



PRACTICE DIRECTIVES

HIGH COURT OF SOUTH AFRICA

NORTH WEST DIVISION

MAHIKENG

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NORTH WEST DIVISION

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PREAMBLE

NOTING THAT section 8(4)(b) of the Superior Courts Act, 2013 (Act No. 10 of 2013)(“the Act”) enjoins the Judge President of the North West Division of the High Court of South Africa to exercise control over judicial functions in that Division;

NOTING FURTHER that section 8(6) of the Act provides that –

“8(6) The judicial functions referred to in subsection (2) and subsection (4)(b) include the-

- (a) determination of sittings of the specific courts;
- (b) assignment of judicial officers to sittings;
- (c) assignment of cases and other judicial duties to judicial officers;
- (d) determination of the sitting schedules and places of sittings for judicial officers;
- (e) management of procedures to be adhered to in respect of-
 - (i) case flow management;
 - (ii) the finalisation of any matter before a judicial

officer, including any outstanding judgment, decision or order; and

(iii) *Omitted...* –

NOW, THEREFORE:

BY VIRTUE OF THE POWERS VESTED IN ME IN TERMS OF THE ABOVE-MENTIONED PROVISIONS OF THE SUPERIOR COURTS ACT, 2013 (Act No. 10 of 2013)-

I, **MASHANGU MONICA LEEUW**, Judge President of the High Court of South Africa: North West Division, issue the following Practice Directives, as AMENDED:-

DIRECTIVES

TO REGULATE the conduct of proceedings and matters incidental to effective judicial case flow in the North West Division of the High Court.

**M M LEEUW
JUDGE PRESIDENT
NORTH WEST DIVISION**

1. Definitions

In the Practice Directives-

“**Court day**” means a day that is not a public holiday, Saturday or Sunday, and shall include any reference to ‘business day’.

“**Counsel**” refers either to “Advocate” or “Attorney”.

“**Division**” means the North West Division of the High Court of South Africa.

“**High Court**” means the High Court sitting in the North West Division, South Africa.

“**Prescribed**” means ‘as directed by’ the Judge President or presiding Judge.

“**Registrar**” means the Registrar of the North West Division of the High Court.

“**Taxing Master**” refers to the Registrar of the North West Division of the High Court.

“**Unopposed motions**” shall include *ex parte applications*, unopposed Rule 43 applications, unopposed applications for default judgment and unopposed divorces.

1A. The Practice Directives will apply to unrepresented litigants.

PRACTICE DIRECTIVES

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PRACTICE DIRECTIVE 1

COMMENCEMENT OF SITTINGS

All the sittings in this Division of the High Court will commence at 10h00 or at such time as may be determined by the presiding Judge.

PRACTICE DIRECTIVE 2

COURT TERMS: 2022

[1] 17 JANUARY -27 MARCH

[2] 11 APRIL – 19 JUNE

[3] 18 JULY – 18 SEPTEMBER

[4] 3 OCTOBER – 4 DECEMBER

No trials and no opposed applications may be set down for hearing during recess, save with leave of the Judge President or a designated Judge. Such leave will only be granted in cases of urgency, or in exceptional circumstances.

PRACTICE DIRECTIVE 3

COMMUNICATION FROM PRACTITIONER TO JUDGE

Communication from any practitioner directed to the Judge President or any presiding Judge must be done through the offices of the Registrar and not directly with that Judge.

PRACTICE DIRECTIVE 4

MOTION COURT

1. **General**

- 1.1. Unopposed Motion Court will be held on each Thursday throughout the year except on a Thursday falling within the period 23 December to 7 January.
- 1.2. Opposed Motion Court will be heard on Thursdays and Fridays during term. An application must be made to the Registrar for each opposed application to be allocated a date (on a Thursday or Friday) on which it will be heard.
- 1.3. When a public holiday falls on a Thursday, which falls outside the period 23 December to 7 January, and the Friday immediately following is a court day, Motion Court for that week will be held on that Friday.
- 1.4. If the public holiday falls on the Friday immediately following such Thursday which is a public holiday, or is not a court day, Motion Court will be held on the preceding Wednesday.
- 1.5. Motion Court Roll will be closed at **16H00** on **Monday preceding the Thursday and Friday of the Motion Court** for: Unopposed Applications; Opposed Applications; Admissions as Legal Practitioner, Default Judgment before the Registrar, including Unopposed Matrimonial Applications for the succeeding Monday.

- 1.5.a When a public holiday falls on a Monday, the Roll shall close at **16H00** on Friday preceding the Monday of the public holiday.
- 1.5.b After closure of the Roll, there shall be a Draft Roll dispatched on every **Tuesday** not later than **12H00 (midday)**, with the Final Roll being dispatched not later than **14H00**.
- 1.6 In applications, opposed or unopposed, which are to be postponed, a date for the postponement should be arranged with the Registrar and a management notice completed, which notice shall be handed to the Court on hearing of the matter.

2. **Unopposed**

- 2.1 All notices of motion should be in accordance with Form 2 of the Uniform Rules.
- 2.2 The notice of set down, stating explicitly or by reference to the relief sought, shall be filed not later than 16H00 on the Monday preceding the date of hearing.
- 2.3 Only matters in which set down as prescribed in paragraph 2.2 is filed, will be enrolled for hearing.
- 2.4 Only admitted legal practitioners with right of appearance in the High Court, registered articled clerks or the unrepresented litigants may set matters down for hearing.

2.5 Should it come to the knowledge of the attorney who had set the matter down that an unopposed application will not proceed, the attorney is required to notify the Registrar, alternatively, the Judge's Secretary and thereafter file a courtesy note on the court file before hearing and not later than 12h00 on the Tuesday preceding the hearing of the matter.

3. **Opposed**

3.1 No opposed applications may be set down on any day other than a Thursday or Friday, save with the leave of the Judge President or a designated Judge. The parties may elect to apply for a date on either a Thursday or a Friday or both. In order to avoid the delay in hearing matters on the allocated dates(s), counsel or practitioners should at all costs avoid allocating cases for hearing to one counsel on the same day, unless permission has been granted by the Judge President or presiding Judge.

3.2 Only qualified attorneys, registered articled clerks or unrepresentative litigants may, in writing, apply for a trial date.

3.3 The date of hearing of opposed motion matters shall be allocated by the Registrar. The parties, per agreement, may suggest a date of hearing which will be allocated on the basis of availability of a presiding Judge.

- 3.4 A date of hearing shall be allocated by the Registrar within seven (7) days of such application. If no date has been allocated within the seven (7) days' period referred to above, the applicant shall enquire in writing from the Registrar about the reason for the delay. If no response is received from the Registrar within a period of seven (7) days after the receipt of enquiry, the applicant shall bring the matter to the attention of the Judge President.
- 3.5 A notice of set down shall, save as provided for in Practice Directive 21(2), be served and filed with the Registrar within fifteen (15) days of the date stated in the notice of allocation by the Registrar of a date for trial, failing which the date allocated shall lapse.
- 3.3 No date shall be allocated if the court file is not properly paginated and indexed.
- 3.4 If a matter on the opposed motion court roll is settled or if an interlocutory order by consent in respect of an opposed matter is sought, the matter may be placed on the unopposed roll for its disposal in that regard.
- 3.5 In opposed applications, the applicant's attorney or respondent's attorney where applicable shall file a Practice Note, a copy of which is attached. A prototype of the Practice Note is attached hereto, **marked "A"**.

