

30 MARCH 2020

DISPUTE RESOLUTION ALERT

IN THIS ISSUE >

Courts' "protection orders" amid COVID-19

Following the President's unprecedented announcement that the country will go into "lockdown" for 21 days beginning on Friday, 27 March 2020, the various ministers of his Cabinet were obliged to publish regulations in term of the Disaster Management Act 57 of 2002 in respect of the functioning, or lack thereof, of services and operations under their respective portfolios.

FOR MORE INSIGHT INTO OUR
EXPERTISE AND SERVICES

CLICK HERE 



CLIFFE DEKKER HOFMEYR

Courts' "protection orders" amid COVID-19

The Minister of Justice and Correctional Services, Ronald Lomala, issued the directions as contained in Government Notice No 43167. The aim of these regulations is, *inter alia*, to outline the operations of the courts during, and immediately post, "lockdown".

Following the President's unprecedented announcement that the country will go into "lockdown" for 21 days beginning on Friday, 27 March 2020, the various ministers of his Cabinet were obliged to publish regulations in term of the Disaster Management Act 57 of 2002 in respect of the functioning, or lack thereof, of services and operations under their respective portfolios.

Therefore, on 26 March 2020, the Minister of Justice and Correctional Services, Ronald Lomala, issued the directions as contained in Government Notice No 43167. The aim of these regulations is, *inter alia*, to outline the operations of the courts during, and immediately post, "lockdown".

We have identified the following excerpts as being the most pertinent to the litigation practice.

1. Entry to the courts, or the court precinct, is restricted to urgent and essential matters, and only to those who have not been in contact with, or exposed to, people with COVID-19. The contingent of persons attending at court for the hearing of urgent matters will be limited to essential persons only. Essential persons include, subject to the assigned judge's discretion, persons with a material interest in the case such as litigants, accused, witnesses, those required to provide support, such as those accompanying children, victims of domestic violence or sexual abuse, and persons with disabilities, family members, and members of the media.

The court management and the judges, must, to the extent possible, ensure that the number of persons in a room be reduced to comply with safety measures and social distancing requirements.

2. All criminal trials enrolled during the lockdown are being postponed to after the lockdown, save for matters in which the "interests of justice" dictate that the matter be heard urgently.
3. Cases not identified as urgent or relating to essential services, shall not be placed on the court roll during lockdown, although the "Heads of Court" retain a discretion to hear matters via teleconference or videoconference.
4. All-time limits contained in the court rules shall be suspended until after the termination, or lapsing of the period of the National State of Disaster - i.e. there is a *dies non* on time period listed in the court rules. The only exceptions being as specifically ordered for urgent and essential cases -.
5. All evictions and the execution of attachment orders for movable and immovable property, including the removal of movable assets and sales in execution, are suspended for the duration of the lockdown.
6. The Master's office will be closed, save for payments to guardians, tutors and curators of minors and persons under curatorship, and the processing of documentation required for the burial of the deceased, and the urgent appointment of curators.

Courts' "protection orders" amid COVID-19...continued

All non-urgent matters enrolled from 27 March to 17 April 2020 are *ipso facto* removed from the roll without the parties having to comply with any of the usual formalities.

In addition to the above excerpts, the various divisions of the High Court of South Africa have issued their own directives in accordance with the Chief Justice's directive which delegates authority to the respective Judge Presidents in each jurisdiction.

In this respect, the two main seats of the High Court, being Gauteng (which includes both Johannesburg and Pretoria) and Cape Town, have taken slightly different approaches due to the availability of digital filing at the High Court in Johannesburg.

In Gauteng, the only court which will remain open to hear matters is the urgent court. No new case numbers will be issued, and no new matters may be enrolled (unless they are urgent).

The court will conduct such hearings by teleconference or videoconference, and only where this is impossible, will an in-person hearing taking place.

All non-urgent matters enrolled from 27 March to 17 April 2020 are *ipso facto* removed from the roll without the parties having to comply with any of the usual formalities.

These matters will be accommodated as follows:

Trials and interlocutory matters: as soon as possible after 28 April 2020;

Opposed motions and appeals: as soon as an assigned judge can hear the matter after 4 May 2020;

Applications with Rule *Nisi* return dates during the "lockdown" period should be brought to the attention of the Urgent Judge on duty, who will extend the Rule *Nisi* beyond the "lockdown" date; and

Unopposed motions: will be reenrolled automatically according to a published schedule.

Importantly, the advocate or attorney appearing in any allegedly urgent matter during the lockdown has to sign a certificate certifying that the matter is of such an urgent nature that it must be heard before Tuesday 21 April 2020. If a matter enrolled as such is found to not warrant a hearing during the lockdown, the assigned judge has a discretion to award punitive costs against the applying party, and the advocate or attorney can be interdicted from receiving any fees for all work relating to the matter.

