OFFICE OF THE JUDGE PRESIDENT

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24 April 2020

To:

1. All Judges of the Gauteng Division of the High Court, Pretoria and Johannesburg
2. All Judiciary Heads of the Regional and District Courts, Gauteng Division
3. Court staff, Professional Bodies, Practitioners and members of the public

JUDGE PRESIDENT'S DIRECTIVE
(17 APRIL REVISED DIRECTIVE)

RE: REVISED SUPPLEMENTARY DIRECTIVE in re COURT OPERATIONS IN THE PRETORIA AND JOHANNESBURG HIGH COURTS DURING THE EXTENDED COVID-19 NATIONAL LOCKDOWN AND FOR THE REMAINDER OF TERM 2/2020

1. These directives are issued in conformity with the directives of the Chief Justice on 17 March 2020 and 17 April 2020 and in terms of the authority vested in the Head of Court in terms of section 8(4) (b) of the Superior Courts Act 10 of 2013 and effective immediately upon publication on 17 April 2020.

2. These directives set out how, and under what conditions, all matters enrolled in the Gauteng Divisions shall be undertaken during the period of the lockdown and until the end of Term 2 of 2020, including the first week of the July 2020 recess. The Directive of 25 March 2020 in respect of the High Courts of the Gauteng Division remain in force except where varied in these directives. The prospects of long term full lockdown or

scaled down restrictions in movement remain and prudent behaviour to minimise exposure to infection, informs the policy choices made in these directives.

3. The general principle to be observed is that physical contact among persons be eliminated or minimized. To this end:

   3.1. In accordance with the practice in the High Courts of the Gauteng Division, pursuant to Directive no. 1 of 2020 (the implementation of CaseLines in the Gauteng Division) documents must be uploaded in all matters to the CaseLines digital platform, save where a Judge, in exercising a discretion, permits the documents to be served by email. No matter that is noncompliant with this paragraph shall be entertained, save in certain instances specified elsewhere in these directives.

   3.2. Matters on paper (Appeals and Applications) shall not, except where directed otherwise by the Judge seized with the matter, enjoy an oral hearing in open Court. Submissions may be advanced via CaseLines or via email and oral hearings may be dealt with by video conferencing where Parties wish to be heard orally, in accordance with ad hoc directives issued by the Judge which are appropriate to the circumstances.

   3.3. Matters that require evidence to be adduced shall not, in general, be conducted in open Court, and the Judge seized with the matter shall exercise a discretion about an appropriate mode of hearing, which may include receiving evidence on affidavit and the utilisation of video conferencing, and if otherwise unavoidable, the convening of a physical hearing.

   3.4. The Judge seized with a matter in which video conferencing is used shall exercise a discretion as to any responsibility to set this up as well as the liability for the costs implications of such utilisation.

CIVIL TRIALS

4. These directives apply to all Trial matters for the rest of Term 2 of 2020.

Re-allocations of set-down dates for matters

5. The Directive of 25 March 2020 concerning the automatic removal of trials set down between 14 April and 16 April 2020 is hereby revoked.

6. All trial cases which were or are set down on dates between 14 April to 30 April 2020, are hereby automatically removed from those rolls and are re-enrolled as follows:

14 April to 22 June
15 April to 23 June
16 April to 24 June
17 April to 25 June
20 April to 25 June
21 April to 26 June
22 April to 29 June
23 April to 30 June
24 April to 1 July
28 April to 1 July
29 April to 2 July
30 April to 3 July

7. All trials set down:

7.1. on 4 May 2020 and on dates thereafter until the end of Term 2 of 2020 shall remain enrolled.

7.2. in Pretoria, the trials enrolled on dates during the recess of 30 March to 9 April 2020 and the week of 29 June to 3 July, are hereby automatically removed and are re-enrolled as follows:

30 March to 22 June
31 March to 23 June
2 April to 24 June

2 April to 25 June

3 April to 26 June

6 April to 29 June

7 April to 30 June

8 April to 1 July

9 April to 2 July

29 June to 13 July

30 June to 14 July

1 July to 15 July

2 July to 16 July

3 July to 17 July

The Civil Trial Roll Call

8. There shall be no physical civil trial roll call. Instead the following procedure shall be effective immediately:

Practice Note required

8.1. The Parties shall submit a JOINT PRACTICE note after a special pre-trial conference at which the logistics of conducting the trial are addressed. If a Plaintiff cannot obtain cooperation from a Defendant, the Plaintiff must submit its own practice note and explain why a joint practice note was impossible to be composed. Lack of co-operation by either Party shall attract punitive orders by the Court.

8.2. The practice note must reach the Secretary of the ADJP by not earlier than four days and not later than by 11h00 two Court days before the set-down date. If no practice note is timeously received, the matter shall automatically be removed. If the practice is non-compliant with the practice manual or this directive, the matter shall be automatically removed. This directive shall be strictly applied.