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“A”

**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION
MAHIKENG**

Case Number... / 20.....

In the matter between:

MR X

APPLICANT

And

MR Y

RESPONDENT

**APPLICANT'S or RESPONDENT'S
PRACTICE NOTE**

Counsel for Applicant:

Counsel for Respondent:

Nature of Application:

Have heads of argument been filed:

Is the matter proceeding or going to be postponed:

Expected duration

DATED AT MAHIKENG THIS ___ DAY OF _____ 20___

REGISTRAR

4. UNOPPOSED DIVORCE ACTIONS.

4.1 Unopposed divorces will be adjudicated on Mondays at the main seat.

4.1A Unopposed divorces **may** be set down for adjudication on Fridays in accordance with the provisions of Practice Directive 23.

5. DEFAULT JUDGMENT APPLICATIONS

5.1 Unopposed applications for default judgment falling outside the competence of the Registrar will be adjudicated on Mondays at the main seat.

5.1A Default judgment applications falling outside the competence of the Registrar **may** be set down for adjudication on Fridays in accordance with the provisions of Practice Directive 23.

6. Paragraphs 1 and 2 above apply ***mutatis mutandis*** to unopposed divorces and default judgments except that matters set down in accordance with Practice Directive 23A will either be heard on a preceding Thursday if the Friday and or the Monday of hearing falls on a public holiday, or the succeeding Court day.

7 OPPOSED DIVORCE ACTIONS

7.1 Opposed divorce actions **must** be set down for hearing at the main

seat on Mondays.

7.2 Opposed divorces which have become settled, must be set down on Mondays at the main seat. The parties must endeavour to settle all *trivials* prior to the date of hearing. The provisions of **Practice Directive 10** shall be applicable.

7.3 Divorces which are not settled shall be set down in accordance with **Practice Directive 21.**

8. PRODUCTION OF MARRIAGE CERTIFICATES IN DIVORCE ACTIONS

8.1 In all divorce actions, save only in exceptional circumstances, there shall be handed in at the hearing the original marriage certificate of the parties, or a duplicate issued by the Department of Home Affairs.

8.2 Failure to comply with the provisions of paragraph 8.1 will result in the matter being postponed or struck from the roll, and an appropriate order as to costs, including an order of costs *de bonis propriis*.

Practice Directive 4(8) substitutes “Practice Direction No. 31” w.e.f 30 July 2018

PRACTICE DIRECTIVE 5

URGENT AND SEMI-URGENT APPLICATIONS

1. **URGENT APPLICATIONS - ACCESS**

- 1.1 When an application is alleged to be of extreme urgency, applicant's counsel shall approach the Registrar to arrange a hearing as soon as possible in accordance with the provisions of Uniform Rule 6(12) of the Uniform Rules of the Superior Courts.
- 1.2 Opposed matters which are not of extreme urgency but which are nevertheless urgent to await a hearing in the ordinary course on the continuous roll, will be granted some preference. For convenience these matters will be called semi-urgent matters.
- 1.3 The Judge who has been allocated a matter in which "urgency" or "semi-urgency" is raised, will adjudicate on whether it is urgent at all, and, if it is urgent, whether it is urgent or semi-urgent. If it is held not to be urgent at all, the matter will have to be set down on the continuous roll in the normal course.
- 1.4 If it is decided that a matter is indeed urgent, it will be dealt with by the duty Judge or a Judge who will be designated by the Judge President as soon as is practically possible.

2. SEMI-URGENT APPLICATIONS

2.1 If it is decided that a matter is semi-urgent, the Judge who makes this decision will order the matter to be set down for hearing on a date to be arranged by the parties with the Registrar, or, failing agreement between the parties, on a date to be determined by the Registrar.

3. COPIES OF DOCUMENTS IN URGENT APPLICATIONS

3.1 Whenever, due to urgency, it is not possible to timeously file an original document with the Registrar or to hand it in from the Bar, a copy thereof (including a facsimile copy) may be filed or handed in, provided that-

- (i) such a copy shall be clear, clean, fully legible, on paper of good quality and of A4 standard size;
- (ii) the original document shall be placed in the relevant file as soon thereafter as possible.

PRACTICE DIRECTION NO. 6

COPIES OF DOCUMENTS IN URGENT MATTERS

**“Practice Direction No. 6” deleted and inserted in Practice Directive
5(3) w.e.f 30 July 2018**

PRACTICE DIRECTIVE 7

PREPARATION AND FILING OF PLEADINGS

1. All documents shall have a margin of at least 35mm. The margin serves as a binding space and shall not be used for notes, signatures, initials, stamps, etc.
2. At the top of each document a space of at least 50mm is to be left blank. This space is to be used for the affixing of fees (revenue stamps), noting of reference numbers, etc.
3. All documents shall be typed (or legibly written) on paper of A4 size in double spacing on one side of the paper only. Documents filed by attorneys, however, must be typed.
4. All documents which are to be used as exhibits and which do not have a margin of 35mm should, where possible, be gummed or stapled to a paper of A4 size.
5. The attorneys acting for a plaintiff, a defendant, an excipient, an applicant, or a respondent in a Review, shall, before applying for a date of set-down, collate, number consecutively, and suitably secure, all pages of the documents delivered and shall prepare and deliver a complete index thereof.

6. In all opposed matters and in all unopposed matters, other than urgent applications, where the documents comprise more than 10 pages, the documents shall be properly paginated, indexed and bound before the date of set-down.
7. All documents shall be so described in the index that it is possible to know what they comprise without reference to them. It is not acceptable, for example, to describe a document as “Annexure A” or “Notice in terms of Rule 36 (9) (a)”. A proper description of the document must be given indicating its contents and its source.
8. The index must be properly supplemented when additional documents are filed.
9. Where the papers exceed **10 cm** after binding, the bundle must be divided into **arch lever files** not exceeding **5 cm** each and the volumes numbered clearly and accordingly in the Index.
10. Special orders as to costs may be made in appropriate cases where the papers are not in order, including orders for costs *de bonis propriis*.

PRACTICE DIRECTIVE 8

FILING OF PUBLICATIONS IN GAZETTES AND NEWSPAPERS

1. If a notice, by virtue of a statutory provision or an order of court has been published in a newspaper and the page of the newspaper on which such notice appears is presented for filing, that page must be folded to A4 size.
2. In the case of a publication in a government gazette, the heading under which the relevant notice is published, or the section of the Act on which the application is based, must appear in the filed notice.
3. The full sheet with the heading and the date of a Gazette or newspaper containing the relevant publication must be filed of record. A covering affidavit will not be necessary as the “printed page” speaks for itself and no further proof is required.

PRACTICE DIRECTIVE 9

ATTORNEYS' NAMES ON DOCUMENTS

1. The name and telephone numbers (including cellular phone numbers) of the attorney filing documents in the Registrar's office **must** appear in the left-hand bottom corner of the first page of such document.

2. The Registrar's office shall refuse to accept any document which does not comply with this requirement.

- 2A For the purpose **only** of enabling the Registrar to dispatch the court roll elsewhere other than at the notice board situated at the main seat, the information in Practice Directive 9(1) **must** include the active electronic mail addresses of the attorneys of record.

