

FORENSIC PROCEDURES ACT
(Act No. 31 of 2014)

FORENSIC PROCEDURES REGULATIONS, 2015
(Published on 25th September, 2015)

ARRANGEMENT OF REGULATIONS

REGULATIONS

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SCHEDULES

IN EXERCISE of the powers conferred on the Minister of Defence, Justice and Security, by section 46 of the Forensic Procedures Act, the following Regulations are hereby made —

1. These Regulations may be cited as the Forensic Procedures Regulations, Citation
2015.

2. In these Regulations, unless the context otherwise requires — Interpretation
“case identity” means a case reference as determined by the laboratory;
“locus name” means different genetic categories as established in the National
DNA Database system;
“source identity” means where the source of the specimen is specified as
known, not known or not applicable;
“specimen category” means a specimen classified according to the source of
the DNA sample; and
“specimen identity” means an alpha numeric indicator of a specimen identity
in the system as may be determined by an authorised user.

3. (1) A laboratory which wishes to be designated as a forensic laboratory Application for
shall apply to the Minister for designation. designation

(2) An application under this regulation shall be made in Form A as set out
in Schedule 1, and accompanied by a fee as set out in Schedule 2.

4. The Minister shall, after consultation with the Advisory Board, issue a Minister to issue
designation certificate in Form B as set out in Schedule 1. designation
certificate

Validity of designation certificate	<p>5. (1) A designation certificate issued under regulation 4 shall be valid —</p> <ul style="list-style-type: none"> (a) for a period not exceeding two years; (b) until such time when the designation is revoked by the Minister or; (c) until such time when the designated forensic laboratory requests for termination of designation status.
Application for renewal of designation	<p>6. (1) A designated forensic laboratory which wishes to remain as such, shall apply for renewal of designation within six months before the expiry date of the designation.</p> <p>(2) An application for renewal of designation made in terms of this regulation shall be made to the Minister in Form C as set out in Schedule 1 and accompanied by a fee set out in Schedule 2.</p>
Consent to forensic procedure	<p>7. In accordance with section 4 (1) of the Act, a suspect shall consent to a forensic procedure using Form D as set out in Schedule 1.</p>
Withdrawal of consent	<p>8. Where a suspect wishes to withdraw his or her consent in accordance with section 6 (2) of the Act, he or she shall indicate such withdrawal using Form E as set out in Schedule 1.</p>
Forensic materials to be availed to person from whom they were taken	<p>9. (1) An investigating officer shall ensure that a sample of the forensic material obtained during a forensic procedure is availed to the person from whom it was obtained or the guardian thereof in cases of a minor or a person with limited capacity.</p> <p>(2) In pursuance of the provisions of subregulation (1), an investigating officer shall complete Form F in Schedule 1.</p>
Indices	<p>10. (1) The crime scene index, suspects index, prohibited immigrant's index, convicted offenders index, volunteers index and unknown deceased person's index under section 27 of the Act shall contain the following information —</p> <ul style="list-style-type: none"> (a) specimen identity; (b) specimen category; (c) user identity; (d) case identity; (e) source identity status; (f) locus name; and (g) DNA profile. <p>(2) The missing person's index under section 27 of the Act shall, in addition to the information listed in subregulation (1), contain information on the missing person's next of kin.</p>
Registers	<p>11. The Commissioner shall keep and maintain registers relating to —</p> <ul style="list-style-type: none"> (a) designated laboratories; (b) DNA database; (c) authorised persons; and (d) convicted offenders.
Procedure for destruction of forensic materials	<p>12. (1) The Commissioner shall destroy forensic materials for —</p> <ul style="list-style-type: none"> (a) charged, tried and acquitted persons within 30 days after the completion of the trial; (b) volunteers within 30 days of receiving a request for destruction from the person who consented to the procedure; or (c) a person, who at the time the procedure was authorised, was a minor or a person who was incapable of giving consent to the procedure may at any time after obtaining the age of 18 years, request for destruction of the forensic materials obtained from him or her.

(2) Subject to subregulation (1), forensic materials obtained from arrested persons who are yet to be charged shall be destroyed according to the prescription limits of the specific offences unless the investigating officer applies to the Commissioner for further retention of the material pending further investigations.

(3) Subject to subregulation (1), if, within 14 days of receiving a request for destruction of forensic material, an application is made for an order to retain under section 16 (2) of the Act that relates to the material, the Commissioner may postpone destruction of the forensic material for a period not exceeding three years.

13. (1) A person who operates a forensic lab —
(a) which has not been designated as such; or
(b) with an expired designation certificate;
commits an offence and is liable to a fine not exceeding P40 000, or to imprisonment for a term not exceeding four years, or both.