8.2.1. In **Pretoria** this practice note shall be sent by email to TLedwaba@judiciary.org.za

8.2.2. In **Johannesburg** this practice note shall be sent by fax to 011 335 0219 and/or email to SecretaryDJP@judiciary.org.za

8.3. The practice note must, in addition to the information required in terms of the practice manual, address these issues:

8.3.1. The names, email addresses and cell numbers of all Counsel. Counsel must hold themselves ready to receive a communication from a Judge or Judges Secretary, during the two days until set down date.

Settled matters

Pretoria

8.3.2. In Pretoria, settlements shall not be made orders of Court as part of the Civil Roll Call.

8.3.3. All settled RAF matters must be referred to the Settlement Roll and no cost orders shall be made. The settlement agreement must be accompanied by the deed of settlement and the joint memorandum of settlement. The orders will be transmitted by email to the Parties by the Judges or their secretaries, allocated to the matters.

8.3.4. All non-RAF matters that are settled can be forwarded to JHefer@judiciary.org.za and must include the settlement agreement, a draft order and a practice note. The order will be transmitted by e-mail to the Parties.

8.3.5. In respect of any other matters which have become settled, and in which it is necessary to adduce evidence, e.g. to establish quantum of damages, the relevant evidence must be contained in an affidavit and annexed together with a draft order in word format, to the practice note. Any submissions that Counsel believes are necessary to advance must be contained in the practice note. If the Judge deems it necessary, Counsel

shall be contacted to procure further submissions. These matters can also be emailed to JHefer@judiciary.org.za. The order will be transmitted by email to the Parties.

Johannesburg

8.3.6. In Johannesburg, in respect of "Y" matters, a statement must be made that the matter is settled, or settlement negotiations are ongoing, and the matter is therefore to be removed from the roll so that the Plaintiff can apply to enrol the matter in the Settlements and Consent Orders Court. Settlements shall not be made orders of Court as part of the roll call and no costs orders shall be made.

8.3.7. In respect of matters "C" "D' and "P" and "F" that are settled, the practice note must be accompanied by the deed of settlement and a draft order in word format. An order in respect thereof, shall be made and transmitted by email to the Parties.

8.3.8. In respect of any matter which has become settled, and in which it is necessary to adduce evidence:

8.3.8.1. e.g., to establish a quantum of damages, the relevant evidence must be contained in an affidavit and annexed, together with a draft order in word format, to the practice note. Any submission that Counsel believes are necessary to advance must be contained in the practice note. If the Judge deems it necessary, Counsel shall be contacted to procure further submissions.

8.3.8.2. In settled divorce matters, the directives set out in paragraphs 54 – 70 of this directive shall apply.

8.3.9. An order in respect thereof shall be made and transmitted by email to the Parties.

Matters ready to go to trial

8.3.10. All matters in which the Parties are ready and wish to proceed to trial, the Parties must indicate in the practice note:

8.3.10.1. what arrangements they have put in place to facilitate the hosting of a teleconference for the disposal of the matter.

8.3.10.2. what evidence can be adduced on affidavit.

8.3.10.3. to what extent a physical hearing is unavoidable.

8.3.11. The Judge allocated to deal with the matter shall communicate via email, or otherwise, with the Counsel and, having regard to the arrangements the Parties have made or are capable of making, exercise a discretion as to how the matter is to be disposed of and shall give ad hoc directives. Counsel must keep themselves available to be contacted. Such directives, without limiting the scope of the discretion being exercised, may include:

8.3.11.1. The admission of evidence remotely using video conferencing techniques;

8.3.11.2. A physical Court hearing for all or part of the evidence;

8.3.11.3. Admitting evidence by affidavit;

8.3.11.4. Any other procedure or technique that may afford an elimination or limitation of the risk of physical proximity among the persons involved.

Matters not ripe to go to trial

8.4. No matter of any kind will be stood down until later in the day. Where matters are not ready for trial, they shall be removed from the roll. Should a matter later become settled, it may be enrolled:

8.4.1. in Pretoria on the Settlements Roll,

8.4.2. and in Johannesburg, in the Settlements Court,

and should not be re-enrolled on the trial roll.

8.5. Where the sole controversy between the Parties is liability for costs, such question shall be reserved for decision at a later date and shall not be dealt with as part of the civil trial roll process.

8.6. The allocations shall be published by email to the professional bodies and to the Parties' attorneys at the email address given in the practice note.

Matters crowded out

9. If any matters ripe for trial cannot be allocated to a Judge, the matter shall stand over until the next Court day. It will not be necessary to replicate the practice note except where the Parties no longer require a Judge to be allocated, in which case the Secretary of the ADJP shall be notified by email thereof.

Litigants in person

10. In those cases where a Party appears in person:

10.1. and goes to the Court building, that litigant shall approach the designated official at the Court building who shall render assistance to that litigant through the use of the virtual Courtroom, or otherwise assist as directed by the Judge seized with the matter. A notice to this effect that shall be posted in the foyer of the Court.