Practice Directive 9(2A) inserted on 30 July 2018

3. Where an attorney signs documents as both the attorney of record for any party and as the attorney who will present the case in Court on behalf of his/her client, he/she must sign twice at the bottom end of the document. In the case where one attorney is an attorney of record for a party but has instructed another attorney to represent his client in this Court, each attorney must sign once.

4. The attorney or counsel appearing in this Division of the High Court must indicate clearly whether he/she has the right to appear in the High Court in terms of the applicable enabling legislation.

Practice Directive 9(4) amended on 30 July 2018

PRACTICE DIRECTIVE 10

**SETTLEMENT, WITHDRAWAL AND POSTPONEMENT OF OPPOSED
MATTERS**

1. If an opposed matter is settled, or is to be withdrawn or postponed, or if any issue raised will not be pursued, the attorney who has set the matter down **shall**, without delay, notify the Registrar and the presiding Judge of any such settlement, withdrawal or postponement, and where applicable, shall immediately delete the entry on the continuous roll.
 2. Attorneys are required to examine and revise the list of awaiting trial cases at least once per month and to remove from that list any cases in respect of which trial dates are no longer required.
 3. Where a settlement has been reached, the Judge President or a designated Judge or authorised official **may**, upon the production of a duly signed deed of settlement, grant leave to enrol the matter before the expiry of the ***dies induciae***, or the allocated date of trial.
- 3A In the event that a settlement is reached as contemplated in Practice Directive 10(3), a written Memorandum, signed by both parties, must be prepared and filed with the Registrar, setting out the reasons why the amount agreed between the parties is justifiable prior to the settlement agreement being made an order of Court.

4. Guidelines set out in the case of ***Matshidiso Abiel Mokone v RAF***, case No. 281/2010 paragraph [40] must be observed and applied in respect of all settlement agreements. The guidelines are reproduced hereunder:

Guidelines in *Matshidiso*

“[40] It has become necessary for this court to give some guidelines which will regulate the procedure in making a settlement as set out in a draft order or a settlement agreement an order of court in accordance with Rule 41(4) of the Rules of Court. The guidelines are as follows:

40.1 With regard to a settlement agreement in a civil trial, signed by the parties to the proceedings in which the parties desire to reduce same to a court order:

- (a) Proof to the satisfaction of the court must be produced to the presiding Judge regarding the identity of the person or persons who signed the settlement agreement;
- (b) Proof that the parties intend to reduce the settlement agreement to a court order shall be furnished to the court;

- (c) The plaintiff must be present in court to confirm the settlement agreement or alternatively, a sworn affidavit containing the requirement set out in (a) and (b) above from the plaintiff must be filed therewith.

40.2 If in a civil trial, the settlement agreement is signed by the legal representatives of the parties thereto or where the parties have settled on the terms set out in a draft order:

- (a) Proof to the satisfaction of the court that the legal representatives were authorised thereto must be produced to the presiding Judge either in the form of correspondence from the parties or through an agreement set out in the pre-trial conference minutes as prescribed by Rule 37 of the Rules of Court, in open court by the parties' legal representatives;
- (b) Proof that the parties intend to settle on the terms set out in the settlement agreement or on the terms set out in the draft order shall be furnished to the court;
- (c) One or both of the parties to the proceedings, shall under oath or through a sworn affidavit, confirm their intention to make the settlement agreement or draft order an order of court.

40.3 A settlement, which was concluded as a result of an offer to settle, either in terms of Rule 34 or the common law, which has been accepted by the plaintiff in writing, and counsel for the parties indicate that the parties desire to have the settlement made an order of court, shall be confirmed by either the plaintiff or the defendant before a presiding Judge under oath or per sworn affidavit and terms of the settlement must be set out in a draft order which will be handed up to the presiding Judge and be made an order of court.

40.4 Parties must ensure that the settlement negotiations and agreement are concluded prior to the date of trial and failure to do so may result in the presiding Judge invoking Practice Directive 28 of this Division which prescribes that:

“NON-COMPLIANCE WITH THE PROVISIONS OF THE RULES OF COURT OR PRACTICE DIRECTIVES

1. Save in exceptional cases or cases of urgency, compliance with the provisions of the Rules or Practice Directives will be insisted upon.
2. Non-compliance may result in the Court making such order against the defaulting party as it deems fit, including the case being struck off the roll and/or by a special order as to costs, unless in each such instance condonation of such failure is sought on good cause shown on written application, and is granted.”

40.5 When it has come to the knowledge of the attorney who has set the matter down that the matter is settled, he or she shall, without delay, notify the Registrar and the presiding Judge of such settlement in order for the entry of the matter on the continuous roll to be deleted". (See Practice Directive 10)

ADDITIONAL GUIDELINES

5. In addition to the guidelines above:
 - 5.1 If the settlement is in respect of contingency fees agreements as defined in the Contingency Fees Act, 1997 (Act No. 66 of 1997) the affidavit in terms of section 4 of this Act must be filed.
 - 5.2 Where no contingency fee agreement was entered into, the legal practitioner and his or her client must file an affidavit confirming such fact.
6. If any attorney fails to comply with the provisions of 1 and 2 of this Practice Directive **timeously**, the Registrar may call upon such attorney for a written explanation, which shall be placed before the Judge President.

PRACTICE DIRECTIVE 11

CONTINUATION OF HEARING OF ENROLLED CASES

1. When a Court commences hearing a case enrolled, such matter shall, unless the presiding Judge directs otherwise, be adjudicated until it is finalised.

2. The convenience of Counsel shall not be regarded as a valid reason for not continuing with the case.

- 2A Decisions as to times (and dates) of, and reasons for, adjournment and continuation of an enrolled case vests in the presiding Judge, and where practically possible, in consultation with the Judge President for purposes of ensuring stability of the general court roll and effective allocation by the Judge President of the presiding Judge who had part-heard the case without prejudicing the continuance of other enrolled cases.

Practice Directive 2A inserted on 30 July 2018

PRACTICE DIRECTIVE 12

EARLY ALLOCATION OF MATTERS TO JUDGES

1. If any matter on the continuous roll is of such a nature, by reason of the volume of the record or the research involved or otherwise, that in the opinion of Counsel for the plaintiff, excipient, or applicant (as the case may be), the Judge allocated to hear the matter would, in order to prepare for the hearing, reasonably need to receive the papers earlier than he would normally do (that is the day before the hearing) such Counsel shall deliver to the secretary of the Judge President, not less than ten (10) days before the date of hearing, a notice to that effect, setting out the number of the case, the names of the parties and of Counsel, the date of hearing and that the provisions of Rule 62(4) have been (or would be) timeously complied with.
2. Failure on the part of Counsel concerned to comply with the provisions of this notice could result in the matter not being heard on the allocated day.
3. A punitive costs order may be made against the party or the legal representative who does not comply with these provisions.

