



REPUBLIC OF SOUTH-AFRICA
THE HONOURABLE JUDGE J.S NYATHI

HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION
P O Box 442, PRETORIA

TO: ALL PRACTITIONERS

29 JUNE 2023

**IN RE: IMPLEMENTATION OF THE JUDGE PRESIDENT'S DIRECTIVE
DATED 11 JUNE 2021 FOR THE URGENT COURT OF 30 JUNE 2023
(16:00) TO 7 JULY 2023 (16:00) BEFORE JUDGE NYATHI J AND JUDGE
DU PLESSIS AJ.**

1. All applications which have already been enrolled by 12:00 on Thursday 29 June 2023 (when the roll closed) are indicated on the roll for Urgent Applications. Separate rolls will later be distributed between Judge Nyathi and Judge Du Plessis AJ after the allocation of matters have been finalised.
2. All applications should already have been uploaded on Court online and Caselines as required in terms of par. 172 - 183 of the JP's Directive of 11 June 2021. When an application is brought for Tuesday at 10:00 the applicant must ensure that all the relevant papers are filed by the preceding Thursday at 12:00. **If an application has not been filed, i.e. all papers fully uploaded by 12:00 on Thursday 29 June 2023** (when the roll closed, and subject to the degrees of urgency), the application may not be heard and may be struck off the roll (Practice Directive, Annexure "A" to 13.24, par [4], sub par 3, p H2-139).
3. **In all matters** (opposed and unopposed) **a Practice Note as well as Heads of Argument** must also be served and filed (**on Caselines and court online only and not to be sent to the Judge's secretary**) by all parties concerned. The application will then be adjudicated by means of an oral hearing, unless there is a written indication that it will not be necessary. Oral hearings will be

conducted in open court or MS Teams as the Judge indicates, subject to a time limitation, if necessary.

4. Due to time constraints imposed due to the nature of urgent court proceedings, no consideration will be given to documents belatedly filed, save in exceptional circumstances. A satisfactory explanation must be incorporated in the Practice Note.
5. **Failure to file Practice Note(s) and/or Heads of Argument timeously, will be an indication that there is no appearance for the party concerned and the application may then either be struck off the roll or be dealt with in the absence of such party.**
6. The practice note must indicate at least the following (to assist the Judge who will do the allocations and for both judges to be used in their preparation):
 - 5.1 Particulars and contact details of the legal practitioners;
 - 5.2 Nature of the relief sought (without referring to the notice of motion);
 - 5.3 Total number of pages;
 - 5.5 A brief summary of the factual as well as legal issues involved;
 - 5.4 A clear indication (without referring to the heads of argument) which portion of the papers must be read and which not;
 - 5.5 The main issues to be considered;
 - 5.6 A brief summary of the urgency or absence thereof;
 - 5.7 Whether there was service by the sheriff, and if not, why not (unopposed applications);
 - 5.8 Estimated duration;
 - 5.9 Whether the matter is opposed or not.

Failure to file a practice note setting out all the above information, par by par individually, may result in the application be struck off the roll and a punitive cost order be granted.

7. The **Practice Note** must be served and filed (on Caselines and court online) **by no later than Friday 30 June 2023 at 10:00.**
8. **In all applications, the Heads of Arguments of the Applicant must be uploaded by no later than 14:00 on Sunday 2 July 2023 and the Respondent to file no later than Monday, 3 July 2023 at 10:00.**The applicant must also set out the reasons, in the Heads of Argument, why the matter is so urgent that it must be heard during the week concerned, by referring to the evidence in the founding affidavit. In unopposed matters the applicant must also indicate, in the practice note, where in the court papers the **Sheriff's return of service** is to be found.
9. The Practice Directive regarding Urgent Applications (Chapter 13.24) will still apply (to opposed and unopposed applications) and the Rules pertaining to urgency **will be strictly enforced**. Compliance with annexure "A" (13.24), more particularly par [4], subparagraphs (1) to (11) thereof, as referred to in paragraph 11 of Chapter 13.24 of the Practice Manual, will also be strictly enforced. **If a matter is not ready to be adjudicated on the date and the time indicated in the notice of motion (subject to the degrees of urgency) and/or not so urgent as indicated in the Rules and the Practice Directive, it may be struck off the roll in which event a punitive costs order may be made.**
10. **All new applications**, after hours must first be brought to the attention of Judge Nyathi's clerk from 16:00 on Friday 30 June 2023 to Monday 08:00 3 July 2023. Mid-week after hours must be brought to the attention of Judge Du Plessis AJ's clerk. During ordinary hours mid-week, the matters must be issued with the Registrar of the court first and then brought to the attention of Judge Nyathi's clerk. In this regard the provisions of paragraph 7.1 to 7.4 of Chapter 13.24 of the Practice Manual will apply *mutatis mutandis*. All the provisions regarding the **Practice Note and Heads of Argument** referred to above, will apply *mutatis mutandis* to all new applications. **All Rules and principles regarding**

urgency will also apply to these applications and will be strictly enforced. **The urgent Court cellular number for Pretoria is: 065 859 4819. The number is NOT to be used for general queries or for any issues other than urgent applications to be heard out of ordinary court hours. The phone will only be answered after normal court hours.**

11. Filing of papers which were **impossible** to upload on Caselines, must be done via email to the Judges' clerks, **with an affidavit** explaining what steps were taken to upload, when and by whom the steps were taken and why it was not possible to upload on Caselines. The judge's clerk must then be informed telephonically that an email has been sent.

Particulars of the clerk of Judge Du Plessis AJ are as follows:

Ms Hudzani Maboho

Telephone: 012 492 6749

Email: HMaboho@judiciary.org.za

Particulars of the clerk Judge Nyathi are as follows:

Ms Katlego Sebola

Cell: 012 492 6754

Email: KSebola@judiciary.org.za

12. It should finally be pointed out that there is a growing tendency (especially during the lockdown period and during recess) **to abuse the urgent court in two ways: First**, to set matters down which are not ripe for hearing, not being urgent or where self-created urgency is applicable. **This will not be allowed. Second, the urgent court is not intended to hear complex factual and/or legal issues** scattered over hundreds of pages and which may take a long time to consider and finalise (when new matters may also be encountered on a daily basis in the urgent court). This will prevent other parties having their matters be adjudicated in time. **Such complex cases may be removed from the roll and the parties may be referred to the Deputy Judge president to be allocated a special court at some time in future** (cf Practice Manual, annexure "A" to 13.24, par [4] sub par (10) and (11), page H2-141).

13. All practitioners are requested to prepare a **draft court order by using “MS Word format”** (to allow for alterations) and **to upload it onto Caselines only.**
A failure to comply with this request may result in the application be struck off the roll.
14. It is the duty of the applicant’s attorney to ensure that the matter is **timeously (before the closing of the roll)** and **fully uploaded onto Caselines and court online, with an index to identify and find documents easily, and that the Judge will have access to it.**
11. All practitioners are required to attend roll call in open court on Tuesday 4 June 2023 at 10h00.

JS NYATHI
JUDGE OF THE HIGH COURT
PRETORIA.