10.2. and if such litigant's contact details are known, the Secretary of the Judge to whom the matter is allocated, shall endeavour to make contact to communicate the relevant information. Where such litigant has personal access to teleconferencing facilities the necessary link may be set up accordingly, if the Judge so directs.

Removal at instance of the Parties before the due date, for filing a practice note

11. If the Parties to any matter agree not to deal with the matter under these conditions, the Parties must, to enable the Civil Trials Registrar to compose the roll, at least 5 clear Court days before the trial set-down date, formally remove the matter from the roll and email a copy thereof to the Civil Trials Registrar:

    11.1. In Pretoria at: CivilTrialremovalsPTA@judiciary.org.za

    11.2. In Johannesburg at: TKhumalo@judiciary.org.za

    No costs orders shall be made for removal of a matter.

APPEALS

12. These directives shall apply to all appeals set down for the rest of Term 2 of 2020 until 26 June 2020 *and not only* for the period of the lockdown.

13. Full Bench Appeals (Magistrates Court) are exempt from uploading to CaseLines to enjoy judicial attention until further notice.

14. In terms of the Directive of 25 March 2020 all appeals in the week of 14 -16 April were automatically transferred to the week of 4 to 8 May 2020 in Pretoria and 15 to 24 June 2020 in Johannesburg as communicated by the Registrar. That directive remains in force.

15. All appeals (including the transferred appeals) on the roll from 20 April 2020 shall remain enrolled, notwithstanding the Lockdown or extension thereof and any social distancing regulations that may remain in place thereafter.

16. All appeals set down during the term shall be disposed of without an oral hearing in open Court, pursuant to section 19(a) of the Superior Courts, and the Court shall rely only on the heads of argument filed; subject to the following:

    16.1. If both Parties agree, an appeal may be removed from the roll. There shall be no costs order.

    16.2. If the Counsel for any Party wishes to supplement the papers with additional submissions, they must be made in a practice note sent by email to the Secretary of the presiding Judge at least two Court days before the date of the set down.

    16.3. If the Counsel for any Party wishes to make oral submissions, that wish must be stated in the practice note and the broad ambit thereof be stated.

    16.4. The Presiding Judge shall exercise a discretion as to the disposal of the matter and may issue ad hoc directives which may include, inter alia, one or more of these options:

        16.4.1. A hearing using video conferencing techniques; where this option is chosen, the Appellant shall, unless otherwise directed by the Presiding Judge, undertake to organise the setting up of a video conference as host, and shall send a link to all Parties and Judges involved for a meeting at a time and date stipulated by the Presiding Judge.

        16.4.2. After the end of the lockdown period, a physical Court hearing, if appropriate in the circumstances.

        16.4.3. Any other procedure or technique that may afford an elimination or limitation of the risk of physical proximity among the people involved, including, e.g., interrogatives sent to the Parties by email or other means.

17. Any queries by any Party must be made by email only and addressed to the presiding Judge via the Judge's Secretary and copies sent to the other Parties.

18. The Appellant remains *dominus litis* and is ultimately responsible for the efficient disposal of the appeal.

19. The Order and the Judgment shall be communicated to the Parties by email by the presiding Judge, and where applicable, uploaded to CaseLines.

THE OPPOSED MOTION COURT

20. These directives shall apply to all opposed motions set down for the rest of Term 2 of 2020 until 26 June 2020 *and not only* for the period of the lockdown or any extension thereof.

21. In terms of the Directive of 25 March 2020 all opposed motions in the week of 14 to 17 April 2020 were automatically transferred to the week of 4 to 8 May 2020. That directive remains in force.

22. All opposed motions (including the transferred opposed motions) on the roll from 20 April 2020 onwards shall remain enrolled, notwithstanding the Lockdown or extension thereof, and any social distancing regulations that may be imposed thereafter.

23. Only matters that have been uploaded on CaseLines shall be heard. All non-compliant matters shall automatically be removed from the roll. In Johannesburg requests for final enrolment as well as removals and enquiries related to Opposed Motions, must be sent to JHBOenrolment@judiciary.org.za and in Pretoria its PTAOenrolment@judiciary.org.za.

24. The Judge to whom a matter is allocated shall, not later than five Court days before the week in which the matter is set down, notify the Parties that he or she is seized with the

matter and all further communication about the matter shall be directly, by email only to the email address stipulated by that Judge.

25. All opposed motions set down during the term shall be disposed as follows:

25.1. If both Parties agree, an opposed motion may be removed from the roll. There shall be no costs order for removal of a matter.

25.2. The Parties shall endeavour to agree about whether the matter may be disposed of without oral argument; if agreed, Counsel for any Party who wishes to supplement the papers with additional written submissions must do so in a practice note sent by email to the email address designated by the Judge or to the Judge's Secretary, by not later than the Friday before the week in which the matter is set down

25.3. If no agreement is reached about forgoing oral argument, that must be communicated to the Judge in a practice note sent by email, not later than noon on the Friday before the week in which the matter is set down, and a hearing shall take place as directed by the Judge seized with the matter, which may include one or more of the following options:

25.3.1. A hearing using video conferencing techniques may be convened; where this option is chosen, the Applicant shall, unless the allocated Judge directs otherwise, undertake to organise the setting up of a video conference as host, and shall send a link to all Parties and Judges involved at a time and date stipulated by the allocated Judge.

