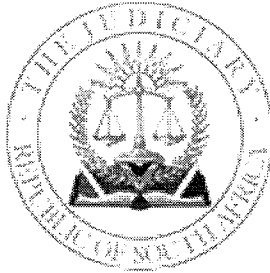


REPUBLIC OF SOUTH AFRICA



**NOTICE OF ESTABLISHMENT OF CIVIL CIRCUIT COURTS
AND
PRACTICE DIRECTIVE FOR THE GAUTENG DIVISION
FUNCTIONING AS THE MPUMALANGA DIVISION
OF THE HIGH COURT OF SOUTH AFRICA**

1. NOTICE

- 1.1 Notice is hereby given to all stakeholders and in particular, legal practitioners, that the Judge President of the Gauteng Division, functioning as the Mpumalanga Division of the High Court, in terms of section 50(2) of the Superior Courts Act 10 of 2013 ("the Act"), is establishing Civil Circuit Courts with seats at Mbombela and Middelburg in terms of section 7(1) of the Act.
- 1.2 The Circuit Courts in question will operate in accordance with the practice directive hereunder, until the establishment of the civil circuit courts aforesaid is withdrawn or amended by the Judge President or until a notice published in terms of section 6(3) in respect of the Mpumalanga Division of the High Court comes into operation, *id est* until the Minister has determined in terms of section 6(3) of the Act, the areas under the jurisdiction of the Mpumalanga Division and or Mpumalanga Local Division.

2. PRACTICE DIRECTIVE NO.1 OF 2015

- 2.1 All action and motion proceedings including urgent applications in any area in the Mpumalanga Province shall, with effect from 1 FEBRUARY 2016 be

issued through designated officials and at the offices situated at the Mbombela and Middelburg Magistrate Courts specified in Clause 4 below and which shall operate as the Registrars offices of the Circuit Courts and shall be dealt with as follows:

2.2 Civil Trials

2.2.1 Civil trials shall be enrolled for hearing on every second and fourth week of the month in Middelburg and Mbombela respectively starting from 1 FEBRUARY 2016, provided that no trial date will be allocated to any matter unless the matter is ready for trial and a proper pre-trial minute has been filed.

2.2.2 On each Monday of the Civil Trial week the Judge on duty will conduct roll call for all matters enrolled for that week.

2.2.3 Dates for civil trials will be allocated by the Office of the Deputy Judge President.

2.2.4 Any party may submit to the Registrar at the circuit courts an application for a trial date, provided a proper pre-trial conference in compliance with the provisions of Rule 37 has been held and the minutes thereof are filed together with the application for a trial date. The trial date will only be allocated if the Judge President or a Judge designated by the Judge President or Deputy Judge President, is satisfied that a proper pre-trial conference had been held.

2.2.5 The file together with the application for the trial date shall be delivered by the Registrar of the Circuit Court to the Clerk of the Judge on duty at the Circuit Court for transmission to the office of the Deputy Judge President.

2.2.6 In the event that there is no Judge on duty at the circuit court, the Registrar of the Circuit Court shall ensure that the file is submitted as soon as possible to the office of the Deputy Judge President in Pretoria for allocation of a trial date.

2.2.7 If a civil trial is postponed, whether part heard or otherwise, it shall be postponed *sine die*, unless the Deputy Judge President has agreed to have the matter postponed to a specific date, in which event it may duly be re-enrolled in accordance with the procedure set out in paragraph 2.2.1 to 2.2.7 above.

2.2.8 Further practice directives for the management of action proceedings at an initial stage before the close of the pleadings will be issued in due course.

2.3 Unopposed Applications

2.3.1 Unopposed applications will be heard on Tuesdays of the first and third weeks of each month in Middelburg and Mbombela respectively, starting from 1 FEBRUARY 2016.

2.3.2 The applicant shall ensure that the papers are ready, *id est* indexed, paginated and bound together; and that the file is submitted to the Registrar's office at the circuit court not later than 15h00 on the Friday preceding the hearing on Tuesday. The files are to be handed by the Registrar on the Monday, to the Judge on duty for reading before the hearing on the Tuesday of that week.

2.3.3 Unopposed applications, if postponed, shall be postponed *sine die* by the Judge on duty, and will only be re-enrolled in accordance with paragraphs 2.3.1 to 2.3.3 above.

2.3.4 The Judge President and/or Deputy judge President, through the Registrar at the circuit court, may limit the number of matters to be placed on the unopposed motion roll.

2.4 Opposed Applications

2.4.1 The date of the hearing of opposed applications will be allocated by the Registrar at the circuit court. Opposed applications shall be heard

on Wednesdays and Thursdays of the first and third weeks of each month in Middelburg and Mbombela respectively. The enrolment of opposed applications and the number of applications enrolled will be directed and controlled by the Registrar at the circuit court as per the directive of the Judge President.

