



**MAGISTRATES' COURTS JUDICIARY  
REPUBLIC OF SOUTH AFRICA**

OFFICE OF THE JUDICIAL HEAD: ADMINISTRATIVE REGION 10 (NORTHERN CAPE)  
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**DIRECTIONS ISSUED BY CHIEF MAGISTRATE PURSUANT TO THE DELEGATION  
OF AUTHORITY IN TERMS OF SECTION 8(3) AND 8(4) OF THE SUPERIOR  
COURTS ACT, 10 OF 2013 FOR THE MANAGEMENT OF THE DISTRICT COURTS  
DURING THE NATIONAL LOCKDOWN IN ADMINISTRATIVE REGION 10  
(NORTHERN CAPE) WITH EFFECT OF 18 MAY 2020**

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**Criminal matters**

1. Magistrates will attend to the following matters:
  - a. All Inquest matters
  - b. All confirmation of Admission of Guilt Fines;
  - c. All chamber applications e.g. applications for Section 205 subpoenas, J50 warrants of arrests, etc.
  - d. All first appearances of accused persons in custody (including preliminary inquiries in the instance of *minor* accused person(s);
  - e. All bail applications including bail applications on new facts;
  - f. All proceedings in terms of Section 63A of the Criminal Procedure Act, 1977 (no 51 of 1977) (Release or amendment of bail conditions of accused on account of prison conditions);
  - g. All guilty pleas;
  - h. All applications for leave to appeal;
  - i. All partly heard matters; and

- j. The following trials (including pre-trial conferences):
    - i. All matters where the accused person is in custody,
    - ii. All sexual offences,
    - iii. All gender based violence offences,
    - iv. All contraventions of the provisions of the Domestic Violence Act, 1998 (no 116 of 1998) and Protection from Harassment Act, 2011 (no 17 of 2011)
    - v. All serious violent crimes; and
    - vi. All offences relating to the violation of the COVID-19 Regulations.
2. When matters are to be remanded where accused person(s) are in custody, such matters will be remanded to a date not later than 31 August 2020 (except when in the discretion of the Magistrate circumstances do not allow it) as follows:
- a. At Kimberley and Upington courts and Kimberley and Upington Correctional Centres the Audio Visual Remand (AVR) systems shall be used for the remand of cases. The Audio Visual Remand (AVR) system at Springbok court will be used as soon as the said system has been linked to Springbok Correctional Centre, similarly when it becomes available at De Aar and Kuruman courts and De Aar and Kuruman Correctional Centres.
  - b. At all other courts, cases of such accused persons will be remanded *via* teleconference, video conference or any other electronic mode and no longer ***in absentia***. The Court Manager and Correctional Centre Manager must facilitate the use of the most efficient mode of electronic communication. The Magistrate must then be informed accordingly and all the necessary measures should be put in place to ensure a participative court sitting *via* the electronic mode. If no electronic mode of communication is possible or challenging circumstances exists, the Court Manager must inform the Magistrate accordingly. The Sub Cluster Head and Cluster Head must then provide guidance as to alternative methods for the remand of such cases. The movement and appearance of such accused person (s) in court must be used as a last resort. However, when exceptional

circumstances in the discretion of the presiding Magistrate exist which would lead to the spread of the COVID-19 virus if the said accused do appear, such matters can however still be remanded ***in absentia***.

3. Matters where the accused person (s) are not in custody will be postponed ***in absentia*** to a date not later than 31 August 2020 (except when within the discretion of the Magistrate circumstances do not allow it).
4. Magistrates will attend to matters (excluding those mentioned in paragraph 1 ***supra***) of ***minor*** accused person (s) as follows:
  - a. If in custody at a correctional centre or child and youth care centre, matters will be remanded as follows (14 days at a time):
    - i. At Kimberley and Upington courts and Kimberley and Upington Correctional Centres, the Audio Visual Remand (AVR) systems shall be used for the remand of cases. The Audio Visual Remand (AVR) system at Springbok court will be used as soon as the said system has been linked to Springbok Correctional Centre, similarly when it becomes available at De Aar and Kuruman courts and De Aar and Kuruman Correctional Centres.
    - ii. At all other courts and in the instances where the accused person(s) are in custody at a child and youth care centre, cases of such accused persons will be remanded *via* teleconference, video conference or any other electronic mode and no longer ***in absentia***. The Court Manager and Correctional Centre/ Child and Youth Care Centre Manager must facilitate the use of the most efficient mode of electronic communication. The Magistrate must then be informed accordingly and all the necessary measures should be put in place to ensure a participative court sitting *via* the electronic mode. If no electronic mode of communication is possible or challenging circumstances exists, the Court Manager must inform the Magistrate accordingly and the accused person (s) must then appear in open

court. However, when exceptional circumstances in the discretion of the presiding Magistrate exist which would lead to the spread of the COVID-19 virus if the said accused do appear, such matters can however still be remanded *in absentia*.

