



NOTICE 1 OF 2017
FOR THE GAUTENG DIVISION of the HIGH COURT of SOUTH AFRICA
Functioning as THE MPUMALANGA DIVISION
OF THE HIGH COURT OF SOUTH AFRICA

NOTICE

1. The Judge President of the Gauteng Division of the High Court of South Africa, *functioning* as the Mpumalanga Division of the High Court of South Africa (Mpumalanga Division), hereby gives notice in terms of section 7 (2) of the Superior Courts Act 10 of 2013 ("the Act"), as amended, determining the jurisdictional boundaries of the Circuit Courts of the Mpumalanga Division as follows -
 - 1.1 The Mbombela Circuit Court shall have jurisdiction in respect of Civil and Criminal matters emanating in and from the Magisterial Districts mentioned in PART A of the attached Schedule.
 - 1.2 The Middelburg Circuit Court shall have jurisdiction in respect of Civil and Criminal matters emanating in and from the Magisterial Districts mentioned in PART B of the attached Schedule.
 - 1.3 The Mbombela Circuit shall have concurrent jurisdiction over all areas falling under the Emakhazeni (Belfast) Magisterial District.
 - 1.4 Judges presiding in Criminal Matters shall continue to sit as and when so directed by the Judge President in Mashishing (Graskop); Mzukaliqwa (Ermelo, Breyten); Thembisile Hani (Mkobola/Kwaggafontein); Victor Khanye (Delmas) and at any other Magistrate's Court determined by the Judge President as suitable and convenient for making justice accessible.

1.5 The Gauteng Division of the High Court shall, with the coming into effect of this Notice, cease to have jurisdiction in any matters emanating and arising in and from the Magisterial Districts set out in the attached schedule.

2. The Judge President further -

2.1 Determines and regulates the operations of the Civil Circuit Courts regarding the issuing, enrolment and hearing of matters by the Circuit Courts, as set out in Practice Directive No 1 of 2017, hereunder, and

2.2 Provides for further, other and/or incidental matters relating to the functioning of the Circuit Courts in general.

3. Take notice further that Practice Notice (Directive) No 1 of 2017 amends Practice Note (Directive) No 1 of 2016 issued on 29 January 2016 and shall remain in force until amended or withdrawn, and/or until a notice is issued by the Minister of Justice and Correctional Services in terms of section 6(3) of the Act.

PRACTICE NOTICE (DIRECTIVE) NO.1 OF 2017

1. All action and motion proceedings including urgent applications in any area in the Mpumalanga Province shall, with effect from 12 FEBRUARY 2017, be issued at Mbombela and Middelburg Circuit Courts and shall be dealt with as follows:

1.1 Civil Trials

1.1.1 Civil trials shall be enrolled for hearing from Monday to Friday during Term in the Civil Circuit Courts sitting in Mbombela and Middelburg respectively.

1.1.2 At 9h00 on each Monday the Judge on duty at the Circuit Court shall conduct roll call for all matters enrolled for that week.

1.1.3 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.

1.1.4 A trial date will only be allocated if the Judge President or Deputy Judge President or a Judge designated by the Judge President present, is satisfied that a proper pre-trial conference has been held.

1.1.5 If a civil trial is postponed, whether part heard or otherwise, it shall be postponed *sine die*, unless the 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 1.1.1 to 1.1.4 above.

1.1.6 Further practice directives may be issued for the proper management of action proceedings at any stage thereof from time to time.

1.2 Unopposed Applications

1.2.1 Unopposed applications will be heard on Tuesdays of every week in the Circuit Courts sitting in Mbombela and Middelburg respectively.

1.2.2 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.

1.2.3 Unopposed applications, if postponed, shall be postponed *sine die* by the Judge on duty, and will only be re-enrolled in accordance with paragraphs 1.2.1 to 1.2.2 above.

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

1.3 **Opposed Applications**

1.3.1 The date of the hearing of opposed applications will be allocated by the Registrar at the circuit court for hearing on every Thursday and Friday during Term in the Circuit Courts sitting in Mbombela and Middelburg 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 and/or Deputy Judge President.

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

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

1.3.2.2 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.

1.3.3 Once the Registrar is satisfied that paragraphs 1.3.2.1 to 1.3.2.2 above have been complied with, he/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 Secretary/Clerk of the Judge on duty at the circuit court.

1.3.3.1 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

1.3.4 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 1.3.2.1 to 1.3.2.4 above.

1.3.5 This practice directive may from time to time be amended by the Judge President and/or Deputy 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 1.3.1 above.

1.4 Urgent Applications

1.4.1 A judge designated to sit at the civil circuit court shall also hear urgent applications enrolled at that Circuit Court. Judges sitting in the Criminal Circuit Court will also preside over urgent applications should circumstances dictate, depending on his or her availability and the extent of the urgency of the matter.

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

1.4.3 Matters to be enrolled for hearing on Tuesdays at 10h00 as per 1.4.2 above, must be filed with the Registrar at the civil circuit court on the preceding Thursday not later than 12h00 to enable the Secretary/Clerk of the Judge on duty to prepare the files and prepare the roll for the following Tuesday.