2.4.2 Any party may apply for the enrolment of an application for hearing on the opposed motion roll provided that:

2.4.2.1 The file is properly indexed, paginated and bound together in bundles of not more than 100 pages each;

2.4.2.2 A practice note setting out the nature of the application, the estimated duration of the hearing and concise written heads of argument is filed simultaneously with the application for allocation of the date for hearing. In the practice note, the particulars of the counsel or attorney who will be arguing the application must be furnished, including their telephone number and the email address, if any.

2.4.3 Once the Registrar is satisfied that paragraphs 2.4.2.1 to 2.4.2.2 above are complied with, he or she shall allocate a hearing date; and must ensure that by 14h00 on the Thursday two weeks prior to the opposed motion week, the files are given to the Clerk of the Judge on duty, for submission to the Judge President or if there is no Judge on duty for that week, the Registrar shall send the files to the Judge President's clerk in Pretoria for the purpose of handing the files over to the Judge who will be next on the opposed motion roll at the circuit court.

2.4.3.1 The applicant(s) shall file written heads of argument with the Registrar at the circuit court by 12h00 on the Tuesday, three weeks prior to the date of the hearing of the application. The respondent(s) shall file written heads of argument with the Registrar at the circuit

court by 12h00 on the Tuesday two weeks prior to the date of the hearing of the application

2.4.4 To ensure that the Clerk/Secretary of the Judge on duty or the Registrar complies with paragraphs 2.4.3, a party who applied for a hearing date shall submit the file to the Clerk or the Registrar no later than 13h00 on the Tuesday of the week referred to in 2.4.3 above, i.e. on a Tuesday two weeks prior to the week of the opposed motion roll.

2.4.5 Any opposed application, if postponed, shall be postponed *sine die* by the Judge on duty and will only be re-enrolled and dealt with in accordance with paragraphs 2.4.2.1 to 2.4.2.4 above.

2.4.6 This practice directive may from time to time be changed or amended by the Judge President taking into account the volume of the applications enrolled or intended to be enrolled; and the Judge President may limit through the Registrar at the circuit court, the number of applications to be placed on the roll as contemplated in paragraph 2.4.1 above.

2.5 Urgent Applications

2.5.1 A judge designated to sit at the civil circuit court shall also hear urgent applications regardless of the circuit court where the application was issued. Where circumstances dictate, a Judge sitting in the criminal circuit court will hear urgent applications depending on his or her availability and the extent of the urgency of the matter.

2.5.2 Urgent applications will be heard from the Tuesday of each week.

2.5.3 Matters to be enrolled for hearing on Tuesdays at 10h00 as per 2.5.2 above, must be filed with the Registrar at the civil circuit court by the preceding Thursday at 12h00 to enable the Clerk of the Judge on circuit to prepare the files and prepare the roll for the following Tuesday.

2.5.4 Only in exceptional circumstances will an urgent application be enrolled to be heard on a date and at a time other than set out in paragraphs 2.5.1 and 2.5.3 above. Depending on the degree of urgency, they will be enrolled as follows:

2.5.4.1. If the urgent application cannot be brought at 10h00 on the Tuesday, it may be enrolled on any other day of the week at 10h00. The applicant, in the founding affidavit, must set out facts to justify the bringing of the application at a time other than 10h00 on the Tuesday.

2.5.4.2 If the urgent application cannot be brought at 10h00 on any day during the week, it may be brought on any other day and at any time, provided that there is a Judge at the circuit court to hear the application. The applicant, in the founding affidavit, must set out facts to justify the bringing of the application at a day and time other than 10:00 on any day during the week.

2.5.4.3 If a party wishes to bring an urgent application on any day or time outside of the ordinary court hours, the Clerk of the Judge on civil or criminal circuit court, must be telephoned at a cellular phone number to be obtained from the Registrar of the Civil Circuit Court.

2.5.4.4 The enrolment of urgent applications outside court hours and/or on any day other than a normal court day shall only be in exceptional circumstances and shall be based on extreme urgency. If no judge is available on circuit to hear the matter, the application shall be initiated in Pretoria in terms of the practice directive applicable there. For this, the applicant shall, in the founding affidavit, concisely and clearly set out facts explaining why the application cannot wait to be heard

during the following court day and/or during normal court hours in either of the circuit courts.

2.5.4.5 A tendency to bring urgent matters outside court hours and normal court days will not be easily acceded to. It must be emphasised that such matters will only be enrolled and heard in exceptional circumstances and only upon the availability of a Judge on circuit.

2.5.5 No applications brought on urgent basis will be enrolled and heard unless the affected party or parties have been given sufficient notice of the place, date and time of the hearing of the application. Sufficient notice or sufficient time is considered to include time to prepare, file opposing papers and to attend court.

2.5.5.1 Sufficient time should also be afforded to the affected party or parties when an application which is not filed with the Registrar at the circuit court on the Thursday preceding the Tuesday of the urgent motion week, is served.

