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GUIDELINES ON THE PROVISION OF CONSULAR SERVICES

1. REGULATORY FRAMEWORK FOR DELIVERING CONSULAR SERVICES

- 1.1 Consular services are rendered in accordance with the Vienna Convention on Consular Relations, done at Vienna on 24 April 1963.
- 1.2 Consular Notarial Services (Legalisation Services) are rendered in accordance with the Hague Convention of on the Abolishing the requirement of legalisation for foreign public documents of 5 October 1961.
- 1.3 Section 3 (3) (d) of the Foreign Service Act, 2019 (Act No. 26 of 2019) (FSA) provides that “The Foreign Service is managed and administered by the Department and to this end the Department must render consular services in line with the Guidelines for the Provision of Consular Services”.
- 1.4 Where services or functions are provided by officials of the Department of International Relations and Cooperation (DIRCO) on behalf of another Department, laws and policies particular to that service or function will apply and must be complied with.
- 1.5 All due diligence will be taken to provide assistance, given resources and capabilities of the Consular representation in the country abroad within the mandate and framework of all relevant legislation and other prescripts.

2. DEFINITIONS

Chief Directorate: Consular Services	:	Refers to the Section within DIRCO that deals with Consular Services and Consular Notarial Services (Legalisation Services).
Consular Desk Official	:	Refers to the official at Head office that is responsibility for Consular Services for a specific country abroad.
Consular Notarial Services	:	Also known as “Legalisation Services” refers to the legalisation by means of an “Apostille Certificate” or a “Certificate of Authentication” of South African official public documents for use outside of the Republic of South Africa.
Consular Services		Refers to non-financial support and services rendered to South Africans living, working and travelling abroad.
DIRCO	:	Department of International Relations and Cooperation. Refers collectively to the Directorate: Consular Services, the Legalisation Section and our Missions abroad.
Legalisation Section	:	Refers to the office that deals with Consular Notarial Services (Legalisation Services).
Mission	:	Refers to the South African Embassy, High Commission, Consulate and other offices representing official government interest abroad
Next-of-Kin	:	<p>In terms of South African law next-of-kin (NOK) are usually the closest blood relation with parents and children (including those of unmarried parents) being treated closer than grandparents, grandchildren or siblings.</p> <p>The order of precedence is as follows:</p> <ul style="list-style-type: none">• The closest living relatives [NOK] are defined as follows by Act No. 51 of 1992. Spouse, children if older than 18 years, parents, minor children, brothers, sisters, uncle, aunts, cousins and relatives legally adopted.• Indicated in the last will and testament and confirmed by the RSA Government [court, attorney or bank] the valid document stated the person who may act on their behalf. <p>There is no provision for same partners’ relationships, including customary and common-law marriages. No mention of divorcees or their role at death.</p>

3. CONSULAR SERVICES PROVIDED

3.1 Consular services comprise of two areas of specialisation, namely:

- Consular assistance rendered to South African nationals abroad, including emergency consular assistance.
- Consular Notarial Services (Legalisation Services).

- 3.2 Consular assistance is rendered to South African nationals travelling, working, studying and/or living abroad.
- 3.3 After hours services are only rendered in the event of an emergency and exclude any enquiries of a general nature.
- 3.4 Consular Notarial Services (Legalisation Services), are rendered to South African nationals and foreign nationals requiring South African official public documents to be legalised for use abroad. These services are rendered to provide legal validity to South African official public documents to enable a person to use the documents outside South Africa.

4. OVERVIEW OF THE SERVICES PROVIDED BY THE DIRECTORATE: CONSULAR SERVICES

Please note that services and assistance rendered are of a non-financial nature and is free of charge, unless otherwise specified. All costs involved will be for the account of the client (e.g. hospital bills, flight tickets, accommodation, repatriation, legal fees etc.). DIRCO will take no responsibility for costs incurred by the clients.

