

## Nqadala Khandilizwe

**From:** Yvonne Van Niekerk <YVanniekerk@judiciary.org.za>  
**Sent:** Friday, March 27, 2020 8:48 AM  
**To:** Nathi Mncube; Raphahlelo Sibongile; Mviko Nozuko; Motlekar Abida; Nulliah Quvashini; Sidlova Yoliswa; Ngubane Edmund; Monyemore Evelyn; Tonjeni Tule-tu; Ikaneng Johannah; Krieling Oswald; Ringane Chero; Judge-Daniel Thulare; Thulare Daniel; Loots Johan; Gomolemo Moshoeu; Nqadala Khandilizwe; Langa Mpopolele; Djaje Modibedi; Marks Sharon; Mbalo Zola; Dunywa Samson; Wessels Jakkie; Engelbrecht Naomi; Lekhuleni James; Du Preez Ignatius; Mokgobo Cornelius  
**Cc:** Moremedi Elias; Mbambaza Gcobisa; Mbadamana Nontsilkelelo; Seeco Keneoang; Mabusela Olga; DurbanChief MagistrateSecretary; Peters Kelicia; Robinson Carellene; Mokaila Portia; Mofokeng Bukelwa; KPogole@justice.gov.za; Dollie Shereen; Bresendale Gaynor; Masedi Nthabiseng; Mahlangu Johannes; Masebe Grace; Mapuma Mzukisi; Katane Tshwaro; Pmathunywa; Swanepoel Helen; Van Zyl Elizabeth; Mtshaulana Lindiwe; Tshobeni Bulelwa; Lusanda Ntuli  
**Subject:** Directives issued for the Magistrates' Courts  
**Importance:** High

Honourable Heads of Court,

With the nationwide lockdown being implemented today, there has been numerous enquiries relating to the directives issues and measures implemented at the Magistrates' Court to give effect to the delegation made by the Chief Justice.

Heads of Court are requested to kindly forward any directives issued relating to the management of cases and courts during the lockdown period. These directives will then be posted on the Judiciary website and other communication channels.

Kind regards,



OFFICE OF THE  
CHIEF JUSTICE

REPUBLIC OF  
SOUTH AFRICA

### Yvonne van Niekerk

Acting Director

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**THE MAGISTRATE'S COURT FOR THE REGIONAL DIVISION OF THE NORTHERN CAPE**  
**REPUBLIC OF SOUTH AFRICA**

**SUGGESTED MEASURES TO BE EMPLOYED IN THE NORTHERN CAPE  
REGIONAL COURTS IN RESPONSE TO COVID19**

**A. Introduction**

The speed at which the world pandemic Corona virus, COVID19, is spreading in our country has reached alarming proportions and has called for concerted drastic efforts from the President of the country and other relevant authorities charged and/or authorised to deal with or issue directives or measures aimed at and/or designed to contain and put an end to the spread of this scourge in terms of the Disaster Management Act, 2002 or any other legislation or power the implementation of which would have the desired effect.

**B. Presence of RMs and other Court Officials in the Regional Court  
Operational Areas**

1. In order to substantially minimise the chances and risk of contamination of the Regional Court operational areas, occupation of these areas should be reduced as much as possible and be occupied by anybody for the minimum period that such occupation is necessary for the discharge of the functions required for the operation of this court and/or discharge of these measures or other necessary administrative functions.
2. In keeping with the lockdown declaration, Regulations and other related measures only RMs that have been scheduled to attend to the Regional Court operations of the day and/or time should be available within the court precinct. This will also assist in the reduction of the employment of the already stretched resources that are required to ensure reduction of the virus within the court precinct as well as the concomitant cost reduction. All other RMs are required to work/operate from their homes and should ensure that they are easily and readily accessible for call up at any given moment and as promptly as the circumstances of any case require. In a nutshell a RM is reminded that he/she is on duty during the

period that he/she is required to work from home or away from the office, unless other normal leave arrangements have been made. All RMs are required to leave their out of office contact details, including the address, telephones and cellphones in my office and that of the Court Manager. Contact details of any next of kin or other contact should be provided so as to assist in the event of urgent tracing being required. A roster of RM(s) scheduled for actual court or other quasi judicial work for any date(s) will be circulated in due course.

3. Any RM, official or other court official or personnel suspecting him/herself to be infected should immediately report him/herself to the responsible person and immediately simultaneously self isolate until advised otherwise. Such RM, official or person should not come nor continue to remain within the Regional Court operational areas, until advised otherwise by a responsible person.

