

OFFICE OF THE JUDGE PRESIDENT



GAUTENG DIVISION OF THE HIGH COURT OF SOUTH AFRICA

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11 May 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 CONSOLIDATED DIRECTIVE

(11 MAY 2020 CONSOLIDATED 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 Directives



of 25 March 2020, 2 April 2020 and 24 April 2020, as revised, in respect of the High Courts of the Gauteng Division are withdrawn and the substance thereof, as varied herein, is consolidated in these directives. Some directions that predate these directives have been retained to avoid confusion regarding the matters dealt with in those directions. Covid-19 related 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 for urgent and permitted matters as specified in the Disaster Management Regulations.

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.



3.5. As regards the logistics of video links, in the Unopposed Motion Courts, Divorce Courts, Judicial Case Management rolls, Case Management Conferences, Interlocutory Court, Rule 43 Court and the roll for Admissions as Legal Practitioners, where each of these Courts have rolls comprising several matters, subject to the discretion of the Judge presiding over these Courts; among the options is for a single link to be set up at the Judge's initiative/directive, for the whole Roll which is published to the Professional Bodies and relayed to interested Attorneys and Counsel. The Counsel appearing shall then join the video hearing and take turns at having their matters heard rather than set up individual links for each matter.

3.6. A litigant that wishes to make oral submissions is entitled to do so and the Judge seized of the matter shall exercise a discretion as to how that can be facilitated. This implies that if it is not possible to facilitate an effective oral hearing, the matter may be removed.

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 cooperation 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 note 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 Judge's 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 59 to 78 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. Admitting evidence by affidavit;

8.3.11.3. 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: JHBCiviltrials@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 be removed from the roll, except where a satisfactory explanation is proffered as to why that was not possible. The Judge shall exercise a discretion as to the use of another method of presentation of the papers, whether by email or in physical form.

23.1. In Johannesburg requests for final enrolment as well as removals and enquiries related to Opposed Motions, must be sent to JHBOenrolment@judiciary.org.za

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

25.4. In any opposed motion in which more than two parties are before the Court and the matter is either complex or involves several issues of either a procedural or substantive nature, Counsel for the several parties must hold a pre-hearing conference and prepare a coherent agenda to present to the Judge seized of the matter addressing the efficient conduct of the hearing.

25.4.1. The Agenda should be transmitted in advance of the date for hearing, preferably at least 5 days, in a Joint practice note, to facilitate, where necessary a pre-hearing conference with the Judge.

25.4.2. The Judge shall not be bound by such agenda and may exercise a discretion to vary it.

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 were 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. Rule 43 applications shall be dealt with on the same basis as unopposed motions, whether in Pretoria as part of the Unopposed Motion Court or in Johannesburg in the Rule 43 Court.
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 were within the 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. However, 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 JHBUpvisional@judiciary.org.za for provisional enrolment/date allocation and JHBUEnrolment@judiciary.org.za for final enrolment/removal and enquiries. 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 Judge's Secretary. 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 and/or applicable restrictions, 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: JHBappeals@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 the Attorney of record 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 the Attorney of record 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.

Category C:

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 are withdrawn in their entirety and replaced by these directives.

80. Hearings shall be conducted only via teleconferencing/videoconferencing and/or any other electronic means.



81. Only where it is impossible to arrange teleconferencing or alternative electronic means, the Judge seized with the matter may direct a hearing in which the representatives of the parties may physically appear.
82. Paragraph 3.3 of the Directive of 25 March stated that all urgent matters would henceforth be dealt with on the after-hours basis and a case number had to be obtained from the Senior Judge's Secretary. This was suitable for a short-term lockdown but not for an indefinite regime of restrictions.
83. With effect from 8 May 2020 there shall be a revision to the orthodox system and Secretaries shall no longer issue a case number except for that immediate week's roll during office hours and except for matters brought in terms of paragraph 84 of this Directive. The issuing of case numbers should be directed to GeneralofficePTA@judiciary.org.za for matters in Pretoria and JHBissuing@judiciary.org.za for Johannesburg cases.
84. In respect of urgent matters which justify being brought outside of office hours the contact numbers for the Urgent Court of the respective Courts are: Pretoria – 065 859 4819; Johannesburg – 081 727 7734 / 082 573 5233.
85. The papers shall be uploaded onto CaseLines, or where that cannot be achieved, the papers shall be sent by email to an address as directed by the Urgent Court Judge.
86. Only when the uploading of papers on Case lines is impossible to achieve, may a physical set of papers be delivered as directed by the Urgent Court Judge, which shall include an affidavit explaining, in full, why it was impossible to transmit the papers via CaseLines or email.
87. Any person applying for urgent relief in person, shall, before filing any papers, communicate with the Urgent Court Judge's Secretary to determine whether the Judge shall authorize the filing of papers, whether on CaseLines, via email or physically.