Offences

(2) Any person who contravenes the provisions of these Regulations commits an offence and is liable to a fine not exceeding P40 000, or to imprisonment for a term not exceeding four years, or both.

SCHEDULE 1
Form A
Application for Designation
(regulation 3(2))



REPUBLIC OF BOTSWANA

APPLICATION FOR DESIGNATION A FORENSIC SCIENCE LABORATORY

For laboratories wishing to be designated for carrying out forensic science analysis:

All appropriate sections of this form must be completed in full and appropriate documents and fees (as set out in Schedule 2) must be enclosed.

INCOMPLETE FORMS WILL NOT BE PROCESSED.

The list of enclosures for applications only:

1. Certified copy of passport details (non-citizens) or National Identity Card (citizens).
2. Certified copy of residence permit and work permit or waivers where applicable.
3. Certified copy of qualification certificates.
4. Current curriculum vitae.
5. Application letter.
6. Two recent references.
7. Confidential reference from a well-established expert in the field of forensic science or from a recognized forensic science practicing institution.
8. List of available analytical equipment.
9. An indication of expected number of Employees (positions to be held, required qualifications).

NB: All documents must be in English.

Date of Application..... (day/month/year)

PART A: IDENTIFICATION DETAILS

NAME OF APPLICANT	GENDER
First Name Surname	Male <input type="checkbox"/> Female <input type="checkbox"/>
DATE OF BIRTH	IDENTITY/PASSPORT NUMBER
day/month/year	IDENTITY NUMBER.....(Citizen) PASSPORT NUMBER.....(Non-citizen)
POSTAL ADDRESS	PHYSICAL ADDRESS
	PLOT NUMBER..... STREET/WARD..... CITY/TOWN.....
TELEPHONE/ FAX NUMBER	EMAIL ADDRESS
Landline..... Mobile..... FAX.....	

PART B: QUALIFICATION DETAILS

Undergraduate Qualification(s)

Title of Qualification..... University.....

Country.....

Postgraduate Qualification(s)

Title of Qualification..... University.....

Country.....

Work Experience

Institution	Position	Start Date	End Date

PART C: LABORATORY DETAIL

<p>NAME OF LABORATORY:</p>	<p>CORRESPONDENCE ADDRESS:</p> <p>TEL:..... FAX:.....</p>
<p>PHYSICAL ADDRESS:</p>	<p>CONTACT PERSONS:</p> <p>1:</p> <p>2:</p>
<p>SCOPE OF TEST(S) APPLIED FOR: <i>(include all forensic science tests that the laboratory wishes to carry out. e.g Toxicology, DNA testing, Blood Alcohol Testing, Paternity testing)</i></p> <p>1:</p> <p>2:</p> <p>3:</p> <p>4:</p> <p>5:</p> <p>6:</p> <p>7:</p> <p>8:</p>	

PART D: DECLARATION

I, the undersigned....., (*title, firstname, surname*)

of(*physical address*)
hereby make oath and state that I am the person mentioned in the accompanying documents submitted by me and that the information I have submitted is authentic.

Signature:..... Date:

Sworn before me this.....day of.....at.....

Commissioner of Oaths:..... (*title, firstname, surname*)

Signature.....

Form C
Application for Renewal of Designation
(regulation 6)



REPUBLIC OF BOTSWANA

RENEWAL AS A FORENSIC SCIENCE LABORATORY

For laboratories wishing to be designated or renew their designations for carrying out forensic science analysis:

All appropriate sections of this form must be completed in full and appropriate documents and fees (as set out in Schedule 2) must be enclosed.

INCOMPLETE FORMS WILL NOT BE PROCESSED.

List of enclosures:

1. Copy of previous certificate of designation
2. List of current Employees details (names, positions held, start date)
3. List of available analytical equipment
4. Provide proof of quality control and quality assurance measures

Notes:

- 1. All documents must be in English.**

Date of Application..... (day/month/year)

Designation Certificate Number.....

PART A: IDENTIFICATION DETAILS

NAME OF APPLICANT	GENDER
First Name Surname	Male <input type="checkbox"/> Female <input type="checkbox"/>
DATE OF BIRTH	IDENTITY/PASSPORT NUMBER
day/month/year	IDENTITY NUMBER.....(Citizen) PASSPORT NUMBER.....(Non-citizen)
POSTAL ADDRESS	PHYSICAL ADDRESS
	PLOT NUMBER..... STREET/WARD..... CITY/TOWN.....
TELEPHONE/ FAX NUMBER	EMAIL ADDRESS
Landline..... Mobile..... FAX.....	