PRACTICE DIRECTIVE 13

**FILING AND SERVICE OF HEADS OF ARGUMENT IN CIVIL AND
CRIMINAL APPEALS**

GENERAL:

1. Criminal and civil appeals may be set down for hearing during term on a date allocated by the Registrar on a Friday.

2. (a) It is the responsibility of the appellant to ensure that the record is properly typed, both as to content, layout and spacing and as to numbering of the pages and lines and that it is properly indexed and bound. Where the pages of the record have already been numbered by the transcriber it shall not be necessary to renumber those pages. Any additional pages which are inserted at the beginning of the record before the already numbered pages may be numbered in roman numerals or alphabetically so as to obviate the need to renumber those pages which have already been numbered.

- (b) Both counsel must exclude from the Court record all volumes and reading material that is unnecessary for the determination of the issues on appeal (e.g. where only a question of law falls to be determined).

3. Applications for the amendment of the grounds of appeal will not be considered unless adequate notice has been given to all parties concerned and to the presiding judicial officer in the Court *a quo*.
4. Where an appeal is set down for hearing and the appellant abandons the appeal or is unable to proceed with it, the appellant's attorney shall immediately notify the Registrar of the fact and the appeal will be removed from the roll. Should the respondent concede the appeal or be unable to oppose it, his/her attorney shall immediately advise the Registrar of the fact.
5. An attorney who wishes to withdraw as attorney of record must comply with the procedure prescribed by Uniform Rule 16 (4).
6. The heads of argument of each party must be accompanied by a brief typed note indicating:
 - a) the name and number of the matter;
 - b) the nature of the appeal;
 - c) the issues on appeal succinctly stated (for example 'negligence in MVA case', 'admissibility of a confession', 'interpretation of . . .');
 - d) an estimate of the duration of the argument;
 - e) if more than one day is required for argument, the reasons for the request;
 - f) if the appeal is said to be urgent or is entitled to some precedence on the roll, the reasons therefor;

- g) a list reflecting those parts of the record that, in the opinion of counsel, are necessary for the determination of the appeal;
 - h) a summary of the argument, not exceeding two folios;
 - i) an indication of those authorities to which particular reference will be made during the course of argument.
7. Cross-appeals do not require a separate set of heads of argument. In all cases where there is an appeal and a cross-appeal, the appellant's main heads of argument must follow the same pattern.
8. The Registrar will not accept documents in relation to an appeal on the date of the hearing of that appeal.
9. The use of plastic ring binders (not files) for heads of argument and in applications would be appreciated.

1. **CIVIL APPEALS:**

Heads of argument in all civil appeals to the Full Bench of this Division and all civil appeals from the Magistrates' Courts shall be delivered in accordance with the provisions of Rules of Court 49 (15), 50 (9) and 50 (10).

(a) **Civil Appeals to the Full Bench:**

49(15) Not later than fifteen (15) days before the appeal is heard the appellant shall deliver a concise and succinct statement of the

main points (without elaboration) which he intends to argue on appeal, as well as a list of the authorities to be tendered in support of each point, and not later than ten (10) days before the appeal is heard the respondent shall deliver a similar statement. Three (3) additional copies shall in each case be filed with the Registrar.

(b) **Civil Appeals from Magistrates' Courts:**

50(9) Not less than fifteen (15) days before the appeal is heard the appellant shall deliver one (1) copy of a concise and succinct statement of the main points (without elaboration) which he intends to argue on appeal, as well as a list of the authorities to be tendered in support of each point, and not less than ten (10) days before the appeal is heard the respondent shall deliver a similar statement. Three (3) additional copies shall be lodged with the Registrar in each case.

50(10) Notwithstanding the provisions of this rule the Judge President may, in consultation with the parties concerned direct that a contemplated appeal be dealt with as an urgent matter and order that it be disposed of, and the appeal be prosecuted, at such time and in such manner as to him/her seems meet.

2. CRIMINAL APPEALS:

Heads of argument in all criminal appeals to the Full Bench of this

Division and all criminal appeals from the Magistrates' Courts shall be delivered in terms of the provisions of Rules 49A(3) and (4) as well as Rule 51(4) respectively.

(a) Criminal Appeals to the Full Bench

49A(3) Not later than 20 days before the appeal is heard the appellant shall deliver one copy of a concise and succinct statement of the main points (without elaboration) which he/she intends to argue on appeal as well as a list of the authorities to be tendered in support of each point to the Director of Public Prosecutions and four copies to the Registrar.

49A(4) Not later than five days before the appeal is heard the Director of Public Prosecutions shall deliver one copy of his/her heads of argument as well as a list of the authorities to be tendered in support of each point to the appellant and four copies to the Registrar.

(b) Criminal Appeals from Magistrates' Courts:

51(4) Before the appeal is heard the appellant shall deliver a concise statement of the main points (without elaboration) which he/she intends to argue on appeal, as well as a list of the authorities to be tendered in support of each point, and before the appeal is heard the respondent shall deliver a similar statement. The periods, within which the aforesaid

heads of argument and list of authorities shall be delivered, are those which the Judge President of this Division determines from time to time. Three (3) additional copies shall in each case be filed with the Registrar.

Pursuant to this Rule the Judge President of this Division has determined as follows:

- (aa) The appellant's heads of argument and list of authorities together with three copies thereof shall be delivered not less than 15 days before the date on which the appeal is set down for hearing and the respondent's not less than 10 days before such date.
- (bb) In criminal appeals from Magistrates' Courts delivery by the appellant of heads of argument in terms of Rule of Court 51(4) read with Rule of Court 1, shall include service on the Director of Public Prosecutions of such heads of argument in accordance with the time-periods provided for in Rule of Court 51(4) set out immediately under (b) above.
- (cc) Not less than thirty (30) days prior to the date on which a criminal appeal from the Magistrates' Court is set down for hearing, the attorney of record for the appellant (or the appellant) shall confirm in writing to the Director of Public Prosecutions and the Registrar that the appeal is to proceed on the date allocated in the notice of set-down for the hearing thereof. Failing timeous receipt by the Director of Public Prosecutions and the Registrar of such

confirmation, the appeal will not be heard on the allocated date and will be struck from the roll.

- (dd) 'Heads of argument' shall mean, in addition to or in lieu of the 'concise and succinct statement of the main points (without elaboration) which he intends to argue on appeal' as provided for in Rules of Court 49(15), 49A(3), 50(9) and 51(4), full heads of arguments with, where appropriate, references to the record and to the authorities relied upon, together with a list of such authorities. Appellant or his or her legal representative shall, when delivering the heads of argument and after consultation with the other parties' legal representative(s), file a statement setting out which portions of the record, if any, they regard as irrelevant to the appeal and to which they do not intend to refer.
- (ee) 'Delivered' in respect of both civil and criminal appeals shall include the handing in of heads of argument at the Records' Office and the entering of the required particulars in the register for heads of argument by the person handing in same.
- (ff) The Judge President may, in any particular instance when he/she deems it expedient to do so, determine earlier dates than those provided for in this Practice Direction.

3. APPLICATIONS FOR LEAVE TO APPEAL

An application for leave to appeal will, in all matters where an

application for leave to appeal was not brought immediately after judgment and reasons therefor were handed down, be heard on a date to be determined by the Registrar in consultation with the Judge President. In that event, unless the presiding Judge otherwise directs, heads of argument should be filed in terms of Practice Directive 14.

