



**OFFICE OF THE ACTING JUDGE PRESIDENT
HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, PRETORIA**

Gauteng High Court Building, Cnr. Madiba & Paul Kruger Streets,
Room 7.15, Seventh Floor

Tel. (012) 315 7572/(012) 492 6811– E-mail: AMbelani@judiciary.org.za

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To:

- 1. All Judges of the Gauteng Division of the High Court, Pretoria and Johannesburg**
- 2. All Judiciary Heads of the Regional and District Courts, Gauteng Division**
- 3. Court staff, Professional Bodies, Practitioners and members of the public**

URGENT NOTICE

**REGULATION OF MODES OF COURT HEARINGS IN PHYSICAL COURTROOMS
AND BY VIDEO-LINK WITH EFFECT FROM 18 JULY 2022 IN BOTH PRETORIA AND
JOHANNESBURG**

This Notice contains the directives which form of Directive 2 of 20222 regulating court operations on the Gauteng Division issued earlier.

1. The following policy considerations inform the Directives about modes of court hearings set out hereunder:
 - 1.1. The general principle is that all courts shall conduct physical hearings in public as the default mode and that the conduct of video-link hearings are appropriate only when sound policy reasons exist to deviate from this default position.
 - 1.2. Where appropriate, hybrid hearings may be held in which a measure of physical hearings and video-link hearings co-exist.
 - 1.3. Where significant advantages exist in some types of cases to use video-link hearings it is appropriate that such types of cases be heard by video-link as the default model.
 - 1.4. Whether physical or video-link hearings are held in any particular case, considerations relevant to the achievement of an effective hearing and the reasonable needs and convenience of the Judges, the Legal Practitioners and witnesses are to be taken into account. This includes:
 - 1.4.1. Courtroom recording equipment which is effective, that electrical connection points are conveniently located in courtrooms to facilitate Judges and Legal Practitioners' reasonable needs to power laptops, and wi-fi connectivity is optimally effective to sustain multiple online access to Court Online, CaseLines, and in hybrid hearings, to video-links.
 - 1.4.2. In a video-linked hearing, effective internet connectivity exists for all participants and, in particular, where poor connectivity is experienced in a video-link hearing, the Judge shall exercise a discretion to direct a physical hearing for

the continuation of the case or abandon or postpone the hearing until the parties can secure effective connectivity. In this regard it is the duty of all Legal Practitioners to secure effective connectivity for hearings in which they appear, both for themselves and for any witness.

- 1.4.3. The threat of infection from covid, although diminished, remains in existence and appropriate measures to arrest the risk of spreading infections must be maintained. Therefore, where physical hearings are held, people shall observe social distancing and wear masks indoors unless excused from so doing by the Judge. The court administration must ensure that courtrooms are properly cleaned every day and that air conditioning works effectively.

TYPES OF CASES THAT SHALL BE HEARD PHYSICALLY BY DEFAULT:

2. All criminal trials.
3. All civil trials and all cases where the matter has been referred for oral evidence -
 - 3.1. At the discretion of the Judge, such cases may be heard in part physically and in part by video-link or wholly on video-link where sound reasons to do so are present. Such arrangements may be at the request of one or all parties or on the initiative of the Judge. Where the Judge takes the initiative, reasonable notice must be given to the parties.
 - 3.2. Where evidence is given by video-link from a remote location, the physical arrangements for the witness to testify must be such that the integrity of the evidence given cannot fall under suspicion of being coached, aided, or in any way directed by a third party by any means. Practitioners must take responsibility for the organisation of “witness rooms” where the whole space is visible and third-party interference is impossible. The Judge may permit deviations from this type of arrangement if deemed appropriate.

- 3.3. Appropriate examples of the hybrid or total use of video-link participation in a case may include:
 - 3.3.1. An expert witness who is at a remote location.
 - 3.3.2. Counsel who is not domiciled in Gauteng.
 - 3.3.3. A witness whose credibility is not an issue in the case.
 - 3.3.4. A witness whose credibility is an issue and in respect of whom the judge is satisfied that the value of the evidence is unlikely to be diminished on account of testifying remotely and the efficacy of a cross-examination of the witness will not be impaired.
4. The Unopposed Motion Court, the Special Interlocutory Court and the Settlements Court hearings during term times. As a general rule, exceptional circumstances must be shown to deviate from the default position.
5. Applications for admission as Legal Practitioners.

TYPES OF CASES THAT SHALL BE HEARD BY VIDEO LINK BY DEFAULT

6. Unopposed divorce cases.
7. Applications for leave to appeal.
8. Urgent cases brought after court-hours or over week-ends.
9. Urgent cases brought during all recesses.

10. Cases in the unopposed motion courts and Special Interlocutory court brought during any recesses.
11. Judicial Case Management Court.
12. In these types of matters, a party may request a physical hearing and the Judge shall exercise a discretion whether it is necessary to deviate from the default position. Such a request must be given prior to the hearing, in a practice note which shall stipulate whether all parties are in agreement or not. Ideally, such a request should be made immediately after the publication of the court roll.

TYPES OF CASES THAT MAY BE HEARD EITHER IN PHYSICAL COURT OR BY VIDEO LINK BY AGREEMENT AMONG THE PARTIES

13. All appeals.
14. All opposed motions.
15. Family Court motion cases.
16. In respect of these types of cases the following considerations shall be relevant to the choice of model:
 - 16.1. The default position is a physical hearing and therefore a deliberate choice to use video-link must be made.
 - 16.2. In the absence of agreement among all parties about the mode of hearing, the Judge shall exercise a discretion as to what mode is appropriate having regard to the reasonable needs of all parties' representatives and witnesses.

16.3. If one or more counsel who are to address the court are not domiciled in Gauteng, in the absence of a material reason not to accommodate such counsel on video-link, if counsel requests a hearing by video-link, the matter shall proceed on video-link.

16.4. Counsel who are domiciled in Gauteng and who would prefer not to travel to the seat where the hearing would take place physically, may request to be accommodated by resort to a video-link hearing. In the absence of agreement between the parties, the Judge shall decide which mode of hearing is appropriate, having regard to the reasonable needs of all parties' representatives.

16.5. A request for any such accommodation must be made to all interested persons as early as possible before the set down date.

MODE OF ROLL CALL IN THE CIVIL TRIAL COURT

17. The allocation of Judges to cases shall proceed in accordance with the delivery of a joint practice note via email to the office of the DJP.

A.P. LEDWABA
ACTING JUDGE PRESIDENT
GAUTENG DIVISION OF THE HIGH COURT
OF SOUTH AFRICA
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