



REPUBLIC OF NAMIBIA

HIGH COURT OF NAMIBIA

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ROADMAP FOR THE HIGH COURT OF NAMIBIA WHILST THE STATE OF EMERGENCY DECLARED IN TERMS OF ARTICLE 26 OF THE CONSTITUTION PERSIST COVID-19 PANDEMIC

Kindly be advised that the Hon. Judge President, in his capacity as head of the High Court of Namibia wish to inform all interested parties of the following directives which will apply to the High Court of Namibia whilst the State of emergency declared in terms of Article 26 of the Constitution of the Republic of Namibia persist. This directive is cognisant of the 4th (2020) Decision Making Resolution on Additional Measures to Strengthen Namibia's preparedness and response to Covid-19 Outbreak – 17 March 2020 and is effective with immediate effect. This directive will persist until 17 April 2020, or any such later date as determined by the Executive Authorities.

1. GENERAL

- 1.1. The High Court of Namibia, inclusive of both the Main Division and the Northern Local Division, is not in lock down, but all functions and duties will be performed in the manner as set out hereinafter.
- 1.2. The hearing of any matter in court will, subject to the directions provided hereinafter, be closed for the general public.
 - 1.2.1. Attendance of the hearing will be limited to 50 persons, which will include the following persons:
 - 1.2.1.1. Officers of Court;
 - 1.2.1.2. Legal practitioners appearing on behalf of the parties,;

All correspondence must be addressed to the Registrar

- 1.2.1.3.the parties themselves if such parties are unrepresented;
- 1.2.1.4.witnesses who were served with a subpoena to appear in court;
- 1.2.1.5.witnesses who were warned by the court to appear in court;
- 1.2.1.6.any other witness; and
- 1.2.1.7.members of the media,

provided that the presiding officer may, if the people inside the courtroom will exceed 50 persons, exclude members of the media, or give alternative directions in the event of the persons mentioned in 1.2.1.1 – 1.2.1.5 to exceed 50 persons.

1.2.2. Attendees at the hearing must at all times avoid person-to-person contact and maintain social distancing. It is recommended that at least one chair be left open between any two persons seated next to one another.

1.3. Disinfectant and paper towels will be made available in court for use on exposed surface areas;

1.4. Protective face masks and gloves may be worn freely when attending court hearings.

1.5. Any person, inclusive of court official, in attendance of the hearing must through the registrar assigned to the hearing inform the court if he or she -

1.5.1. travelled outside the borders of Namibia during a period of 30 days preceding the date of the hearing and the places travelled to and from, including the names of the places visited whilst in transit;

1.5.2. has been in contact with any persons who tested positive for the Covid-19;

1.5.3. if known, 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;

1.5.4. was in self isolation during the past month; or

1.5.5. is suffering from the following symptoms:

1.5.5.1.Fever;

1.5.5.2.Cough; and

1.5.5.3.Difficulty breathing.

1.6. In the event of a report being made to the registrar in terms of paragraph 1.6 hereinbefore, the registrar must immediately –

1.6.1. Reduce the information of the person making the report and the information provided in terms of paragraph 1.6 to writing;

1.6.2. Compile a register of attendance of all persons in court, including the person reporting in terms of paragraph 1.6.

1.6.2.1.The register of attendance must reflect the name of the court room, the date of the hearing and the case particulars, and must contain the following information in respect of every person inside the court room, including the court officials:

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- 1.6.2.1.1. Name and surnames;
- 1.6.2.1.2. identity or passport number;
- 1.6.2.1.3. mobile telephone number;
- 1.6.2.1.4. home address (physical); and
- 1.6.2.1.5. work address (physical);
- 1.6.3. Inform the Presiding officer of such report;
- 1.6.4. Hand the documents referred to in paragraphs 1.6.1 and 1.6.2 to the highest administrative authority present at court who will immediately report the incident, in writing to the Executive Director of the Office of the Judiciary.

- 1.7. Any court order made from chambers and in absentia of the parties must be served on all parties, provided that –
 - 1.7.1. Where the order made is made in respect of a case with an electronic court file, filing of the order on the electronic court file will be considered as sufficient service;
 - 1.7.2. Where the order made is made in respect of a case which is not part of the court's electronic case management and document filing system (eJustice), such order must be served on all parties, but service by the Deputy-Sheriff is not required.