25.3.2. A physical Court hearing, if the circumstances so require.

25.3.3. Any other procedure or technique that may afford an elimination or limitation of the risk of physical proximity among the people involved.

26. Any queries by any Party must be made by email only and addressed to the Presiding Judge via the Judge's Secretary and copies sent to the other Parties.



27. In those cases where a Party appears in person:

    27.1. that litigant shall approach the designated official at the Court building who shall render assistance to that litigant through the use of the virtual Courtroom. A notice to this effect that shall be posted in the foyer of the Court.

    27.2. or, where such a litigant's contact details are known, the Secretary of the Judge shall endeavour to make contact to communicate the relevant information. Where such litigant has personal access to teleconferencing facilities a link may be set up accordingly, if the Judge so directs.

28. The Applicant remains *dominus litis* and is ultimately responsible for the efficient disposal of the application. Where the Applicant is unrepresented, the Respondent shall assume the responsibility.

29. The Order and the Judgment shall be communicated to the Parties by email by the allocated Judge and uploaded on to the CaseLines file of the respective matter.

SPECIAL MOTIONS/3RD COURT MOTIONS and TAX COURT MATTERS

30. Special Motions/3rd Court Motions enrolled from 14 to 17 April 2020 were removed and allocated alternative dates from 4 May 2020. The parties involved in these matters will be notified of the new dates.

31. All Special Motions/3rd Court Motions shall be handled as provided in paragraphs 22 to 28 of this directive.

32. Matters in the Tax Court roll for this term remain on the roll and shall be handled in the same way as provided for Opposed Motions.



THE UNOPPOSED MOTION COURT

33. These directives apply to all unopposed matters set down in Term 2 of 2020, including and after the lockdown period.

34. The transfers of the unopposed matters originally set down on dates between 27 March and 16 April 2020 to new dates between 28 April and 14 May 2020 remain in force. Of these new dates, only 28 and 29 April are within the current extended lockdown period. Matters initially enrolled during the period 20 to 24 April remain on the roll on those dates.

    The transfers are as follows:

    27 March to 28 April
    30 March to 28 April
    31 March to 29 April
    1 April to 30 April
    2 April to 4 may
    3 April to 5 May
    6 April to 5 May
    7 April to 6 May
    8 April to 7 May
    9 April to 11 May
    14 April to 12 May
    15 April to 13 May
    16 April to 14 May
    17 April to 15 May

35. Only matters uploaded to CaseLines shall be heard. If a matter is not uploaded onto CaseLines because it is impossible to do so, the papers may be transmitted by e mail (with a satisfactory explanation) to the allocated Judge, failing which it shall be removed from the roll and no costs order shall be made. The Judge shall exercise a discretion whether or not to hear a matter not uploaded on CaseLines.



36. All matters shall remain on the roll (as revised) and shall, at the discretion of the Judge, be disposed of as deemed appropriate to the circumstances. In addition:

36.1. When a matter is not ripe for disposal because of the dislocations caused by the lockdown to the necessary preparation of the matter or the briefing of Counsel:

36.1.1. the parties may remove the matter from the roll by notice;

36.1.2. or the Judge seized of the matter may *mero motu* remove it from the roll.

36.2. In such a case the matter may be re-enrolled, without any adverse costs consequences, on application to the Registrar, stating the reason for the removal. This shall also apply to any other enquiries related to Unopposed Motions. In Johannesburg the email to be used is JHBUEnrolment@judiciary.org.za and in Pretoria it is PTAUEnrolment@judiciary.org.za.

36.3. Upon receipt of such a case, the Registrar shall enrol the matter on a date in the week after the application to re-enroll the matter is made.

37. The manner of disposal shall be as follows:

37.1. If an Applicant wishes to contribute any written submissions about the unopposed matter, such written contribution should be included with a practice note in the CaseLines uploaded bundle in a separate and clearly distinguished file or be sent by email to the email address stipulated by the Judge.

37.2. If an Applicant takes the view that an oral hearing is necessary, that view must be stated in a practice note and uploaded on CaseLines in a separate and clearly marked file or sent by email to the email address stipulated by that Judge, whereupon the Judge shall issue an ad hoc directive as to the holding of a video conference.

37.3. The practice note must give an email address and cell number of the Counsel moving the matter to enable the Judge to make contact about an oral hearing by

video conference or otherwise, and also to facilitate the prospects of a Judge having a query that might need to be addressed to the Counsel for input.

37.4. In respect Rules *Nisi* in which the return date falls within the lockdown period and has been enrolled on the Unopposed Court Roll, the rule shall be extended to a date after the lockdown period; if the matter has not been enrolled on the Unopposed Court Roll, it may be enrolled in the Urgent Court in order that the rule be extended to a date after the lockdown period.