4.1 PROTECTION AND ASSISTANCE TO SOUTH AFRICAN NATIONALS ABROAD AS CONTEMPLATED IN ARTICLE 5 OF THE VIENNA CONVENTION ON CONSULAR RELATIONS, 1963

- 4.1.1 Humanitarian assistance in emergencies (i.e. situations involving destitution or distress of South African nationals abroad). This includes, providing a support service in hostage cases as well as assistance rendered to South African nationals abroad in cases of political turmoil or natural disasters.
- 4.1.2 In the event of an emergency, communicating, on behalf of South African nationals abroad, with the next of kin and/or friends in South Africa.
- 4.1.3 Logistical support and non-financial assistance to South African nationals who are in hospital abroad or who may need to be repatriated to South Africa for urgent medical or professional attention.
- 4.1.4 Communication with the next-of-kin in the event of reported death or life threatening illness or injury. Logistical assistance is also provided with the importation of mortal remains (including import permit applications) or burials of South African nationals abroad. DIRCO does not provide financial assistance arising from the death of a South African national abroad.
- 4.1.5 Provide guidance to next-of-kin and liaison with relevant stakeholders in the search for missing persons abroad and/or determination of the whereabouts of South African nationals abroad under certain circumstances.

- 4.1.6 Assistance to families under certain circumstances in facilitating the transfer of funds to family members in distress/destitute abroad where commercial means are non-existent or limited or where levels of destitution dictate.
- 4.1.7 Guidance to a custodial parent/guardian in matters of child abduction or child stealing in collaboration with the Office of the Chief Family Advocate where required, in cases of abduction of South African children to foreign countries. Where there is evidence that the health and safety of the child is in jeopardy, the matter is treated as an emergency. DIRCO is not in a position to guarantee the return of the child.
- 4.1.8 Abduction and kidnapping covers forcible restrictions on the freedom of movement of persons for different outcomes. All instances of kidnapping outside of South Africa should be reported to the Operations Room immediately. We provide guidance to the next-of-kin of affected nationals.
- 4.1.9 Assistance and guidance to Foreign Representatives regarding their nationals in South Africa who need consular assistance.

4.2 ASSISTANCE TO SOUTH AFRICAN NATIONALS IN DETENTION

- 4.2.1 Under the Vienna Convention on Consular Relations (1963), persons who have been arrested outside their own country must be given access to their Consular Representative. South Africans in this situation must immediately request the authorities to allow them to contact the South African Mission in that country. Alternatively, somebody can contact the Mission in that country or the Chief Directorate: Consular Services on their behalf.
- 4.2.2 Consular Officials seek to ensure that South African nationals arrested abroad are treated humanely while incarcerated. In this regard issues such as torture, inhumane or degrading treatment or punishment will be reported and taken up with the local authorities. The United Nations Standard Minimum Rules for the Treatment of Prisoners is used as a guide.
- 4.2.3 **What DIRCO CANNOT do for South Africans detained/arrested abroad**
- Institute court proceedings, obtain or render any form of legal advice on behalf of South African nationals locally and abroad.
 - Institute or intervene in court proceedings or judicial processes.
 - Intervene in local judicial procedures abroad to secure the release of South African nationals from prison, pay bail or arrange an early trial or early release.
 - Travel to dangerous areas or prisons for a prison visit.
 - Investigate a crime.

- Negotiate better treatment in prison for South African nationals than that provided for local nationals. In cases where the United Nations Standard Minimum Rules for the Treatment of Prisoners are not applied/met, the Mission will make representation to the relevant local authorities on behalf of the detainee/prisoner.
- Instruct next-of-kin or friends to transfer money.
- Pay legal, medical or any other fees.
- Obtain accommodation, work, visas, residence permits or book flights.
- Undertake work done by travel agents, airlines, banks or car rental companies.
- Formally assist dual nationals in the country of their second nationality.
- In the unfortunate event of death, pay for the repatriation, transport, burial or cremation of the mortal remains of a South African national.

4.2.4 Dual nationals

- Dual nationals arrested/detained in the country of their other nationality cannot receive assistance from the South African Mission in that country.
- If a dual national is arrested/detained in another country, of which they are not a national, and they did not travel on a South African passport but on the passport of their second nationality, the dual national must contact the Consular Representative of the country on which passport they travelled.