PRACTICE DIRECTIVE 14

**FILING AND SERVICE OF HEADS OF ARGUMENT IN MATTERS
OTHER THAN CIVIL OR CRIMINAL APPEALS**

1. In all matters except trials and civil or criminal appeals which have been set down for hearing or argument on a specific date by the Registrar, heads of argument as defined in paragraph 6 of Practice Directive 13 and clearly indicating the names of the parties, the number of the case and the date upon which it is set down on the roll shall be delivered by counsel appearing on behalf of the parties as follows:
 - (a) by the delivery of an appropriate number of copies of the heads of argument of plaintiff, applicant or excipient (as the case may be) to the General Office of the office of the Registrar, not less than fifteen (15) days before the date upon which the matter is to be heard;
 - (b) by like delivery of the heads of argument of defendant or respondent (as the case may be) in like manner not less than ten (10) days before the said date;
 - (c) by the exchange between the parties' attorneys of a copy of each party's heads of argument on the dates on which same are filed in the General Office of the office of the Registrar.

2. The Judge President may in any particular instance determine earlier or later dates than those prescribed in this notice.
3. In all applications where the Respondent has only filed a notice of intention to oppose but no answering affidavit has been filed, it will not be necessary for heads of argument to be filed unless the presiding Judge directs otherwise.

PRACTICE DIRECTIVE 15

SERVICE OF APPLICATIONS FOR PROVISIONAL SEQUESTRATION

1. Save as provided in paragraph 2, notice of intention to apply for a provisional order of sequestration shall be given to the respondent prior to the filing of the application.

2. It shall not be necessary to give notice where the applicant relies on:-

(a) a *nulla bona* return;

OR

(b) an act of insolvency in terms of section 8(g) of the Insolvency Act, No. 24 of 1936, based on a notice by the respondent in writing to any one of the creditors of his inability to pay any of his debts.

3. Notwithstanding the foregoing, the Court may, at its discretion, dispense with the giving of notice where the Court is satisfied that it would be in the interest of the respondent or of the creditors to do so.

PRACTICE DIRECTIVE 16

**SERVICE OF APPLICATIONS FOR PROVISIONAL ORDERS OF
LIQUIDATION**

1. Save as provided in paragraph 2, notice of intention to apply for a provisional order of liquidation shall be given to the company concerned prior to the filing of the application.

2. The Court may in its discretion dispense with the requirements of paragraph 1 where the Court is satisfied that it would be in the interests of the company or of the creditors to do so, or where the Court is satisfied that the company has knowledge that such application is to be made.

PRACTICE DIRECTIVE 17

SERVICE OF APPLICATIONS UNDER THE COMPANIES ACT

Applications for the Court's sanction where it is required under the Companies Act should first be submitted to the Registrar of Companies for a report, and such report is to be included in the papers before the Court.

PRACTICE DIRECTIVE 18

1. SERVICE OF ORDERS AND NOTICES OF COURT BY WAY OF PUBLICATION

- (a) Whenever the Court or a Judge orders that service of an order of court be by way of publication in one or more newspapers or in any other publication, such order of Court shall be published only in the language of the newspaper or publication in which it is published irrespective of the language in which the order is issued, unless an order is specifically made that the order of Court be published in a language other than that of the newspaper or publication in which it is published. Where, however, a newspaper or publication is published in more than one language priority shall be given to the language in which the order of Court is issued.
- (b) This Directive shall apply *mutatis mutandi* to process when an order has been obtained on an application for leave to sue by way of edictal citation or by way of substituted service.

2. PUBLICATION OF COURT NOTICES

Court notices are to be published in newspapers circulating in the areas where interested parties or creditors reside.

PRACTICE DIRECTIVE 19

SERVICE OF A RULE *NISI* AND A PROVISIONAL ORDER

Whenever a rule *nisi* or a provisional order has to be served, whether by delivery and/or publication and/or posting of such rule or order, such service shall be effected by the delivery and/or publication and/or posting of the rule or order, as the case may be, not later than ten (10) days prior to the return date of the said rule *nisi* or provisional order.

PRACTICE DIRECTIVE 20

STRIKING MATTERS FROM THE ROLL

1. Save where special circumstances are found to be present, matters in which the set-down has preceded the expiry of the *dies induciae* will be struck from the roll with an appropriate order as to costs.
2. If there is no appearance when a matter is called in Court, the matter may be struck from the roll. The matter will only be re-enrolled if a proper explanation, on affidavit where appropriate, is given for non – appearance.
3. Failure to file a practice note and / or heads of argument in accordance with the relevant Practice Directives, may result in the matter being struck from the roll.
4. All matters removed or struck from the roll may be re-enrolled on a date to be arranged with the Registrar only if there is an undertaking in writing from the party applying for a trial date that the matter is ripe for hearing. The Judge President or designated Judge may direct the parties to attend a pre-trial/trial management conference in accordance with Practice Directive. 32A.

PRACTICE DIRECTIVE 21

APPLICATIONS FOR DATES AND NOTICES OF SET DOWN

1. Applications for Dates

Only qualified Attorneys, registered articulated clerks or an unrepresented litigant may apply for a trial date.

- 1.1. (a) A request in writing for a trial date must be filed with the office of the Registrar;
 - (b) Together with the request for a trial date, the applicant may give the Registrar three (3) possible suggested trial dates (which must be per agreement between the parties in the action). The date will be allocated on the basis of availability of a presiding Judge;
 - (c) a date of trial will be allocated by the Registrar within 7 (seven) days after request;
 - (d) If a date is not allocated within the period stated in (c) above, the applicant shall in writing make an enquiry to the Registrar about the reasons for the delay;
 - (d) If no response is received from the Registrar within 7 (seven) days after the enquiry, a written report shall be directed to the Judge President for his or her attention in that regard.
- 1.2 All applications for trial dates shall state explicitly or by reference the relief which is to be sought at the hearing.

1.3 No trial date shall be allocated unless the record is properly paginated as prescribed in Practice Directive 7(6).

2. Notices of Set Down

2.1 Only qualified Attorneys, registered articled clerks or the unrepresented litigant may set matters down for hearing.

2.2 All notices of set down shall state explicitly or by reference the relief which is to be sought at the hearing of the application.

2.3 A notice of set down shall, save as provided for in Practice Directive 20(2), be served and filed with the Registrar within fifteen (15) days of the allocation by the Registrar of a date for trial, failing which the date allocated shall lapse.

2.4 To prevent unopposed matters and opposed matters which are not yet ready for hearing being set down on the opposed roll, and to prevent opposed matters being set down on the unopposed roll, attorneys are required, when setting down matters, to state that they are to be heard either as opposed or unopposed matters.

PRACTICE DIRECTIVE 22

CHAMBER BOOK

The Chamber book shall be used for the following matters-

1. Applications for bail where the State does not oppose;
2. Applications relating to criminal appeals where the State does not oppose;
3. Applications for directives from or approval of a Judge required in terms of Rules of Court 3, 6(11), 31(1), 34(7), 35(1), 39(19), 39(22) and 40(5);
4. Applications for orders by consent for welfare reports in matrimonial or custody matters;
5. Applications for earlier dates. No matter will be promoted to the opposed civil roll unless a Court order to that effect has been obtained by means of a Chamber Book application. This application must be accompanied by an affidavit setting out the circumstances warranting such order. Dates of set down will otherwise be strictly allocated in the order in which the applications therefor (accompanied by the Rule 37 minutes) were received at the office of the Registrar.

