



OFFICE OF THE ACTING JUDGE PRESIDENT

(HIGH COURT OF SOUTH AFRICA, GAUTENG DIVISION)

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NOTICE

TO:

- 1. Judges of the Gauteng Division, Pretoria and Johannesburg**
- 2. Chief Registrar, Gauteng Division, Pretoria and Johannesburg**
- 3. Legal Practice Council – Gauteng**
- 4. Law Society of South Africa**
- 5. Gauteng Family Law Forum**
- 6. Gauteng Attorneys Association**
- 7. Pretoria Attorneys Association**
- 8. Johannesburg Attorneys Association**
- 9. West Rand Attorneys Association**
- 10. South African Black Women in Law**
- 11. National Association of Democratic Lawyers**
- 12. Black Lawyers Association**
- 13. South African Women Lawyers Association**
- 14. South African Medical Malpractice Lawyers Association**
- 15. Personal Injury Plaintiff Lawyers Association**
- 16. South African Medico-Legal Association**
- 17. Office of the Director of Public Prosecutions, Pretoria and Johannesburg**
- 18. Office of the State Attorneys, Pretoria and Johannesburg**
- 19. Solicitor General**
- 20. Office of the Family Advocate, Pretoria and Johannesburg**

21. Legal Aid South Africa
22. Johannesburg Society of Advocates
23. Pretoria Society of Advocates
24. Gauteng Society of Advocates
25. Pan African Bar Association of South Africa
26. General Council of the Bar of South Africa
27. National Bar Council of South Africa
28. South African Bar Association
29. National Forum of Advocates
30. North Gauteng Association of Advocates
31. Church Square Association of Advocates
32. Advocates for Transformation
33. Legal Division of the Department of Health: Gauteng
34. Legal Division of the Department of Sport, Arts, Culture and Recreation
35. Gauteng Department of Agriculture and Rural Development
36. Legal Services - Gauteng Provincial Department of Education
37. Gauteng Society of Advocates

DATE : 01 December 2022

RE : REVISIONS TO THE JUDGE PRESIDENT'S
PRACTICE DIRECTIVE 01 OF 2021 AS AMENDED ON
08 JULY 2022

Preamble:

The following revisions to the Directive are made by the Acting Judge President in order to:

- 1) address the chronic dysfunctionalities that afflict Road Accident Fund Litigation, more especially the disproportionate time and effort expended on judicial case management with no commensurate advantage and to simplify the process towards the issue of a trial date of [OR] default judgment date.

- 2) provide for ad hoc case management of cases against the MEC for Health, Gauteng, from close of pleadings in order to promote the prospects of earlier settlement, the opportunities to use mediation and the truncation of the duration of a trial;
- 3) refine and expand the scope of the Settlements Court to cater for all cases against organs of state in which public money funds damages awards.

Revisions

1. To achieve these stated objectives, the following revisions take effect immediately upon date of publication.
2. The definition of “Y” matters in Chapter 1 par 2.4 shall include the following proviso: “...except claims which are not for damages pursuant to personal injury claims, which shall be treated as being category “C” matters as set out hereunder.”
3. The following provisions of Directive 1 of 2021 are suspended, subject to the transitional provisions set out hereunder, and shall remain suspended until further notice:
 - 3.1 Chapter 4, paragraphs 6 to 7.1 and paragraphs 8.1 to 8.4, excluding its sub-paragraphs.
 - 3.2 Chapter 5.
 - 3.3 Chapter 6, paragraphs 16 to 26 and paragraph 28.
 - 3.4 Chapter 8, the specific references to the Road Accident Fund in paragraphs 37 and 41.2

