

Northern Cape, South Africa

Northern Cape Legislature Witness Act, 2013

Act 3 of 2013

Legislation as at 26 November 2013

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Northern Cape South Africa

Northern Cape Legislature Witness Act, 2013

Act 3 of 2013

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Commenced on 26 November 2013

*[This is the version of this document from 26 November 2013
and includes any amendments published up to 4 April 2024.]*

(English text signed by the Premier)

ACT

To regulate the summoning, attendance and examination of a witness before the Legislature or a committee; to compel a witness to comply with the summons; to create offences relating to conduct of a person; and to provide for matters connected therewith.

WHEREAS section 115 of the [Constitution of the Republic of South Africa, 1996](#) provides for the Legislature to summon any person to appear before it to give evidence on oath or affirmation;

BE IT ENACTED by the Northern Cape Provincial Legislature as follows: -

1. Definitions

- (1) In this Act, unless the context otherwise indicates -

“**committee**” means a committee in terms of the Standing Rules of the Legislature;

“**Constitution**” means the [Constitution of the Republic of South Africa, 1996](#);

“**Legislature**” means the Northern Cape Provincial Legislature in terms of section 104 of the [Constitution](#);

“**relevant Chairperson**” means the Chairperson of a Committee that subpoenas a witness for questioning in respect of any matter for investigation before the committee;

“**Standing Rules**” mean the Standing Rules of the Legislature made in terms of section 116 of the [Constitution](#) and adopted by the House;

“**this Act**” includes the Annexure to the Act and any regulations made in terms of the Act; and

“**witness**” means a person or provincial institution who gives evidence under oath or affirmation to a committee.

2. Object

The main object of this Act is to ensure attendance of witnesses before the Legislature or its committees and to create offences relating to witnesses and the act of witnessing.

3. Summons to attend

- (1) The Legislature or a committee may subject to having complied with the Standing Rules and subsection (2), summons any person to appear before it to give evidence on oath or affirmation or to produce documents on any matter before the committee.

- (2) The relevant Chairperson must satisfy the Speaker that evidence of a witness is material.
- (3) The Secretary must issue a summons to appear before a committee on the written instruction of the Speaker.

4. Summons

- (1) A summons must be issued on the writ of summons which is attached in the Annexure to this Act and must include at least -
 - (a) the time and place of attendance;
 - (b) an instruction to give evidence produce documents or other articles as specified;
 - (c) the reason for a person's attendance; and
 - (d) the consequences for failure to attend.
- (2) The summons must be served by the sheriff appointed in terms of section 2(1) of the Sheriff's Act, 1986 ([Act 90 of 1986](#)).
- (3) The summons must be served -
 - (a) on the person mentioned in the summons; or
 - (b) at the person's usual or last known place of residence or of employment or business to a person who is apparently over the age of 18 years and apparently residing or employed there.
- (4) A return by the sheriff is *prima facie* proof of service.

5. Examination of witness

- (1) The relevant Chairperson or a person designated by him or her must -
 - (a) call upon and administer an oath to or accept an affirmation from the witness;
 - (b) examine the witness;
 - (c) require the witness to produce any book, paper, record, document or object in his or her possession, custody or under his or her control which may have a bearing on the subject of the enquiry; and
 - (d) upon request of the witness avail an interpreter for the proceedings.
- (2) A witness must -
 - (a) honestly answer all questions put to him or her; and
 - (b) produce any book, paper, record, document or object in his or her possession or custody or under his or her control.
- (3) A witness may not provide hearsay evidence in respect of a matter that is not within his or her direct and personal knowledge, except for hearsay evidence that is admissible in terms of Law of Evidence.

6. Witness privilege

- (1) The law relating to privilege, as applicable to a witness before a court of law, applies.
- (2) A witness who answered all questions put to him or her fully and satisfactorily may, except for a charge of perjury or an offence that involves a fraudulent element, not be liable to any civil or criminal proceedings, arrest, imprisonment or damages by reason of anything -
 - (a) said by him or her in the cause of giving evidence; or

- (b) said by him or her before and now revealed by his or her evidence.

7. Witness protection

The relevant Chairperson may assess the need to protect a witness and may direct that evidence be given in camera.