37.5. A Respondent who, despite being late to do so, wishes to oppose the granting of an order, must communicate that fact by email to the Secretary of the allocated Judge and to the Applicant and otherwise comply with this directive.

37.6. A Respondent who appears in person and who goes to the Court building shall make his or her presence and intention known to the Registrar, and a notice to this effect shall be placed on the Foyer notices board, indicating the Court Official who is to be approached. Counsel or attorney for an Applicant must at once when it becomes known that there is opposition, regardless of its merits, communicate that fact to the allocated Judge.

37.7. The customary draft order (including Counsel's email address and cell number) in word format must be presented among the documents uploaded to CaseLines or transmitted by email.

37.8. The Judge shall either refuse the Order, or grant it in part or whole or grant any other order as is deemed appropriate

37.9. Hard copies of the signed orders shall be created by the Judge and one copy shall be retained by the Judge, and another copy sent to the Registrar.

37.10. A third copy of the signed Order shall be transmitted by email to the Applicant's Counsel at the email address furnished on the draft order.

JUDICIAL CASE MANAGEMENT MEETINGS (PRETORIA)
CASE CONFERENCES COURT (JOHANNESBURG)

38. These directives apply to all matters for the rest of Term 2 of 2020.

39. The Directive of 25 March 2020 concerning the automatic re-enrolment of these matters is hereby revoked. The new dates are set out hereunder, save for those matters in Johannesburg which were re-enrolled to 28, 29 and 30 April 2020. Paragraph 39.2 below provides the manner of disposal of these matters:

27 March to 6 May
30 March to 7 May
31 March to 8 May
1 April to 11 May
2 April to 12 May
3 April to 13 May
6 April to 14 May
7 April to 15 May
8 April to 18 May
9 April to 19 May
14 April to 20 May
15 April to 21 May
16 April to 22 May
17 April to 25 May

39.1 In Pretoria all matters enrolled from 22 April to 30 April 2020 have been removed from the roll and allocated alternative dates from 6 May 2020. Parties involved in those matters will be notified of such dates. Matters that were enrolled for 20 and 21 April 2020, which were removed or could not be dealt with due to the absence of the parties or for any other reason attributable to the lockdown, will also be allocated alternative dates from 4 May 2020 and the parties will be notified of those dates.

39.2 In Johannesburg all matters postponed to 28, 29 and 30 April shall retain those dates and dealt with by the Judges to whom they have been allocated. In the event that any of these matters are removed for any reason related to the lockdown, the Parties are to request a new enrolment date from the Registrar.

40. The name of the Judge allocated to hear specific cases and an email address as stipulated by that Judge shall be published to the Legal Profession by the Registrar. Thereafter, all communication between the Parties and the Judge shall take place by email or as otherwise directed by that Judge.

41. Upon receipt of the files, whether in physical form or on CaseLines, the Judge who is allocated to hear the matters shall exercise a discretion as to the manner in which the matters shall be dealt with, which may include one or more of the following options:

41.1. Publish a schedule of times during the day at intervals as determined at the Judge's discretion, at which a video-conference shall be convened; in which case, the Plaintiff shall be responsible to set up a video-conference meeting on zoom, or on any other platform as directed by the Judge, for the stipulated time, host it, and send a link to the Judge and the Defendant.

41.2. Publish a list of times at which the Judge proposes to convene a video conference which the Judge shall host and shall send a link to the email addresses of the Counsel for each Party. Counsel must hold themselves ready to join such meetings at the stipulated time or as soon thereafter as the meeting may be convened.

41.3. After the period of Lockdown has ended, and subject to any regulations or Ministerial directions which inhibit free movement of persons, where appropriate, direct that the matters shall be heard in a physical Court room, in which case the matters may be staggered throughout the day to reduce exposure to physical contact among persons.

41.4. Any other procedure that, at the discretion of the Judge, is deemed appropriate.



41.4.1. In addition, when a matter is not ripe for disposal because of the dislocations caused by the lockdown to the necessary preparation of the matter or the briefing of Counsel:

41.4.1.1. the parties may remove the matter from the roll by notice;

41.4.1.2. or the Judge seized of the matter may *mero motu* remove it from the roll.

41.4.2. In such a case the matter may be re-enrolled, without any adverse costs consequences, on application to the Registrar, stating the reason for the removal.

41.4.3. Upon receipt of such a case, the Registrar shall enrol the matter on a date in the week after the application to re-enroll the matter is made.

42. Furthermore, in matters where the parties have been unable to engage substantively about the matter and for that reason the Judicial Case Management Meeting/case management conference cannot be effectively conducted, the matters shall be removed from the roll, subject to the following:

42.1. In Pretoria, the re-enrolment of the matter shall take place on the initiative of the parties on five days' notice, whereupon the Registrar shall accommodate as early a set-down as is feasible.

