



REPUBLIC OF NAMIBIA

SUPREME COURT OF NAMIBIA

Date: 31 March 2020

OPERATIONAL INSTRUCTIONS FOR THE SUPREME COURT OF NAMIBIA FOR THE DURATION OF LOCK DOWN IN THE STATE OF EMERGENCY DECLARED IN TERMS OF ARTICLE 26 OF THE CONSTITUTION

1. INTRODUCTION

- 1.1. The Hon. Chief Justice hereby directs that this “Operational Instructions for the Supreme Court of Namibia for the duration of Lock Down in the State of Emergency Declared in terms of Article 26 of the Constitution” will come into force the moment when the “lock down” declared by the President commences and will continue until the lock down comes to an end or any such extended period.
- 1.2. This Operational Instructions incorporates the Directives issued by the Chief Justice insofar as it applies to the extension, suspension and relaxation of court procedure and/or time lines.
- 1.3. This Operational Instructions applies to the Supreme Court of Namibia.
- 1.4. The Supreme Court is not in total lock down, but all functions and duties will be performed in accordance with this Operational Instructions.

2. OFFICE HOURS AND SERVICES TO BE RENDERED BY THE REGISTRY DURING THE LOCK DOWN PERIOD AS DECLARED

- 2.1. The official court hours and services to be rendered in the Supreme Court has been relaxed to the following:
 - 2.1.1. The Registry of the Supreme Court will be open on week days, excluding public holidays, between the hours 9h00 and 11h30 with functions restricted to the receipt of court process;

- 2.2. The Supreme Court library will be closed to members of the public and legal practitioners for the duration of the state of emergency declared in terms of Article 26 of the Constitution.
- 2.3. Staff members will continue to render the following services from home:
 - 2.3.1. Preparation of Bench Memorandums;
 - 2.3.2. Research for purpose of Judgments and Rulings;
 - 2.3.3. Preparation of case summaries;
 - 2.3.4. Upkeep of court statistics, registers, rolls and reports.
- 2.4. Any person entering the court building during lock down, including staff members and judges, litigants, practitioners and the public in general must first report to the Registrar on duty and complete Annexure "A";
- 2.5. Movement of staff members and judges, litigants, practitioners and the public in general attending to the registry or court is restricted to the following areas:
 - 2.5.1. Entrance of the building;
 - 2.5.2. The way towards the registry;
 - 2.5.3. The way towards the court room, if such person is to attend court proceedings;
 - 2.5.4. The court room and in the case of a judge, his or her chambers.

3. DUTY GROUPS

- 3.1. The Registrar must identify support staff who will perform duty during lock down;
- 3.2. The Registrar must, insofar as possible, when identifying support staff for purpose of performing duty during lock down exclude persons who:
 - 3.2.1. Are single parents with children of 5 years and younger;
 - 3.2.2. Who are suffering from any illness which may put their lives at risk in the event of contracting the corona virus;
 - 3.2.3. Who has children younger than 18 years suffering from any illness which may put their lives at risk in the event of contracting the corona virus;
 - 3.2.4. Any person who's service is not essential to the services performed at the court during lock down.
- 3.3. The 1st call duty group must have an alternative 2nd call duty group. The purpose of the 2nd call duty group is to replace the 1st call duty group in the event of any one or more of the 1st call duty group members being put in isolation or quarantine.
- 3.4. Duty groups must be identified to perform the following duties:
 - 3.4.1. Duties performed in terms of paragraph 2.1.1;
 - 3.4.2. Disinfecting service areas, court rooms and shared bathrooms; and
 - 3.4.3. Render support services to judges.
- 3.5. The Registrar must assist with transport arrangements for staff members who do not have their own vehicles.

4. HEARING TO CONTINUE

- 4.1. Hearing of the matter of *Kandando: Rihupisa Justus versus Medical And Dental Council Of Namibia & Another*, SA29/2018 set down for hearing before the Hon. Justices Damaseb, Mainga and Frank on 31 March 2020 will continue;
- 4.2. The appearance will be subject to the directions provided under the heading “Appearance and Attendance at Court”.

5. ORDERS TO BE MADE FROM CHAMBERS OR HOME

Any order may, within the discretion of the Chief Justice, be made from home.

