



REPUBLIC OF BOTSWANA

ADMINISTRATION OF JUSTICE

PRACTICE DIRECTIVE NO. 8 OF 2020

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

REF: RM 1/6/1 X

FROM:

Terence T. Rannowane

CHIEF JUSTICE

14th August 2020

**DIRECTIONS ON COURT OPERATIONS DURING THE ALLEVIATED
COVID-19 STATE OF EMERGENCY - LIFTING OF THE GREATER
GABORONE LOCKDOWN COMMENCING 14 AUGUST 2020**

1. This Practice Directive is issued in terms of REGULATION 30B of the EMERGENCY POWERS (COVID-19) (AMENDMENT) (NO.2) REGULATIONS, 2020. It is applicable to Divisions and stations of the Administration of Justice situated in the Greater Gaborone Zone. This directive is intended to lift the restrictions I put in place by Directive Number 7 dated 31st July 2020.
2. His Excellency the President, acting in terms of section 17 of the Constitution of Botswana has on the 31st March 2020 declared a State of Public Emergency in order to address the grave situation posed by the COVID-19 Pandemic and to implement extreme social distancing. Consequently, and in order to give effect to the preventive measures pronounced in the declaration by His Excellency the President, the

Practice Directive No.7 of 2020 is hereby reviewed and revived as follows, to give effect to the lifting of Greater Gaborone Lockdown which commenced at midnight 13 August 2020.

2.1 With effect from Monday 17 August 2020 courts shall operate on a regular basis subject to the following conditions:

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

The tables and other surfaces shall after every court sitting, in all courts be sanitised.

2.1.2 **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:

2.1.2.1 **APPLICATIONS AND APPEALS**

2.1.2.1.1 Attorneys/parties shall, where practicable file their pleadings and other process electronically. Court fees will be payable (since 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.

2.1.2.1.2 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.

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

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

2.1.2.2 **TRIALS**

2.1.2.2.1 From the 17th of August 2020 until further notice, Judicial officers shall continue to reassign new dates to their cases in consultation with the concerned stakeholders/parties.

2.1.2.2.2 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 and 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 particular 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 utilised.

2.1.2.2.3 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.

2.2 LIVESTREAMING

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

2.2.2 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 may be televised at the direction of the Chief Justice.

2.3 JUDICIAL CASE FLOW MANAGEMENT

2.3.1 Judicial case 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.

2.3.2 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.

2.3.3 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.

2.3.4 Paragraph 10 of Practice Directive No. 7 of 2020 is amended by substituting it with the following:

The suspension of the dies requirements is lifted effective from Monday 17 August 2020.

All existing time bound orders of Court arising from and/or in terms of the Magistrates Court Rules, the High Court Rules and the Court of Appeal Rules affected by the lockdown shall be allocated fresh dates by the relevant Courts in consultation with the concerned stakeholders/ parties.

2.3.5 Without deviating from the generality of the above the President of the Court of Appeal may issue directives for the purposes of the smooth running of the Court of Appeal within the confines of the Covid 19 protocols as issued from time to time under the existing Emergency Regulations.

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

In an endeavour to protect court officials and those seeking services of the court, save in exceptional circumstances, 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.

4. **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, witnesses and lawyers are expected to leave the court premises when they are done.

5. **HYGIENE SUPPLIES IN COURT FACILITIES**

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

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

6. **SCREENING AT ENTRY - TEMPERATURE 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 a help desk manned by 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.

7. **COMPULSORY FACE COVERING POLICY**

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

8. **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
Hon. Judge President of the Industrial Court
Attorney General
Director of Public Prosecutions
Commissioner of Police
Commissioner of Prisons & Rehabilitation
Chairman, Law Society of Botswana