



**REGIONAL COURT
REPUBLIC OF SOUTH AFRICA**

REGIONAL COURT: KWAZULU-NATAL

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Date: 11 May 2020

**COURT DIRECTIVES REGARDING THE MANAGEMENT OF CASES DURING THE
CURRENT NATIONAL STATE OF DISASTER LOCKDOWN PERIOD: REGIONAL
DIVISION KWAZULU-NATAL**

These directives are issued in compliance with the delegated authority of the Chief Justice in terms of Section 8 of the Superior Courts Act, 2013 which is to be read in conjunction with the directives issued by the Chief Justice dated 2 May 2020; the Judge President of KwaZulu Natal dated 1 May 2020 and the Minister of Justice and Correctional Services dated 3 May 2020 respectively.

After consultation with the relevant stakeholders, and being cognizant of the Directives that the physical appearance in court in dealing with matters ought to be the last resort, and seeking to strike a balance between access to Justice and having regard to the lack of IT infrastructure and equipment in KwaZulu-Natal, the following Directives will apply in the Regional Courts of KwaZulu-Natal from 11 May 2020 **subject to the Health and Safety protocols as per the relevant Regulations being implemented.**

1. Access to the Regional Courts

- 1.1** In order to ensure and maximise access to justice and court capacitation all Regional Magistrates will be allocated both criminal and civil duties during the period of lockdown.
- 1.2** In keeping with the current health and safety protocols, direct access to Magistrates' chambers will not be permitted.
- 1.3** All practitioners, prosecutors, officials, litigants, accused, witnesses and any other

person in attendance at court must at all times comply with all the published health safety, security and social distancing Directives and Regulations.

2 Criminal Matters

- 2.1** All criminal matters enrolled during the period of lockdown must be postponed save for :
- 2.1.1 Bail related applications;
 - 2.1.2 Pleas of guilty;
 - 2.1.3 Prioritised cases which include but are not limited to part-heard matters where the accused are in detention and cases involving gender-based violence, femicide and/or children;
 - 2.1.4 Applications for leave to appeal.
- 2.2** The scheduling of these cases are to be done in a manner so as to limit numbers to accommodate social distancing in courts, and with particular regard to the number of accused persons who are in detention and can be transported safely to court in adherence to the health and safety protocols and social distancing requirements.

3. Civil Matters

3.1 Trials

- 3.1.1 No civil trials including partly-heard matters will proceed during the period of lockdown, unless:
- 3.1.1.1 The case has become settled;
 - 3.1.1.2 The presiding officer, in the interests of justice, determines otherwise;
 - 3.1.1.3 There has been a substantive application to motivate the basis of urgency.
- 3.1.2 In any matter deemed urgent by the presiding officer the parties shall:
- 3.1.2.1 Comply with the Civil Practice Directives;
 - 3.1.2.2 File a joint practice note setting out *inter alia*:
 - 3.1.2.2.1 Efforts made to settle the matter and
 - 3.1.2.2.2 The availability of necessary witnesses;
 - 3.1.2.3 The practice note must reach the Registrar when the roll closes in keeping with the Civil Regional Court Practice Directives;
 - 3.1.2.4 The names, email addresses and cell numbers of the legal representatives of the

respective parties must be filed.

3.2 Unopposed Motion Court

3.2.1 Unopposed applications already enrolled for hearing during the period of the lockdown shall be dealt with in the following manner:

- 3.2.1.1 Unless the presiding officer concerned determines otherwise, the matter will be dealt with on the papers.
- 3.2.1.2 Only unopposed matters shall be placed on the unopposed motion court roll.
- 3.2.1.3 All opposed motions and opposed Rule 58 matters will be placed on a separate roll.
- 3.2.1.4 To maintain social distancing in the unopposed motion court only legal practitioners and/or the instructing attorney will be allowed in court.
- 3.2.1.5 No draft order(s) or papers will be handed in at the hearing. All draft orders for motion court are to be placed in the court file before the roll closes failing which the matter will be removed from the roll.

3.3 Urgent Matters

- 3.3.1 All urgent and *Ex Parte* applications which have not been enrolled on the unopposed motion court roll are to be referred to the Acting Regional Court President and/or the Co-ordinators for allocation.

3.4 Opposed Motions and Rule 58 Applications

- 3.4.1 All opposed motions and Rule 58 Applications will be disposed of in the following manner:
 - 3.4.1.1 Parties are to ensure strict compliance with Practice Directives of the Regional Court.
 - 3.4.1.2 Parties are to file all heads of arguments, practice notes and supporting case authorities in compliance with the Practice Directives of the Regional Court.
 - 3.4.1.3 The Legal representatives of the parties shall provide a joint statement indicating *inter alia* the issues in dispute and which of those issues the presiding officer will be required to rule on.
 - 3.4.1.4 Parties can elect to have the issues decided on the papers without the need

for an oral hearing. The presiding officer may direct that further written submissions be filed.

3.4.1.5 In the event of parties deeming it necessary for oral argument to be heard then the presiding officer may at his/her discretion adjourn the matter for that purpose on a suitable date and time to be arranged.

3.4.1.6 In respect of the opposed motions being adjourned to a further date such presiding officer will be deemed to be seized with the matter.

3.5 Unopposed Divorces

3.5.1 Unopposed divorces are to be adjourned and placed on a dedicated roll unless determined as urgent or expedient by the presiding officer.

3.5.2 Expedience considerations will include the following:

3.5.2.1 Unopposed divorce actions or defended divorce actions which have become settled where:

3.5.2.1.1 A notice of set down has been served on the defendant unless both parties appear in person at the hearing;

3.5.2.1.2 If children are involved, a family advocate's report/ recommendations has been filed;

3.5.2.1.3 The presiding officer determines on the hearing date that the case can be finalised and that no potential prejudice to either party as a result of the lockdown limitations in place will ensue.

3.6 Pre – Trial Conferences

3.6.1 No pre-trial conferences or case flow management hearings will be dealt with during the lockdown period unless the matter has become settled.

4. Exclusions

4.1 A regional magistrate who presides in any matter brought before the court may order that the application of any of these directives be excluded where the interest of justice so require.



S. MARKS
ACTING REGIONAL COURT PRESIDENT
KWAZULU- NATAL

11-5-2020

