

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA



Case number: 2023-010096

DELETE WHICHEVER IS NOT APPLICABLE
(1) REPORTABLE: YES/NO
(2) OF INTEREST TO OTHERS JUDGES: YES/NO
(3) REVISED

13/6/24
DATE

[Redacted Signature]
SIGNATURE

In the matter of:

LEXISNEXIS SOUTH AFRICA (PTY) LTD

Applicant

and

MINISTER OF JUSTICE AND
CORRECTIONAL SERVICES

Respondent

JUDGMENT

SWANEPOEL J:

[1] This is an application for leave to appeal against my order of 29 April 2024 dismissing the application. The grounds for leave to appeal essentially repeat the averments made in the papers, upon which I have already expressed my views in the aforementioned judgment.

[2] Applicant says that in interpreting the words “in the presence of” I should have taken a purposive approach considering the modern technologies now available, and that I should have substituted the words used “*with words to be regarded as reasonable, sensible or businesslike*”.

[3] As much as I agree with counsel for the applicant that modern technology lends itself to achieving the goals of the Regulations by modern means, I disagree that this is a matter for the Courts to decide. In my view the applicant misses the point as far as interpretation of documents is concerned, which is that the interpreter is tasked with finding the meaning of the words used, given the context and purpose within which they were written and the “circumstances attendant upon its coming into existence”.¹ (my emphasis)

[4] The Regulations were written at a time when no one conceived of the possibility of communicating through the internet. The meaning of the words used in the Regulations is clear, and I do not understand counsel for the applicant to argue otherwise. What he contends for is that given the development of technology one should re-interpret the words in a purposive manner and give them a meaning that is businesslike in a modern context. This argument again misses a point: A purposive approach is only permissible when the “*language of a provision lets the interpreter down. The purposive approach is, in other words, second to the literalist-cum-intentionalist approach: as a rule ‘ordinary’ or ‘clear and*

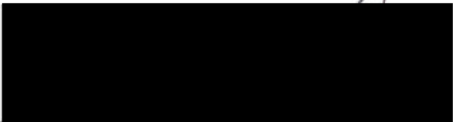
¹ Natal Joint Municipal Pension Fund v Endumeni Municipality 2012 (4) SA 593 (SCA) at para 18

unambiguous language' trumps other indicia of policy, object or purpose".²

[5] The meaning of the words is clear. The fact that technology has developed, and that it allows one to achieve the regulatory purpose in another more businesslike fashion, does not make it permissible to put a different meaning on the words as opposed to their original meaning. That would be encroaching onto the terrain of the legislator, and it is for the latter to amend the wording of the Regulations if it is of the view that an amendment is required.

[6] In the circumstances I make the following order:

The application for leave to appeal is dismissed.


SWANEPOEL J
JUDGE OF THE HIGH COURT
GAUTENG DIVISION PRETORIA

COUNSEL FOR THE APPLICANT:	Adv C. Thompson
ATTORNEY FOR THE APPLICANT:	Lee Attorneys
DATE HEARD:	31 May 2024
DATE OF JUDGMENT:	13 June 2024

² Du Plessis, L, Re-Interpretation of Statutes, Butterworths, Durban, page 118