10h00 in the High Court, Witwatersrand Local Division, Von Brandis Square, Pritchard Street, Johannesburg.

TAKE NOTICE FURTHER THAT the applicant applies for your eviction on the grounds that the applicant is the owner of the said property/premises and that you occupy the said property/premises without his/her consent and against his/her will. [*Your lease to occupy the property/premises has been cancelled.*] Your occupation of the property/premises is therefore regarded as unlawful.

TAKE NOTICE FURTHER THAT you are entitled to be present at the hearing of the matter in order to defend the case and if so desired, to apply to the Legal Aid Board or to a Law Clinic or other institution for legal aid.

THIS NOTICE is given to you on the authority of the High Court (Witwatersrand Local Division), in terms of the Order of Court served herewith.

DATED at ..... on this ..... day of .....

\_\_\_\_\_  
Applicant / Applicants' attorney

NOTE: The grounds for the eviction should be given in greater detail than a mere statement that the applicant is the owner of the property/premises and that the respondent is in unlawful occupation thereof.

#### **IV ORDER FOR EVICTION UNDER SECTION 4(8)**

1. An order for the eviction of the respondent from the property/premises known as ..... is hereby granted.
2. The respondent is ordered to vacate the said property/premises by not later than .....
3. If the respondent has not vacated the said property/premises by ....., the sheriff is hereby authorised and required to carry out the eviction order on or after ..... by removing from the said property/premises the respondent and all persons who occupy the property/premises through him/her.
4. The respondent is ordered to pay the costs of the application *(including the costs of ...)*