

Accreditation Act and Legal Implications

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Accreditation Certificates



23. (1) An accreditation certificate or certificate of GLP compliance issued in terms of section 22(2)(b), must be signed by the CEO or person with delegated authority to do so in terms of section 19.

23.(2) SANAS may authorise a person in the employ of SANAS to certify a copy of an accreditation certificate issued i.t.o subsection (1) as being a true copy of the certificate

23. (3) In any legal proceedings, a document that purports to be a certificate issued in terms of subsection (1) or a copy of such certificate certified in terms of subsection (2) is upon its production evidence of the facts contained therein

CASE STUDY: Evidential Breath Tester

National Road Traffic Act, (Act 93 of 1996) states:

It is offence for a person to drive a motor vehicle or occupy the driver's seat thereof with the engine running while the alcohol content in a specimen of his or her breath exceeds prescribed limits

In order to secure a conviction the NPA must prove **beyond reasonable doubt** that at the time of the alleged offence the alcohol content in the specimen of breath of the accused exceeded the prescribed limit.

CASE STUDY: Evidential Breath Tester



Mitigating factors:

- a) test must be done within 2 hrs
- b) only prescribed equipment used to conduct test (certificate issued by manufacturer.)
- c) the prescribed equipment used was accurate and in good order (Calibration certificate)
- d) a certificate issued by a SANAS accredited laboratory will be *prima facie evidence* of such calibration

The National Prosecution Authority (NPA) has indicated the despite the existence of the Accreditation Act, they have ***encountered difficulties*** with the courts regarding certificates issued by accredited calibration laboratories; and the certificate of accreditation issued by SANAS in favour of the accredited laboratory

Proposed ammendment:

- 1. SANAS to include words on the certificate to the effect that the document was issued in terms of section 23 (1) or (2) of the enabling Act, to qualify as evidence of the facts contained therein;**
- 2. Certificates issued by accredited laboratories to include certain specific information in order to avoid having to be subpoenaed to testify in open court**

Proposed amendment



Recognized as the official national accreditation body by the department of Trade and Industry of the Republic of South Africa

To be replaced by

Issued in terms of section 22(2)(b) of the Accreditation for Conformity Assessment, Calibration and Good Laboratory Practice Act, 2006 (Act 19 of 2006) read with sections 23(1), (2) and (3) of the said Act

Implication of the SANAS accreditation certificates

The statement: “ *..is upon its production evidence of the facts contained therein*” suggests that

- ✓ The results of the test or calibration are accurate and traceable to national/international standards**
- ✓ There is no doubt about the qualification and technical competence of the personnel carrying out tests in the lab**
- ✓ The certificate produced is traceable to the equipment tested**
- ✓ The lab is accredited for the specific test or calibration**
- ✓ The method used has been validated, environmental conditions were conducive, etc**

Conclusion

There should be no doubt that the accreditation process is robust enough to provide the confidence needed by the NPA to have a successful conviction and send offenders to jail

Assessors are at the forefront of the accreditation process and have a huge responsibility to ensure that nothing is left to chance when carrying out assessments



Thank you