4.3 REQUEST FOR SERVICES OF PROCESS

- 4.3.1 Services of Process: Facilitation of the services of process received from the Department of Justice and Constitutional Development, via diplomatic channels, to have summons served to defendants abroad.
- 4.3.2 Other Legal Processes: Facilitation of other legal processes via diplomatic channels when requested to do so by the authorised authorities. These processes include, but are not limited to, requests for extradition, rogatory letters and evidence on commission.
- 4.3.3 All public enquiries in this regard must be submitted to Department of Justice and Constitutional Development as the mandated Department.

4.4 ASSISTANCE PROVIDED IN THE EVENT A SOUTH AFRICAN NATIONAL DIES ABROAD

- 4.4.1 It is a shock to receive the news of the death of a loved one and usually the first thought of the next-of-kin is to bring the mortal remains back to South Africa. However, the following options can be considered:
- The return of mortal remains to South Africa; or
 - Cremation and return of the ashes to South Africa; or

- Local Burial; or
- Pauper's burial in the foreign country.

4.4.2 The Mission can assist with obtaining quotes to enable the next- of-kin to make an informed decision.

4.4.3 If using an undertaker it is important to note that the rendering of services are subject to payment. Practice differs from country to country and this will influence the process. DIRCO and the Mission may be requested to provide guidance and non-financial assistance.

4.4.4 The assistance DIRCO is able to provide, includes:

- Obtaining a permit for importing mortal remains from the Department of Health.
- Placing the next-of-kin or family members into contact with reputable undertakers.
- Obtaining quotes for the transportation of the mortal remains and/or cremation and/or local burial, if so requested by the next-of-kin.
- Providing information on local conditions and procedures affecting the deceased. It should be borne in mind that the manner in which someone dies can affect how the local authorities handle the case.

4.4.5 In the event the deceased had travel insurance, it is recommended that the next-of-kin contact the insurer first to establish whether the deceased is covered in case of death.

4.4.6 DIRCO does not render any financial assistance pertaining to the death of South African nationals abroad. The financial transaction for the importation of mortal remains, local burial or cremation and return of the ashes may only be done via a commercial institution such as a bank. The money must be transferred directly to the undertaker in the country concerned.

4.5 OTHER SERVICES:

4.5.1 Request foreign authorities to investigate suspicious deaths of, and crimes against, South African nationals.

4.5.2 Provide guidance in collaboration with the Department of Social Development on matters relating to inter-country adoptions.

4.6 DIRCO DOES NOT PROVIDE THE FOLLOWING SERVICES

4.6.1 Pay any expenses on behalf of nationals from State funds, i.e. medical bills, hotel or legal fees, air tickets, transport, food, funerals, cremation or return of mortal remains etc.

- 4.6.2 Obtain accommodation or any permits (i.e. work permits, study permits, etc.) on behalf of South African nationals.
- 4.6.3 Conduct investigations related to an offence, investigate crimes or deaths.
- 4.6.4 Support a South African national financially whilst in prison.
- 4.6.5 Conduct a search without the assistance of local authorities or provide information regarding the whereabouts of a South African national without the express consent of that national.
- 4.6.6 Enforce a South African custody agreement abroad or compel a country to decide a custody case.
- 4.6.7 Undertake work done by travel agents, airlines, banks, etc.
- 4.6.8 Intervene on your behalf in disputes i.e. between employer and employee, between tenant and landlords etc.
- 4.6.9 Store personal effects or search for lost items.
- 4.6.10 Accept personal mail and parcels.
- 4.6.11 Issue pensions and social security benefits.
- 4.6.12 Formally assist dual nationals in the country of their second nationality.
- 4.6.13 Assist with the transfer of funds to a South African national who is not in distress.
- 4.6.14 Assist with the unauthorised return of a child abducted by a parent/family member.
- 4.6.15 Interfere in or initiate court or legal proceedings on behalf of South African nationals and body corporate.
- 4.6.16 Request local authorities to give preferential treatment to South African nationals.
- 4.6.17 Obtain a criminal record check on your behalf.