PRACTICE DIRECTIVE 23

CIRCUIT COURT

1. Opposed Motion Court Applications, including Urgent Applications, will not be heard by Circuit Courts.
2. The following civil matters may be enrolled for adjudication at the Mogwase Circuit Court of this Division sitting on Fridays at 10:00
 - 2.1 Unopposed Motion Court Applications;
 - 2.2 Unopposed Matrimonial Applications, and;
 - 2.3 Default Judgment Applications.
3. The notice of set down, stating explicitly or by reference to the relief sought, shall be filed at the main seat of this Division by not later than 12h00 midday on Friday preceding the Friday of hearing.
4. When a public holiday falls on a Friday preceding the Friday of hearing, the notice of set down as contemplated in paragraph 3 above shall be filed by not later than 12h00 midday on the Thursday preceding the public holiday.
5. When a public holiday falls on a Friday of the hearing, the Motion Court will sit on the Thursday preceding the public holiday.
6. Only unopposed applications described in paragraph 2, that are set down as prescribed in paragraphs 3, 4 or 5, will be enrolled for hearing, whereafter the Registrar shall place the roll on the Notice Board at the main seat and dispatch it by electronic mail to the attorneys of record or unrepresented parties by 14h00 or soon as reasonably practicable after the expiry of the enrolment period
7. The provisions of Practice Directive 4(2)(2.4), of this Division, shall apply.

8. Should the attorney or an unrepresented party who have set down an unopposed application as contemplated in paragraph 2 above no longer be able to proceed with it as scheduled, the attorney or party is required to notify the Registrar, alternatively, the Secretary of the Judge to whom the Circuit is allocated, by not later than 12h00 midday on the Wednesday preceding the hearing.
9. This **Practice Directive** shall take effect on 04.
10. The dates on which Circuit Courts, in relation to criminal matters will be held shall be determined by the Judge President.

[Practice Directive 23 amended on 04 JULY 2017 by virtue of Provincial Notice 120 of 2017 published in *Provincial Gazette* 7778 of 04 JULY 2017, promulgated in terms of Section 7(1) of the Superior Courts Act, 2013 (Act 10 of 2013)]

PRACTICE DIRECTIVE 24

EXPERT EVIDENCE

1. The time periods stipulated in the Rules must be adhered to and in the absence of agreement between the parties, only in special circumstances will the Court condone any departure therefrom.
2. The summary of the evidence to be given by an expert witness must contain at least sufficient information to enable the other party to determine the extent to which he agrees or disagrees with the evidence of such expert witness.
3. Any party shall be able to obtain amplification of a summary of expert evidence delivered by the other party to the extent necessary to achieve the purpose referred to in paragraph 2 above.
4. The points of agreement and disagreement between the experts giving evidence for the parties shall be incorporated in the minutes of the pre-trial conference. Those minutes shall not only state whether the parties have agreed or disagreed to exchange the reports of their expert witness, but shall also deal in detail with the aspects of the evidence to be given on which the opposing experts are in agreement or in disagreement.

PRACTICE DIRECTIVE 25

STALE PROCESS

Where service of a summons or application has taken place more than 6 calendar months previously and there has been no entry of appearance to defend or notice of opposition filed, service of the notice of set down allowing the normal *induciae* will be required before the matter may be set down for hearing.

PRACTICE DIRECTIVE 26

POSTPONEMENT *SINE DIE*

1. All matters postponed in Court shall be postponed to a date arranged with the Registrar, except that a matter may be postponed *sine die* with the permission of the presiding Judge or Judge President where necessary. A management note (Annexure B) for postponement must be signed by the Registrar.
2. Where a matter is postponed *sine die*, service of a notice of set-down will be required before the matter may again be enrolled for hearing.
3. Where the party upon whom service has to be effected in terms of paragraph 2 is represented by the attorneys of record, service may be effected informally upon such attorneys by the attorneys of record for the other side.
4. Where matters have been postponed including matters postponed per agreement, the Judge President or Presiding Judge or designated Judge may call upon the parties to conduct a pre-trial management conference on the same date if possible or on a date to be arranged with the Registrar in terms of Practice Directive 32A or Rule 37 (8) of the Uniform Rules of Court.

“B”



**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION
MAHIKENG**

CASE NO.

In the matter between:-

.....

Plaintiffs

And

.....

Defendant

MANAGEMENT NOTE FOR POSTPONEMENT

| | |
|-----------------------------------------------|------|
| 1. Nature of Application/Claim: | |
| 2. Attorneys for Applicant/Plaintiff: | |
| Contact Number: | |
| 3. Attorneys for Defendant/Respondent: | |
| Contact Number: | |
| 4. Further Legal Representatives: | None |
| Contact Number: | None |
| 5. Date of Motion/Trial/Divorce | |
| 6. Date of Postponement Allocated: | |
| 7. Reason for Postponement | |
| 8. Postponement Allocated by: | |
| 9. Opposed/Unopposed Roll: | |

.....
REGISTRAR

PRACTICE DIRECTIVE 27

NOTICE TO INTERESTED PARTIES

Notice to interested parties will be insisted upon per adjudication by the presiding Judge, save where it is impractically impossible to give notice within a reasonable time, regard being had to the nature of the proceedings, or when the giving of notice may reasonably be expected to have the result of defeating the applicant's claim.

PRACTICE DIRECTIVE 28

**NON-COMPLIANCE WITH THE PROVISIONS OF THE RULES OF
COURT OR PRACTICE DIRECTIVES**

1. Save in exceptional cases or cases of urgency, compliance with the provisions of the Rules or Practice Directives will be insisted upon.
2. Non-compliance will result in the Court making such order against the defaulting party as it deems fit, including the case being struck off the roll and/or by a special order as to costs, unless in each such instance condonation for such failure is sought on good cause shown on written application, **and is granted.**

PRACTICE DIRECTIVE 29

APPLICATIONS FOR DEFAULT JUDGMENT

- 1 Applications for default judgment where service of the Summons Commencing Action has been effected on the Defendant by the Sheriff in accordance with Rule 4(1) and where the Defendant is in default of filing a notice of intention to defend, the Plaintiff shall apply for default judgment in accordance with Rule 31 of the Uniform Rules of Court.

[Practice Directive 29(1) inserted on 10 February 2021].

- 2 (a) Notices of applications for the default judgment which fall within the competence of the Registrar under Uniform Rule 31(5) and of the related set-down shall henceforth be in the form (or as near as may be appropriate) annexed hereto marked "C", and all such applications shall be accompanied by a draft order in the form (or as near as may be appropriate) annexed hereto, marked "D".
 - (b) A draft order, relating to a matter envisaged in 3 and 4 below, shall, save in exceptional circumstances, be filed of record not later than 12 midday on the Tuesday preceding the Thursday on which the matter will be heard.
3. Applications for default judgment before the Registrar will be heard

on every Thursday except a Thursday which falls within the period of 23 December to 7 January during which period no default judgments will be entertained.

