

Supreme Court of Judicature (Organised Crime) Rules 2016

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(Chapter 65A) as applied by Section 72 of the Organised Crime Act 2015 (Act 26 of 2015)#

No. S 237

**SUPREME COURT OF JUDICATURE ACT
(CHAPTER 322)**

**SUPREME COURT OF JUDICATURE (ORGANISED CRIME)
RULES 2016**

In exercise of the powers conferred by section 80 of the Supreme Court of Judicature Act and all other powers enabling us under any written law, we, the Rules Committee, make the following Rules:

PART 1

PRELIMINARY

Citation and commencement

1. These Rules are the Supreme Court of Judicature (Organised Crime) Rules 2016 and come into operation on 1 June 2016.

Definition

2.—(1) In these Rules, “Act” means the Organised Crime Act 2015 (Act 26 of 2015), and any reference to a section, unless otherwise expressly provided, is a reference to that section in the Act.

(2) An expression used in these Rules which is used in the Act has the same meaning as in the Act.

Purpose

3. The purpose of these Rules is to provide for the procedure for making —
- (a) an application under section 15(1), 21(1), 28(1) to (4), 32(1), 33(1) or 73(1);

- (b) an application in relation to any proceedings under Part 9 of the Act; and
 - (c) an appeal under section 34(1), 71(1) or 73(15),
- and for matters connected with these applications and appeals.

Application of Rules of Court

4. Subject to the provisions of these Rules, the Rules of Court (R 5) apply to any application, appeal or matter mentioned in rule 3.

Applications for OCPO, FRO, etc.

5. An application under section 15(1), 21(1), 28(1) to (4), 32(1), 33(1) or 73(1), or in relation to any proceedings under Part 9 of the Act, must be made —

- (a) where an action is pending, by summons in the action; and
- (b) in any other case, by originating summons.

PART 2

OCPO AND FRO

Application for OCPO

6.—(1) An application for an OCPO under section 15(1) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

- (a) the Part 2 offence or the serious offence associated with an organised criminal group, as the case may be, which the person against whom the application is made is allegedly involved in;
- (b) particulars on how the person is allegedly involved in such offence;
- (c) the risk that the person may be further involved in any such offence;
- (d) the reasons why the OCPO would protect the public by preventing, restricting or disrupting any involvement by the person in any such offence;
- (e) the prohibitions, restrictions or requirements sought to be included in the OCPO;
- (f) if electronic monitoring of the person is sought, the details of the electronic monitoring arrangements.

(2) The application must be entitled in the matter of the person against whom the OCPO is sought, naming the person, and in the matter of the Act, and all subsequent documents in the matter must be so entitled.

(3) The application and all supporting affidavits must be served, not less than 14 days before the date fixed for the hearing of the application, on the person against whom the OCPO is sought.

(4) Where the person against whom the OCPO is sought intends to adduce evidence with reference to the application and supporting affidavits, the person must, not less than 7 days before the date fixed for the hearing of the application —

- (a) file one or more supporting affidavits; and
- (b) serve a copy of the affidavits on the applicant of the OCPO.

(5) Unless the Court otherwise directs, a supporting affidavit may contain statements of information or belief with the sources of the information and grounds of the belief.

(6) Before the hearing of the application, the applicant must cause a notice, specifying the day appointed for the hearing, to be published at such times and in such newspapers as the Court may direct.

Application for FRO

7.—(1) An application for an FRO under section 21(1) must be filed with one or more supporting affidavits which, collectively, must contain all the following information:

- (a) the Part 2 offence or the serious offence associated with an organised criminal group, as the case may be, which the person against whom the application is made is allegedly involved in;
- (b) particulars on how the person is allegedly involved in such offence;
- (c) the risk that the person may be further involved in any such offence;
- (d) the reasons why the FRO would protect the public by preventing, restricting or disrupting any involvement by the person in any such offence;
- (e) the requirements of the financial report to be made by the person.

(2) The application must be entitled in the matter of the person against whom the FRO is sought, naming the person, and in the matter of the Act, and all subsequent documents in the matter must be so entitled.