5. CONSULAR NOTARIAL SERVICES/ LEGALISATION SERVICES

Please note that the process of legalising a document for use abroad is the process of DIRCO verifying the stamp and signature on the original South African official public document. If the document does not have the signature or stamp of the authorised office/official on it, the document cannot be legalised.

5.1 SERVICES RENDERED IN RESPECT OF LEGALISATION SERVICES

- 5.1.1 Legalisation of original official public documents executed within the Republic of South Africa for use outside the Republic of South Africa by means of an “Apostille Certificate” (for countries signatory to the Hague Convention) or a “Certificate of Authentication” (for countries not party to the Hague Convention).
- 5.1.2 Foreign public documents (issued by a foreign country) cannot be legalised by DIRCO. Foreign public documents can only be legalised by the country in which they were issued.
- 5.1.3 Providing guidelines to obtain the correct signatures/documents if documents submitted are incorrect or incomplete. The onus is on the client to ensure that the correct documentation has been submitted for legalisation according to the approved procedures.
- 5.1.4 Provision of information when telephone/e-mail enquiries are received with regards to legalisation of documentation.

5.2 PREREQUISITE TO REQUEST FOR CONSULAR NOTARIAL SERVICES (LEGALISATION SERVICES)

- 5.2.1 Only original documents can be legalised that bears the signature and stamp of the authorised official to issue such a document. The following documents cannot be accepted or legalised:
 - Official documents that does not bear the signature or stamp of the issuing official.
 - Laminated documents.
 - Copies or certified copies of documents.
 - Privately generated documents.
- 5.2.2 The document to be legalised is determined by the client. The foreign representative in South Africa of the country in which the documents will be used, would usually provide the client with the list of documents required for legalisation. DIRCO cannot provide advice on the documents that needs to be legalised.
- 5.2.3 The Legalisation Section can issue the relevant “Apostille Certificate” or the “Certificate of Authentication” subject to the client needs. The client must advise the Legalisation Section of the country in which the

document will be used to enable the Legalisation Section to determine if an Apostille or Authentication Certificate is required.

5.2.4 The following original documents may be submitted to the Legalisation Section, provided the documents were signed and stamped by the relevant authority as listed below:

- Original unabridged or full birth, marriage and/or death certificates; original letters confirming an individual's citizenship status (letters confirming naturalization); original (valid) letter of no impediment (marital status); etc., duly signed and stamped by the authorised Home Affairs official. (Note: A letter of no impediment is only valid for six (6) months from date of issue.)
- Original adoption papers signed and stamped by the Registrar of Adoptions at the Department of Social Development and/or the relevant Commissioner of Child Welfare at the Department of Justice and Constitutional Development.
- Export documentation signed and stamped (every page) by the authorised employee at the Chamber of Commerce and Industry.
- Educational qualifications signed and stamped by the authorised official at the Department of Basic Education or the Department of Higher Education and Training. (The Department of Basic Education / Department of Higher Education and Training will issue an original cover letter which must be submitted together with the stamped and signed certificates.)
- Tertiary education qualifications signed and stamped by the authorised official at the South African Qualifications Authority (SAQA). SAQA will issue an original cover letter which must be submitted together with the stamped and signed certificates.
- Original (valid) Police Clearance Certificates signed and stamped by the South African Police Service (SAPS) - Criminal Records Centre. (Note: A Police Clearance Certificate is only valid for six (6) months from date of issue.)
- All documentation regarding registration of companies and of close corporations, registration of patent designs, trademarks and copyrights must first be stamped and signed (every page) by the authorised Registrar at the Companies and Intellectual Property Commission Office (CIPC) at the Department of Trade, Industry and Competition. Please note that only original documents will be accepted. Copies of documents must follow the route of the Public Notary/High Court verification, before being submitted to DIRCO for legalisation.
- All medical certificates issued by a medical doctor after a medical examination on a patient needs to be stamped and signed (every page) by the authorised official at the Health Professions Council of South Africa (HPCSA).
- Divorce decrees and settlement agreements: Clients should contact the High Court where the divorce was granted directly and make the necessary arrangements for a certified copy. Once a current Registrar (not a clerk of the court or a Registrar's clerk) has signed and stamped the decree and each page of the settlement agreement (should it be required), the documents can then be submitted to the Legalisation Section for legalisation purposes.