### **C. Postponement and Adjudication of Cases**

4. All Regional Court matters, both criminal and civil, should generally be postponed. Applications for the hearing of any matter in spite of the prevailing circumstances should be entertained and ruled upon as to whether they would be tried or not. Provided that requirements for any such urgent hearing or adjudication is set out in writing and in detail for consideration and the other party is first afforded opportunity to submit written response thereto. Such written application and response thereto would then be submitted in court for the court to further adjudicate or rule thereon. This will ensure that the least possible and necessary time and contact by the affected court officials is made.

- i. The Audio-Visual Remand (AVR) systems in Kimberley, Upington and Springbok shall be used for the remand of all cases where the accused persons are in custody. The relevant Regional Magistrate for the day should liaise with District AVR Magistrate as regards the time that Regional Court AVR's will be dealt with on that day, unless there is a (standing) arrangement between whether RCP/Coordinating Magistrate and the Chief Magistrate or head of that District Court.
- ii. Bail applications/Sect 49G's in which accused are in custody should be treated as urgent matter.
- iii. DCS/SAPS in relation to all centers that do not have AVR or instances in which section 159(4) of CPA does not apply must bring/or still has to bring the awaiting detainees to court for postponement and further remand warrant.

- iv. Where a person is on bail, warning or summoned fails to appear the Court may consider authorizing a warrant but stay same until the date/ the provisional cancellation of bail money until any day after the lockdown period.
  - v. The District Courts are requested not to transfer cases to the Regional Court during the lockdown period .
5. The discretion of any court adjudicating any such application is not restricted by these measures but would definitely be taken with due consideration to the current state of disaster and its effect to everyone, including the court's personnel. The RM ruling that the adjudication of the matter should proceed should ensure that all measures necessary to avoid or prevent spread or infection with COVID19 are in place in such court.
6. Written applications and responses should as much as possible preferably be via electronic communication so as to further reduce infection.
7. Where assistance of a District Magistrate is required in relation to our outside court, telephonic or other request should first be made to the relevant District Magistrate, after which the necessary acting appointment arrangements will be finalized. Regional Magistrates must immediately liaise with the District Magistrate of the court where postponement are required, and immediately submit the dates and names of the District Magistrate to the office of the RCP so as the Acting appointment to be processed.

#### **D. General Measures**

8. The number of persons in attendance in court should ensure that adequate space as at least defined in both the Regulations by COGTA Minister in terms of the Disaster *Management Act* as well as by the CJ in terms of his recent Directives (i.e. there should at least be one meter space in between any two persons whether they be officials or members of the public).
9. Only persons whose presence in court is absolutely necessary or are accompanying or present to give support to the witness or accused person(s) should be allowed in court so as to reduce the risk of infection. Any person objecting to so being disallowed should be referred to the Court Manager to attend to his or her objection and if he or she continues to object his/her objection should be referred to the RM concerned for final determination. The persons giving company should generally be reduced to one per witness or accused. The court must be sanitized after each case as to reduce the spreading of the

infections. Regional Magistrates must not call the next case if the court is not sanitized

10. Ideally, one case should be dealt with per time, unless attention on the next case will not entail another person occupying space previously occupied by another. Before the calling of any case that will necessitate the occupation of space by another person, the court shall be cleared and sanitized, especially on the areas that were occupied by a different person.

11. The Court Manager is requested to ask the Court Clerks or another official to assist with the responsibilities stated in paragraphs 8-10 &13.

- a) The Regional Court Clerks should immediately withdraw all the files and identify the cases where accused are remanded in custody for appearance during the period effective from 26 March 2020 to 16 April 2020 and submit the list to AVR Clerk for transmission to Correctional Services.
- b) Lindiwe/Portia to come and assist for emergencies as requested by RCP.

12. A no touch, no cough, no sneeze nor talk over any surface other on a tissue or flexed inside of the elbow should be adhered to so as to prevent on droplets falling on any surface and posing threat to further infection or spread of the virus.

13. A register of the court's occupants during any actual sitting and before each clearance so as to facilitate easy and prompt tracing should it be necessary. The Register shall reflect the names, address and telephone/cellphone numbers of all such occupants and/or their home references. Register must be maintained by 1 person to prevent contamination. Court Clerk to take particulars of those attending court on the day and keep the register.

14. These directives are valid for the duration of the period to which the President's declared Lockdown applies, and may be amended from time to time as the circumstances may otherwise dictate.

15. Our Regional Office is requested to provide the human, financial, resource and any other assistance necessary to realise these measures.

