

Namibia

Namibian Constitution

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

Published in [Government Gazette no. 7160](#) on 31 March 2020

Assented to on 31 March 2020

Commenced on 31 March 2020

[Up to date as at 2 July 2021]

[Amended by [Directions relating to judicial proceedings during the COVID-19 state of emergency: Amendment \(Government Notice 111 of 2020\)](#) on 29 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

"**period of lockdown**" means the period of lockdown referred to in regulation 3 of the Regulations, and includes the period of lockdown, commencing at 14:00 on 28 March 2020 and ending at 23:59 on 17 April 2020, that was imposed prior to the amendments to the State of Emergency - Covid-19 Regulations published under [Proclamation No. 9 of 28 March 2020](#).

[definition of "period of lockdown" substituted by section 2 of [Government Notice 111 of 2020](#)]

2. Application of directions

These directions apply to the courts for the duration of the period of lockdown.

[direction 2 substituted by section 3 of [Government Notice 111 of 2020](#)]

3. Criminal matters

The following provisions apply to all criminal matters in all courts:

- (a) the set down date of all cases set down during the period of the lockdown 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.

[direction 3 substituted by section 4 of [Government Notice 111 of 2020](#)]

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 Magistrates' Courts will be open for litigants, practitioners and the public on weekdays, excluding public holidays, from 8h00 to 13h00 with functions restricted to the following:

[introductory sentence substituted by section 5 of [Government Notice 111 of 2020](#)]

- (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. Provisions relating to suspension of laws

Despite the suspension of certain provisions of the Magistrates Court Act, 1944 (Act No. 32 of 1944), the High Court Act, 1990 (Act No. 16 of 1990), the Supreme Court Act, 1990 (Act No. 15 of 1990), the Criminal Procedure Act, 1977 (Act No. 51 of 1977), the Labour Act, 2007 (Act No. 11 of 2007) and the Electoral Act, 2014 (Act No. 5 of 2014), the following proceedings will continue:

- (a) applications brought as urgent applications in terms of the rules of the applicable court;
- (b) bail applications;
- (c) appeals against the refusal of bail;
- (d) domestic violence matters;
- (e) any case involving children issues;
- (f) first court appearance in a criminal case; and
- (g) solemnization of marriages in terms of the Marriages Act, 1969 (Act No. 25 of 1969).

[direction 9 substituted by section 6 of Government Notice 111 of 2020]

10. Implementation of directions

The Judge President, the Chief Magistrate and the Registrar of the Supreme Court and High Court are directed to implement these Directions and to advise the Chief Justice on adjustments if a need arises.

[direction 10 substituted by section 7 of Government Notice 111 of 2020]

Annexure

General

1. All criminal court orders will contain an extension of bail, warning or detention, whichever is applicable.
2. Accused persons and witnesses are informed and warned to be at court on the dates indicated in this Annexure.

High Court

1. The following postponement dates will apply to any criminal case in the High Court irrespective of the reason for set down:
 - 1.1. Case Management;
 - 1.2. Plea;
 - 1.3. Trial;
 - 1.4. Continuation of trial, including submissions;

- 1.5. Ruling or Judgment, including sentence;
- 1.6. Trial-within-a-trial;
- 1.7. Any application ancillary to the main case, including an application for recusal;
- 1.8. Leave to Appeal to the Supreme Court; or
- 1.9. Criminal Appeals set down for hearing.

Set down type	Date to be postponed to
Criminal Appeal Mentions	19 May 2020
Criminal Trial Mentions	14 May 2020
Criminal Trial Pre-Trial	15 May 2020
Ruling and Judgments, including sentence	7 May 2020
Plea	*** 6 May 2020
Trial	*** 6 May 2020
Continuation of trial, including submissions	*** 6 May 2020
Trial-within-a-trial	*** 6 May 2020
Any application ancillary to the main case	*** 6 May 2020
Leave to appeal to the Supreme Court	*** 6 May 2020
Criminal Appeals set down for hearing	*** 6 May 2020
<i>*** Appearance for purpose of determining and allocation of a new date before the judge assigned to the matter</i>	

2. Reference to rulings and judgments in the table hereinbefore, includes judgments and rulings in criminal appeal matters.

Magistrate's Courts

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

Week of 30 March - 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

Week of 6 April - 10 April 2020	
Date of appearance	Date to be postponed to

Monday 6 April 2020	Tuesday 12 May 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)

Week of 13 April - 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	Friday 22 May 2020

Week of 20 April - 26 April 2020	
Date of appearance	Date to be postponed to
Monday 20 April 2020	Tuesday, 26 May 2020
Tuesday 21 April 2020	Wednesday 27 May 2020
Wednesday 22 April 2020	Thursday 28 May 2020
Thursday 23 April 2020	Friday 29 May 2020
Friday 24 April 2020	Monday 1 June 2020

Week of 27 April - 3 May 2020	
Date of Appearance	Date to be postponed to
Monday 27 April 2020	Tuesday 2 June 2020
Tuesday 28 April 2020	Wednesday 3 June 2020
Wednesday 29 April 2020	Thursday 4 June 2020
Thursday 30 April 2020	Friday 5 June 2020

[Annexure substituted by section 8 of [Government Notice 111 of 2020](#)]