- Original letters as issued (stamped and signed) by the Department of Transport confirming that the applicant holds a valid driver's licence. (Note: The Legalisation Section cannot legalise actual driver's licences.)
- Documents pertaining to the transportation of livestock, including pets, signed and stamped by an authorised State Veterinarian.

5.2.5 There may be other documents not listed above i.e. documents pertaining to customary marriages; travel documents (passport) or identity documents; or privately generated documents such as an affidavit, power of attorney; work contracts; and / or translations, which has to be verified by a Public Notary (Attorney registered at the High Court) or translated by a Sworn Translator. After verification, the verified documents must then be taken to the Registrar of the High Court of South Africa – in the same jurisdiction as the Public Notary or Sworn Translator - before submitting to the Legalisation Section.

5.2.6 It is recommended that the client visits the Departmental website to ensure that the documents has followed the correct procedures, before submitting the documents for legalisation purposes.

www.dirco.gov.za

Consular Services

Consular Notarial Services

IMPORTANT NOTE

The signature of a Commissioner of Oaths, Notary Public, Justice of the Peace or any court employee who is not a Registrar has to be legalised by a Magistrate, Additional Magistrate or Assistant Magistrate or by a Registrar or an Assistant Registrar of any division of the High Court of South Africa within the jurisdiction of which such Commissioner of Oaths or Justice of the Peace exercises their function or such Notary Public is in practice, before documents are submitted to the Legalisation Section for authentication.

Documents must be bound together with the signature of the Registrar/Magistrate appearing on the first page, verifying the signature of the Commissioner of Oath, Justice of the Peace or Notary Public. The documents must be bound with a ribbon and red seal and the dry seal / stamp clearly visible on the document.

6. CONTACT DETAILS:

6.1 The Chief Directorate: Consular Services works in close collaboration with the Consular Sections of the South African Missions (Embassies, High Commissions and Consulates-General) abroad and the services listed are often performed through or in conjunction with our Missions abroad.

- 6.2 If consular assistance is required whilst abroad, please contact the Consular Section of the South African Mission in the country directly. Alternatively, please contact DIRCO's switchboard in Pretoria at (012) 351-1000 during office hours (08:00 – 16:00) during weekdays, excluding public holidays.
- 6.3 Emergency consular services are available on a 24-hour basis. For emergency services please contact the Chief Directorate: Consular Services during office hours or DIRCO's Operations Room in Pretoria at telephone number (012) 351-1000/0035 after-hours. Officials at the Operations Room will liaise with the Chief Directorate: Consular Services, which will be available to provide guidance and information after hours and over weekends.
- 6.4 Please note that normal Consular Services are rendered between 08:00 and 16:00 on weekdays, excluding public holidays. After hours and weekend assistance is only provided for emergency cases.
- 6.5 The Directorate: Consular Services can be contacted in the following manner:
- In person during official working hours by appointment. No walk-in clients will be allowed in the building without an appointment.
 - By mail: The address to be used is Chief Directorate: Consular Services, Department of International Relations and Cooperation, Private Bag X 152, Pretoria, 0001
 - Telephonically, +27 12 351 1000, fax: +27 12 329 1752, email: Consular@dirco.gov.za or consult the Consular website, www.dirco.gov.za and click to Consular information.
 - If assistance is required while abroad, please contact the Mission in the country directly.
- 6.6 Please address all legalisation enquiries to Legalisation@dirco.gov.za. Due to the complexity of these services rendered, it is advisable to send an e-mail in order for DIRCO to respond in writing to the enquiry.
- 6.7 Postal and Physical Addresses:

Postal Address

Department of International Relations and Cooperation
Chief Directorate: Consular Services
Private Bag X152
Pretoria
0001

Physical Address:

Department of International Relations and Cooperation
OR Tambo Building
460 Soutpansberg Road
Chief Directorate: Consular Services
NE2A-Ground Floor
Rietondale
Pretoria, 0084