8. Attendance of witness detained in prison or other state institution

The relevant Chairperson may subject to [section 3](#), order the person in charge of a prison or other state institution to bring a witness who is in his or her custody, for examination in terms of this Act.

9. Compensation for witness expense

The Speaker may subject to financial directives and availability of funds, pay to a witness who is not in government service, an amount for reasonable expenses incurred as a result of being summonsed by the Legislature.

10. Offences and penalties

- (1) A person who-

- (a) has been summoned in terms of section (4)3 and who without sufficient cause fails to -
 - (i) attend at the time and place specified in the summons; or
 - (ii) remain in attendance until excused from further attendance by the relevant Chairperson;
- (b) refuses to be sworn in or to make an affirmation as a witness; or
- (c) fails, without sufficient cause to -
 - (i) answer fully and satisfactory a question lawfully put to him or her; or
 - (ii) produce a paper, book, record, document or object in his or her possession or custody or under his or her control when so required in terms of [section 5\(2\)](#),

commits an offence and is on conviction liable to a fine or imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

- (2) A person who -

- (a) threatens, obstructs or in any way unduly influences a witness required to give evidence or to produce any paper, book, record or document before the Legislature or a committee;
- (b) with intent to deceive the Legislature or a committee, produce false, untrue, fabricated or falsifies paper, book, record or document;
- (c) willfully furnishes the Legislature or a committee with information or make a statement before it, which is false or misleading;
- (d) willfully interrupts a meeting where a person is a witness in terms of this Act; or
- (e) defames the committee or a member thereof,

commits an offence and is on conviction liable to a fine or to imprisonment for a period that does not exceed two years or to both such fine and imprisonment.

11. Regulations

The Speaker may make regulations which are not inconsistent with this Act or other law regarding generally any matter which he or she deems necessary or expedient to prescribe for the better administration of this Act.

12. Repeal of laws

The Northern Cape Powers and Privileges of the Provincial Legislature Act, 1994 ([Act 6 of 1994](#)) is hereby repealed.

13. Short title and commencement

This Act is called the Northern Cape Legislature Witness Act, 2013 and it comes into operation on date of publication in the *Provincial Gazette*.

Annexure

Northern Cape Legislature

Writ of Summons (Section 4)

Issued in terms of:

- (i) Section 115 of the [Constitution of the Republic of South Africa, 1996](#); and
- (ii) Sec 4 of the (Northern Cape Legislature Witness [Act 3 of 2013](#)).

To: _____

BY ORDER OF THE HONOURABLE SPEAKER OF THE NORTHERN CAPE PROVINCIAL LEGISLATURE, you are hereby in terms of the above legislation commanded to appear before

to give evidence on oath or affirmation regarding

and to produce any paper, book, record or document regarding the above and/or the following specified documentation:

TAKE NOTE THAT

_____ will commence its meeting/sitting at _____ on the _____ day of _____ 200__ or as soon thereafter as the Honourable Chairperson of the Committee may determine.

FURTHER TAKE NOTE that your failure without sufficient cause -

- (i) to attend at the time and place specified in the summons;
- (ii) to remain in attendance until excused from further attendance by the person presiding at the enquiry;
- (iii) to be sworn in or to make an affirmation as a witness;
- (iv) to answer fully and satisfactorily any question lawfully put to you; or
- (v) to produce any paper, book, record or document in your possession or custody or under your control which you are required to produce,

SHALL RENDER YOU GUILTY of an offence in terms of section 10 of the (Northern Cape Legislature Witness [Act 3 of 2013](#)) and you will on conviction be liable to a fine or to imprisonment as stated in the Act.

THIS WRIT was issued under my hand _____

SIGNED _____

SECRETARY TO THE NORTHERN CAPE PROVINCIAL LEGISLATURE

DATED this ____ day of _____ 20__ at _____

ENDORSEMENT AS TO SERVICE

THIS WRIT was served by me _____ at _____ (where) on _____ (whom) on this _____ day of _____ 20__

SIGNED _____

DATED this _____ day of _____ 20__ at _____

OR

SUBSTITUTED SERVICE

THIS WRIT was left by me _____ with _____ (whom) an adult person at the usual or last known place or residence of the person(s)

summoned on this day _____ of _____ 20__

SIGNED _____

DATED this _____ day of _____ 20__ at _____