88. Any Order granted/issued shall be communicated by email to the Parties and/or uploaded onto CaseLines.

89. In respect of matters dealt with on CaseLines and in addition to the CaseLines helpdesk number, Litigants/Practitioners may contact the following numbers for support in relation to the utilization of the system: -

89.1 for technical support in respect of Pretoria matters on CaseLines: 067 862 9339

89.2 for technical support in Johannesburg matters on CaseLines: 067 208 775

90. The Counsel or the Attorney who is to appear in the matter shall sign a certificate in these terms:

“ Ihereby 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.”

91. The enrollment of an allegedly urgent matter found not to warrant a hearing in this period may, at the discretion of the Judge seized with the matter, result in punitive costs being awarded and the culpable Counsel and Attorney being interdicted from receiving any fees for all work relating to the matter.

92. Service of process in all urgent matters shall comply with the Rules of Court. Where agreement can be reached by the representatives of all parties to vary the requirements of the rules to facilitate a wholly electronic exchange of papers, condonation shall be granted *ipso facto*.

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



93. 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.
94. 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.
95. Only the Parties, the Counsel and the Attorneys shall enter the Court building.
96. Any Party who does not wish to have the matter dealt with under the conditions described above must remove the matter from the roll.
97. 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

98. The Judge(s) and legal professionals appearing in video conferencing hearings must be robed.
99. Participants shall ensure that there is no ambient noise in the room which can interfere with the audio quality during the hearing.
100. In general, subject to any ad hoc directives given by the Judge(s), the participants shall mute their microphones when not actually speaking.
101. The Judge shall invite participants to speak and everyone shall be alerted to the Judge's directions in this regard.
102. Participants shall remain in the hearing and leave it only when the proceedings have concluded.
103. The Judge(s) shall give instructions as to the recording of the proceedings;



103.1 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.

103.2 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

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

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

Pretoria:

14 and 16 April to 6 May
20 and 21 April 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

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

106.1 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.

106.2 The Following entities must be added/invited as a party to the CaseLines file:

106.2.1 The Legal Practice Council (LPC) and or its legal representatives

106.2.2 The Pretoria Society of Advocates, per email: ptabar@law.co.za

106.2.3 The Johannesburg Society of Advocates, per email: jsaadmissions@zacasesines.com

106.3 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.

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

106.5 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.

106.6 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:

106.6.1 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.

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

106.6.3 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.

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

106.6.5 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.

106.6.6 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

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

108. 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

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



110. 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.
111. When ready they will be placed in a collections box for collection and the responsible person shall be notified by email thereof.

COMMUNICATIONS WITH THE REGISTRARS AND JUDGES' SECRETARIES

112. 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 or the Chief Registrar regarding an issue covered in the directives will be ignored.
113. The primary channel of communication for any aspect of any matter is to the relevant Registrar's email address.
114. It is important to furnish in any email to the Registrar the relevant email address that is to be used for any CaseLines link and for video link invitation. Failure to provide the correct information inhibits effective communication and frustration to all involved.
115. Difficulties, if any, in uploading papers to CaseLines, must be addressed to the dedicated CaseLines support email address for remedial action:
- 115.1 In Pretoria: PTACaselines@judiciary.org.za
- 115.2 In Johannesburg: JHBCaselines@judiciary.org.za



ISSUING OF PROCESS AND RELATED ISSUES INCLUDING PRESCRIPTION OF CLAIMS AND *DIES NON*

116. Litigants are advised that they may invite the office of the relevant Sheriff to CaseLines to afford remote access to the papers.

117. In respect of concerns from litigants and members of the profession regarding obligations they face imposed by Rules of Court and/or any statute to file Court process and/or deliver any documents within certain stipulated periods, which periods fall within the national lockdown period declared by the President., the following Directives will apply until further notice and are issued cognizant that the Superior Courts Act does not clothe a Head of Court in my position, with the power to declare the national lockdown period to be dies non:

117.1 Any litigant who is obligated by any provision in a statute or by a rule of Court to serve and file Court process and/or deliver any document ancillary thereto, and the date for compliance falls within the lockdown period, may comply with such obligation, as stipulated in this Directive.

