



THE SUPREME COURT OF APPEAL OF SOUTH AFRICA

MEDIA SUMMARY OF JUDGMENT DELIVERED IN THE SUPREME COURT OF APPEAL

From: The Registrar, Supreme Court of Appeal

Date: 01 December 2025

Status: Immediate

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LexisNexis South Africa (Pty) Ltd v The Minister of Justice and Constitutional Development (1018/2024)
ZASCA 181 (01 December 2025)

Today, the Supreme Court of Appeal (SCA) dismissed an appeal against the judgment and order of the Gauteng Division of the High Court, Pretoria (the high court).

LexisNexis South Africa (Pty) Ltd (LNSA) approached the high court for declaratory relief in relation to the form and manner in which an oath or affirmation is administered, seeking to expand its interpretation under regulation 3 of the Regulations Governing the Administering of an Oath or Affirmation (the regulations). The Minister of Justice and Correctional Services (the Minister), who, while initially entering an appearance to oppose the application, subsequently filed a notice to abide.

Before the high court, LNSA argued that the regulations, promulgated under s 10 of the Justices of the Peace and Commissioners of Oaths Act 16 of 1963 (the Act), were antiquated regulations that needed to be brought in line with the modern era of technology. LNSA indicated that it has developed a secure, web-based platform, LexisSign (LS system), facilitating the electronic signature of a variety of documents. One of the features of the LS system is to facilitate the signing of documents via a log-in and hyperlink method between the deponent and the commissioner of oaths. LNSA advanced that the process offers a viable alternative to the commissioning of affidavits in the physical presence of the commissioner of oaths, as prescribed by regulation 3.

The high court rejected LNSA's interpretation of regulation 3, finding that the wording did not admit of an alternative interpretation. It followed that LNSA approached the SCA, insisting that the high court erred in its interpretation and contended that to interpret 'in the presence of' in regulation 3 as meaning 'in the physical presence of' results in an arbitrary differentiation between administering the oath for purposes of oral evidence, on the one hand, and for affidavit purposes, on the other. The SCA pointed out that the high court seemed to have overlooked its discretionary powers in terms of s 21(1)(c) of the Superior Courts Act 10 of 2013. This section provides that a court has the discretion to grant declaratory relief where an interested person has an existing, future, or contingent right or obligation necessary to engage the high court's jurisdiction.

The SCA confirmed that LNSA had failed to establish the requisite interest to engage the high court's jurisdiction to consider the declaratory relief sought. Moreover, the SCA concluded that any alternative method of administering the oath for affidavit purposes would have to offer the same guarantee to the court as an oath administered in the presence of the commissioner of oaths. It found that there is nothing before it that shows how this purpose would be achieved if the broad relief sought by LNSA were granted.

As a result, the SCA dismissed the appeal.

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