4. If the Registrar is of the opinion that the application for default judgment should be entertained by the Court, he/she will require that the matter be set down for hearing in open court in terms of Rule 31(5)(b)(v). Provided that if the application is for an order declaring residential property specially executable, the Registrar must refer such application to the court in accordance with the decision in *Gundwana v Steko Development CC and Others* 2011 (3) SA 608 (CC)(11 April 2011) The notice of application for default judgment and of set-down shall be in the form (or as near as may be appropriate) annexed hereto marked "C", and all such applications shall be accompanied by a draft order in the form (or as near as may be appropriate) annexed hereto, marked "D", and "C1" and "D1" respectively.
5. Applications for default judgment in actions for damages where oral evidence is led on the merits and in respect of quantum (e.g. MVA matters) should not be enrolled on a Motion Court day. An application for a date of hearing should be made to the Registrar.
6. In all applications for default judgment involving residential property where the creditor seeks an order declaring specially hypothecated immovable residential property executable, the creditor shall aver in an affidavit filed simultaneously with the application for default

judgment that:

- (a) The amount of the arrears outstanding as at the date of the application for default judgment;
 - (b) Whether the immovable residential property which it is sought to have declared executable was acquired by means of or with the assistance of a State subsidy;
 - (c) Whether, to the knowledge of the creditor, the immovable residential property is occupied or not;
 - (d) Whether the immovable property is used for residential purposes or commercial purposes;
 - (e) Whether the debt which is sought to be enforced was incurred in order to acquire the immovable residential property sought to be declared executable or not.
7. All applications for default judgment where the creditor seeks an order declaring specially hypothecated immovable residential property executable, where the amount claimed falls within the jurisdiction of the magistrate's court, shall be referred by the Registrar for consideration by the Court, in open Court, in terms of Rule 31(5)(b)(vi).

8.

Deleted on 30 July 2018

9. The summons initiating action in which a plaintiff claims relief that embraces an order declaring immovable residential property executable shall inform the defendant as follows: **“The defendant’s attention is drawn to s 26(1) of the Constitution of the Republic of South Africa which accords to everyone the right to have access to adequate housing. Should the defendant claim that the order for execution will infringe that right it is incumbent on the defendant to place information supporting that claim before the Court.”**

“C”

**IN THE HIGH COURT OF SOUTH AFRICA
NORH WEST DIVISION
MAHIKENG**

Case number:.....

In the matter between:

A B C

PLANTIFF

And

X Y Z

DEFENDANT

**NOTICE OF APPLICATION AND SET DOWN
DEFAULT JUDGMENT: RULE 31(5)(b)**

TAKE NOTICE that the Plaintiff will make an application to the Registrar of the above Honourable Court on Thursday, the 20..... at 10h00 or so soon thereafter as the matter may be heard for default judgment to be entered against the Defendant in terms of the draft order annexed hereto.

FURTHER TAKE NOTE that the circumstances under which default judgment is sought are the following:

1. The summons was duly served on the Defendant on 20.....
2. The *dies induciae* (10 days) expired at the end of 20.....
3. The Defendant has failed to give notice of intention to defend the action.

KINDLY PLACE THE MATTER ON THE ROLL FOR HEARING ACCORDINGLY.

DATED AT MAHIKENG THIS DAY OF 20.....

Plaintiff's Attorney's Details

“D”

**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION
MAHIKENG**

Case Number:...../20..

MAHIKENG, Thursday, Date:.....

Before the Registrar

In the matter between:

A B C

PLANTIFF

And

X Y Z

DEFENDANT

DRAFT ORDER

Having heard Counsel for the Plaintiff, and having read the documents filed of record, default judgment is entered against the Defendant for:

1. Payment for the sum of R.....
2. Interest on the said sum claimed at the rate of%
3. Costs of suit.

By order of the Court

REGISTRAR

“C1”

IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION
MAHIKENG

Number:..... Case
In the matter between:

A B C PLANTIFF

And

X Y Z DEFENDANT

NOTICE OF APPLICATION AND SET DOWN
DEFAULT JUDGMENT: RULE 31(2)(a)

TAKE NOTICE that the Plaintiff will make an application to the above Honourable Court on Thursday, the 20..... at 10h00 or so soon thereafter as the matter may be heard for default judgment to be entered against the Defendant in terms of the draft order annexed hereto.

FURTHER TAKE NOTE that the circumstances under which default judgment is sought are the following:

- 4. The summons was duly served on the Defendant on 20.....
- 5. The *dies induciae* (10 days) expired at the end of 20.....
- 6. The Defendant has failed to give notice of intention to defend the action.

KINDLY PLACE THE MATTER ON THE ROLL FOR HEARING ACCORDINGLY.

DATED AT MAHIKENG THIS DAY OF 20.....

Plaintiff’s Attorney’s Details

TO: XYZ
RESPONDENT

AND TO: The Registrar of the above Honourable Court, MMABATHO

“D1”

**IN THE HIGH COURT OF SOUTH AFRICA
NORTH WEST DIVISION
MAHIKENG**

Case Number:...../20.....

Before the Honourable Mr/Madam Justice.....

In the matter between:

A B C

PLANTIFF

And

X Y Z

DEFENDANT

DRAFT ORDER

Having heard Counsel for the Plaintiff, and having read the documents filed of record, default judgment is entered against the Defendant for:

- 4. Payment for the sum of R.....
- 5. Interest on the said sum claimed at the rate of%
- 6. Costs of suit.

By order of the Court

REGISTRAR

PRACTICE DIRECTIVE 30

WRITTEN MEDICAL EVIDENCE BY WAY OF AFFIDAVIT

In all applications where it is sought to place written medical evidence before the Court, such evidence shall be by way of affidavit and not by means of a certificate by the medical practitioner concerned.

PRACTICE DIRECTIVE NO. 31

**PRODUCTION OF MARRIAGE CERTIFICATES IN DIVORCE
ACTIONS**

SUBSTITUTED BY PRACTICE DIRECTIVE 4(8) w.e.f 30 July 2018

PRACTICE DIRECTIVE 32

PRE-TRIAL CONFERENCE

1. The Pre-trial conference should be regarded as an ongoing procedure which, having been convened, does not end but will stand adjourned until the commencement of the trial with either party free to reconvene it from time to time on reasonable notice.
2. The minutes of the conference shall contain a full record of the matters discussed at every stage of the conference including not only those on which agreement has been reached, but also the request of one party and the replies of the other relating to matters where there is no agreement.
3.
 - (a) The minutes of every stage of the conference shall be prepared by the attorneys of record for the parties, signed by them on the parties' behalf and filed with the Registrar as soon as possible thereafter.
 - (b) Where one of the parties is unrepresented, the minutes of the conference will be prepared by the attorney for the represented party and the unrepresented party shall sign on his/her own behalf.
4. Counsel for the parties, or counsel and the unrepresented party, shall report to the Judge hearing the trial on the morning of the

hearing with a signed copy of any further minutes of the conferences in order to hear any suggestion the Judge may have which could curtail the duration of the trial.

