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REPUBLIC OF SOUTH AFRICA
KWAZULU-NATAL HIGH COURTS

THE HONOURABLE JUDGE PRESIDENT MR JUSTICE A.N. JAPPIE

DIRECTIVES (1 May 2020)

After consultation with the Deputy Judge President, the Society of Advocates and the Registrars of the Division, and being cognizant of the Chief Justice's directives that the physical appearance in court in dealing with matters ought to be the last resort, and seeking to strike a balance between access to Justice and the woeful lack of proper IT infrastructure and equipment, the following Directives will apply in the High Court of KwaZulu-Natal from 1 May 2020 and the remaining period of the extended Lockdown.

CRIMINAL TRIALS

1. No criminal trials will be conducted during the period of the lockdown.
2. All matters on the roll from the 4 May 2020 until 26 June 2020 will be adjourned to a holding date. The Director of Public Prosecutions and/or Legal Practitioners are to inform witnesses timeously that their presence at court will not be required.
3. Such criminal matters (eg Bail or Bail Appeals) which in the opinion of the Judge President/ Deputy Judge President and or the Senior Judge require urgent attention may be dealt with at their discretion and direction.

CIVIL TRIALS

1. All civil trials set down for hearing during the lockdown period may be removed from the trial roll with the consent of all the parties.
2. Any party who deems it urgent that their trial **must** proceed shall communicate such fact to the Judge President/Deputy Judge President and/or Senior Judge on duty who at

his/her discretion will direct the further conduct of the matter.

3. There will be a trial roll call every Monday. There will be **no** trial hearings. Parties are to notify the Judge President/Deputy Judge President and/or the Senior Judge's Registrar on the Wednesday prior to the Monday whether the matter has become settled and/or if the parties require the matter to be adjourned to an arranged date.
4. A draft consent order is to be emailed to the Judge President/Deputy Judge President and/or Senior Judge on duty on the Friday preceding the Monday roll call.
5. Matters which have become settled prior to the trial date may be brought forward by arrangement with the Judge President/Deputy Judge President and/or Senior Judge's Registrar where an order is required consequent upon such settlement.
6. To maintain social distancing only legal practitioners and the instructing attorney will be allowed in the court building. All persons wishing to enter the court precinct must comply with the social distancing regulations as contained in the applicable various Government Notices.

MOTION COURT

1. The unopposed motion court will convene in "C" court.
2. Unopposed applications already enrolled for hearing during the period of the lockdown shall be dealt with in the following manner:
 - 2.1 In the event of the parties requiring that an oral hearing and the matter is not deemed urgent, and it is not possible to proceed with such a hearing via video conferencing and/or other electronic means the matter may be postponed to dates after the extended lockdown period.
 - 2.2 Matters which can be disposed of without an oral hearing, must, unless the Presiding Judge concerned determines otherwise, be dealt with on the papers which must include such written submissions from the parties and on such further directions as may be required by the presiding Judge.
 - 2.3 Matters which do not fall within the parameters of Rule 6(12) and which may have become urgent, may be afforded an oral hearing at the discretion of the presiding Judge.

- 2.4 In instances where an oral hearing is essential for the matters on the unopposed motion roll, the parties shall inform the Registrar before the close of the unopposed motion court roll.
3. Only unopposed matters will be placed on the motion court roll.
 4. A separate roll will list all opposed Rule 43 matters and opposed motions.
 5. Urgent matters which have not been enrolled on the unopposed motion court roll are to be referred to the Judge President/Deputy Judge President and/or Senior Civil Judge on duty for allocation.
 6. The unopposed motion court rolls will be published 2 court days in advance and will reflect the time slot allocated to each matter.
 7. A group of five matters will be disposed of in ten minute intervals and the times will be reflected on the unopposed motion court roll.
 8. Only 5 matters at a time will be dealt with in the unopposed motion court. The legal practitioners will be required to remain in court until all 5 matters have been dealt with and then leave the court room and the court precinct.
 9. Should a Legal practitioner not appear at the allocated time slot and have failed to communicate with the presiding Judge's registrar regarding his/her matter, the matter will be struck off the roll. No matter will be re-enrolled. Legal practitioners will be required to obtain a new date in the normal course.
 10. To maintain social distancing in the unopposed motion court only legal practitioners and/or the instructing attorney will be allowed in court.
 11. No orders or court processes will be handed in at the hearing. All draft orders for motion court are to be placed in the court file before the roll closes. In the event of this not being possible, then parties are to email the draft order to the Judge's registrar.
 12. All unopposed divorces are to be adjourned sine die and will be placed on a dedicated roll when it becomes possible to deal with the same in open court.