In Cape Town, the court will only hear and issue urgent motion applications (including matters related to COVID-19) relating to bail, urgent maintenance, domestic violence related matters, and cases involving children. The issuing of any other actions or applications are suspended during the lockdown.

No new matters will be enrolled, and those civil trials, opposed motions, appeals and reviews already enrolled must be postponed to a date arranged with the registrar. The only new processes that will be accepted by the court at this stage are notices of intention to defend or oppose, and pleas.

Courts' "protection orders" amid COVID-19...continued

All motion court applications enrolled during the lockdown period must be postponed to a date after the lockdown, in consultation with the registrar.

All motion court applications enrolled during the lockdown period must be postponed to a date after the lockdown, in consultation with the registrar.

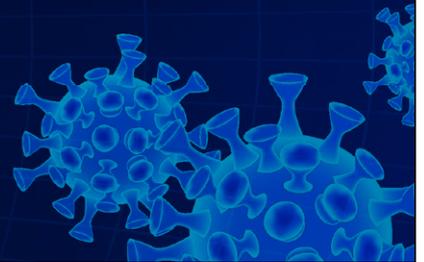
Arrangements must be made with the Judge on motion court or recess duty for all Rule *Nisi* matters with return dates during "lockdown" period. The return date must be extended until after "lockdown". If this is not achievable then the duty Judge must be approached to make the appropriate directives.

It is clear that the courts intend to operate as minimally as possible during the lockdown. Apart from the above-detailed urgent matters, the courts should be considered closed and attorney and clients are encouraged to liaise with their opponents to agree to a postponement between themselves.

*Andrew MacPherson
and Belinda Scriba*

CDH'S COVID-19 RESOURCE HUB

[Click here for more information](#) 



CDH is a Level 1 BEE contributor – our clients will benefit by virtue of the recognition of 135% of their legal services spend with our firm for purposes of their own BEE scorecards.

PROTECTION OF INVESTMENT IN AFRICA

20–22 April 2020

Presented by the Faculty of Law, University of Pretoria in collaboration with Cliffe Dekker Hofmeyr (CDH).

The Protection of Investment in Africa is a first-of-its-kind executive course focused on unpacking the fundamentals of investment law.

The course, presented by leading experts, is a unique opportunity for legal practitioners and business leaders to gain a comprehensive understanding of the legal and commercial aspects of investment law in Africa.

POSTPONED UNTIL FURTHER NOTICE

Please note that we will reschedule the event. A new date will be announced in due course.

The course will be delivered through a hybrid teaching model, incorporating a combination of both online content and a three-day contact session.



CLICK HERE to access the course registration details and fees, presenter profiles, course content and programme.



STOP
SEXUAL HARASSMENT

E-learning Offering

Our Employment practice recently launched an e-learning module:
A better place to work

The module will empower your organisation with a greater appreciation and understanding of what constitutes sexual harassment, how to identify it and what to do if it occurs.

CLICK HERE FOR MORE INFORMATION 

CHAMBERS GLOBAL 2017 - 2020 ranked our Dispute Resolution practice in Band 1: Dispute Resolution.

CHAMBERS GLOBAL 2018 - 2020 ranked our Dispute Resolution practice in Band 2: Insurance.

CHAMBERS GLOBAL 2020 ranked our Public Procurement sector in Band 2: Public Procurement.

CHAMBERS GLOBAL 2017 - 2020 ranked our Dispute Resolution practice in Band 2: Restructuring/Insolvency.

CHAMBERS GLOBAL 2020 ranked our Corporate Investigations sector in Band 3: Corporate Investigations.

Tim Fletcher ranked by CHAMBERS GLOBAL 2019 - 2020 in Band 3: Dispute Resolution.

Pieter Conradie ranked by CHAMBERS GLOBAL 2019 - 2020 as Senior Statespeople: Dispute Resolution.

Julian Jones ranked by CHAMBERS GLOBAL 2017 - 2020 in Band 3: Restructuring/Insolvency.

Tobie Jordaan ranked by CHAMBERS GLOBAL 2020 as an up and coming Restructuring/Insolvency lawyer.

Jonathan Witts-Hewinson ranked by CHAMBERS GLOBAL 2017 - 2020 in Band 2: Dispute Resolution.

Willie van Wyk ranked by CHAMBERS GLOBAL 2020 in Band 3: Insurance.



CDH HAS BECOME THE EXCLUSIVE MEMBER FIRM IN AFRICA FOR THE:

Insuralex Global Insurance Lawyers Group
(the world's leading insurance and reinsurance law firm network).

