CIVIL REGIONAL COURT OF JOHANNESBURG
REPUBLIC OF SOUTH AFRICA
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COVID-19 PRACTICE DIRECTIVES OF THE CIVIL REGIONAL COURT OF JOHANNESBURG

[1] **Purpose:**

The advent of COVID-19, its uncertain duration, and the need for its containment for the protection of all those involved in the court system, has necessitated the implementation of the following Rules of Practice at the civil regional court of Johannesburg with effect from 05 May 2020. These Directives strive to enhance physical distancing without being unduly complicated. In the event of uncertainty, they must be interpreted as enhancing, as opposed to limiting, access to justice.

[2] **General:**

[2.1] These Directives will apply in accordance with the prevailing Lockdown Alert Level of the geographical area in which the courthouse is situated. As different Lockdown Alert Levels may be assigned to different areas nationally, provincially, and locally, practitioners and litigants are reminded that the Johannesburg civil regional court is physically located within the magisterial district of Johannesburg Central, and within the Johannesburg Metropolitan area.

[2.2] Court services will be scaled-down proportionately in accordance with the prevailing Lockdown Alert Levels.

[2.3] Access into the court building will be controlled and/or restricted by security officials as the need arises. Those who do not necessarily need to be at the court building are requested to stay away.

[2.4] Those who need to enter the court building must agree to adhere to the safety measures in place at the court building, including the signing of a register with personal details, physical screening, the wearing of face masks, and the observance of physical distancing rules. Although the Department of Justice will implement sanitisation measures as far as possible, those who enter the building will be expected to be equipped with appropriate personal protection equipment.

[2.5] Practitioners and litigants are requested to communicate with the court by telephone, email, or fax. The relevant contact details of the court are listed below. All written communications with the court in opposed/defended matters must also be communicated/copied to the opposing side. Except for unopposed/undefended matters, all ex parte communications with the court are strongly discouraged.

[2.6] 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. Candidate attorneys are reminded to carry their right of appearance certificates for at least their first appearance before each magistrate.

[3] **Lockdown Alert Level 5:**

[3.1] The court building will not be generally accessible.

[3.2] The court officials and magistrates will not be at the office.

[3.3] All matters will summarily be re-scheduled by the registrar or postponed indefinitely.

[3.4] The return dates of interim orders will be extended by the magistrate, and parties will be notified of the extended date.

[3.5] Neither practitioners nor litigants will be required to attend scheduled hearings.

[3.6] Parties will be allowed to present argument on wasted costs on a later date, if necessary.

[3.7] A magistrate and/or registrar will, nevertheless, always be on standby and available for any matter that is deemed to be urgent and for ex parte matters, provided that these matters cannot wait until after the Alert Level 5 lockdown period.

[3.8] Matters that are about to prescribe will be regarded as urgent.

[3.9] The magistrate/registrar on standby will interrogate the nature of the urgency of the matter by telephone and/or by email with the practitioner/litigant before deciding whether or not the matter will be favourably considered or whether the convening of a hearing is necessary.

[3.10] The contact details of the magistrate/registrar on standby will be pinned on the court door and circulated as widely as possible before the commencement of a Lockdown Alert Level 5.

[3.11] The magistrate on standby will apply the provisions of Rule 3(10) and Rule 55(5)(a), where necessary.

[4] **Lockdown Alert Levels 4 to 1:**

The following rules of practice will apply generally to Lockdown Alert Levels 4 to 1, except that the services that will be delivered will be scaled up or down as the circumstances of each lockdown alert level permits.

[5] **Filing of all Pleadings, Notices, and Documents:**

[5.1] The filing of all pleadings, notices and documents must be done as an attachment to an email, or by fax, to at least one of the assistant registrars listed below.

[5.2] Filing must be done after service upon all opposing parties.

[5.3] A cover letter must accompany the email or fax, confirming service and the manner of service.

[5.4] The date of filing shall be deemed to be the date when the email or fax arrives in the assistant registrar's inbox, and will be stamped accordingly.

[5.5] Documents that exceed ten (10) pages in length should be hand-delivered to the court.

[5.6] Those litigants who do not have access to email or fax facilities may hand-deliver their documents to the court.

[5.7] All documents that will be hand-delivered to the court must be placed in a specially-designated post box (post box) which has been created for this purpose. The post box will be located at the entrance to the court building with the security officials. 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. The post box will be cleared every few hours and date stamps will be affixed accordingly.

[5.8] The court will be accessible for anything else that cannot be done by telephone, fax, email, or by being placed in the post box.

[6] **Issuing of New Process:**

All new process of court like summonses, certain motions, subpoenas etcetera that require to be issued by the registrar before service must now also be placed in the post box. After the process has been issued, the registrar will contact the practitioner/litigant to collect it from a designated collection point, most likely the foyer at the entrance of the building.

