COVID-19 PRACTICE DIRECTIVES OF THE RANDBURG AND GERMISTON REGIONAL CIVIL COURTS LOCK DOWN ALERT LEVEL 3 TO 1

These Directives will be in place from 15 JUNE 2020 until further notice.

It provides for two methods of entertaining matters, namely

a) *The normal format, or*
b) *Dealing with matters via video conferencing using MS Teams as virtual platform*

During the duration hereof, only one application form will be applicable, irrespective of the application/ action in question.

[1] PURPOSE:

In terms of par 20 of the Directives issued by the Chief Justice on 2 May 2020 in terms of Section 8(3)*(b)* of the Superior Courts Act, 10 of 2013 for the Management of Courts during the National State of Disaster period, the following Rules of Practice shall be implemented at the Germiston and Randburg Civil Regional Courts with effect from 15 June 2020.

These directives strive to enhance social distancing and avoid as far as possible the physical attendance of persons at Court.

[2] GENERAL:

2.1 Kindly ascertain the prevailing lockdown alert level in the geographical area. Randburg Civil Regional Court is physically located within the Magisterial district of Johannesburg North and Germiston Civil Regional Court is physically located within the

Magisterial district of Ekurhuleni Central within the Johannesburg Metropolitan area in Gauteng.

2.2 Please note that practitioners and litigants are no longer permitted to file documents/ papers by way of e-mail. The relevant contact details of the courts are listed below. All written communications with the court must also be communicated/ copied to the opposing side. Except for unopposed/ undefended matters, all *ex parte* communications with the presiding officers are strongly discouraged.

2.3 Do not communicate directly with the presiding officer as the presiding officer is not a party to the matter.

2.4 It will not be necessary for practitioners who attend court to introduce themselves to the magistrate in advance. All introductions may be done in court, where necessary.

[3] LOCKDOWN ALERT LEVELS 5 AND 4:

Refer to the applicable COVID-19 Directives which may be obtained via e-mail from the assistant registrar concerned.

[4] LOCKDOWN ALERT LEVEL 3 TO 1

NO MATTER PREVIOUSLY SCHEDULED WILL PROCEED UNLESS PARTIES CONFIRMED WITH THE ASSISTANT REGISTRAR THE DATE AND TIME THE MATTER IS TO PROCEED.

WHERE A DATE, TIME AND MANNER WAS ALLOCATED UNDER LOCKDOWN ALERT LEVEL 4, THE MATTER WILL REMAIN SCHEDULED AS SUCH.

4.1 FILING OF ALL DOCUMENTS AND ISSUING OF NEW PROCESS:

4.1.1 The filing of pleadings, notices and documents as an attachment to an e-mail no longer applies.

4.1.2 Parties may **deliver** their documents to the court.

- All documents that are to be delivered to the court must be placed in the designated inbox at the entrance of the court building concerned;
- All hand delivered documents should be in a sealed envelope and must be accompanied by a cover letter as no proof of filing will be issued;

4.1.3 All new process (summonses, applications and subpoenas) that requires issuing by the assistant registrar must be placed in the designated inbox.

- After the process has been issued, the assistant registrar will contact the party concerned on the e-mail address or telephone number provided on the process so that it may be collected from the designated collection box;

4.1.4 Should a matter be of an urgent nature, arrangements should be made with the assistant registrar in advance on the issue of process.

4.1.5 The normal Rules applicable to the delivery and filing of documents apply.

4.2 REQUESTS FOR DATES OF HEARING (ALL MATTERS):

4.2.1 The new application form for dates of hearing for trials, pre-trial conferences and unopposed divorces must be completed and must be delivered to the designated inbox as per par 4.1.2

4.2.2 Parties are requested to complete all the relevant portions of the application form.

4.2.3 A **date and time of hearing** will be allocated by the assistant registrar concerned. Kindly note that a specific time slot will be allocated. Parties need to ensure their availability at the relevant time. Matters will not stand down and cannot be accommodated outside the time slot allocated. A matter not heard at the time allocated, will be removed from the roll and a new date will have to be applied for.

