



## **REGIONAL COURT PRESIDENT LIMPOPO REGIONAL DIVISION**

Private Bag 19320 Polokwane 0700 34 Landros Mare' Street – Polokwane –  
Tel: (015) 294 6055 Fax: 086 679 7083- [www.justice.gov.za](http://www.justice.gov.za)

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### **LIMPOPO REGIONAL DIVISION DIRECTIVES FOR THE MANAGEMENT OF REGIONAL COURTS DURING THE NATIONAL STATE OF DISASTER PERIOD**

The Chief Justice has delegated his authority in terms of section 8(3) of the Superior Courts Act, 2013, to all Heads of Court in the Superior Courts and Magistrates/Lower Courts to take such action and issue such Directions as may be necessary to give effect to the Directives issued by the Chief Justice on 2 May 2020.

As Head of the Regional Court in Limpopo I hereby repeal the directives issued on 25 March 2020 in respect of the Regional Courts in the Limpopo Regional Division and issue the following Directives for the Regional Courts in the Limpopo Regional Division in terms of the authority delegated to me by the Chief Justice in terms of section 8(3) of the Superior Courts Act, 2013:

#### **1. Access to the Regional Courts:**

- 1.1 The Regional Courts will remain open during the national state of disaster period subject to the basic safety measures being provided.
- 1.2 All practitioners must provide their contact details, including cellular phone numbers, What's app numbers and email addresses to the Civil Assistant Registrars and Court Stenographers and ensure that they have relevant software to facilitate audio-visual appearances.

1.3 All practitioners, prosecutors, officials, litigants, Accused, witnesses and any other person at court must at all times comply with all the published safety, security and social distancing Directives and Regulations.

## **2. Criminal matters in the Regional Courts:**

2.1 All part heard cases must be given priority and all must endeavour to ensure that the necessary arrangements are made timeously so that part heard cases can proceed.

2.2 Heads of arguments must be filed electronically as arranged with the judicial officer prior to the date the matter is set down for argument on the merits or for sentence to expedite finalisation.

2.3 Consideration must be given to use section 158 of the Criminal Procedure Act for audio-visual testimony of witnesses, particular expert witnesses where it is possible.

2.4 Where a case will not proceed where Accused persons are in detention and it is known prior to the date of appearance, arrangements should be made with the correctional facility for an audio-visual postponement where possible.

2.5 Where it is known prior to the date of appearance that any case will not proceed where the Accused not in detention, arrangements can be made for postponing the case using audio-visual link.

2.6 If a legal practitioner cannot be at court for matters to be postponed, arrangements must be made by the legal practitioner timeously for a virtual appearance using an audio-visual link, including the time he/she will be available for the audio-visual appearance.

2.7 Steps must be taken to make the necessary arrangements with practitioners and prosecutors for the appearance of Accused as well as their legal practitioners in all cases that had been postponed in absentia during lockdown. If Accused requires a notice to confirm the court appearance in order to be able to travel to court, arrangements should be made to issue such notice timeously.

2.8 If witnesses have to come to court from another district, arrangements must be made that they be issued with the necessary subpoena timeously so that they will be able to get the necessary permits to travel to the court in time if needed.

### **3. Civil matters in the Regional Courts (including divorces):**

#### **General**

- 3.1 Matters to be issued, the filing of pleadings and notices, requests for default judgments as well as requests for the allocation of dates should be done electronically to the central email address of the relevant Regional Court Civil Seat as far as possible.
- 3.2 On all matters to be issued, pleadings and notices, the central email address of the Assistant Registrar at that Regional Court Civil Seat must be included together with the physical address to ensure all litigants are aware that further pleadings and notices can be filed electronically at the Regional Court Civil seat with the Assistant Registrar.
- 3.3 If any practitioner or litigant cannot file a matter, notice, pleading or request electronically with the Assistant Registrar at any Regional Court Civil seat, the matter to be issued, pleading, request or notice to be filed, must be placed in a sealed envelope with a covering letter which must include relevant case information and contact details, which envelope must be clearly marked that it is for the attention of the Regional Court Civil Assistant Registrar and placed in the designated drop box at the entrance of the building.
- 3.4 Parties wishing to have a matter, which is set down for hearing during the national state of disaster period, removed from the roll, must jointly do so by issuing a joint notice in this regard and file it with the Assistant Registrar at least 5 days prior to the hearing.
- 3.5 The Assistant Registrars at all Regional Court Civil Seats are directed to ensure that all parties are informed of all new dates allocated to cases that did not proceed during the lockdown period.
- 3.6 Judgments should be handed down electronically and court orders forwarded electronically to the practitioners and litigants concerned by the Assistant Registrars as far as possible.