16. These Directives/Measures will be communicated to all stakeholders and posted on the various notice boards of the Regional Court.

17. Registrar should not enrol any civil matters for the month of April except the urgent applications which will be dealt with paragraph C above.

**E. Complaints and Enquiries**

17. Any complaints or enquiries on the implementation of these measures or on any Regional Court matter relating to or affected/affecting by the this Corona virus or disaster management relating thereto should be communicated or referred to the RCP or his representative or delegates on the contact details provided hereunder.

These are being issued in consultation with all the Regional Magistrates in the Northern Cape Regional Division.

DATED IN KIMBERLEY, THIS 25<sup>th</sup> Day of March 2020.



KMNQADALA  
REGIONAL COURT PRESIDENT/NORTHERN CAPE

**Nqadala Khandilizwe**

**From:** Nqadala Khandilizwe  
**Sent:** Friday, March 27, 2020 9:14 AM  
**To:** Nulliah Quvashini; Schneider Danie; Kgopa Cordelia; Smith Vernon; Ditse Martha; Hinana Stephen; Mdoda Lulamile; Viewe Malcolm; Tsotsa Selina; Mbalo Nomfuneko; Venter Amanda; Williams Andre; Birch Rohland  
**Cc:** Mtshaulana Lindiwe; Mokgosi Portia; Pule Tlaletsi; Plaatjies De-Alto; Botha Abraham (NPA Contact); Ligaraba Mpfunzeni (NPA Contact); Swarts Terence; Segopa Shirley  
**Subject:** Fwd: 20200326-gg43167-GoN418\_COGTA.pdf  
**Attachments:** 20200326-gg43167-GoN418\_COGTA.pdf

Colleagues

1. Herewith are Directions dated 26/03/2020 issued by the Minister of Justice & Correctional Services in terms of the DMA.
2. The COVID19 Regional Court Measures issued by my office on 25 March 2020 should be read with and, where necessary, subject to the Regulations issued by the CJ and COGTA Minister as well as directives issued by the various Ministers, particularly DOJ's Minister in terms of the DMA.
3. May I draw attention to the following provisions of the DOJ Minister's directions:
  - (a) ad paragraph 3(c): The provision appears to cover all awaiting trial detainees, including those detained in centres which are not connected to our courts with AVRs. If no awaiting trial detainee is brought to court and the detainee's further detention cannot be ordered under or in terms section 159(4) (sick detainees) or 159A(AVR detainees) of CPA, there does not appear to be any other enabling legal provision in terms of which such detainee's further detention can be extended, seeing that the Minister's directions do not include any such provision.
  - (b) ad paragraph 3(g): The provision prescribes that "all criminal court cases where accused are not incarcerated shall not be placed on the court roll.....and summons will be issued for new trial dates ": These provisions clearly absolve or have the effect of absolving such accused persons from coming to court during the Lockdown period. In the circumstances, even if such cases happen to be "placed on the roll" it clearly would be irregular to authorise a warrant of arrest even if its execution is stayed. I would advise that a court should not or be very slow Issuing a warrant of arrest in such circumstances. Equally the court should not issue orders provisionally cancelling accused's bail nor provisionally forfeiting accused's bail money. In fact, the case would have been placed on the roll irregularly or in error, and the best would be to make this entry in the criminal record book, instead of adjudicating the matter, especially where the accused is not in attendance. The provision state that the matter would be restored onto the roll by way of summons.
  - (c) ad paragraph 9: Colleagues are requested to always carry with them proof of their appointment to his/her office for presentation when necessary.
4. Any acting appointments that were made on 26 March 2020 to do postponements at the outside courts are as a result of this development withdrawn. Where necessary the RM/Acting RM to whom such court is allocated will be required to go and attend to the affected matter(s) personally or refer any difficult to my attention.
5. The measures/directives dated 25 March 2020 are hereby varied to the extent indicated in paragraphs 2 and 3 above. These directives and previous ones emanating from my office should not be read as prohibiting deviation ordered by a court through a proper exercise of its powers and discretion.

Kind regards.



KMNQADALA  
RCP/NC

Sent from Samsung tablet.

----- Original message -----

From: Nqadala Khandilizwe <[KNqadala@justice.gov.za](mailto:KNqadala@justice.gov.za)>

Date: 2020/03/27 07:43 (GMT+02:00)

To: Nqadala Khandilizwe <[KNqadala@justice.gov.za](mailto:KNqadala@justice.gov.za)>

Subject: 20200326-gg43167-GoN418\_COGTA.pdf

Sent from Samsung tablet.