42.2. In Johannesburg, the "45 day requirement" for an application for a Case Management Conference shall be relaxed where such a case management conference has been removed from the roll under these circumstances.

42.3. However, if the re-enrolled Case Management Conference cannot take place before the trial date, that trial date shall axiomatically be forfeited. In a case where, for this reason, a trial date has been forfeited, the Registrar shall accommodate the parties with a new trial date at the earliest time available. (At the present time, a new date on three months' notice can be expected to be allocated)



43. The Plaintiff remains *dominus litis* and is responsible for ensuring the efficient disposal of the matter.

44. It is not a pre requisite for matters in this category to be uploaded on CaseLines to enjoy judicial attention.

CONSENT ORDERS/SETTLEMENT COURT

In both Pretoria and in Johannesburg

45. These directives apply for the rest of Term 2 of 2020.

46. The transfers of matters originally set down on dates between the 27 March and 16 April 2020 to new dates between 28 April and 14 May 2020 remain in force. Of these new dates, only 28 and 29 April 2020 are within the current lockdown period. Matters initially enrolled during the period 20 to 24 April 2020 remain on the roll on those dates. The transfers are as follows:

27 March to 28 April
30 March to 28 April
31 March to 29 April
1 April to 30 April
2 April to 4 may
3 April to 5 May
6 April to 5 May
7 April to 6 May
8 April to 7 May
9 April to 11 May
14 April to 12 May
15 April to 13 May
16 April to 14 May
17 April to 15 May

47. Matters set down on this Roll shall be dealt with in the identical fashion to the Judicial Case Management Meetings/Case Management Conferences under the conditions described above.

In Johannesburg only

48. In addition to all "Y" matters which must be removed from the civil roll in terms of the Directive of July 2019, in addition thereto, all other categories of matters, "C" "F" "P" and "D", that become settled before that set down date must, also, in terms of this directive:

48.1 be removed from the trial roll and set down for disposal in the Settlements Court;

48.2 and any such matter that is removed from the civil trial roll for unreadiness on that set-down date (as described in paragraph 8.4 above,) and where subsequent thereto the matter becomes settled, the matter shall be enrolled in the Settlements Court for disposal.

INTERLOCUTORY COURT

49. These directives apply to all matters for the rest of Term 2 of 2020.

50. All such matters should be uploaded on CaseLines and only where not possible to do so, the Applicant must email the full set of papers to the allocated Judge.

51. In terms of the Directive of 25 March 2020 the interlocutory matters set down between 27 March and 16 April 2020 were removed and the Parties were directed to apply to set them down anew from 28 April 2020 on dates allocated by the Registrar. That directive remains in force. The transfers are as follows:

27 March to 28 April
30 March to 28 April
31 March to 29 April

1 April to 30 April

2 April to 4 may

3 April to 5 May

6 April to 5 May

7 April to 6 May

8 April to 7 May

9 April to 11 May

14 April to 12 May

15 April to 13 May

16 April to 4 May

17 April to 15 May

Pretoria:

52. All matters on the Interlocutory Court Roll shall be dealt with as part of the Unopposed Roll under the conditions described above.

Johannesburg:

53. All matters on the Interlocutory Court Roll shall be dealt with in the identical procedure to the Unopposed Roll in the Special Interlocutory Court.

APPLICATIONS FOR LEAVE TO APPEAL

54. All applications for leave to appeal shall be initiated by an email to the Registrar and copied to the Secretary of the Presiding Judge. The emails to the Registrar shall be sent to:

54.1 Pretoria: Ltapta@judiciary.org.za

54.2 Johannesburg: CThomas@judiciary.org.za

55. The Presiding Judge shall exercise a discretion about an appropriate mode of hearing to address the application.

BAIL APPEALS

56. A bail appeal shall, after consultation with the Director of Public Prosecutions, be initiated by email to the Registrar:

    56.1 In Pretoria: BBhana@judiciary.org.za

    56.2 In Johannesburg: SiNkosi@judiciary.org.za

57. The Director of Public Prosecutions shall liaise with the Registrar and the ADJP concerning the allocation of a Judge to hear the matter.

58. The allocated Judge shall exercise a discretion about an appropriate mode of hearing to address the application.

DIVORCES IN PRETORIA AND IN JOHANNESBURG

59. These directives apply for the rest of Term 2 of 2020 and regulate the hearing of unopposed divorces after the lockdown period has ended.

Pretoria

60. Divorces in Pretoria shall continue to be dealt with in the Unopposed Motion Court under the conditions described above.

Johannesburg

61. Divorces in Johannesburg shall continue to be dealt with on Fridays in the Divorce Court.

62. Paragraph 12 of the Directive of 25 March transferred unopposed divorces in Johannesburg originally set down on 27 March, 3 April and 17 April to Friday 24 April 2020. That directive is revoked as the litigants shall be unable to lawfully travel to the Court building on that date.

