



OFFICE OF THE DEPUTY JUDGE PRESIDENT

(HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION, JOHANNESBURG)
OFFICE 1210

Telephone number: 011 335 0116/011 335 0162 / 011 335 0163

Fax number: (011) 335 0219

e-mail address: Secretarydjp@judiciary.org.za / LTulleken@judiciary.org.za

TO :

1. Judges of the High Court, Gauteng Division, Johannesburg
2. Chief Registrar
3. Legal Practice Council – Gauteng
4. Law Society of South Africa
5. Gauteng Family Law Forum
6. Gauteng Attorneys Association
7. Pretoria Attorneys Association
8. Johannesburg Attorneys Association
9. West Rand Attorneys Association
10. South African Black Women in Law
11. National Association of Democratic Lawyers
12. Black Lawyers Association
13. South African Women Lawyers Association
14. South African Medical Malpractice Lawyers Association
15. Personal Injury Plaintiff Lawyers Association
16. South African Medico-Legal Association
17. Office of the Director of Public Prosecutions, Pretoria and Johannesburg
18. Office of the State Attorneys, Pretoria and Johannesburg
19. Solicitor General
20. Office of the Family Advocate, Pretoria and Johannesburg
21. Legal Aid South Africa
22. Johannesburg Society of Advocates
23. Pretoria Society of Advocates
24. Gauteng Society of Advocates

25. Pan African Bar Association of South Africa
26. General Council of the Bar of South Africa
27. National Bar Council of South Africa
28. South African Bar Association
29. National Forum of Advocates
30. North Gauteng Association of Advocates
31. Church Square Association of Advocates
32. Advocates for Transformation
33. Legal Division of the Department of Health: Gauteng
34. Legal Division of the Department of Sport, Arts, Culture and Recreation
35. Gauteng Department of Agriculture and Rural Development
36. Legal Services - Gauteng Provincial Department of Education
37. Gauteng Society of Advocates

DATE : 07 June 2022

OUR REF : DJP/36/2012/lt

RE : **REVISION OF CHAPTER 8 OF THE JUDGE PRESIDENT'S PRACTICE DIRECTIVE 01 OF 2021 TO ACHIEVE CLARITY ON THE SCOPE OF THE SPECIAL INTERLOCUTORY COURT (with effect from 17 June 2022, the substantive amendments are underlined)**

EXPLANATORY NOTE:

Owing to different interpretations of the scope of the Interlocutory court's scope the changes as indicated below have been made. The significant clarifications are:

- (1) All types of cases are dealt with by this court.
- (2) Opposed and unopposed matters may be enrolled. Should experience prove that the volume of opposed matters overburdens this court, further revisions shall be considered.
- (3) Consequential relief in cases where a compelling order is not complied with shall also be dealt with in this court in cases other than those in which the RAF is the defendant.

CHAPTER 8: THE SPECIAL INTERLOCUTORY COURT: ROLE AND FUNCTIONS, APPLICABLE TO ALL CATEGORIES OF MATTERS

43. A motion court, the Special Interlocutory Court, to address issues of non-compliance with this Directive or of the practice manual of the court or of any rule of court, whether opposed or unopposed, in all cases, ie trials, applications and appeals, will sit Mondays to Thursdays every week, except during the period of dies non, between 16 December and 15 January. Matters where the RAF is the defendant and in terms of chapter 6 of this Directive, qualify to apply in the Special Interlocutory court for a referral for adjudication of the case by default, shall include cases in which set down dates have not been allocated as well as cases in which set down dates have been allocated.

44. Save as provided in paragraph 43, cases shall be set down on notice filed before noon 7 clear Court days before the hearing date; be succinct and, where appropriate, brief heads of argument shall be submitted at the hearing.

45. Ordinary opposed or unopposed interlocutory matters relating to matters other than those described in paragraph 43 must not be enrolled in this Court and must instead be enrolled in the general opposed or unopposed motion court, whichever is applicable.

46. Draft Orders in the Special Interlocutory Court, in addition to being uploaded to the files on CaseLines, must also be sent in word format by email to the secretary of the presiding Judge to enable revisions, if required, at the discretion of the Judge. The Draft Orders must bear the name of Counsel, the Attorney and their respective email addresses. Upon an Order being granted, the Registrar shall prepare the Order and upload it to the electronic file on CaseLines by no later than the day following the date of the Order. Copies shall be emailed to the attorney at the email address stated on the Draft.

47. Any party who, having reason to be aggrieved by the other party's neglect, dilatoriness, failure or refusal to comply with any Rule of Court, provision of the Practice

Manual or provision of this Directive must utilise the Interlocutory Court to compel compliance from the delinquent party: further,

47.1: if a party, other than the RAF, fails to comply with a complying order, served on that party, and a rule of court provides that such non-compliance may entitle an aggrieved party to apply to strike out the claim or defence, such application to strike out shall again be enrolled in the Special Interlocutory Court for final relief.

47.2: where the defendant is the RAF, chapter 6 of this Directive shall apply in relation to final relief.

48. Furthermore, any breach by a Legal Practitioner to promote and advance the efficacy of the Legal Process as stipulated in paragraph 60.1 of the Code of Conduct for Legal Practitioners may be referred to the Legal Practice Council for investigation into possible professional misconduct.

49. In particular, Plaintiffs in category “Y” matters who allege that the Defendant is culpable in any way for an unnecessary delay, must not hesitate to utilise this court.

50. Among the matters which this court will deal with will be:

50.1. the failure to deliver timeously any practice note or Heads of Argument that are due,

50.2. a failure to comply with Rule 36,

50.3. a failure to sign a Rule 37 minute promptly,

50.4. a failure to comply timeously with any undertaking given in a Rule 37 conference,

50.5. a failure to secure an expert timeously for an interview with a patient,

50.6. a failure to secure a meeting of experts for the purpose of preparing joint minutes,

50.7. non-compliance with any provision of this directive,

50.8. any other act of non-compliance in respect of an obligation that rests upon a party which may imperil expeditious progress of a matter may be the subject matter of an application to compel; the list is not limited.

51. In a proper case, punitive costs (including an Order disallowing legal practitioners from charging a fee to their clients) may be awarded where recalcitrance or obfuscation is apparent and is the cause of inappropriately delaying the progress of any matter.

*Dictated by the Deputy Judge President
Electronically transmitted, therefore no signature*

**ROLAND SUTHERLAND
DEPUTY JUDGE PRESIDENT, JOHANNESBURG**

07 June 2022.