2.5.5.2 *Ex parte* applications; that is, applications enrolled without Notice being given to the affected party or parties; will not be enrolled and heard; except where such a notice is not required by- and will not adversely affect any person.

2.5.5.3 Any other *ex parte* application will only be enrolled and heard in exceptional circumstances, which must clearly and concisely be set out in the founding affidavit. Any person affected by the order obtained *ex parte*, may approach the court on 72 hours' notice to adjudicate the matter.

2.5.6 In each and every matter the reasons for urgency must be clearly and concisely set out in the founding affidavit; and it must be clear that the urgency was not self-created.

2.5.7 Any application brought on urgent basis will be struck from the roll if urgency is not evident or established during the hearing.

2.6 Applications for Leave to Appeal and Petitions

2.6.1 Applications for leave to appeal and petitions against matters finalised at either the Civil or Criminal Circuit Courts, shall be filed with the Registrar of the Circuit Court where the matter was finalised;

2.6.2 A party filing an application for leave to appeal must simultaneously file the judgment in the matter, if available;

2.6.3 Upon filing of the application for leave to appeal, the Registrar at the circuit shall forthwith forward same to the Clerk of the Judge who dealt with the matter;

2.6.4 The Judge concerned shall as soon as possible make arrangement for the hearing of the application for leave to appeal before him or her. If the presiding Judge in the matter is not available to hear the application at the circuit court it may be heard by another Judge designated by the Judge President or Deputy Judge President.

2.7 REVIEWS

2.7.1 All Reviews emanating from the Mpumalanga Province shall, with effect from 1 FEBRUARY 2016 the date as determined by the Judge President, be lodged/filed with the Registrar of the Mbombela Circuit Court.

2.8 Pending cases

2.8.1 Cases issued and pending in the Gauteng Division of the High Court, but which would ordinarily have been issued in either of the Civil Circuit Courts, had such Circuit Court been established at the time of the institution of such proceedings may; at the discretion of and for the convenience of the parties, including where the possibility exist

for earlier hearing of the matters; be transferred to the relevant Civil Circuit Court.

2.8.2 Matters referred to in 2.8.1 will only be so transferred at the request of the parties and if the Judge President is of the view that it would be expedient or in the interest of justice to hold a sitting for the hearing of any such matter or matters at the Civil Circuit Court; or if any of the parties formally apply for such a transfer in terms of section 52 of the Superior Courts Act.

3. EFFECTIVE DATE

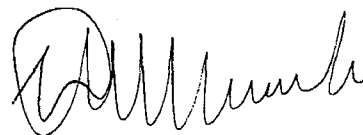
3.1 This practice directive shall, unless otherwise specified, become effective from 1 FEBRUARY 2016.

4. PARTICULARS OF THE OFFICES AND OFFICIALS FOR ISSUE

The office of the Registrar of each Circuit Court is situated at Mbombela and Middelburg Magistrate Courts as follows-

SURNAME AND INITIAL	POSITION	CONTACTS DETAILS	E-MAIL ADDRESS
MBOMBELA			
Mphekgwane MT	Registrar	(013) 753 6290	MMphekgwane@justice.gov.za
Mhlongo JS	Snr Admin Clerk	(013) 7536228	SihMhlongo@justice.gov.za
Mdhlovu AM	Snr Admin Clerk	(013) 7536228	AmMdhlovu@justice.gov.za
Pieterse A	Snr Admin Clerk	(013) 753 6288	AlPieterse@justice.gov.za
MIDDELBURG			
Mashinini MM	Snr Admin Clerk	(013) 2837502	MMashinini@justice.gov.za
Ntuli CN	Snr Admin Clerk	(013) 283 7516	CNtuli@justice.gov.za
Mdhluli SE	Snr Admin Clerk	(013)2837502	ESefako@justice.gov.za

Dated at PRETORIA on this the 29th day of JANUARY 2016



JUDGE PRESIDENT D MLAMBO

GAUTENG DIVISION OF THE HIGH COURT OF SOUTH AFRICA
FUNCTIONING AS THE MPUMALANGA DIVISION OF THE HIGH
COURT OF SOUTH AFRICA

Local Division (Middelburg)				
District/Seat	Number of posts of -			
	Chief Magistrate	Senior Magistrate	Magistrate	Regional Magistrate
Steve Tshwete District Middelbrug (Main Seat) Hendrina	0	1	7	6
eMalahleni District Witbank (Main Seat) Kriel Vosman	0	1	9	1
Victo Khanye District Delmas (Main Seat)	0	0	2	
Thembisile Hani District Kwaggafontein (Main Seat) Kwamhlanga	0	0	7	
Dr J S Moroka District Siyabuswa (Main Seat) Mbibana	0	0	5	1
Govan Mbeki District Evander (Main Seat) Bethal Secunda	0	1	10	3
Dipaleseng District Balfour (Main Seat)	0	0	1	
Lekwa District Standerton (Main Seat)	0	0	3	
	0	3	44	11