- 1.8. Hearings of Criminal indictment cases before the High Court, Main Division, with the exception of the criminal mentions roll scheduled for 19 March 2020, will for the period 19 March 2020 – 17 April 2020 be restricted to the Otjozondjupa and Ohangwena Court rooms, located at the High Court facility situated at the Windhoek Correctional Service premises¹;

- 1.9. Any hearings other than hearings in Criminal indictment cases before the High Court, Main Division, set down for hearing in open court during the period 19 March 2020 – 17 April 2020, will, as far as possible, be restricted to the following court rooms:
 - 1.9.1. A-Court
 - 1.9.2. B-Court
 - 1.9.3. D-Court;
 - 1.9.4. E-Court
 - 1.9.5. SADC building courtroom;²

- 1.10. Filing of any court document, including pleadings, affidavits notices and Judicial Case Management documents, must proceed as is required in terms of the applicable rules, legislation or court order. This directive does not in any way imply relaxation of any period allowed;

- 1.11. Court orders issued from chambers and in the absence of the parties, must in as far as possible be issued and served at least 24 hours prior to the set down date and time.

¹ Implementation of 1.8 is suspended until further notification

² Implementation of 1.9 is suspended until further notification

2. CRIMINAL INDICTMENT CASES

2.1. Criminal Indictment Cases set down for Plea, Trial (including continuation of trial)

2.1.1. Where one or more of the accused persons are released on bail or warning, or where the accused person is in custody, but one or more of the witnesses has been served with a subpoena or warned by court to be in court, the proceedings will be conducted in open court, but limited to a postponement to a date after 17 April 2020;

2.1.2. Where all the accused persons are detained in custody, whilst trial awaiting, and where there is no witness who has been served with a subpoena or warned by court to be in court, the matter will be postponed by the court, from chambers and in absentia of the parties, to a date after 17 April 2020, provided that such court order will be served on the Prosecutor General and the head of the facility where such accused person(s) is detained. Proof of service must be filed on the court file;

2.2. Criminal Indictment Cases set down for Ruling or Judgment, including sentencing:

2.2.1. Irrespective of the status of the accused persons (on bail, on warning or in custody), the court will, subject to the provisions of the Criminal Procedure Act, proceed to deliver the ruling or judgment in open court, and if the ruling or judgment does not finalise the matter, the court will order a postponement for the further conduct of the matter to a date after 17 April 2020;

2.2.2. Where all the accused persons are detained in custody, and are absent from court on the date set for the delivery of the judgment, the court may, subject to the provisions of the Criminal Procedure Act, postpone the delivery of the judgment or ruling to a date after 17 April 2020, provided that such court order will be served on the head of the facility where such accused person(s) is detained. Proof of service must be filed on the court file;

2.3. Criminal Indictment Cases set down for Judicial Case Management:

2.3.1. Irrespective of the status of the accused persons (on bail, on warning or in custody), the court will, subject to the provisions of the Criminal Procedure Act, proceed with the proceedings in open court and any postponement must be to a date after 17 April 2020; The court order made during this proceedings will be served on the head of the facility where such accused person(s) is detained. Proof of service must be filed on the court file.

3. CRIMINAL APPEAL CASES

3.1. Criminal Appeal Mentions Roll: Appeal matters set down on the criminal appeals mentioned roll will be postponed from chambers and in absentia of the parties to a date after 17 April 2020;

3.2. Appeal hearings:

3.2.1. Where the parties in a criminal appeal set down for hearing, including an application for condonation and/or application for leave to appeal to the Supreme Court, are legally

represented, the hearing of such appeal or application will proceed in open court on the set down date;

3.2.2. A criminal appeal set down for hearing, including an application for condonation and/or application for leave to appeal to the Supreme Court, where the parties are representing themselves and are without legal representation, will be postponed from chambers and in absentia of the parties to a date after 17 April 2020;

3.2.3. The hearing of an appeal against the refusal of bail will proceed in open court on the set down date, irrespective whether the parties are legally represented or not;

4. CRIMINAL REVIEW CASES

4.1. Judges will proceed to review criminal matters presented to them in terms of section 304 of the Criminal Procedure Act, from chambers;

4.2. Judgments delivered on any such review matter, will be delivered in open court.

5. BAIL APPLICATIONS

5.1.1. The hearing of bail applications will proceed in open court on the set down date, irrespective whether the parties are legally represented or not;

6. CIVIL APPEALS

6.1. Allocation of hearing dates in civil appeals:

6.1.1. Parties must proceed to prosecute their appeals timely as contemplated by the applicable legislation, but the dates available for the allocation of trial dates by the registrar are suspended until a Wednesday after 17 April 2020;

6.1.2. The allocation of trial dates by the registrar, set down for any day during the period 17 March 2020 – 17 April 2020 will in the absence of the parties be postponed to a Wednesday on a date after 17 April 2020, which date will not necessarily be 22 April 2020;

6.2. The hearing of civil appeal will proceed in open court, as set down.

7. CIVIL ACTIONS AND MOTIONS: RESIDUAL COURT ROLL

7.1. Civil matters set down on the residual court roll will be dealt with from chambers and in the absence of the parties and/or legal practitioners;

7.2. Matters set down on the residual court roll which requires appearance in court and/or further argument, will be postponed on the residual court roll to a date after 17 April 2020.

