



**MAGISTRATES' COURTS JUDICIARY
REPUBLIC OF SOUTH AFRICA**

**DIRECTIVES FOR LOWER COURTS- Administrative REGION 12-FOR CORONA VIRUS
PERIOD**

AMENDED DIRECTIVES FOR MAGISTRATES

Date 18 March 2020

To All Magistrates:

The declaration of a National State of Disaster by the President of South Africa on 15 March 2020 pertaining to the Covid-19 Corona Virus will have a huge impact on the courts. The following directives will apply with immediate effect until the 14 April 2020.

- Restriction of access to the courts must take place.
- Limiting the number of persons entering the court building.
- Only accused, witnesses, applicants/respondents will be allowed to enter the court buildings,
- No spectators will be allowed to enter the court building, except in cases where the accused is assisted by a parent or a guardian.
- People should sit 1 meter away from each other whilst inside the court building.
- No attorneys need to introduce themselves in the Magistrates chambers. Introductions can be done in open court.
- No member of the public should be entering the Magistrate's offices. Complaints can be emailed to the Magistrate or in urgent cases Attorneys can address the Magistrate in Court.
- As far as possible Magistrates should enquire if the person who wants to see them has travelled recently has been in contact with someone who has travelled recently or someone who could be at risk.

CRIMINAL COURTS:

- 1.1 The courts equipped with the AVR machines should use them as far as possible to deal with cases of accused persons in custody.

1.2 Should AVR machines not be in a working condition and prisoners are not brought to court, postponements can be done in absentia and a J7 can be signed in absentia.

1.3 Matters that are on the roll and the accused persons are not in custody can be postponed for a longer date into the future, so as not to clog the rolls.

1.4 Matters that can be disposed of without unnecessary delay should be dealt with speedily eg. where the accused person wants to plead guilty.

1.5 All bail applications will be attended to as far as possible.

1.6 Only trials where the accused persons are in custody will be heard.

1.7 In matters where the release on bail is not opposed, and bail is set, magistrates should be mindful not to set bail in an amount which accused person cannot afford to pay. Magistrates should hold an inquiry into the accused's ability to pay. This excludes schedule 5 and 6 offences where the court is obliged in terms of Legislation to hold an inquiry.

1.8 For accused persons in custody one family member will be allowed into the court.

1.9 If accused persons do not arrive from the Correctional facilities, Magistrates can postpone the matters in absentia and sign the J7 warrants in absentia.

2. **FAMILY COURTS:**
DOMESTIC VIOLENCE/HARASSMENT CASES:

2.1 First Applications will be attended to and they can be done in chambers in absentia.

2.2 Domestic Violence and Protection from harassment-returns : All returns will be postponed except in exceptional circumstances where the rights of children and / or the elderly are affected. All matters to be attended to in court.

3. **MAINTENANCE CASES:**

3.1 If your courts have a waiting room, then you will have to limit the number of parties that enter as there needs to be a distance between the parties whilst they wait.

3.2 Urgent matters must get preference. Urgency will be at the discretion of the Magistrate.

3.3 The Maintenance Officer will deal with the Section 6 enquiries.

3.4 All Section 10 must be done in open court.

4. **CHILDRENS COURT:**

4.1 All matters must be done in open court to ensure that distance is created between all parties.

4.2 As far as possible children should be excused from proceedings unless specifically required in terms of the Act.

4.3 Section 159 extensions where the parties are all in agreement with the foster extension can be done in the absence of the parties. Only the Social Worker needs to be present.

4.4 For finalisation matters, the Magistrate has discretion whether to excuse the parties and deal with the matter in absentia.

4.5 Each case to be determined on its own merits and non-urgent matters can be postponed in absentia of the parties.

5. **CIVIL COURTS:**

- 5.1 Only attorneys allowed into the court, unless the party is in person.
- 5.2 Magistrates must deal with all urgent matters.
- 5.3 All other matters can be postponed and a longer date can be given to prevent clogging of the tolls.
- 5.4 All ex-parte applications should be done in open court to ensure social distancing.
- 5.5 All pre-trials should also be done in open court to ensure the distance between parties.
- 5.6 Default Judgments should be done in court or in chambers in the absence of the parties.
- 5.7 Matters can be postponed if there is an agreement between all parties.

6. **IMMIGRATION MATTERS:**

- 6.1 All matters to be done in open court with only the necessary parties present, ie Immigration Officer, Interpreter, Attorney, Detainee and 1x family member.

7. **INSOLVENCY MATTERS:**

- 7.1 1st meeting dates are set by the Masters office. Postponement of these matters can be done via email with the Liquidator.
- 7.2 All further meetings can also be arranged via emails.

8. **POLICE AND SEARCH WARRANTS:**

- 8.1 The Investigating Officers should leave their applications with the Clerk/secretary Senior Magistrates. Urgent matters will be dealt with in the absence of the SAPS Official.
- 8.2 Magistrates should deal with the applications in chambers

9. **MEDIA**

- 9.1 All identifiable media personnel will be allowed access to the court buildings.

Magistrates may leave when all the Courts are under control ,with the permission of the Senior Magistrates or Chief Magistrate.

Most important is to avoid physical contact as far as possible.

Take care of yourselves and others.

Issued by the Acting Chief Magistrate


LINDA UNUVAR