

Namibia

Namibian Constitution

Directions relating to judicial proceedings during the COVID-19 state of emergency

Government Notice 90 of 2020

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Directions relating to judicial proceedings during the COVID-19 state of emergency

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Republic of Namibia
Annotated Statutes

Namibian Constitution

Directions relating to judicial proceedings during the COVID-19 state of emergency

Government Notice 90 of 2020

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Assented to on 31 March 2020

Commenced on 31 March 2020

[This is the version of this document as it was from 31 March 2020 to 28 April 2020.]

Under the powers vested in me by regulation 13(1) of the State of Emergency COVID-19 Regulations published under [Proclamation No. 9 of 2020](#), I hereby issue the directions set out in the Schedule.

P.S. Shivute

Chief Justice

By order of the Chief Justice

1. Definitions

Unless the context indicates otherwise, in these directions -

"**courts**" means all courts of law in the Republic of Namibia; and

"**lockdown**" means the restriction of movement of persons during the period specified in regulation (3) of [Proclamation No. 9 of 2020](#) published in *Gazette* No. 7159 of 28 March 2020.

2. Application of directions

These directions apply to all courts from the date of publication in the *Gazette* during the period of the State of Emergency, except where otherwise provided.

3. Criminal matters

(1) The following provisions apply to all criminal matters in all courts, excluding first appearances in the Magistrate's Court:

- (a) The set down date of all cases set down during the period of the State of Emergency is to be postponed to a date specified in the Annexure, which Annexure the Chief Justice may

amend from time to time, and the applicable order dealing with the status of the accused must correspond to that date;

- (b) No accused person, irrespective of his or her status, is required to attend any court proceedings during the period of lockdown: Provided that the following are excluded -
 - (i) accused persons brought to court as a first appearance in the Magistrate's Court;
 - (ii) accused persons bringing a bail application;
 - (iii) accused person who is the appellant in an appeal against the refusal of bail;
- (c) No witness subpoenaed or warned to be in any court of law on a date during the lockdown period is required to attend any court proceedings during such period.

4. Supreme Court

The Registry of the Supreme Court will be open on weekdays, excluding public holidays, between the hours 9h00 and 11h30 with functions restricted to the receipt of court process.

5. High Court and courts of equal jurisdiction

The Registry of the High Court, Labour Court, Admiralty Court and the Electoral Court will be open for litigants, practitioners and the public on weekdays, excluding public holidays, between the hours 9h00 and 11h30 with functions restricted to the following:

- (a) Rendering service to litigants in person on the e-Justice case management and document filing system, provided that such service will be restricted to -
 - (i) urgent applications brought in the High Court, where the hearing date is on a day and time during the existence of lockdown;
 - (ii) urgent applications brought in the Labour Court, where the hearing date is on a day and time during the existence of lockdown; and
 - (iii) appeals against the refusal of bail;
- (b) receiving and processing of documents filed in -
 - (i) an urgent application brought in the Electoral Court;
 - (ii) the Admiralty Court;
 - (iii) any bail applications;
 - (iv) appeals against the refusal of bail;
- (c) receiving money in respect of -
 - (i) bail payments; and
 - (ii) court fee top-ups by legal practitioners on the e-Justice system;
- (d) payment of witness fees to any witnesses who appeared in court on the date of payment.

6. Registry of High Court and of courts of equal jurisdiction

The Registry of the High Court, Labour Court, Admiralty Court and the Electoral Court will be on standby to render the following services, on request, outside the hours mentioned in paragraph 5, hereinbefore:

- (a) Receive and process any notice, affidavit, document or process in an urgent application to be brought or pending, provided that such urgent application is set down or is to be set down for a date and time during lockdown;

- (b) receive and process any notice, request, document or process in a bail application to be brought or pending, provided that such bail application is to be heard on a date and time during lockdown;
- (c) receive and process any notice, request, document or process in an appeal against the refusal of bail to be brought or pending, provided that such appeal -
 - (i) has been set down for hearing on a date and time during lockdown;
 - (ii) bail has been refused on a date not more than 15 court days prior to the commencement of lockdown; or
 - (iii) has been refused at any time during lockdown.