iii. Magistrates are to strictly comply with the provisions of Sections 29, 30 and 66 of the Child Justice Act, 2008 (no 75 of 2008) whenever he/ she is considering the remand matters of *minor* accused person(s).

b. If not in custody, matters will be postponed *in absentia* to a later date but not later than 31 August 2020 (except when in the discretion of the Magistrate circumstances do not allow it).

5. If (an) accused person(s) and/ or witness (es) and/ or legal representative(s) of any matter are present in the court precinct, they must be allowed to appear in open court. The matter must be attended to, subject to the provisions of paragraphs 1 to 4 *supra*.

6. At the non-appearance of any accused and/or witness (es) and/ or guardian (s), no warrant of arrest will be authorized, including traffic matters. Matters will be postponed *in absentia* to a later date but not later than 31 August 2020, and written notice to the accused and/or witness (es) and/ or guardian (s) must be given by the Clerk of the Court in respect of the subsequent postponement date.

### **Civil matters**

7. Magistrates will attend to the following matters:
- a. Uncontested PEPUDA applications (where both parties file a notice to this effect);
  - b. All Requests for Default Judgment;
  - c. All Applications (**excluding** Section 65A (1) notices);

- d. All Civil trials, where both parties file a certificate of urgency and the reasons for such urgency to the satisfaction of the presiding Magistrate;
  - e. All partly heard matters (actions and applications);
  - f. All Debt Reviews;
  - g. All COVID-19 related matters;
  - h. All Reviews of Taxations; and
  - i. All Appeals and Reviews;
8. Clerks of the Civil Court can therefore issue and receive all documents, except Section 65A(1) notices.
9. No Small Claims Court matters will be attended to. Matters will be postponed ***in absentia*** to a date not later than 31 August 2020, and written notice to parties must be given by the Clerk of the Court in respect of the subsequent postponement date. Clerks of the Civil Court will therefore also not issue any notices and/ or summonses for the Small Claims Court.
10. All other civil matters (subject to the provisions of paragraph 7 ***supra***) on the court roll will be postponed ***in absentia*** to a date not later than 31 August 2020, and written notice to parties must be given by the Clerk of the Court in respect of the subsequent postponement date.
11. At the non-appearance of any party and/ or litigant, no warrant of arrest will be authorized and/ or no matter will be removed from the court roll. The matter will be remanded ***in absentia*** to a date to a date not later than 31 August 2020, and written notice to parties must be given by the Clerk of the Court in respect of the subsequent postponement date.
12. If any party and/ or witness (es) and/ or legal representatives of any matter are present in the court precinct, they must be allowed to appear in open court and, subject to the provisions of paragraphs 7 ***supra***, be attended to.

13. Magistrates retain the discretion to inform parties to file heads of argument and/ or authorize the hearing of all matters as listed in paragraph 7 *supra* through tele- and/ or video conference or any other electronic mode, which dispenses with the necessity to be physically present in a court room.

### **Family matters**

14. Magistrates will attend to the following matters:

- a. All uncontested/ unopposed Maintenance (Section 10 and Chapter 5 proceedings as well as applications for anti-dissipation orders), Domestic Violence, Protection from Harassment, Adoption and Contact and Care and other Children's Court proceedings as well as Rehabilitation Enquiries (where both parties file a notice that the matter is not contested/ opposed);
- b. All Maintenance (Section 10 and Chapter 5 proceedings as well as applications for anti-dissipation orders), Domestic Violence, Protection from Harassment, Adoption, Contact and Care, Children's Court and Rehabilitation hearings (trials) when exceptional circumstances in the discretion of the presiding Magistrates exist which warrants such hearing (trial); and
- c. All partly heard matters.

15. All new applications in terms of the Domestic Violence Act, 116 of 1998 and the Protection from Harassment Act, 17 of 2011 will be dealt with, but return dates will not exceed six weeks from the date of application. No order will however be made on the return date in the absence of any party.