4.2.4 Parties must appreciate that they will be subject to time restrictions due to case scheduling.

4.2.5 The allocation of a date or any queries that may be raised will be done by way of e-mail. Where the applicant does not have access to e-mail the applicant may be notified of the outcome of their request telephonically.

4.2.6 Where a date, time and manner of hearing were scheduled under Lockdown Alert Level 4, the matter will remain scheduled as such.

4.3 REQUESTS FOR DEFAULT JUDGMENT IN TERMS OF RULE 12

4.3.1 RDJ's have to be filed in the designated inbox as per par 4.1.2 above. Applications must be in duplicate and comply with Rule 12.

4.3.2 Applicants will be notified of the outcome of the application via e-mail, DOCEX or post as indicated on the RDJ.

4.4 MOTIONS

4.4.1 Applicants must confirm the date and time with the assistant registrar before enrolling a matter.

4.4.2 As a specific time slot will be allocated, parties need to ensure their availability at the relevant time. Matters will not stand down.

4.4.3 All postponements/ removals may be agreed between parties and written confirmation of same must be filed as per par 4.1.2. A reason for the postponement must be specified. Where a postponement/ removal is not *sine die*, the postponement date and time must first be arranged with the assistant registrar concerned.

4.4.4 Heads of argument and practice notes, when required, must be filed with the assistant registrar as per par 4.1.2.

4.5 URGENT MOTIONS AND *EX PARTE* APPLICATIONS

4.5.1 Urgent motions may be enrolled at any appropriate time and day.

4.5.2 *Ex parte* applications based on urgency or where the giving of notice will defeat the object of the order being sought may be brought at any appropriate day and time. The presiding officer will give an indication of the manner in which the matter will be heard.

4.6 PRE-TRIAL CONFERENCES/CERTIFICATION HEARINGS

4.6.1 As far as possible parties should hold a pre-trail conference *inter partes* and meaningfully address:

- Limiting the risk of exposure of litigants, practitioners, witnesses and court staff to COVID-19;
- Indicate whether Alternative Dispute Resolution (ADR) methods have been considered and reasons why these are not viable. This must specifically be addressed in respect of all matrimonial matters and all claims against the Minister of Police;
- The substance of the issues raised in the pleadings;
- The narrowing of issues to their bare minimum;
- The admission of evidence on affidavit;

- The logistics of conducting the trial; and
- Methods of avoiding a physical hearing; and

4.6.2 A detailed minutes of the pre-trial conference must be filed as set out in par 4.1.2.

4.6.3 If it is not possible to hold a pre-trail *inter partes*, application may be made on the prescribed form as set out in 4.2. for a judicial pre-trial conference. Reasons should be provided on why it was not possible to comply with par 4.6.1.

4.6.4 The assistant registrar will inform the applicant of the **date and time** of the hearing. The applicant must forthwith confirm the **date and time** with the assistant registrar concerned. After service the notice of set down is to be filed as set out in par 4.1.2.

4.6.5 Pre-trial conferences are to be heard in court. The proceedings will, however, remain substantially informal.

4.7 UNOPPOSED DIVORCES

4.7.1 The assistant Registrar of the Regional Court will allocate a **date, time and manner** for the hearing of a matter. Application should be made on the application form as set out in par 4.2.1.

4.7.2 Represented parties may elect to deal with a matter via video conferencing, by affidavit or in ordinary course.

4.7.3 Represented parties may elect to file affidavits that will serve as evidence-

- The original affidavits in support of the divorce must be filed at Court in the designated inbox as per par 4.1.2 along with the application form.