7. Work from home

The Judges of the High Court and staff members holding an appointment as assistant registrar must perform, from their respective homes, all duties and functions which can be performed from home, including functions and duties on the court's electronic case management, document filing system and e-Justice.

8. Magistrates Courts

The clerk of the criminal court will be open for litigants, practitioners and the public on weekdays, excluding public holidays, from 8h00 to 13h00 with functions restricted to the following:

- (a) Receiving money in respect of -
 - (i) bail payments;
 - (ii) traffic fines;
 - (iii) maintenance payments; and
 - (iv) admission of guilt fines.
- (b) receiving and processing of documents filed in any -
 - (i) application for registration of estates less than N\$100 000;
 - (ii) applications in respect of the Child Care and Protection Act, 2015 (Act [No. 3 of 2015](#)) in so far as it relates to urgent applications where a child is in need of protective services;
 - (iii) applications for Interim Protection orders in terms of the Domestic Violence Act, 2003 (Act No. 4 of 2003);
 - (iv) applications for search warrants;
 - (v) consideration of authorisations for post mortem examinations in terms of sections 25 and 26 of the Births, Marriages and Deaths Registration Act, 1963 (Act [No. 81 of 1963](#));
- (c) court proceedings with reference to the following:
 - (i) first appearances;
 - (ii) applications for reduction of bail;
 - (iii) urgent bail applications;
 - (iv) application for admission of a person in terms of section 9 of the Mental Health Act, 1973 (Act [No. 18 of 1973](#)).

9. Suspensions

The entire period of lockdown as declared by the President of the Republic of Namibia shall not be included in the computation of any time-bar and/or prescription period provided for by law, inclusive of the first and last day of the lockdown, including but not limited to:

- (a) Any prescription period provided for in the Prescription Act, 1969 (Act [No. 68 of 1969](#));
- (b) anytime periods and/or time limits provided for in the limitation of legal proceedings as provided by any law relating to initiation of proceedings, including but not limited to a claim, complaint, action, application, review or appeal, provided that a criminal charge as a consequence of an arrest is excluded;
- (c) any period provided for by any law for entering an appearance to defend or opposition of any initiating proceeding as contemplated in paragraph (b), including but not limited to a claim, complaint, summons, application, review or appeal, provided that this directive will not apply to opposition to any of the following:
 - (i) applications brought as urgent applications in terms of the rules of the court;
 - (ii) bail applications;
 - (iii) appeals against the refusal of bail;
 - (iv) domestic violence matters; and
 - (v) any case involving children issues.
- (d) any time period(s) allowed for by law or by order of court for the filing, service and/or delivery of any process, which includes pleadings, affidavits, notices, and/or any other court document in any pending court proceeding, provided that this sub-paragraph (4) will not apply to any of the following:
 - (i) applications brought as urgent applications in terms of the rules of the applicable court;
 - (ii) bail applications;
 - (iii) appeals against the refusal of bail;
 - (iv) domestic violence matters; and
 - (v) any case involving children issues.
- (e) any procedural action to be taken or performed in terms of any law or by order of court, in any case before a court of law;
- (f) execution of any writ and/or warrant in respect of incorporeal property, liens, real rights, debt held by garnishee, movables and immovable property and any action related thereto, which suspension will include and relate to -
 - (i) the issue of writs and/or warrants;
 - (ii) attachment;
 - (iii) removal; and
 - (iv) sale of any such property and/or right;
- (g) alternative dispute resolution ordered in terms of the Rules of the High Court; and
- (h) receiving and processing any request for authentication or legalisation of documents, including an Apostille issued in terms of the Hague Convention;