16. In Children's Court matters, no children and parties will be brought to court. A social worker's report will be deemed to be sufficient for the removal and placement of the child in need of care and protection in accordance with the Directions issued by the Minister of Social Development in GG43182 dated 30 March 2020 (as amended).

17. All other family matters will be postponed *in absentia* to a date not later than 31 August 2020, and written notice to parties must be given by the Clerk of the Court in respect of the subsequent postponement date. No orders will however be made in the absence of any party.
18. If any party and/ or witness (es) and/ or legal representatives of any matter are present in the court precinct, they must be allowed to appear in open court and, subject to the provisions of paragraphs 14 to 16 *supra*, be attended to.
19. Magistrates retain the discretion to inform parties to file heads of argument and/ or authorize the hearing of all matters as listed in paragraph 14 *supra* through tele- and/ or video conference or any other electronic mode, which dispenses with the necessity to be physically present in a court room.

**Confirmation and extension of detention of undocumented persons pending deportation**

20. Matters with regard to the confirmation of detention of undocumented persons pending deportation must be treated as a new matter and should be dealt with in open court. These persons are to be detained at the temporary deportation facility as designated by the Department of Home Affairs in accordance with the directions issued by the Minister of Justice and Correctional Services as published in GG 43225 dated 09/04/2020.
21. Matters with regard to the extension of detention of undocumented persons pending deportation will be dealt with *via* teleconference, video conference or any other electronic mode and no longer *in absentia*. Such period may not be extended for more than 30 days at a time (with a total period of 90 days from date of confirmation). The Court Manager and Correctional Centre Manager must facilitate the use of the most efficient mode of electronic communication. The Magistrate must then be informed accordingly and all the necessary measures should be put in place to ensure a participative court sitting *via* the electronic mode of communication. If no electronic mode of communication is possible or

challenging circumstances exists, the Court Manager must inform the Magistrate accordingly. The Sub Cluster Head and Cluster Head must then provide guidance as to alternative methods for the extension of detention of such cases. The movement and appearance of such person (s) in court must be used as a last resort. However, when exceptional circumstances in the discretion of the presiding Magistrate exist which would lead to the spread of the COVID-19 virus if the said person (s) do appear, such matters can however still be remanded *in absentia*.

### **General**

22. Everyone (inclusive of Magistrates, all staff members, public members, in custody accused persons, police officials and legal practitioners) must be properly screened (including the taking of body temperature) before he/ she enters the court precinct. After such screening the screening officer will record and retain written proof of the said screening. Said screened person shall then be issued with a tag or marker which must be produced on request when entering any office and/ or court room, failing which his/ her matter will not be attended to until screened.
23. Everyone (inclusive of Magistrates, all staff members, public members, in custody accused persons, police officials and legal practitioners) will not be allowed entry into the court precinct without a cloth mask or appropriate item that covers the nose and mouth. Everyone (inclusive of Magistrates, all staff members, public members, in custody accused persons, police officials and legal practitioners) must at all times (including during court proceedings) wear the said cloth mask or appropriate item that covers the nose and mouth.
24. Everyone must at all times observe the social distancing requirement when in queues or seated and are only allowed to be seated or stand on the allocated areas.
25. All matters (criminal, civil and family) must be dealt with in a court room and not in the chambers of Magistrates.



26. Applications for permits to attend funerals as authorized by the Regulations issued in terms of the Disaster Management Act, 2002, may only be issued by Heads of Offices unless he/ she designate another Magistrate.
27. All attempts must be made to inform and stop parties in respect of matters that will not proceed as soon as possible and preferable before the date already allocated.
28. All offences in terms of the Disaster Management Act Regulations will, as far as possible, be prioritized.
29. No DEEC, EXCO, Magistrates meetings or training workshops will be held during the national lockdown period. Magistrates shall not attend any meeting/ training workshop except when mandated thereto by the Chief Magistrate in exceptional circumstances.
30. The measures referred to in the Directives issued on 25 March 2020 and 10 April 2020 shall remain in force if not inconsistent with these Directives.
31. Where these directives are inconsistent with any Directives issued by the Chief Justice and the Judge President of the Northern Cape High Court, the Directives of the Chief Justice and the Judge President of the Northern Cape High Court will take precedence.

**Issued on 14 May 2020**



**OM KRIELING**  
**CHIEF MAGISTRATE AND JUDICIAL HEAD: ADMINISTRATIVE REGION 10**  
**(NORTHERN CAPE)**