8. CIVIL : URGENT APPLICATIONS

8.1. The hearing of an urgent application in civil matters will proceed in open court, as set down.

9. CIVIL MOTION PROCEEDINGS SUBJECT TO JUDICIAL CASE MANAGEMENT

9.1. Matters set down for judicial case management will be dealt with from chambers and in the absence of the parties and/or legal practitioners;

9.2. The hearing of civil applications and reviews, allocated to a managing judge will proceed in open court, as set down;

9.3. The hearing of interlocutory and other ancillary applications in civil motion proceedings will proceed in open court, as set down;

10. CIVIL ACTION PROCEEDINGS SUBJECT TO JUDICIAL CASE MANAGEMENT

10.1. Matters set down for judicial case management will be dealt with from chambers and in the absence of the parties and/or legal practitioners;

10.2. The hearing of civil trials for purpose of continuation of trial or arguments may, Subject to the discretion of the presiding judge in consultation with the parties, proceed in open court, as set down;

10.3. Matters set down for hearing on the civil action floating/fixed roll must be postponed from chambers and in the absence of the parties and/or legal practitioners to Monday 20 April 2020 at 14h00, A-Court for the allocation of new trial dates. Trial dates during the period May 2020 – July 2020 will be provided for hearing of the trials.

10.4. The hearing of interlocutory and other ancillary applications in civil trials matters will proceed in open court, as set down;

11. ELECTORAL ACT, ACT 5 OF 2014

11.1. The provisions of the applicable legislation will apply.

12. ADMIRALTY COURT

12.1. The provisions of the applicable legislation will apply.

13. LABOUR COURT:

13.1. Labour Appeals

13.1.1. Allocation of hearing dates in Labour appeals:

13.1.1.1. Parties must proceed to prosecute their labour appeals timely as contemplated in Rule 17 of the Rules of the Labour Court, but the dates available for the allocation of trial dates by the registrar are suspended until the first Wednesday after 17 April 2020;

13.1.1.2. The allocation of trial dates by the registrar, set down for any day during the period 17 March 2020 – 17 April 2020 will in absentia of the parties be postponed to a Wednesday on a date after 17 April 2020, which date will not necessarily be 22 April 2020;

13.1.2. The hearing of labour appeal will proceed in open court, as set down.

13.2. Labour Court: Residual Court Roll

13.2.1. Labour matters set down on the residual court roll will be dealt with from chambers and in the absence of the parties and/or legal practitioners;

13.3. Labour Court: Urgent Applications

13.3.1. The hearing of an urgent application brought in the Labour Court will proceed in open court, as set down.

13.4. Labour Court: Motions and reviews subject to judicial case management

13.4.1. Labour matters set down for judicial case management will be dealt with from chambers and in the absence of the parties and/or legal practitioners;

13.4.2. The hearing of labour applications and/or reviews, allocated to a managing judge will proceed in open court, as set down;

13.4.3. The hearing of interlocutory and other ancillary applications in labour matters, which are subject to judicial case management will proceed in open court, as set down.

14. IN CHAMBERS MEETINGS

14.1. Any meeting scheduled with parties and/or legal practitioners must be held in an open court and may not be conducted in chambers.

15. COURT-CONNECTED MEDIATIONS

15.1. All Court-Connected mediations set scheduled during the period 17 March 2020 – 17 April 2020 are cancelled and must obtain new dates. Parties must request the court for a new referral order.

16. TAXATIONS

16.1. All taxations scheduled during the period 17 March 2020 – 17 April 2020 will, in the absence of the parties, be postponed dates after 17 April 2020. The registrar must serve the Notice of taxation, containing the new taxation date on all parties.

17. GENERAL OFFICE, CASH HALL AND SERVICE BUREAU

17.1. The General Office, Cash Hall and Service Bureau at both the Main Division and the Northern Local Division will remain open to the public during the hours provided for in terms of the Rules of Court;

17.2. Staff members assisting the public must wear protective masks and gloves when assisting the public;

17.3. Staff members must disinfect service counters and desks at least once every hour;

17.4. Staff members must maintain a distance between members of the public and themselves of at least 1,5 metres;

17.5. Staff members may refuse to assist any member of the public, if such member refuses to maintain a distance of 1,5 metres;

17.6. Staff members must at all times ensure that members of the public maintain social distancing of at least 1,5 metres whilst waiting to be served and standing in a row;

17.7. Staff members may not have any physical contact with members of the public so served.



E.E. SCHICKERLING

CHIEF REGISTRAR, DIRECTORATE SUPREME AND HIGH COURTS