[CLICK HERE TO READ MORE](#)



insuralex
GLOBAL INSURANCE
LAWYERS GROUP

CLIFFE DEKKER HOFMEYR

BAND 1
Dispute Resolution

CLIFFE DEKKER HOFMEYR

BAND 2
Insurance

CLIFFE DEKKER HOFMEYR

BAND 2
Public Procurement

CLIFFE DEKKER HOFMEYR

BAND 2
Restructuring/Insolvency

CLIFFE DEKKER HOFMEYR

BAND 3
Corporate Investigations

EMEA
2017-2019
Recommended us in
TIER 1
Dispute Resolution

DealMakers 2019
THE LEGAL DEALMAKER OF THE DECADE BY DEAL FLOW

M&A Legal DealMakers of the Decade by Deal Flow: 2010-2019.
2019 1st by BEE M&A Deal Flow.
2019 1st by General Corporate Finance Deal Flow.
2019 2nd by M&A Deal Value.
2019 2nd by M&A Deal Flow.

IFLR 1000
2020

FINANCIAL AND CORPORATE
TOP TIER FIRM

OUR TEAM

For more information about our Dispute Resolution practice and services, please contact:



Tim Fletcher
National Practice Head
Director
T +27 (0)11 562 1061
E tim.fletcher@cdhlegal.com



Thabile Fuhrmann
Chairperson
Director
T +27 (0)11 562 1331
E thabile.fuhrmann@cdhlegal.com

Timothy Baker
Director
T +27 (0)21 481 6308
E timothy.baker@cdhlegal.com

Eugene Bester
Director
T +27 (0)11 562 1173
E eugene.bester@cdhlegal.com

Jackwell Feris
Director
T +27 (0)11 562 1825
E jackwell.feris@cdhlegal.com

Anja Hofmeyr
Director
T +27 (0)11 562 1129
E anja.hofmeyr@cdhlegal.com

Julian Jones
Director
T +27 (0)11 562 1189
E julian.jones@cdhlegal.com

Tobie Jordaan
Director
T +27 (0)11 562 1356
E tobie.jordaan@cdhlegal.com

Corné Lewis
Director
T +27 (0)11 562 1042
E corne.lewis@cdhlegal.com

Richard Marcus
Director
T +27 (0)21 481 6396
E richard.marcus@cdhlegal.com

Burton Meyer
Director
T +27 (0)11 562 1056
E burton.meyer@cdhlegal.com

Rishaban Moodley
Director
T +27 (0)11 562 1666
E rishaban.moodley@cdhlegal.com

Mongezi Mpahlwa
Director
T +27 (0)11 562 1476
E mongezi.mpahlwa@cdhlegal.com

Kgosi Nkaiseng
Director
T +27 (0)11 562 1864
E kgosi.nkaiseng@cdhlegal.com

Byron O'Connor
Director
T +27 (0)11 562 1140
E byron.oconnor@cdhlegal.com

Lucinde Rhoodie
Director
T +27 (0)21 405 6080
E lucinde.rhodie@cdhlegal.com

Belinda Scriba
Director
T +27 (0)21 405 6139
E belinda.scriba@cdhlegal.com

Tim Smit
Director
T +27 (0)11 562 1085
E tim.smit@cdhlegal.com

Willie van Wyk
Director
T +27 (0)11 562 1057
E willie.vanwyk@cdhlegal.com

Joe Whittle
Director
T +27 (0)11 562 1138
E joe.whittle@cdhlegal.com

Roy Barendse
Executive Consultant
T +27 (0)21 405 6177
E roy.barendse@cdhlegal.com

Pieter Conradie
Executive Consultant
T +27 (0)11 562 1071
E pieter.conradie@cdhlegal.com

Willem Janse van Rensburg
Executive Consultant
T +27 (0)11 562 1110
E willem.jansevanrensburg@cdhlegal.com

Nick Muller
Executive Consultant
T +27 (0)21 481 6385
E nick.muller@cdhlegal.com

Jonathan Witts-Hewinson
Executive Consultant
T +27 (0)11 562 1146
E witts@cdhlegal.com

BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 1 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

JOHANNESBURG

1 Protea Place, Sandton, Johannesburg, 2196. Private Bag X40, Benmore, 2010, South Africa. Dx 154 Randburg and Dx 42 Johannesburg.
T +27 (0)11 562 1000 F +27 (0)11 562 1111 E jhb@cdhlegal.com

CAPE TOWN

11 Buitengracht Street, Cape Town, 8001. PO Box 695, Cape Town, 8000, South Africa. Dx 5 Cape Town.
T +27 (0)21 481 6300 F +27 (0)21 481 6388 E ctn@cdhlegal.com

STELLENBOSCH

14 Louw Street, Stellenbosch Central, Stellenbosch, 7600.
T +27 (0)21 481 6400 E cdh Stellenbosch@cdhlegal.com

©2020 8748/MAR

