



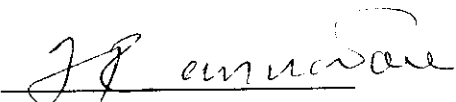
REPUBLIC OF BOTSWANA
ADMINISTRATION OF JUSTICE

PRACTICE DIRECTIVE NO. 5 OF 2020

TO: Hon. Justices of Appeal
Hon. Judges of the High Court
All Registrars
All Magistrates
Senior Manager
All Staff Members
All Attorneys
All Members of the Public

REF: RM 1/6/1 X

FROM:


Terence T. Rannowane
CHIEF JUSTICE

15th June 2020

DIRECTIONS ON COURT OPERATIONS DURING THE ELEVATED COVID-19 RESTRICTIONS

1. This Practice Directive only relates to the Greater Gaborone Zone. For the avoidance of doubt Practice Directives Number 1 to 3, including the suspension of the dies requirements during the lockdown remain in force to the extent that they are not amended hereby.
2. This Practice Directive will apply to matters which are before the courts within the Greater Gaborone Zone. All other courts outside the Greater Gaborone Zone are, where possible and in consultation with parties to continue with scheduled matters.
3. Pursuant to Regulation 6 (b) as read with Regulation 7 (e) of the Emergency Powers (COVID-19) Regulations, Cap 22:04 of Government Notice Number 216 of 2020 issued on 12 June 2020, I hereby amend Practice Directive 4 dated 2nd June 2020 as follows:

3.1. With effect from 15th of June 2020 until further notice, all courts in the Greater Gaborone Zone will operate under lockdown emergency regulations as follows:

3.1.1 **JUDGE/JUDICIAL OFFICER AND COURT STAFF HEALTH**

Tables and other surfaces in all courtrooms shall, after every court sitting be sanitised.

3.1.2 **SCHEDULING OF CASES**

Every Judicial officer shall examine his/her roll, and consult with the parties concerned and assign new dates, to the following case types:

3.2 **APPLICATIONS AND APPEALS**

3.2.1 Paragraph 1 of Practice Directive No. 2 of 2020 dated 30th March 2020 is amended by substituting the phrase “Extremely urgent matters” with “Urgent matters”.

3.2.2 Attorneys/parties shall, where practicable file their pleadings and other process electronically. Court fees shall be payable (scanned unused stamps can be used again if not cancelled) after submission through postage stamps issued with the authority of the Government or cash paid to the proper officer of the court, who shall forthwith issue an official receipt for the payment. This payment arrangement shall prevail until further notice. Processes will not be regarded as filed until, and unless there is proof of payment.

3.2.3 Attorneys/parties shall file comprehensive heads of argument, for the consideration of the Judicial Officer who may on notice to the Attorneys/ parties, give Judgment without the physical appearance of the Attorneys/parties.

3.2.4 Where possible, the Attorneys/parties and the court shall rely on electronic communication to get clarity on issues raised in the heads of argument where required.

3.2.5 Specific directives shall be issued for procedures to apply to Court of Appeal sessions.

3.3 **TRIALS**

3.3.1 From the 15th of June 2020 until further notice Judicial Officers shall continue to reassign new dates to their cases in consultation with the concerned stakeholders/parties.

3.3.2 Court sittings shall, subject to social distancing, permit no more than ten (10) people including the Judicial Officer, court personnel as well as the litigants, their legal representatives and witnesses to be present in court at any one time. However, the Judicial Officer may, where he deems it necessary in the circumstances of the case, admit more people strictly subject to the social distancing of at least 2 meters provided further that such number shall not exceed a maximum of 50 people. At the direction of the Judicial Officer, ICT platforms such as WebEx and video conferencing facilities may be used during court proceedings.

3.3.3 Submissions shall generally be through electronic filing of comprehensive heads of argument. At the direction of the Judicial Officer, oral submissions may be done through ICT platforms such as WebEx and video conferencing etc.

3.4 **LIVESTREAMING**

3.4.1 Judgments may be delivered via ICT platforms such as WebEx, video conferencing etc.

3.4.2 Cognisant of the fact that Judgments are for public consumption, from time to time, selected judgments of national importance or new areas in our jurisprudence will be televised.

3.5 **JUDICIAL CASE FLOW MANAGEMENT**

3.5.1 Judicial case flow management conferences during this period shall be dealt with in a manner to be determined by the Managing Judicial Officer in terms of the Rules of Court; provided that save in exceptional circumstances no more than two case management conferences shall be held in any case, with no roll calls or status hearings in between.

3.5.2 To that end, the Managing Judicial Officer may where appropriate, communicate electronically with the Attorneys/parties and issue such directions as may be necessary to ensure the trial readiness of any of the matters before him/her.

3.5.3 Scheduling of cases shall be in a staggered manner and no court sitting shall be conducted continuously for more than two (2) hours without a break.

3.5.4 The reckoning of the *dies* in terms of the rules of the Magistrate Court Rules, High Court Rules and the Court of Appeal Rules is hereby suspended for the duration of the lockdown in the Greater Gaborone Zone.

4. **VULNERABLE POPULATIONS (PERSONS WITH UNDERLYING CONDITIONS)**

In an endeavour to protect court officials and those seeking services of the court, in the case of vulnerable persons, i.e., persons with underlying conditions, recourse must be had to remote facilities where possible, such as WebEx, video conferencing etc.

5. **SOCIAL DISTANCING IN COURT FACILITIES**

Social distancing in and outside the court rooms shall be maintained at all times. Security Personnel within the court premises will act as marshals to enforce the observance of social distancing and to discourage milling around the court premises.

Hearing of cases will be staggered to comply with the social distancing requirements. There shall be no socializing and milling around. Litigants, witness and lawyers are expected to leave the court premises immediately when they are done.

6. **HYGIENE SUPPLIES IN COURT FACILITIES**

6.1 There will be sanitisers at court entry points, in the Registries and ablution facilities. Ablution facilities will be cleaned not less than twice a day or as the circumstances dictate to maintain hygiene.

6.2 Those in the cleaning services will be provided with protective equipment in the form of gloves and masks.

7. **SCREENING AT ENTRY POINTS TEMPERATURE CHECKS, SYMPTOMS, CONTACT WITH INFECTED PERSONS, ETC**

Each person who enters a Court Building shall be screened in terms of the COVID-19 protocol to establish his or her temperature level.

At every entry point there will be health workers or in their absence, persons who have been trained to take temperature and keep an up to date register which is compulsory. Those who come to court including the staff, are to report ahead of time, as all will be subjected to the screening.

An individual with a temperature above 37.4 degrees Celsius will be referred in terms of the COVID-19 protocol and will not be permitted to enter the court premises.

8. **COMPULSORY FACE COVERING POLICY**

It is compulsory for people to cover their faces in public. The courts will only provide its staff with reusable face masks. Everyone who comes to court be it Attorneys, parties, witnesses or accused persons are obliged to wear a face mask as required by law.

ATTENDANCE AT COURT

A duly issued subpoena, notice of set down/hearing or summons to attend court, shall if duly stamped by a Registrar or clerk of the Court authorise the person so called upon to attend court as so directed.

9. **CONCLUSION**

The above are based on the COVID-19 Regulations. These Directives will be reviewed from time to time, in the light of experience, and guided by the Regulations in an endeavour to return to “normal”.

Cc: Hon. President of the Court of Appeal
Attorney General
Director of Public Prosecutions
Commissioner of Police
Commissioner of Prisons & Rehabilitation
Chairman, Law Society of Botswana