



Magistrates' Court Judiciary

MPUMALANGA

Republic of South Africa

MAGISTRATE COURT: MBOMBELA

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26/03/2020

To: **All Magistrates:**
Mpumalanga Administrative Region

DIRECTIVES IN RESPECT OF COURT FUNCTIONING IN LIGHT OF THE 21 DAY LOCKDOWN ANNOUNCED DUE TO COVIT-19

You are reminded that the services required for the functioning of the Courts are designated as “essential services” in terms of Government Notice No 43148 dated 25th March 2020.

Conscious of the gravity of the risk associated with the Covid-19 pandemic and its effect on the administration of justice in the Magistrates Courts in the Mpumalanga province, the Office of the Chief Magistrate, after discussions with the senior managers at Regional Office as well as the prosecution, hereby issues the following directives as guidelines to the courts. These guidelines will be subject to any published directives/directions issued by the Chief Justice and Minister of Justice and Correctional Services in terms of the Regulations under the Disaster Management Act, 2002.

General:

1. The operational hours of courts during the lockdown period for the criminal courts [for the postponement of enrolled and pending cases] **shall be from 08:00 until 11:00 weekdays**, except where emergency and exceptional circumstances dictate that the hours should be extended. **After 11:00** the courts will **only** be accessible for **urgent family law related applications and urgent civil applications**.
2. There will only be skeleton staff at the courts during the lockdown period subject to the basic safety measures as required.

3. The skeleton staff at courts must include Court Orderlies at the criminal courts, security at the entrances to controlled access to the building, and cleaners to ensure a safe and healthy environment
4. A list of skeleton court staff with their contact particulars must be drawn up and be made available to all stakeholders including security supervisors.
5. Heads of Court and Sub-Cluster Heads have a responsibility to ensure the safety of the magistrates and may allow, after exercising proper discretion as to their respective requirements and subject to the dictates of fairness and equal treatment, for one or more magistrates not to report for duty during this period. If implemented such is to be done on a rotation basis and MC15's must be endorsed on the 2nd Page ('Absence from Work/Office') at the relevant dates with an endorsement 'National Disaster Declared'. This will not be necessary if the magistrate attends to judicial duties (such as Inquests, Default Judgements or Admission of Guilt) at home.
6. It remains the responsibility of Heads of Court and Sub-Cluster Heads to ensure that there are sufficient magistrates reporting for duty daily in order to ensure that service delivery, as required by the relevant directives at the time, are complied with.
7. A list of magistrates who will deal with urgent applications for protection orders and Children's Court matters must be provided to the Sub-Cluster Heads and the Office of the Chief Magistrate by no later than 12:00 on 26/03/2020.
8. A list of magistrates and their duties during the lockdown period, as well as the rotation of magistrates, must in a similar manner be forwarded to the Office of the Chief Magistrate before 12:00 26/03/2020.
9. All magistrates are reminded that, notwithstanding any rotation plan, **any** magistrate whether excused from attendance or not, must always remain available to perform any duties as may be required in the Cluster or elsewhere and as may be determined by a Sub-Cluster Head or the Cluster Head.
10. Magistrates must submit duly completed **Form 1** (Annexure C - GG no. 43148 dated 25th March 2020) i.e. "the permit to perform essential service", to the office of the Chief Magistrate.

11. The Regional Court President approached the Office of the Chief Magistrate with a request that magistrates assist with the postponement of Regional Court matters at circuit Regional Courts to limit travelling. Magistrates are requested to assist in this regard.

Criminal Courts:

12. Where possible, courts must be combined to deal with the postponements on a single roll in order to limit the need for court support staff.
13. As a general rule no trials may proceed unless a case is regarded as emergency and essential and that further postponement may result in gross injustice to the affected parties.
14. Mbombela and eMalahleni must utilise the Audio Visual Remand systems for purposes of the postponement of cases where accused persons are in custody. At all other courts where accused persons are kept at Correctional Facilities, the matters must be remanded in absentia for the period of lockdown as declared by the President. **J7 warrants containing the remand date and bail particulars must be issued and forwarded to the Correctional Facilities** as per arrangements with SAPS and or Court Managers.
15. In instances where accused persons must be released (e.g. matter withdrawn or released on warning) a J1 warrant of liberation must be prepared and a copy of the charge sheet attached to it. Correctional Services must be contacted to personally collect same from the Clerk of the Court. Under no circumstances may the J1 be handed over to SAPS or any other person. Where the Accused person is to be warned for a later court date, the date must be indicated on the J1 and the Accused must get a copy.
16. All matters where children are detained in Child and Youth Care Centres must be remanded in absentia for the period of lockdown as declared by the President and the required J7 warrants must be issued as indicated above.
17. **Only bail applications at first appearances will be heard.**
18. Cases on periodical court rolls must be attended to at the main courts to limit travelling. There must be communication with the police at the respective periodical

courts to ensure that accused persons who may be present at the periodical courts for their cases, are informed of the remand dates. The police will not be required to bring any of these persons to the main courts.

19. In instances where courts may order bail forfeiture as a result of the accused not being able to attend court proceedings, the forfeiture is to be suspended to a date after the lockdown period.

20. Any Action Plan prepared and circulated by the Acting Director of Prosecutions in the province of Mpumalanga is to be read and implemented with these directives.

Civil and Family Courts:

21. No trials will proceed, and parties/legal representatives must be informed in writing of the new dates. Dates can also be arranged telephonically before the actual dates the matters are to be in court.

22. No formal maintenance enquiries will proceed and no new applications will be attended to, but parties who have reached a quantum agreement, whether interim or final, must be assisted to have it ratified into an order.

23. Applications for domestic violence and harassment interim protection orders will be attended to and where necessary such orders are to be issued. Complaints/reports of non-compliance and requests for the issue of warrants of arrest must also be attended to.

24. Child protection matters and applications to the children's court for urgent orders must be attended to.


 TONJENI T S
 CHIEF MAGISTRATE: MBOMBELA
 CLUSTER HEAD: ADMINISTRATIVE REGION 8
 MPUMALANGA