63. The divorce matters are hereby automatically transferred to the dates as set out:

27 March to 8 May
3 April to 15 May
17 April to 22 May
24 April to 29 May

Mode of hearings of unopposed Divorces in Pretoria and in Johannesburg

64. There are three categories of unopposed divorce matters, and the roll shall, as far as possible, be clearly demarcated:

a. Matters not involving minor children.
b. Matter involving minor children.
c. Matters in which the Party is unrepresented.

Category A:

65. All matters that do not involve minor children *must* be dealt with by adducing evidence on affidavit and no Party shall testify in person, save where the Judge orders otherwise.

66. A practice note must be submitted with the set down notice.

67. The practice note must include:

67.1 submissions, if any, by Counsel for the Party,

67.2 a request, if any, to make oral submissions,

67.3 an affidavit setting out the relevant evidence,

67.4 a certified copy of the marriage certificate with an affidavit from Counsel stating that the original was examined and it is a true copy,

67.5 and a draft order in word format which must contain the name, email and cell phone details of Counsel.

68. Where filing the practice note with the set-down is not possible, the practice note may be submitted by email at any time before or on the date of set down.

69. Counsel must keep themselves available to be contacted on the date of set down by email or cell phone.

70. The matters shall be disposed of at the discretion of the allocated Judge, in respect of which ad hoc directives may be issued, which may include:

70.1 Disposal without an oral hearing;

70.2 Disposal during a video conference which either the Party or the Judge may host;

70.3 Disposal at a physical traditional hearing.

Category B:

71. All matters that do involve minor children *must* be dealt with by adducing evidence on affidavit and no Party shall testify in person, save where the Judge orders otherwise.

72. A practice note must be submitted with the set down notice.

73. The practice note must include:

73.1 submissions, if any, by Counsel for the Party;

73.2 a request, if any, to make oral submissions;

73.3 an affidavit setting out the relevant evidence, which must address in detail the arrangements contemplated for the minor children and the views of the Family Advocate, if any;

73.4 a certified copy of the settlement agreement;

73.5 a copy of the marriage certificate with an affidavit from Counsel stating that the original was examined and it is a true copy;

73.6 and a draft order in word format containing the name, email and cell details of Counsel.

74. Where filing the practice note with the set-down is not possible, the practice note may be submitted at any time before or on the date of set down.

75. Counsel must keep themselves available to be contacted on the date of set down by email or cell phone.

76. The matters shall be disposed of at the discretion of the allocated Judge, in respect of which ad hoc directives may be issued, which may include:

76.1 Disposal without an oral hearing;

76.2 Disposal during a video conference which either the Party or the Judge may host;

76.3 Disposal at a physical traditional hearing.

<u>Category C:</u>

77. Unopposed divorces in which the Party appears in person shall be disposed of at the discretion of the allocated Judge, in respect of which ad hoc directives may be issued, which may include:

77.1 Disposal during a video conference;

77.2 Disposal at a physical traditional hearing.

78. In those cases where an unrepresented Party:

78.1 goes to the Court building, that Party shall approach the designated official at the Court building who shall render assistance to that litigant through the use of the virtual Courtroom. A notice to this effect shall be posted in the foyer of the Court.

78.2 can be contacted because the relevant contact details are known, the Secretary of the Judge shall endeavour to make contact to communicate the relevant information concerning the manner of the hearing.

78.3 has personal access to teleconferencing facilities an appropriate link may be set up accordingly, as the Judge directs.

URGENT COURT

79. The provisions of paragraphs 3 to 5 of the Directive of 25 March 2020 continue to apply:

79.1 including during such extensions which include any scaled down restrictions on movement that relate to the courts.

79.2 However the form of the affidavit required from Counsel shall henceforth be thus:

" I ……hereby certify that this matter is of such urgency that it must be heard during the period of Lockdown, or during a period during which restrictions are in place relating to the free movement of persons owing to measures to combat the covid-19 infection pandemic."

80. These provisions shall continue to apply for the rest of Term 2 of 2020 and the July recess period. Furthermore:

80.1 A litigant who wishes to launch an urgent application and proposes to serve papers at a time before the week in which that litigant proposes to set the matter down for a hearing, shall by email to the Secretary of the Senior Urgent Court Judge, request that a case number be assigned for such purpose.

80.2 The email request must clearly state the names of the parties and of all the legal representatives that are known at the time of the request, and both the request and the reply must be attached to the papers filed.

80.3 The Secretary of the Senior Urgent Court Judge who issues such case number shall copy such information to the Registrar responsible for applications.

GENERAL CONDITIONS UNDER WHICH PARTIES MAY ENTER THE COURT BUILDING WHERE A PHYSICAL HEARING HAS BEEN DIRECTED BY A JUDGE

81. Counsel and litigants who are required to travel to the Court building must comply where applicable with any further restrictions that may be imposed after 30 April 2020. If travel is not lawful, the matters shall be removed from the roll automatically.

82. Anyone seeking access into the Court buildings must submit to compulsory screening, must wear a face mask and must adhere to applicable social distancing rules.