117.2 The relevant process and/or document as the case may be:

117.2.1 May be uploaded on the relevant case/matter if it is registered on the CaseLines platform. Such uploading and the date thereof shall be deemed to be the effective date and service on all relevant parties as well as proper filing in terms of the rules of Court;

117.2.2 If the matter is not registered on the CaseLines platform, the process and/or document as the case may be, may be transmitted by email to the relevant parties entitled to receive such process and/or document, who may not withhold their email addresses unreasonably. Such email transmission shall be deemed to be effective service on such parties provided that proof of transmission and/or delivery must be filed. For filing purposes in terms of this paragraph, the relevant process and/or document, with the relevant



proof of transmission and/or delivery, shall be transmitted to the following email address:

For matters in the Gauteng Division, Pretoria –
PTAfiling@judiciary.org.za

For matters in the Gauteng Division, Johannesburg –
JHBfiling@judiciary.org.za

118. No practitioner/messenger/member of the public may enter the Court building for purposes of filing any process and document envisaged in this Directive, provided that unrepresented litigants who have no email facilities, intending to file such process and/or document will be guided further at the Court entrance.
119. In the event of non-compliance or partial compliance with any provision in a statute or by a Rule of Court to serve and file Court process and/or deliver any document ancillary thereto during the national lockdown, and which is attributable to the strictures imposed by the national lockdown and its implications for the litigant or the litigant's legal representatives, condonation, where required, shall be granted by a Court in respect of any shortcomings in compliance attributable to the national lockdown.

APPLICATIONS LODGED AFTER 1 MAY 2020 TO SET DOWN NEW MATTERS

120. Litigants shall, from 1 May 2020 be entitled to set down matters in accordance with the usual practice of the Courts, save that process must be addressed to the designated email addresses and not delivered physically to the Court houses.

120.1 In Pretoria:

PTAUdateapplications@judiciary.org.za for all unopposed motion date applications excluding default judgments as per ADJP Potterill's instruction;



PTAUEnrolment@judiciary.org.za for confirmation of the date for final set down;

PTAOEnrolment@judiciary.org.za for Opposed motions;

TLegodi@judiciary.org.za for Admissions;

JCMform5PTA@judiciary.org.za for Judicial Case Management - Form 5;

JCMform6PTA@judiciary.org.za for Judicial Case Management - Form 6;

TLedwaba@judiciary.org.za for Civil Trials (RAF Matters);

CivilTrialApplicationsPTA@judiciary.org.za for application for trial dates;

JHefer@judiciary.org.za for all settled trial matters (non RAF matters);

MMohlala@judiciary.org.za for all settled RAF trial matters;

120.2 In Johannesburg:

JHBUpvotional@judiciary.org.za for application for a date (provisional set down) of Unopposed Motion, Summary Judgment, Rule 43, Divorces and Interlocutory applications where no trial date is set;

JHBUEnrolment@judiciary.org.za for confirmation of the date for final set down

JHBOEnrolment@judiciary.org.za for Opposed motion

JHBadmissions@judiciary.org.za for Admissions and Trial Interlocutory applications

JHBpretrial@judiciary.org.za for Case Management Conferences

JHbciviltrials@judiciary.org.za for Civil Trials



120.3 The following protocol shall apply:

120.3.1 An email must be sent to only the relevant email address

120.3.2 An email must be sent only once

120.3.3 Emails must be sent only between 09:00 and 13:00 on Court days

120.3.4 Directive 2/2020 remains in place, where no more than 15 processes per law firm should be sent on a daily basis

COMMUNICATION OF ORDERS AND JUDGMENTS OF THE COURT

121. All Judgments and Orders ready to be handed down during the lockdown period, will be uploaded on the relevant section of the respective matter, if it is registered on CaseLines. If the matter is not on CaseLines, the Judgement will be transmitted by email to the respective parties.

MATTERS IN WHICH ORDERS ARE MADE BY JUDGES IN CHAMBERS

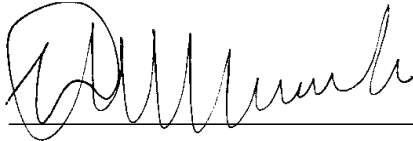
122. All applications which traditionally are dealt with by a Judge in chambers shall only be dealt with if uploaded to CaseLines.

123. Matters which have already been issued in physical format shall not be dealt with and the responsible Registrar shall notify such litigants to upload the papers on CaseLines whereupon they will be distributed to Judges to address. The Registrar will upload the Order on CaseLines.

124. Rule 46(11) applications for the cancellation of a sale in execution are a special case: where the property which is the subject of the sale in execution is a residential property



which is or was a primary residence, the application shall be dealt with in the Unopposed Court. Where the property was not a primary residence it may be dealt with in chambers.



D MLAMBO

**JUDGE PRESIDENT OF THE GAUTENG DIVISION OF THE
HIGH COURT OF SOUTH AFRICA**

