



**OFFICE OF THE CHIEF MAGISTRATE
FREE STATE "A" CLUSTER**

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**DIRECTIVES FOR LOWER COURTS: ADMINISTRATIVE REGION 3
FREE STATE CLUSTER A**

Having been duly delegated by the Chief Justice of the Republic of South-Africa in terms of Section 8(3) of the Superior Courts Act, 2013, I hereby issue the following directives in relation to Criminal, Civil and Family related matters.

These directives shall apply from date of signature and will remain in force until the end of the lockdown period under Alert Level 4.

1. Access to courts

- 1.1 All courts in the Cluster shall be open during the lockdown period subject to the safety measures encapsulated in the Directions of the Minister of Justice and Correctional Services issued on 3 May 2020.

2. Criminal matters

- 2.1 These courts shall deal with the following matters:
- (a) New matters,
 - (b) Bail applications including enquiries in terms of sections 62 or 63A of the Criminal Procedure Act into the ability of the accused to pay the sum of money set for bail.
 - (c) Consideration of the continued detention of Children awaiting trial in detention in Child and Youth Care Centres.
 - (d) Guilty pleas
 - (e) Trials limited to:
 - (i) Corruption, Sexual offences, Gender based Violence, Serious violent crimes, robbery and any offence listed under the Covid-19 Regulations
 - (ii) Trials of persons in detention.
 - (iii) Part heard matters that are at an advanced stage of completion and where witnesses are available
 - (iv) Matters ready for judgment and or sentence,
 - (v) Single witness trials and

(vi) Applications for leave to appeal

- 2.2. Unopposed schedule 1, 5 and 6 bail applications shall be dealt with through the AVR system (Bloemfontein). For this purpose the court equipped with this system shall commence from 8h15 until the entire roll is finalised.
- 2.3. In courts where there are no AVR facilities, the Awaiting Trial Detainees in Correctional Centres shall for the purposes of bail applications be brought to court.
- 2.4. The awaiting trial detainees who are in Correctional Centres and for whatever reason are not brought to court; their cases shall be postponed in absentia. The warrants for their further detention shall be completed, signed and faxed or emailed to the Correctional Centres where they are detained.
- 2.5. In cases where the accused person is on warning or released on bail and is not in attendance due to lockdown his/her trial may be postponed in absentia. NPA and SAPS to notify the accused persons accordingly.
- 2.6. All persons arrested in respect of offences listed under schedule 7 may be released on warning (SAPS 496) and be ordered to appear in court on a date after the lockdown period.

3. Undocumented persons

- 3.1 These matters will be heard as they are brought to court for extensions and/or confirmation of the detention orders.
- 3.2 All criminal matters relating to the above will be heard in the criminal courts.

4. Civil matters

- 4.1 These courts will be open and the following matters shall be attended to:
 - (a) the issue of all court process and filing of papers relevant to pending proceedings;
 - (b) Urgent motion applications;
 - (c) Urgent civil trials supported by an affidavit setting out the grounds of urgency;
 - (d) Covid-19 applications;
 - (e) Debt review applications

- (f) Unopposed applications excluding proceedings in terms of Sections 65 and 66 of the Magistrates Court Act, 32 of 1944.
 - (g) *Ex parte* applications
 - (h) Taxation
- 4.2 All requests for default judgments that were enrolled on the Default Judgment court roll prior to the lockdown including newly enrolled requests for same shall be dealt with by Magistrates in chambers.
 - 4.3 All trials and applications set down for hearing within the lockdown period other than those listed in 4.1 shall be postponed. This shall be done in consultation with the attorneys/parties involved.
 - 4.4 The notice of the postponement of these matters may be done personally, telephonically or by e-mail to the Magistrate seized with these matters or the Senior Magistrate in the civil section.
 - 4.5 All urgent applications shall be attended to by a Magistrate on duty.
 - 4.6 Pre-trial Conferences shall be dealt with between the litigants. The minutes thereof shall be emailed to the head of the section. In the event the matter is certified trial ready, dates will then be arranged with the relevant parties.
 - 4.7 Orders of Evictions under PIE, Act 19 of 1998 and ESTA, Act 62 of 1997 shall be stayed and suspended under the current lockdown period unless the court decides that it is not just and equitable to stay and suspend the order.
 - 4.8 Small Claims courts shall be closed during the lockdown period and matters already enrolled shall be removed from the roll.

5. Domestic violence/Harassment matters

- 5.1 These courts will be open to deal with new applications and previously enrolled matters.
- 5.2 In the event that one or both of the parties are absent on their return date, the matter will be postponed in their absence.

6. Maintenance Court

- 6.1 This court shall be open to deal with child and spousal maintenance proceedings.
- 6.2 No warrants of arrest or default orders will be granted in the event that any of the parties is absent.

7. Children's court

- 7.1 The following matters shall be permitted in these courts in line with the Directions published in Government Gazette No 43268 issued on 4 May 2020;
- (a) Foster care applications and hearings;
 - (b) Care and contact, care and protection proceedings in respect of children, including removal to temporary safe care and placements in child and youth care centers;
 - (c) Adoption applications and hearings
- 7.2 All foster care extensions on the roll may be dealt with in the absence of the concerned children and/or parents provided the social worker is present and/or a detailed report is provided prior to due date and social worker's contact details are available.

Dated on this 6 day of May 2020



MC Mokgobo
Acting Chief Magistrate: Bloemfontein
ADMINISTRATIVE REGION 3 (FREE STATE A)