83. Only the Parties, the Counsel and the Attorneys shall enter the Court building.

84. Any Party who does not wish to have the matter dealt with under the conditions described above must remove the matter from the roll.

85. Orders of the Court shall be prepared in hard copy, signed, a copy retained by the Judge, a copy sent to the Registrar, and a copy communicated to the Parties by email.



ETIQUETTE IN VIDEO CONFERENCE HEARINGS

86. The Judge and persons appearing in video hearings shall wear formal attire or be robed.

87. Participants shall ensure that there is no ambient noise in the room which can interfere with the audio quality during the hearing.

88. In general, subject to any ad hoc directives given by the Judge, the participants shall mute their microphones when not actually speaking.

89. The Judge shall invite participants to speak and everyone shall be alerted to the Judge's directions in this regard.

90. Participants shall remain in the hearing and leave it only when the proceedings have concluded.

91. The Judge shall give instructions as to the recording of the proceedings;

91.1 where a party is responsible therefor, an audio file shall immediately, at the close of the proceedings be sent to the Judge at a stipulated email address for retention by the Judge until such time as the Registrar can take custody thereof.

91.2 if the Judge or the Judge's Secretary or a Stenographer records the proceedings, the Judge shall retain the audio file, until such time as the Registrar can take custody thereof.

ADMISSIONS OF LEGAL PRACTITIONERS

92. These directives shall apply for the rest of Term 2 of 2020.

93. Admissions which were set down in April 2020 have been transferred as listed below:

Pretoria:

14 and 16 April to 6 May
20 and 21April to 13 May
23 and 28 April to 20 May
30 April to 27 May

Johannesburg:

16 April to 7 May
23 April to 14 May
30 April to 21 May

94. The procedure to prepare an application for a hearing is as follows:

94.1 The entire application must be uploaded to CaseLines, save where it is not possible to do, in which case the papers may be sent, by email, to the Secretary of the Senior Judge presiding over the Roll of Admissions, together with a sound explanation therefor, whereupon the Senior Judge may exercise a discretion to direct the utilisation of the emailed papers.

94.2 The Legal Practice Council (LPC) and or its legal representatives must be added/invited as a party to the CaseLines file.

94.3 The LPC must upload the relevant documents it wishes to contribute to the application not later than three days before the date of the hearing.

94.4 Admission applications shall otherwise be disposed of in the same manner as set out in paragraphs 37.1 to 37.3 above.

94.5 The Counsel moving the matter must furnish on CaseLines an affidavit that he or she has examined the original documents relating to the degrees conferred on the candidate for admission and verifies that they appear to be authentic.

94.6 The Senior Judge seized with the roll of Admissions shall give directions on the manner of hearing; in the absence of an ad hoc directive:

94.6.1 The Senior Judge or Judge's Secretary shall host a video conference and send a link to an email address stipulated by the Counsel moving the application; that Counsel must invite the candidate for admission to join.

94.6.2 The oath of office shall be administered during the hearing.

94.6.3 The Oath of Office form shall thereafter be emailed to the Counsel moving the application who must cause the candidate for admission to sign it, scan it, and then transmit the scanned signed document to the Secretary of the senior Judge who shall oversee its completion.

94.6.4 A hard copy shall be sent to the LPC and an email copy sent to the Counsel who moved the matter.

94.6.5 The certificate issued by the Registrar shall be uploaded to CaseLines and the original shall be available for upliftment from the Registrar's office after the lockdown or upon suitable arrangements made with the Registrar.

94.6.6 All enquiries relating to admissions must be directed to the following email addresses:

In Pretoria: TLegodi@judiciary.org.za.
In Johannesburg: JHBadmissions@judiciary.org.za



TAXATIONS OF BILLS OF COSTS

95. In Pretoria and Johannesburg no Taxations shall be considered until Monday 4 May 2020.

96. Matters may be set down on and after that date in accordance with directions which shall be made by the Taxing masters in each court.

APOSTILLES

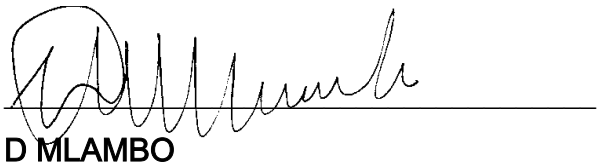
97. The Registrar at each court shall make a Deposit Box available for litigants to deliver requests for documents to be notarised.

98. The documents must be contained in a sealed envelope marked clearly APOSTILLES and a covering letter which contains the name and email address of the responsible person who must be notified that the documents are ready for collection.

99. When ready they will be placed in a collections box for collection and the responsible person shall be notified by email thereof.

GENERAL

100. It is important to use the correct email address for any aspect dealt with in these directives. Incorrect and abusive usage of email addresses will lead to the issue being raised in such email not being attended to. In particular, emails sent to the email address of the Judge President regarding an issue covered in the directives will be ignored.



D MLAMBO
JUDGE PRESIDENT OF THE GAUTENG DIVISION OF THE
HIGH COURT OF SOUTH AFRICA