OPPOSED MOTIONS

1. All Judges will be allocated opposed motions.
2. All opposed motions will be disposed of in the following manner:
 - 2.1. Parties are to ensure strict compliance with practice directive 9 in particular practice directive 9.4.1.
 - 2.2. Parties are to file all heads of arguments, practice notes and unreported authorities electronically;
 - 2.3. In respect of all opposed matters and opposed rule 43 applications the legal representatives of the parties shall provide a joint statement indicating inter alia the issues in dispute and which of those issues the presiding Judge will be required to rule on.
3. Parties can elect to have the issues decided on the papers without the need for an oral hearing. The presiding Judge may direct that further written submissions be filed.
4. In the event of parties deeming it necessary for oral argument to be heard then:
 - 4.1. The Presiding Judge may at his/her discretion convene a court for this purpose on a date and time to be arranged.
 - 4.2. In the alternative the Presiding Judge may in his/her discretion convene a hearing by way of video conferencing or any other electronic means which are appropriate;
 - 4.3. If the options in 4.1 and 4.2 cannot be achieved, the matter will be adjourned to a date to be arranged.
5. In respect of the opposed motions being adjourned to a future date such Presiding Judge will be deemed to be seized with the matter.

APPEALS

1. All Judges will be allocated appeals.
2. All appeals set down from 4 May 2020, will proceed at times as reflected on the appeal roll.
3. The presiding Judge shall solicit the views of the parties prior to the appeal panel making a determination in terms of section 19 of the Superior Courts Act.

4. Having made such determination, the appeal may be disposed of in terms of section 19. At the appeal panel's discretion the appeal may be disposed of as follows:
 - 4.1. a court may be convened for the purpose of deciding the appeal;
 - 4.2. convene a hearing by way of video conferencing or any other electronic means which are appropriate;
5. In the event of the appeal not being disposed of as per paragraph 4 above, it is to be adjourned to a date to be arranged.
6. In respect of those appeals which have been adjourned to a future date such Presiding panel will be deemed to be seized with the matter.

JUDICIAL CASE FLOW MANAGEMENT

In respect of Judicial Case Flow Management the Judge President and Deputy Judge President and or the Senior Civil Judge shall in circumstances where appropriate communicate electronically with parties and issuing directives as may be necessary to ensure the trial readiness of the matter.

LEAVE TO APPEALS

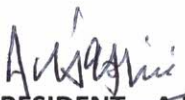
The manner in which leave to appeals are to be dealt with are to be left to the discretion of the individual Judges.

GENERAL

1. While earlier dates in the post lockdown period cannot be guaranteed in the case of matters removed for a reason associated with the lockdown, attempts will be made to grant such matters preference. In this regard consideration will be given to the establishment of an additional unopposed motion court to deal with these matters.
2. It is contemplated that any backlog that may have arisen during the lockdown period may be accommodated during the first ten days of the July recess period.

REGISTRARS' OFFICE

1. The Registrars' Office at the Durban and Pietermaritzburg High Court are to have on duty such staff necessary to comply with the above directives and the various regulations issued.
2. The Registrar's office will be opened to issue new processes and for the filing of documents. In respect of the issuing of bulk processes the legal practitioners will be required to leave these at the general office with the necessary email and mobile contact details. Once these have been issued the Registrar's office will make contact for collection on a suitable date and time.
3. To maintain social distancing only two parties at a time will be allowed into the general office for this purpose.
4. The Registrar will be enrolling new matters.
5. There will be a registrar on duty during court hours.
6. Urgent matters or matters outside of court hours matters will be dealt with by the after hours registrar and duty Judge mindful of the curfew imposed.


JUDGE PRESIDENT A N JAPPIE
KWAZULU-NATAL HIGH COURT

1 May 2020