- The plaintiff's affidavit must fully and comprehensively address the following aspects:
    - The jurisdiction of the Court;
    - The details of the marriage including the marital regime;
    - A copy of the marriage certificate as well as the ante-nuptial agreement (if applicable) must be incorporated;
    - Reasons for the irretrievable breakdown of the marriage;
    - Full and proper details of any pension fund/ provident fund/ retirement annuity fund that will need to be endorsed;
    - If applicable; confirmation of the conclusion of a settlement agreement; a copy of which must be incorporated;
    - Confirmation of the precise terms of the order being finally sought, including the proprietary order.
    - In a matter involving minor children, the arrangements regarding the parental rights and responsibilities contemplated for the minor children; with specific reference to
        - Full parental rights and responsibilities, including guardianship;
        - Primary care;
        - Contact arrangements;
        - In respect of maintenance for the minor or dependent children indicate whether

- The amount is an amount agreed to between the parties;
- Whether the matter of maintenance may be referred to the Maintenance Court;
- Whether there is an existing maintenance order in place;

- In a matter involving minor children, a copy of the endorsement of the summons/ settlement agreement by the Office of the Family Advocate should be incorporated. Any concerns raised by the Office of the Family Advocate must be specifically addressed.
- If any other issue is raised in the particulars of claim, the affidavit must contain sufficient particularity on such aspect as well.

➢ The legal representative of the plaintiff is to file a confirmatory affidavit confirming the identity of the parties, compliance with the Rules, verify documents and address any issue that may arise from plaintiff's affidavit;

➢ The legal representative must be available on the virtual platform or in court on the date and time allocated;

➢ Should an aspect require elucidation, the presiding officer may direct / request the appearance of a party and his or her legal representative in person. Application may be made for such appearance to be after the lockdown or on a lower level of lockdown.

4.7.3 As a specific time slot is allocated, parties need to ensure their availability at the relevant time. Matters will not stand down.

4.7.4 Once the **decree of divorce** has been generated, a party will be notified and the document may then be collected from the designated collection box.

4.8 TRIALS

4.8.1 In any matter wherein a date has already been allocated or which has been enrolled/ postponed to a specific date, the parties must first conduct an additional pre-trial conference seeking the possibility of settlement in the spirit of the High Court Directives and as set out in par 4.6. Viable suggestions should be made as to how to address COVID-19 risks and concerns and trials will proceed in accordance with the practical arrangements agreed to. No matter will proceed unless written confirmation is received from the assistant registrar confirming same.

4.8.2 Should a matter become settled, kindly apply on the application form for the settlement agreement to be made an order of court. A time and date will be communicated by the assistant registrar.

4.8.3 No trials will proceed by way of video conferencing.

5. VIDEO CONFERENCING

5.1 The platform that is available for video conferencing is MS Teams. It will be required of all practitioners to provide their e-mail addresses on which they will be available for said video conference.

5.2 As a specific time slot is allocated, no matter will be heard outside said timeslot.

5.3 An invitation to join the proceedings will be sent from the presiding officer concerned prior to the commencement of the hearing.

5.4 Unopposed divorces and matters identified by the presiding officer may be dealt with in this manner.

6. PRESIDING OFFICER'S OVERRIDING DISCRETION:

The magistrate seized with a matter may, in his/her discretion, deviate from these directives as the circumstances of the case may require. The overriding aim will, however, remain the achievement of procedural fairness whilst striving for the safety of all concerned.

7. CONTACT DETAILS OF THE COURT:

The contact details of the relevant officials for purposes of communication with the court are the following:

ASSISTANTS REGISTRAR: RANDBURG

Names	**Solomon Pelo, Hlamula Bila and Lawrence Mkase**
Telephone number	**011 – 9985330**
E-mail	**spelo@justice.gov.za**

ASSISTANTS REGISTRAR: GERMISTON

Name	**Sandra Thysse and Nompumelelo Patience Mbatha**
Telephone number	**011 – 873 0500 / 0505**
E-mail	**SThysse@justice.gov.za**

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REGIONAL COURT PRESIDENT: GAUTENG