4. Chapter 7 shall be re-titled: 'Procedure to apply for a trial date, excluding cases against the MEC for Health, Gauteng'
5. Matters classified as "Y" which are against the Road Accident Fund (RAF) and against PRASA shall no longer be required be enrolled for **judicial case management** and instead shall comply with the provisions of chapter 7 to apply for a set down date and in terms thereof require the plaintiff's attorney to certify that the case is trial ready. In addition, the signed statement required in chapter 7 from the plaintiff's attorney shall be in the form of an affidavit and must mutatis mutandis include compliance with the provisions of paragraphs 7.2, and 8.4.1 to 9.2.2. Matters classified "Y" against the MEC for Health, Gauteng are dealt with in paragraph 6 below.
6. In relation to "Y" cases where default judgment is sought, paragraph 5.5 and 5.6 in chapter 3 are substituted by the following:
 - 5.5: Where a defendant fails or refuses to file a notice of intention to defend or fails or refuses to file a plea after delivery of a notice of bar or when the defence has been struck, the plaintiff must apply to the registrar for a set down on the default judgment roll
 - 5.6: Upon the registrar being satisfied that the application for default judgment is compliant with the requirements and that the plaintiffs' attorney has made a signed statement setting out the basis relied upon for a default judgment,

which must include references to the expert reports upon which reliance shall be placed, a date shall be allocated for the hearing thereof and the plaintiff's attorney shall serve a notice of set down of this date on the RAF, within 10 (ten) days from such allocation.

7. All cases against the MEC for Health, Gauteng may henceforth, after close of pleadings and after the Plaintiff has made discovery and has delivered all its expert reports, be referred by email to the secretary of the Deputy Judge President (DJP), lastmentioned who may assign a judge to case manage the matter ad hoc until the moment it is trial ready, whereupon the case manager judge shall certify the case eligible to be set down for trial.
8. The **Special Interlocutory Court** (SIC), formerly also known as the Trials Interlocutory Court (TIC) as provided for in Chapter 8, shall:
 - 6.1 in Pretoria, sit each day of the week.
 - 6.2 in Johannesburg, sit from Monday until Thursday.
9. Applications to compel the Road Accident Fund to either accept or reject a plaintiff's RAF 4 Serious Injury Assessment in terms of Regulations 3(3)(c) and 3(3)(d) of the Road Accident Fund Regulations 2008 must be set down for hearing in the SIC and not the ordinary unopposed motion court.
10. The scope of **Settlements Court**, (as provided in chapter 9, excluding paragraph 28) is expanded to hear all settlements in all delictual claims against any organ of state where public funds are to be paid as damages to a plaintiff.¹

11. Paragraph 49.4 in Chapter 9 is amended to read: Matters left on the trial roll and which have become settled on the day of trial or shortly before, may be dealt with at the trial roll.

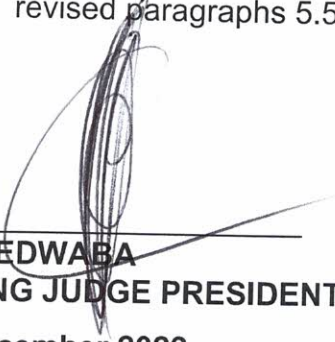
12. The following transitional measures shall apply to all “Y” cases already enrolled for judicial case management and to RAF cases enrolled in the SIC to obtain a referral to seek a default judgment:

12.1 All cases already set down in the **judicial case management court** in the 4th term of 2022 shall continue to be heard in terms of pre-revision provisions of the Directive. No such matters shall in future be enrolled and the plaintiffs must comply with the chapter 7 to seek a trial set down date. Any such matter already enrolled from the first term of 2023 onwards shall hereby be automatically removed from that roll without further formality save for matters of those plaintiffs who wish to retain the set down of their matters in which case they must inform the registrar in writing thereof by 15 December 2022.

12.2 All applications already enrolled in the **Special Interlocutory Court** in the 4th term of 2022 against the RAF for a referral to the default judgment court shall continue to be heard in terms of pre-revision provisions of the Directive. Any such application contemplated in terms of the pre-revision provisions of the Directive already enrolled from the beginning of the first term of 2023 onwards shall hereby be automatically removed from that roll without further formality save for matters of those plaintiffs who wish to retain the set down of their matters in which case they must inform the registrar in writing thereof by

¹ This provision includes, typically, all claims against the Minister of Police for damages in unlawful arrest and detention claims, and claims arising from injuries caused by the Police in effecting an arrest and claims against other departments of state and municipalities for damages arising from injuries.

15 December 2022. For the remainder, the plaintiffs must comply with the revised paragraphs 5.5 and 5.6, above, to seek a set down date.



A P LEDWABA
ACTING JUDGE PRESIDENT

01 December 2022.