PART B: QUALIFICATION DETAILS

Undergraduate Qualification(s)

Title of Qualification..... University.....

Country.....

Postgraduate Qualification(s)

Title of Qualification..... University.....

Country.....

Work Experience

Institution	Position	Start Date	End Date

PART C: LABORATORY DETAILS

<p>NAME OF LABORATORY:</p>	<p>CORRESPONDENCE ADDRESS:</p> <p>TEL:..... FAX:.....</p>
<p>PHYSICAL ADDRESS:</p>	<p>CONTACT PERSONS:</p> <p>1:</p> <p>2:</p>
<p>SCOPE OF TEST(S) APPLIED FOR: <i>(include all forensic science tests that the laboratory wishes to carry out. e.g Toxicology, DNA testing, Blood Alcohol Testing, Paternity testing)</i></p> <p>1:</p> <p>2:</p> <p>3:</p> <p>4:</p> <p>5:</p> <p>6:</p> <p>7:</p> <p>8:</p>	

PART D: DECLARATION

I, the undersigned....., (*title, firstname, surname*)

of(*physical address*)

hereby make oath and state that I am the person mentioned in the accompanying documents submitted by me and that the information I have submitted is authentic.

Signature:..... Date:

Sworn before me this.....day of.....at.....

Commissioner of Oaths:..... (*title, firstname, surname*)

Signature.....

Form D
Consent to Forensic
Procedure
(regulation 7)

BP No: 246

CONSENT TO FORENSIC MEDICAL EXAMINATIONS/FORENSIC PROCEDURES

PART A. GENERAL INFORMATION (PLEASE PRINT)

NAME OF PATIENT	DATE OF BIRTH	GENDER	IDENTITY/ PASSPORT NUMBER	
ADDRESS	CITY/TOWN/VILLAGE	STREET/WARD	PLOT NUMBER	OFFENCE
MEDICAL FACILITY	NAME OF EXAMINER	MEDICAL REGISTRATION NUMBER	EXAMINATION DATE	EXAMINATION TIME
POLICE STATION/ AGENCY	NAME OF POLICE OFFICER	CASE REPORT/ REGISTRATION NUMBER	DATE OF OFFENCE	PHONE NO. FAX NO.

PART B: CONSENT

I, _____, (*print name of suspect/parent/guardian*) do hereby fully consent to a forensic medical examination/forensic procedure as explained to me in terms of section 5 of the Forensic Procedures Act of 2014. I understand that I have the right to withdraw the consent given at any time before or during the procedure. I also understand that the medical documentation and collection of evidence may include photographing of injuries. I therefore consent to the carrying out of the forensic procedures and all necessary tests, examinations, photography and treatment on _____ (*print name of suspect-myself*), and to the supply of all copies of the medical laboratory reports, immediately upon completion to the Investigating Officer and the State Prosecution's office for the administration of justice.

NAME OF SUSPECT/PARENT/GUARDIAN (PRINT)

SIGNATURE OF SUSPECT/PARENT/GUARDIAN

DATE

PART C: DECLARATION

1. The purpose for which the forensic procedure is required.
2. The offence in relation to which the forensic procedure is to be performed.
3. The manner in which the forensic procedure is to be carried out.
4. That the forensic procedure shall be carried out by an authorised person.
5. That the giving of my consent shall be recorded in writing and that I have a right to a copy of the record.
6. That the forensic material or information obtained therefrom, may be placed on the National DNA Database system.
7. That rules shall apply to protect illegal disclosure and use of information in terms of the Forensic Procedures Act of 2014.
8. That if I withhold my consent, an urgent application may be made to a court for an order authorising the carrying out of the forensic procedure.

SIGNATURE OF PATIENT/PARENT/GUARDIAN _____ DATE: _____

PART D: ACKNOWLEDGEMENT

BY SIGNING BELOW, I ACKNOWLEDGE MY UNDERSTANDING OF THE INFORMATION ABOVE AND THAT I AGREE TO PROCEED WITH THE FORENSIC PROCEDURE AS PROPOSED.

SIGNATURE OF SUSPECT _____

or

SIGNATURE OF PARENT/GUARDIAN _____

RELATIONSHIP TO SUSPECT _____

DATE: _____

Form E
Withdrawal of consent
(regulation 8)



BP No: 247

WITHDRAWAL OF CONSENT TO FORENSIC PROCEDURES

PART A. GENERAL INFORMATION (PLEASE PRINT)

NAME OF PATIENT	DATE OF BIRTH	GENDER	IDENTITY/ PASSPORT NUMBER	
ADDRESS	CITY/TOWN/VILLAGE	STREET/WARD	PLOT NUMBER	OFFENCE
POLICE STATION/ AGENCY	NAME OF POLICE OFFICER	CASE REPORT/ REGISTRATION NUMBER	DATE OF OFFENCE	PHONE NO. FAX NO.

