



REPUBLIC OF SOUTH-AFRICA
THE HONOURABLE JUDGE DS FOURIE

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

10 December 2020

TO: ALL PRACTITIONERS

**IN RE: IMPLEMENTATION OF THE JUDGE PRESIDENT'S DIRECTIVE
DATED 18 SEPTEMBER 2020 FOR THE URGENT COURT OF 11
DECEMBER 2020 (16:00) TO 18 DECEMBER 2020 (16:00) BEFORE
JUDGE FOURIE AND JUDGE MINNAAR**

1. All applications which had already been enrolled by 12:00 on Thursday 10 December 2020 (when the roll closed) are indicated on the roll for Urgent Applications. Thereafter separate rolls will be distributed for Judge Fourie and Judge Minnaar.
2. All applications should have already been uploaded on Caselines as required in terms of par. 161 of the JP's Directive of 18 September 2020. If an application has not been filed, i.e. fully uploaded, by 12:00 on Thursday 10 December 2020 (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). Papers which have not been properly indexed and paginated also run the risk of being struck off the roll.
3. **In all matters** (opposed and unopposed) **a Practice Note as well as Heads of Argument** must also be served and filed by all parties concerned as one of the "*alternative electronic means*" referred to in paragraph 158 of the Directive of 18 September 2020. The application will then be adjudicated "*on paper only*" (i.e. without an oral hearing), unless there is a written request for an oral hearing

which must then be clearly set out in the practice note (to be filed on Friday 11 December 2020 as indicated below) or when counsel is called upon by the court to appear. Oral hearings will be conducted via Microsoft Teams, subject to a time limitation, if necessary.

4. When an oral hearing is requested by counsel, the oral submissions must be summarised in a second or further practice note to give an indication of what further submissions, other than those already made in the heads of argument, need to be made orally (for the Judges to consider and prepare in advance). This second or further practice note must be filed together with the heads of argument. **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.**
5. The **first practice note (to be filed on Friday)** must indicate at least the following (to assist the senior Judge to consider the matter and to do the allocations timeously):
 - 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 (for oral hearings).

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 or a punitive cost order be granted.

6. The **first Practice Note** must be served and filed **by no later than Friday 11 December 2020 at 15:00** (to enable the senior Judge to do the allocations as soon as possible, failing which the matter may either be struck off the roll or be moved to the end of the roll and running the risk of being crowded out and be postponed *sine die*) **and the Heads of Argument** (and second practice note, if applicable) **by no later than Monday 14 December 2020 at 12:00**. 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.
7. 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 to be 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, as indicated in paragraph 165 of the Directive of 18 September 2020, may be made.**
8. **All new applications**, after hours or during court hours, must first be brought to the attention of Judge Fourie'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.

9. 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 Fourie are as follows:

Ms S Gillissen

Cell: 079 400 1963 / 065 859 4819

Email: sgillissen90@gmail.com (for correspondence)

sgillissen@judiciary.org.za (for caseline invites)

Particulars of the clerk of Judge Minnaar are as follows:

Mr Sidesha

Cell: 073 219 0052 / 012-315 7644

Email: sidesha.sidesha@gmail.com (for correspondence)

ssidesha@judiciary.org.za (for caseline invites)

10. 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).

11. All practitioners are requested to prepare a **draft court order by using “MS Word format”** (to allow for alterations) and **to email it** to the Judge’s clerk by **using the email address referred to above** (and not to upload it on Caselines only). A failure to comply with this request may result in the application be struck off the roll.

DS FOURIE
JUDGE OF THE HIGH COURT
PRETORIA.