5. Save in respect of Rule 43 matters or actions where both parties are unrepresented, no application for a date of hearing may be filed unless accompanied by a minute in terms of Rule 37 in proper form signed by the attorneys for the parties or a party himself or herself if unrepresented, indicating:
 - 5.1 that a *bona fide* conference in terms of Rule 37 has been held and recording the points of agreement and disagreement between the parties, and stating the estimated duration of the trial; and
 - 5.2 whether or not the parties will accept short service.
6. If the Court is not satisfied that the letter and spirit of the rule has been complied with, it may (where applicable) order that the matter be removed from the roll or postponed.
7. The contents or lack of it, of the minutes will be material to the exercise of the Court's discretion with regard to costs.
8. A trial date shall not be allocated by the Registrar unless a proper pre-trial minute is filed.

9. The Judge President or a designated Judge may, under the circumstances set out below, authorize the Registrar to enrol a matter notwithstanding the fact that a pre-trial conference was not held:
- (a) where an invited party fails to attend a pre-trial conference on the agreed date without a reason or a valid reason;
 - (b) where an invited party, having been given at least 3 possible dates for the holding of a pre-trial conference, deals with the invitation as follows:
 - (i) ignores the invitation;
 - (ii) merely states that he/she is not available but fails to give at least 3 alternative dates on which he/she will be available;
 - (c) where the invited party has failed to respond to the invitation to hold the pre-trial conference one month after receipt of the invitation.

PRACTICE DIRECTIVE 32A

JUDICIAL CASE MANAGEMENT

After consultation with the Bar, the side Bar and other role-players, the following Practice Directive is hereby issued to regulate judicial case management.

1 TRIALS

- (a) The Judge President or any other Judge may intervene in any matter, as soon as a notice of intention to oppose is filed, to monitor progress and to help the parties to process the case to finality with reasonable speed;
- (b) A scheduling conference involving a Judge and the parties may be held, at a very early stage, either in the Judge's chambers or telephonically to seek agreement on:
 - (i) the specific dates on which subsequent pleadings will be filed and other documents exchanged; and
 - (ii) the date of the pre-trial conference, and the specific date on which the lists envisaged in Rule 37(4) will be exchanged.
- (c) Should a pre-trial conference fail to yield positive results, another pre-trial conference could be held in terms of Rule 37(8);

- (d) Among the subjects that ought to be addressed in a pre-trial/trial management conference are:
 - (i) Resolution of discovery issues;
 - (ii) Determination of the issues that are really in dispute;
 - (iii) exchanging outstanding exhibits and other relevant documents;
 - (iv) exchanging witness lists (with a brief summary of what each witness will say), and scheduling the witness to avoid duplication of evidence;
 - (v) the number of witnesses to be called on a particular point may be settled at this stage;
 - (vi) addressing any potential disputes over admissibility of evidence;
 - (vii) addressing any special trial needs , such as the use of special interpreters;
 - (viii) consideration of a referral to the Alternative Dispute Resolution structure (ADR) or of the possibility of a settlement;
 - (ix) eliminating every conceivable reason for a postponement,
 - (x) agreement with council on time limits.

- (e) The trial date which suites all parties may be determined either telephonically or even correspondence, at a meeting or conference attended by all the parties and a Judge.

2 APPEALS

Progress in the prosecution of the appeals will be monitored either by the Judge President or the presiding Judge, particularly with regard to:

- (a) ensuring that the prescribed copies of a correct and complete record is filed within the shortest possible period;
- (b) ensuring that the indexing and pagination is done timeously;
- (c) the filling of the prescribed copies of heads of argument on time.

PRACTICE DIRECTIVE 33

**TRUSTEES, CURATORS, LIQUIDATORS, RECEIVERS AND THE
LIKE**

In all cases where the appointment of trustees, curators, liquidators, receivers and the like is sought and the person whom it is sought to have appointed is not subject to the jurisdiction of this Division of the High Court, such person shall submit in writing to the jurisdiction of this Court and shall furnish a *domicilium citandi et executandi* within the area of jurisdiction of this Court.

PRACTICE DIRECTIVE 34

TAXATION OF BILLS OF COST

1 GENERAL

1.1 Taxation of bills of cost is the competence of the Taxing Master.

1.2 When applying to the taxing master for a date for taxation, a party so wishing to tax a bill must attach the following to his or her application for a date of taxation:

- (a) the notice of taxation, indicating to the satisfaction of the taxing master that the party liable to pay the costs has received due notice of such taxation and is entitled to be present at taxation in accordance with Uniform Rule 70(4);
- (b) three copies of the bill of costs;
- (c) a signed Rule 70 certificate in accordance with item E3(a) of Uniform Rule 70;
- (d) a copy of the court order or the notice in which one of the parties tenders the costs.

1.3 The normal means of giving notice of taxation is delivery of a copy of the notice and bill to the opposing attorney's office. Service by the sheriff is not necessary.

1.4 Prior to enrolling a matter for taxation, the party who has been awarded an order for costs shall, by notice as near as may be in accordance with Form 26 of the First Schedule-

- (a) afford the party liable to pay costs at the time therein stated, and for a period ten (10) days thereafter, by prior arrangement, during normal business hours and on any one or more such days, the opportunity to inspect such documents or notes pertaining to any item on the bill of costs; and
- (b) require the party to whom notice is given, to deliver to the party giving the notice within twenty (20) days, a written notice of opposition, specifying the items on the bill of costs objected to, and a brief summary of the reason for such objection.

1.5 The taxing master shall not proceed to tax any bill of costs unless he or she is satisfied that the party liable for paying the costs has received due notice in terms of Uniform rule 70(3B) and a notice of entitlement to be present at the taxation in terms of Uniform Rule 70(4)(b).

1.6 The notice contemplated in 1.5 shall not be necessary:

1.6.1 if the party liable to pay the costs has consented in writing to taxation in his absence;

1.6.2 if the party liable to pay costs failed to give notice of intention to oppose in terms of Uniform Rule 70(3B)(b); or
1.6.3 for the taxation of writ and post-writ bills.

1.7 If any party fails to appear after having given notice of opposition in terms of Uniform Rule 70(3B)(b), the taxation may proceed in their absence.

2. **UNOPPOSED TAXATIONS**

2.1 Unopposed taxation of bills of cost will be heard on Wednesdays and Fridays at 10h00.

2.2 The notice of set down in respect of an unopposed taxation to be heard on a Wednesdays must be filed by not later than 15h00 on the Monday preceding the Wednesday of the hearing and by not later than 15h00 on the Wednesday preceding the Friday of hearing.

2.3 When a public holiday falls on the Monday preceding the Wednesday of hearing, the notice of set down shall be filed by not later than 15h00 on the Friday preceding the public holiday and when a public holiday falls on the Wednesday of the hearing, such hearing shall be set down on the Tuesday preceding the public holiday

2.4 The notice of set down in respect of a hearing on a Friday may also be filed by not later than 15h00 on the preceding Monday, provided that such notice shall clearly stipulate that the set down is for hearing on the Friday.

3. **OPPOSED TAXATIONS**

3.1 Opposed taxations will be heard on Fridays at 10h00.

3.2 The notice of set down for an opposed taxation must be filed by not later than 15h00 on the Friday preceding the Friday of hearing.

3.3 When a public holiday falls on a Friday preceding the Friday of hearing, the notice of set down shall be filed on the Thursday preceding the public holiday and when a public holiday falls on the Friday of the hearing, the opposed taxation shall be set down for hearing on the Thursday preceding the public holiday.

[END OF PRACTICE DIRECTIVES]