- (i) the hearing or court attendance of any court case other than the hearing or court attendance in any of the following -
 - (i) first court appearance in a criminal case;
 - (ii) a bail application;
 - (iii) an appeal against the refusal of bail;
 - (iv) any urgent application brought in any civil, labour, electoral or admiralty case;
 - (v) domestic violence matters; and
 - (vi) any case involving children issues.
- (j) delivery of any judgment or ruling other than a judgment or ruling in -
 - (i) a bail application;
 - (ii) an appeal against the refusal of bail;
 - (iii) any urgent application brought in any civil, labour, electoral or admiralty case;
 - (iv) domestic violence matters; or
 - (v) a case involving children issues.
- (k) service of any court process, pleading or document by the Sheriff, Deputy Sheriff or the appointed assistant to Deputy Sheriff of the High Court, the Messenger of Court or his or her appointed assistant, other than service of court process, pleading or document in any of the following:
 - (i) a bail application;
 - (ii) an appeal against the refusal of bail;
 - (iii) any urgent application brought in any civil, labour, electoral or admiralty case;
 - (iv) domestic violence matters; or
 - (v) a case involving children issues.
- (l) solemnisation of marriages in terms of the Marriages Act, 1969 (Act [No. 25 of 1969](#));
- (m) applications for liquor licences or renewal thereof and appeals in terms of the Liquor Act, 1998 (Act [No. 6 of 1998](#)).

10. Implementation of directions

The Judge President and the Chief Magistrate are directed to implement these Directions and to advise the Chief Justice on adjustments if a need arises.

Annexure

1. All orders will contain an extension of bail, warning or detention, whichever is applicable.
2. Accused persons and witnesses must be at court on the relevant dates indicated in the second column of the applicable table set out below.

High Court:

3. The following postponement dates will apply to any criminal case in the High Court, excluding criminal appeal cases, irrespective of the reason such matter had been set down for:
 - 3.1. Case Management;

- 3.2. Plea;
- 3.3. Trial;
- 3.4. Continuation of trial, including submissions;
- 3.5. Ruling or Judgment, including sentence;
- 3.6. Trial-within-a-trial;
- 3.7. Any application ancillary to the main case, including an application for recusal; or
- 3.8. Leave to Appeal to the Supreme Court.

Table 1

| Set Down Type | Date to be postponed to |
|---|-------------------------|
| Criminal Mentions | 14 May 2020 |
| Criminal Pre-Trial | 22 April 2020 |
| Judgment or Ruling | 23 April 2020 |
| Plea | *** 24 April 2020 |
| Trial | *** 24 April 2020 |
| Continuation of trial, including submissions | *** 24 April 2020 |
| Ruling and Judgments, including sentence | *** 24 April 2020 |
| Trial-within-a-trial | *** 24 April 2020 |
| Any application ancillary to the main case | *** 24 April 2020 |
| Leave to appeal to the Supreme Court | *** 24 April 2020 |
| *** <i>Appearance for purpose of determining and allocation of a new date</i> | |

Magistrate's Court:

4. The following postponement dates will apply to any criminal case in the Magistrates' Courts, including District, Regional, Periodical, and Circuit Courts, irrespective of the reason or purpose of set down:

Table 2

| Week of 30 March 2020 - 3 April 2020 | |
|--------------------------------------|-------------------------|
| Date of Appearance | Date to be postponed to |
| Monday 30 March 2020 | Tuesday 5 May 2020 |
| Tuesday 31 March 2020 | Wednesday 6 May 2020 |
| Wednesday 1 April 2020 | Thursday 7 May 2020 |
| Thursday 2 April 2020 | Friday 8 May 2020 |
| Friday 3 April 2020 | Monday 11 May 2020 |

Table 3

| Week of 6 April 2020 - 10 April 2020 | |
|--------------------------------------|------------------------------|
| Date of Appearance | Date to be postponed to |
| Monday 6 April 2020 | Tuesday 12 March 2020 |
| Tuesday 7 April 2020 | Wednesday 13 May 2020 |
| Wednesday 8 April 2020 | Thursday 14 May 2020 |
| Thursday 9 April 2020 | Friday 15 May 2020 |
| Friday 10 April 2020 | Public Holiday (Good Friday) |

Table 4

| Week of 13 April 2020 - 17 April 2020 | |
|---------------------------------------|--------------------------------|
| Date of Appearance | Date to be postponed to |
| Monday 13 April 2020 | Public Holiday (Easter Monday) |
| Tuesday 14 April 2020 | Monday 18 May 2020 |
| Wednesday 15 April 2020 | Tuesday 19 May 2020 |
| Thursday 16 April 2020 | Wednesday 20 May 2020 |
| Friday 17 April 2020 | Thursday 21 May 2020 |