[7] **Issuing of Execution Documents:**

All execution documents that require to be issued, for example, warrants of execution against property, warrants for delivery, etcetera are, likewise, to be lodged in the post box for attention.

[8] **Requests for Default Judgment in Terms of Rule 12:**

[8.1] Requests for the entry of default judgments must be filed personally at the court. These must also be accompanied by a cover letter and be lodged in the post box at the entrance to the court.

[8.2] Practitioners/litigants will be notified of the entry or refusal of judgment, or of any query, by email or other convenient manner.

[8.3] The court will strive to observe a turn-around time of two weeks to respond to these requests.

[9] **Requests for Dates of Hearing:**

[9.1] A single updated Application Form for dates of hearing has now been created. The Form is attached to these Directives. This Form must be used to request dates for hearing of all trials, pre-trial conferences, certification hearings, motions, and unopposed divorces. The Form must be properly completed. Inadequately-completed Forms will result in concomitant queries, delays, and frustration. The Form must be sent by email or fax to one of the assistant registrars listed below.

[9.2] The allocation of a date or any queries that may be raised will be done by return of email or other convenient manner.

[9.3] The court will strive to observe a turn-around time of two weeks for a response.

[9.4] Litigants who do not have access to electronic facilities may file a hard copy of the Form in the post box at the court entrance. Litigants will be notified of the outcome of their request by telephone.

[10] **Motions:**

[10.1] Practitioners may no longer enrol motion matters on a day of their choice.

[10.2] The relevant portion of the prescribed Form for the long form of Notice of Motion (Form 1A) must be adapted to read "*If no such notice of intention to oppose be given, the application will be made on a date and time to be allocated by the Registrar*". Applicants will be required to serve the respondent with a notice of set-down in such instances.

[10.3] Dates for hearing must be requested by email or fax using the updated application Form attached hereto.

[10.4] Litigants who do not have access to email or fax facilities may request a date by lodging a hard copy of the application Form in the post box at the entrance of the court.

[10.5] Practitioners/litigants will be notified by email or other convenient manner of the allocated date or the content of any query.

[10.6] Motion matters will not be heard on dates that have not been allocated by the registrar.

[10.7] If practically possible, practitioners and litigants may agree to present their respective cases merely by the filing of one set of Heads of Argument each, without the need to attend court for an oral address. The allocated magistrate will then render a decision by email. The use of this method of adjudication must be communicated with the Registrar in good time to enable the allocated magistrate to address the matter with the practitioners/litigants.

[10.8] If practically possible, practitioners/litigants may agree to present their respective cases through other electronic means such as teleconferencing, etcetera. Appropriate arrangements must be made in advance with the registrar and the allocated magistrate for the use of this method of hearing.

[10.9] Practitioners will be required to attend court only if:

[10.9.1] some issue relating to the motion absolutely needs to be argued orally;

[10.9.2] the opposing party is unrepresented, and no agreement could be reached with him/her;

[10.9.3] a default order is sought; or

[10.9.4] where the allocated magistrate deems it necessary.

[10.10]A limited time will be allocated to each such motion matter, and oral submissions/arguments will be expected to be succinct.

[10.11]Motion matters will be heard at staggered times in the day. Practitioners/litigants will be required to attend only at the allocated time. Matters will not be heard prior to the allocated time. Access into the building will be restricted accordingly.

[10.12]All postponements/removals of motions may be agreed between practitioners, and written confirmation of same must be emailed or faxed to the registrar at least one working day prior to the date of hearing. A reason for the postponement must be specified.

[10.13]If wasted costs for postponements cannot be agreed, parties must agree to reserve the question of costs for argument at the actual hearing.

[10.14]Postponements of motions generally, and to specific dates, are strongly discouraged. Motions must either be finalised or taken off the court roll until parties are ready to finalise them. Parties may, therefore, not agree to postpone motions to specific dates. Only indefinite postponements may be agreed.

[10.15]The only exception to [10.14] above is for the extension of interim orders. These may be agreed to be extended to a specific date in accordance with the provisions of [10.3] and [10.12] above.

[10.16]Heads of argument and practice notes, when required, must be filed with the registrar by email or fax, or a hard copy may be placed in the post box at the entrance of the court.

[11] **Urgent Motions:**

[11.1] The provisions of paragraph [10] above will not apply to urgent motions.

[11.2] Urgent motions may be enrolled at any appropriate time and day.

[12] **Ex Parte Applications:**

[12.1] Ex parte applications based on urgency, or that the giving of notice will defeat the object of the order, may be sought at any appropriate time and day.

[12.2] In order to minimise contact, ex parte applications will no longer be heard in chambers, but in a courtroom.

[12.3] Ex parte applications where there is no respondent or interested party, or where the giving of notice is not necessary or possible, must be enrolled on the motion roll in accordance with the provisions of paragraph [8] above.