#### **AUDIO-VISUAL APPEARANCES**

- 3.7 Audio-visual appearances are preferred in respect of all pre-trial conferences, unopposed and opposed applications, settled civil matters as well as other matters as directed by the presiding officer.

3.8 Practitioners must file a PRACTICE NOTE at least 3 days prior to the date of the hearing requiring an audio-visual appearance or audio-visual link testimony (unless arranged otherwise with the relevant presiding officer) which must include all relevant details, including proposed audio-visual link or platform to be used and agreed to by all and all relevant contact details, including email addresses or cell phone numbers to be used for the audio-visual appearances.

3.9 The Regional Magistrate must schedule such audio-visual appearance for a specific time and cause an email calendar invitation for the audio-visual appearance to be sent out to the relevant practitioners.

### **TRIALS**

3.10 The following matters can be dealt with:

3.10.1 Unopposed and settled divorce cases

3.10.2 Finalisation of part heard matters

3.10.3 Urgent matters

3.11 Dates can be requested for all civil and divorce cases that have been settled to be finalised.

3.12 No civil (including divorce) trials will proceed during the stage 4 alert level unless the judicial officer determine otherwise if it is necessary in the interest of justice that the case proceed.

### **APPLICATIONS**

3.13 All applications and requests for default judgment should be dealt with through audio-visual appearances as far as possible.

3.14 Unopposed and opposed applications already enrolled for hearing during the period of the national state of disaster can be dealt with as well as urgent applications.

3.15 The Regional Magistrate at that court can be contacted and urgent applications can be submitted and dealt with electronically or as arranged telephonically with the Regional Magistrate concerned,

3.16 Heads of arguments must be submitted prior to the date of hearing electronically in all opposed matters.

3.17 The Regional Magistrate can direct to parties in unopposed matters to file heads of argument electronically prior to the date of hearing if necessary.

#### **4. ETIQUETTE IN VIDEO CONFERENCE APPEARANCES AND HEARINGS**

4.1 The Regional Magistrate and the participants must join the audio-visual appearance at least 5 minutes prior to the scheduled time in order to ensure that all are connected at the scheduled time.

4.2 The Regional Magistrate and persons appearing in video hearings shall wear formal attire but need not be robed.

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

4.4 In general, subject to any *ad hoc* directives given by the Regional Magistrate, the participants shall mute their microphones when not actually speaking.

4.5 The Regional Magistrate shall invite participants to speak and everyone shall be alerted to the Regional Magistrate's directions in this regard.

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

4.7 The Regional Magistrate shall give instructions as to the recording of the proceedings;

4.7.1 As far as possible steps should be taken to ensure that the audio is recorded onto the CRT system in court; however in addition it should be recorded on the device used for the audio-visual hearing by either the Regional Magistrate or a party to the audio-visual appearance.

- 4.7.2 If the Regional Magistrate or a Stenographer records the proceedings on the device used for the audio-visual hearing, the Regional Magistrate shall retain the audio file, until such time as the Court Manager can take custody thereof.
- 4.7.3 Where a party is responsible to record an audio file that party shall immediately, at the close of the proceedings sent it to the Regional Magistrate at a stipulated email address for retention by the Regional Magistrate until such time as the Court Manager can take custody thereof.

## 5. Exclusion

- 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 in any matter where the interest of justice so require.



JH Wessels

**Regional Court President**

