

DIRECTIVES BY THE CHIEF MAGISTRATE OF CAPE TOWN IN RELATION TO COVID-19 AND THE NEW DIRECTIVES ISSUED BY THE MINISTER DATED 30 MARCH 2020

The Directives issued by the Minister are self-explanatory. In relation thereto the following has become necessary to amplify the Directives my office issued earlier, from an operational point. In brackets are sections of the Minister's new Directives.

CRIMINAL MATTERS

1. Only matters which were set down for trial, including partly-heard matters should be enrolled (3(b)).
2. All other criminal matters where accused are not in custody should not be on the court rolls during the lockdown (3(g)). Matters already postponed to periods within the lockdown should be removed from the roll.
3. In the interests of justice, the following matters should be enrolled and postponed even where the accused is not in custody, to wit where they are arraigned for murder, culpable homicide, attempted murder, assault with the intent to do grievous bodily harm, sexual offences, trio crimes, domestic violence and offences relating to contraventions of the Firearms Control Act, No 60 of 2000 or gang related. Where accused are not present, issue a warrant, order holding over until after 90 days and order the state to summons the accused for the new date
4. Awaiting trial detainees who should be brought to court from the SAPS cells and Correctional Facilities are for purposes of first appearances, bail applications, or matters allowed at the discretion of the judicial officer only (3(c)).
5. Bail applications and bail information postponements should be for 7 days at a time.
6. No petty offences should be enrolled (3(e)). Those on the roll already should be removed from the roll.
7. My guidance on bail less than R5000-00 remain. I am aware that where bail is set it is where the offence is generally of a serious nature. I am also aware that generally the only reason that this category of awaiting trial prisoners is in custody is that they are too poor to afford the amount set. I have confidence in the magistrates that you take into account that the multiplicity of certain crime types can have some effect or the prevalence thereof in a specific community or the accused propensity to commit the same type of offences e.g. housebreaking and theft. It is ill-advised of me to provide a closed list of crime types that should be excluded from release if any but care should be exercised on accused facing charges of murder, culpable homicide, attempted murder, assault with the intent to do grievous bodily harm, sexual offences, all forms of robbery, domestic violence and offences relating to contraventions of the Firearms Control Act, No 60 of 2000 or gang related. The magistrate should still effectively decide each case on its merits and make an informed decision in this regard.

CIVIL MATTERS

1. Applications where parties agree on electronic delivery of processes, including filing addresses to the court and heads of arguments, as well as to receive a written judgment electronically, may be enrolled, provided that the matter may be disposed of without the necessity of the parties or legal representatives physically attending to court.
2. No matters, unless urgent, shall be placed on the roll.

LEGAL AID

Practitioners of Legal Aid South Africa, like all other practitioners, should strive to arrange dates in trial matters, deliver processes electronically in an effort to dispense with the need to come into courthouses in civil matters, and only need to come to court for urgent matters, first appearances and bail applications.

FAMILY MATTERS

1. All urgent applications and hearings will be attended to and less urgent matters postponed to a later date.