[13] **Pre-Trial Conferences/Certification Hearings:**

[13.1] Requests for judicial pre-trial conferences or certification hearings will be considered only after:

[13.1.1] the parties have first held a private pre-trial conference in terms of which the following have been meaningfully addressed:

[i] alternative dispute resolution (ADR) methods have been considered, especially mediation, 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;

[ii] the exhaustion of settlement negotiations;

[iii] the substance of the issues raised in the pleadings;

[iv] the narrowing of issues to their bare minimum;

[v] the separation of issues;

[vi] the admission of evidence on affidavit;

[vii] the discovery of documents;

[viii] the use of experts and expert notices;

[ix] the use of photographs and accompanying notices;

[x] the expected duration of the trial;

[xi] the logistics of conducting the trial;

[xii] other methods of avoiding a physical hearing, including the viability of the use of electronic means such as teleconferencing facilities or other virtual hearings;

[xiii] the indexing, pagination, and binding of the documents in the court file; and

[13.1.2] the detailed minutes of the pre-trial conference has been filed with the court;

OR

[13.1.3] a concerted effort was made by one or both of the parties to convene a private pre-trial conference without success, and these efforts are expressed in a cover letter, with supporting documents, where necessary.

[13.2] If a private pre-trial conference could not be held, the items listed in [13.1.1] above must be addressed at the judicial pre-trial conference/certification hearing.

[13.3] The application Form for a judicial pre-trial conference/certification hearing must be emailed or faxed to the registrar, alternatively a hard copy may be placed in the post box at the court entrance. Practitioners/litigants will be notified of the result of their request by email or telephone.

[13.4] Judicial pre-trial conferences/certification hearings will no longer be heard in chambers or in the boardroom, but in a courtroom. The proceedings will, however, remain substantially informal.

[13.5] Judicial pre-trial conferences/certification hearings will be heard at staggered times in the day. Practitioners/litigants may attend court only at the allocated times. Access into the court building will be restricted accordingly.

[13.6] Practitioners/litigants may agree to postpone/remove pre-trial conferences/certification hearings by email or fax to the registrar prior to the allocated hearing.

[13.7] Trial dates will be allocated only after a proper pre-trial conference has been held, and/or the court has certified that the matter is trial-ready.

[14] **Unopposed Divorces:**

[14.1] Unopposed divorces will be addressed substantially in accordance with the practice currently in use in the high court.

[14.2] Unopposed divorces will be regarded as motion matters in terms of which evidence will be received on affidavit as far as practically possible. In such instances, only the legal representative of the party need attend court.

[14.3] The original hard copy of the plaintiff's supporting affidavit for the divorce must be filed in the post box at the entrance of the court at least five (5) days before the date of hearing.

[14.4] Unopposed divorces will be heard at staggered times in the day. Parties will neither be allowed entry into the court building nor will their matter be heard before the allocated time.

[14.5] There will be three categories of unopposed divorces:

[14.5.1] Divorces without minor or dependent children;

[14.5.2] Divorces with minor or dependent children; and

[14.5.3] Divorces where the party is unrepresented.

[15] **Unopposed Divorces Without Minor or Dependent Children:**

[15.1] The affidavit by the party must address the following aspects fully and completely:

[i] the court's geographical jurisdiction;

[ii] details of the marriage, including the marital regime;

[iii] the attachment of the original marriage certificate and original ante-nuptial contract, where applicable, alternatively certified copies thereof,

[iv] reasons for the irretrievable breakdown of the marriage;

[v] full and proper details of any pension fund/provident fund/retirement annuity fund that will need to be endorsed;

[vi] if applicable, confirmation of the conclusion of a settlement agreement, the original of which must be attached to the affidavit;

[vii] confirmation of the precise terms of the order being finally sought, including the proprietary order.

[16] **Divorces with Minor or Dependent Children:**

[16.1] In addition to the aspects listed in [15] above, the party must address the following further aspects in his/her affidavit in as much detail as the circumstances permit.

[i] the arrangements regarding the parental rights and responsibilities contemplated for the minor or dependent children;

[ii] any concerns that the office of the family advocate has raised;

[iii] if a settlement agreement is to be used, that it hast been endorsed by the family advocate; and

(iv) if a parenting plan is to be used, that it has been registered with the family advocate.

[17] **Divorces That Will Not Be Heard On Affidavit:**

[17.1] The following unopposed divorces are unlikely to be properly heard/adjudicated on affidavit and will need to be heard with oral evidence in the traditional manner:

[17.1.1] where the litigant is unrepresented;

[17.1.2] where an order is sought for spousal maintenance;

[17.1.3] where an order is sought for a specific amount for a child's maintenance;

[17.1.4] where an order is sought for a forfeiture of patrimonial benefits;

[17.1.5] where an order is sought that any part of the opposing party's parental rights or responsibilities is to be curtailed/waived/forfeited.