PART B: CONSENT WITHDRAWAL

I, _____, (*print names of suspect/parent/guardian*) do hereby submit notice to withdraw my consent to a forensic medical examination/forensic procedure which I had agreed to, as per section 6 of the Forensic Procedures Act of 2014.

By signing this form, I am therefore taking away my permission for the Examiner in this Medical Facility to carry out any forensic procedures and all other tests, examinations or photography relating to such procedures on _____ (*print name of patient or-myself*).

NAME OF SUSPECT/PARENT/GUARDIAN (PRINT)

SIGNATURE OF SUSPECT/PARENT/GUARDIAN

DATE

TO BE COMPLETED BY INVESTIGATING OFFICER/POLICE OFFICER

I, _____, (*print name of Investigating Officer*) of _____ (*print name of police station/Agency*) obtained a verbal instruction of withdrawal of consent to the carrying out of a forensic procedure from _____ (*print name of patient/parent/guardian*).

SIGNATURE OF POLICE OFFICER

DATE

SERVICE NUMBER AND RANK _____

Form F
Forensic material to be availed to person from whom they were taken.
(regulation 9)



BP No: 248

GIVING OF FORENSIC MATERIAL TO PATIENT

PART A. GENERAL INFORMATION (PLEASE PRINT)

NAME OF PATIENT	DATE OF BIRTH	GENDER	IDENTITY/ PASSPORT NUMBER	
ADDRESS	CITY/TOWN/VILLAGE	STREET/WARD	PLOT NUMBER	OFFENCE
POLICE STATION/ AGENCY	NAME OF POLICE OFFICER	CASE REPORT/ REGISTRATION NUMBER	DATE OF OFFENCE	PHONE NO. FAX NO.

PART B: ACKNOWLEDGEMENT OF RECEIVING FORENSIC MATERIAL

I, _____, (*print names of patient/parent/guardian*)
do hereby acknowledge and confirm that a portion of the forensic material was made available to me
after the material was obtained, as per section 14 of the Forensic Procedures Act of 2014.
I further confirm that reasonable care was taken to protect the forensic material and that reasonable
assistance was given to me to ensure preservation of the forensic material before it was handed to me.
_____ (*print name of patient or-myself*).

NAME OF SUSPECT/PARENT/GUARDIAN (PRINT) SIGNATURE OF SUSPECT/PARENT/GUARDIAN DATE

TO BE COMPLETED BY INVESTIGATING OFFICER/POLICE OFFICER

I, _____, (*print name of Investigating Officer*) of
_____ (*Print name of Station/Agency*), do confirm that sample(s) of _____
_____ (*type(s) of sample given*) was/were made available to _____
_____ (*print name of patient/parent/guardian*). I further confirm that the forensic
material(s) was/were, when given, well-preserved and viable for forensic analyses.

SIGNATURE OF POLICE OFFICER DATE

SERVICE NUMBER AND RANK _____

PART C: DECLARATION

I certify that the following has been fully explained to me by the Investigating Officer;

1. The purpose for which the forensic procedure is required.
2. The offence in relation to which the forensic procedure is to be performed.
3. The manner in which the forensic procedure is to be carried out.
4. That the forensic procedure shall be carried out by an authorised person.
5. That the giving of my consent shall be recorded in writing and that I have a right to a copy of the record.
6. That the forensic material or information obtained therefrom may be placed on the National DNA Database system.
7. That rules shall apply to protect illegal disclosure and use of information in terms of the Forensic Procedures Act of 2014.
8. That if I withhold my consent, an urgent application may be made to a court for an order seeking the authorisation of the carrying out of the forensic procedure.
9. The effect of my withdrawal of consent in terms of the Forensic Procedures Act.

PART D: ACKNOWLEDGEMENT

BY SIGNING BELOW, I ACKNOWLEDGE MY UNDERSTANDING OF THE INFORMATION ABOVE AND THAT I AGREE TO PROCEED WITH THE FORENSIC PROCEDURE AS PROPOSED.

SIGNATURE OF SUSPECT _____

or

SIGNATURE OF PARENT/ GUARDIAN: _____

SCHEDULE 2

Fees

Application for designation	P500
Application for renewal of designation	P500

MADE this 8th day of September, 2015.

SHAW KGATHI,
Minister of Defence, Justice and Security.