1.4.4 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 1.4.1 and 1.4.3 above. Depending on the degree of urgency, such matters will be enrolled as follows:

1.4.4.1. 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.

1.4.4.2 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.

1.4.4.3 If a party wishes to bring an urgent application on any day or time outside of the ordinary court hours, the Secretray/Clerk of the Judge on civil circuit court duty, must be telephoned at a cellular phone number to be obtained from the Registrar of the Civil Circuit Court, specifying the request for the matter to be heard outside ordinary Court hours and the reasons therefor.

1.4.4.4 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.

1.4.4.5 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.

1.4.5 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.

1.4.5.1 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.

1.4.5.2 *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.

1.4.5.3 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.

1.4.6 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.

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

1.5 Applications for Leave to Appeal and Petitions

- 1.5.1 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;
- 1.5.2 A party filing an application for leave to appeal must simultaneously file the judgment in the matter, if available;
- 1.5.3 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;
- 1.5.4 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.

1.6 REVIEWS

All Reviews emanating from any Magisterial District in the Mpumalanga Province shall, be lodged/filed with the Registrar of the Mbombela and/or Middelburg Circuit Court in accordance with the jurisdictional boundaries as per the schedule attached as Annexure A.

1.7 Pending cases

- 1.7.1 Cases issued and pending in the Gauteng Division of the High Court, but which would ordinarily have been issued in either Mbombela or Middelburg 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 Circuit Court.
- 1.7.2 Matters referred to in 1.7.1 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 interests of justice to hold a sitting for the hearing of any such matter or matters at the Circuit Court; or if any of the parties formally apply for such a transfer in terms of section 52 of the Superior Courts Act.

2. EFFECTIVE DATE

This Notice and Practice Directive shall, unless otherwise specified, become effective from 12 FEBRUARY 2017 and shall be published by notice in the Gazette in terms of section 7(1) of the Act.

3. PARTICULARS OF THE OFFICE FOR ISSUE

The office of the Chief Registrar situated at Mbombela and Middelburg Magistrate

Courts as follows-

MBOMBELA

REGISTRAR NAMES:

OFFICE NO. :

TELEPHONE NO.

EMAIL ADDRESS:

MIDDELBURG

REGISTRAR NAMES:

OFFICE NO. :

TELEPHONE NO.

EMAIL ADDRESS:

Dated at _____ on this the _____ day of _____

2017

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

SCHEDULE

PART A - MBOMBELA AREAS OF JURISDICTION

	MAGISTERIAL DISTRICT	SUB-DISTRICTS	OTHER AREAS (SERVING ALSO AS PERIODICAL COURTS FOR THE DISTRICT COURTS)
	Buschbuckridge	Mhala (Thulamahashe)	Acornhoek, Mkhuhlu, and Sekhukusa
	Mbombela(Nelspruit)	White River and Kabokweni (Nzikazi)	Hazyview, Kanyamazane, Masoyi Matsulu and Ngodwana
	Mashishing (Lydenburg)	Graskop and Sabie	Dientjie Pilgrimsrest and Maartenshoop
	Nkomazi (Tonga)	Komatipoort	Malelane
	Mkhondo (Piet- Retief)	Amsterdam	Dirkiesdorp, Mahamba, and Boschfontein
	Eersterhoek	Carolina	Emanzana (Badplaas),

	(Elukwatini)		Mayflower
	Umjindini (Barberton)		Louw's Creek

PART B (MIDDELBURG AREAS OF JURISDICTION)

ITEM	MAGISTERIAL DISTRICT	SUB-DISTRICTS	OTHER AREAS (ALOS USED AS PERIODICAL COURTS FOR THE DISTRICT AND SUB DISRICT COURTS)
1.	Middelburg	Hendriena	Blinkpan, Laersdrift and Ogies
2.	Emalaheni (Witbank)	Vosman, GaNala and	
3.	Emakhazeni (Belfast)	Emgwenya(Waterval- Boven)	Entokozweni (Machadodorp) Dullstroom Charl Cilliers, and Leslie
4.	Govan Mbeki (Evander\ Highveld Ridge)	Secunda	
5.	Lekwa (Standerton)	-	Morgenzon, Val
6.	Mzukaliqwa (Ermelo)	Breyten	Chrissiesmeer, Davel, Lothair and Sheepmoor
7.	Dr P ka Isaka Seme (Volksrust)	Amersfoort Wakkerstroom	Perdekop
8.	Dipaleseng (Balfour)	-	Nthowane (Greylingstad)

			and Thaba-Kgwai (Grootvlei)
9.	Dr JS Moroka (Sigabuswa\Mdutjana)	Mbibana (Vaalbank/ Elibangeni)	Marapyane
10.	Thembisile Hani (Mkobola \Kwaggafontein)	KwaMhlanga	Verena
11.	Victor Khanye (Delmas)	-	Sundra