[18] **Collection of Divorce Decrees:**

Irrespective of whether a divorce has been granted on trial or on an unopposed basis, the decree of divorce will be typed and handed to the party immediately to obviate the need for the party to have to return to court on a future date for the court order.

[19] **Trial Roll Call:**

[19.1] The roll call for trials is suspended.

[19.2] All trial matters will, henceforth, be individually judicially-managed by the allocated magistrate from the stage of a pre-trial conference/certification hearing until the conclusion of the trial.

[20] **Trials:**

[20.1] If parties settle their action and require their settlement agreement to be made an order of court, they may apply on Motion to do so.

[20.2] Trials that remain enrolled on the morning of the allocated date will be expected to proceed as far as it is safe, convenient and practical to do so.

[20.3] Trials will proceed in accordance with the practical arrangements agreed-to at the pre-trial conference or certification hearing.

[20.4] Attendance at trials must be limited to those who necessarily need to be there.

[21] **Delivery of Reserved Judgments:**

[21.1] Reserved judgments will, preferably, be written. Written judgments will be delivered electronically, as far as possible. The court will specify the deemed date of delivery of the judgment. Written judgments will not be orally read into the record.

[21.2] The court will make appropriate arrangements with the parties in relation to all other judgments. This will be addressed on a case-by-case basis.

[22] **Taxations of Bills of Costs:**

[22.1] Practitioners/litigants must first make a concerted and sincere effort to agree on the terms of the bill of costs before applying for a date for taxation.

[22.2] If agreed, and if the taxing master's allocatur is required, the party may request same in a cover letter confirming the terms of the agreement (preferably with confirmation from the opposing party) and enclosing the bill of costs. This must be lodged in the post box at the court entrance, and will be attended-to accordingly.

[22.3] A request for a date for taxation will only be granted upon an affidavit spelling out the facts relating to the failure of the efforts to agree on the bill.

[22.4] Taxations will be done by prior appointment with the registrar in a courtroom, and no longer in the registrar's office.

[23] **Authentication of Documents/Apostilles**

These will be done only by prior appointment with the registrar.

[24] **Non-Compliance with the Provisions of these Practice Directives:**

[24.1] Practitioners and litigants are expected to abide by the spirit of these directives in the light of the COVID-19 pandemic. Non-compliance with these directives, non-cooperation with each other, and the adoption of objectively-unreasonable stances may be met with appropriate costs orders, including personal costs orders and the disallowance of the recovery of fees.

[24.2] The court will take a dim view of, especially:

[24.2.1] those who attend at pre-trial conferences/certification hearings inadequately prepared;

[24.2.2] those who profess their readiness for trial at a pre-trial conference/certification hearing but who are, in fact, not ready on the trial date for no further good reason;

[24.2.3] those who enrol matters for hearing on an urgent basis where the court finds that they were not urgent; and

[24.2.4] those who seek ex parte orders but who are found not to have grounds for doing so.

[25] **Magistrate'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 court's aim will, however, remain the achievement of procedural fairness whilst striving for the safety of all concerned.

[26] **Contact Details of the Court:**

[26.1] The contact details of the relevant officials for purposes of communication with the Johannesburg Civil Regional Court are the following:

[26.1.1] Switchboard: 011-2247500
The switchboard will be able to connect callers with all officials, including magistrates.

[26.1.2] FOR FILING OF ALL DOCUMENTS, AND APPLICATIONS FOR ALL DATES OF HEARING:

Assistant Registrar (Mr M Gomana)
Direct Line: 011-2247512
Email: Mgomana@justice.gov.za

OR

Assistant Registrar (Mr J Mashele)
Direct Line: 011-2247512
Email: Jumashele@justice.gov.za

[26.1.3] FOR GENERAL ENQUIRIES:

Assistant Registrar (Ms C Nkoli):

Direct line: 011-2247506

Email: cnkoli@justice.gov.za

Fax: 0861641682

OR

Assistant Registrar (Ms A Milton):

Direct line: 011-2247517

Email: amilton@justice.gov.za

Fax: 0864472433

[26.1.4] FOR COMPLAINTS:

Registrar (Mr R Maluleke):

Direct line: 011-2247508

Email: rmaluleke@justice.gov.za

Fax: 0866290578

[27] **Updated Form for Applications for Dates of Hearing:**

The updated Form for applications for dates of hearing for unopposed divorces, motions, pre-trial conferences/certification hearings, and trials is attached and must be used henceforth.

[28] **Commencement Date of Practice Directives:**

These directives will commence on **05 May 2020** and will remain in force until further notice.

"*Transmitted electronically*
without an original signature"

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A Chaitram

Regional Magistrate

Johannesburg