6. APPEARANCE AND ATTENDANCE AT COURT

- 6.1. Attendance of the court proceedings in *Kandando: Rihupisa Justus versus Medical And Dental Council Of Namibia & Another*, SA29/2018 is limited to 10 persons.
- 6.2. The persons allowed to attend court are limited to:
 - 6.2.1.1. The Presiding Judges;
 - 6.2.1.2. Registrar, Deputy Registrar or Assistant Registrar;
 - 6.2.1.3. Court Orderly;
 - 6.2.1.4. Stenographer’
 - 6.2.1.5. Legal practitioners appearing on behalf of the litigants, if represented;
 - 6.2.1.6. The parties themselves if such parties are unrepresented; and
 - 6.2.1.7. Members of the media, limited to 3 persons,provided that the presiding judges may, if the people inside the courtroom will exceed 10 persons, exclude any person who’s presence is not necessary or give alternative directions.
- 6.3. All persons entering the court building, including court officials and the judge must complete Annexure “A” and hand it to the Registrar on duty.
- 6.4. The registrar will keep a file for safekeeping of all Annexure “A” forms completed, sorted according to date.
- 6.5. Attendees at the proceedings must at all times
 - 6.5.1. avoid person-to-person contact;
 - 6.5.2. maintain social distancing and
 - 6.5.3. attend to disinfecting all surface areas which they may come into contact with as well as their hands. Disinfectant and paper towels will be made available in court.It is recommended that at least one chair be left open between any two persons seated next to one another.
- 6.6. Protective face masks and gloves may be worn freely when attending court proceedings.

6.7. None of the following persons will be allowed to attend court proceedings:

- 6.7.1. Any person who entered Namibia from any place outside the borders of Namibia, including any of our neighbouring countries, during the past 21 days;
- 6.7.2. Any person who has been in contact with any persons who tested positive for the Covid-19;
- 6.7.3. Any person who has been in contact with any person(s) who has been exposed to or has been in contact with a person who tested positive for the Covid-19 virus, if known;
- 6.7.4. Any person who was in self isolation or quarantine during the past 3 weeks;
- 6.7.5. Any person who has been in contact with a person who travelled from any country listed on the list of countries with Covid-19 infected patients; or
- 6.7.6. Any person who is suffering from any one or more of the following symptoms:
 - 6.7.6.1. Fever;
 - 6.7.6.2. Difficulty in breathing;
 - 6.7.6.3. Cough;
 - 6.7.6.4. Running nose;
 - 6.7.6.5. Headache persisting for one or more hours; and/or
 - 6.7.6.6. Muscle ache.

6.8. The registrar attending to the court proceedings must be informed if any of the conditions stated in 7.9 applies to any person in attendance of the proceedings.

6.9. In the event of a report being made to the registrar in terms of paragraph 6.7.1 – 6.7.5 hereinbefore, the registrar must immediately –

- 6.9.1. Reduce the information of the person making the report and the information provided in terms of paragraph 6.7.1 – 6.7.5 to writing and attach such report to the **a copy** of the completed Annexure “A”;
- 6.9.2. Inform the Presiding officer of such report;

6.10. Documents referred to in terms of paragraph 6.9 must be handed to the highest administrative authority present at court who will immediately forward the documents to Executive Director of the Office of the Judiciary;

6.11. The Assistant Registrar on duty must ensure that all bathrooms in use, court rooms and the registry are disinfected daily, and make available at the entrance of the court, inside the court room in use and at the registry additional disinfectant and paper towels for regular sanitising of hands and surface areas.

7. SUSPENSION OF TIME PERIODS, COURT PROCESS AND/OR ACTIONS

The Hon. Chief Justice has under the authority delegated to him by the President directed that the entire period of lockdown shall not be included in the computation of any time-bar and/or

prescription period provided for by law, inclusive of the first and the last day of the lockdown, including but not limited to:

- (a) Any prescription period provided for in the Prescription Act, 1969 (Act No. 68 of 1969);
- (b) any time periods and/or time limits provided for in the limitation of legal proceedings as provided by any law relating to initiation of proceedings, including but not limited to a claim, complaint, action, application, review or appeal, provided that a criminal charge as a consequence of an arrest is excluded;
- (c) any period provided for by any law for entering an appearance to defend or opposition of any initiating proceeding as contemplated in paragraph (b), including but not limited to a claim, complaint, summons, application, review or appeal, provided that this directive will not apply to opposition to any of the following:
 - (i) applications brought as urgent applications in terms of the rules of the court;
 - (ii) bail applications;
 - (iii) appeals against the refusal of bail;
 - (iv) domestic violence matters; and
 - (v) any case involving children issues.
- (d) any time period(s) allowed for by law or by order of court for the filing, service and/or delivery of any process, which includes pleadings, affidavits, notices, and/or any other court document in any pending court proceeding, provided that this subparagraph (4) will not apply to any of the following:
 - (i) applications brought as urgent applications in terms of the rules of the applicable court;
 - (ii) bail applications;
 - (iii) appeals against the refusal of bail;
 - (iv) domestic violence matters; and
 - (v) any case involving children issues.
- (e) any procedural action to be taken or performed in terms of any law or by order of court, in any case before a court of law;
- (f) execution of any writ and/or warrant in respect of incorporeal property, liens, real rights, debt held by garnishee, movables and immovable property and any action related thereto, which Suspension will include and relate to -
 - (i) the issue of writs and/or warrants;
 - (ii) attachment;
 - (iii) removal; and
 - (iv) sale of any such property and/or right;
- (g) alternative dispute resolution ordered in terms of the Rules of the High Court; and

(h) receiving and processing any request for authentication or legalisation of documents, including an Apostille issued in terms of the Hague Convention;

(i) the hearing or court attendance of any court case other than the hearing or court attendance in any of the following -

- (i) first court appearance in a criminal case;
- (ii) a bail application;
- (iii) an appeal against the refusal of bail;
- (iv) any urgent application brought in any civil, labour, electoral or admiralty case;
- (v) domestic violence matters; and
- (vi) any case involving children issues.

(j) delivery of any judgment or ruling other than a judgment or ruling in –

- (i) a bail application;
- (ii) an appeal against the refusal of bail;
- (iii) any urgent application brought in any civil, labour, electoral or admiralty case;
- (iv) domestic violence matters; or
- (v) a case involving children issues.

(k) service of any court process, pleading or document by the Sheriff, Deputy Sheriff or the Appointed assistant to Deputy Sheriff of the High Court, the Messenger of Court or his or her appointed assistant, other than service of court process, pleading or document in any of the following:

- (i) a bail application;
- (ii) an appeal against the refusal of bail;
- (iii) any urgent application brought in any civil, labour, electoral or admiralty case;
- (iv) domestic violence matters; or
- (v) a case involving children issues.

(l) solemnisation of marriages in terms of the Marriages Act, 1969 (Act No. 25 of 1969);

(m) applications for liquor licences or renewal thereof and appeals in terms of the Liquor Act, 1998 (Act No. 6 of 1998).

8. IDENTITY AND CONTACT NUMBERS OF DUTY GROUPS

8.1.

1st Call Duty	Name & Surname	Contact Person and Telephone Number
3 x Judges	Damaseb DCJ	J Libana
2 x Assistant Registrars	Mainga JA	0812561322

	Frank JA J Libana K Amkongo	
2nd Call Duty	Name & Surname	Contact Person and Telephone Number
2 X Judges 1 x Assistant Registrar	Smuts JA Frank JA S Nghitumbwa Nicole January	S Nghitumbwa 0811492010

Responsible Member of Management: Elsie Schickerling with alternative Sebastiaan Kandunda



E.E.SCHICKERLING
CHIEF REGISTRAR, DIRECTORATE SUPREME AND HIGH COURTS

HAVE YOU BEEN IN CONTACT WITH ANY PERSON WHO TESTED POSITIVE FOR COVID-19		
HAVE YOU BEEN IN SELF-ISOLATION OR QUARENTINE DURING THE PAST TWO WEEKS		
HAVE YOU BEEN TO ANY COVID-19 AFFECTED AREA IN THE LAST 2 WEEKS		
PLEASE STATE THE AREA / AREAS IF THE PREVIOUS ANSWER IS YES		