

OFFICE OF THE CHIEF JUSTICE
REPUBLIC OF SOUTH AFRICA

**OFFICE OF THE ACTING JUDGE PRESIDENT
LAND CLAIMS COURT**

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MEMO TO ALL USERS OF THE LAND CLAIMS COURT

FROM: ACTING JUDGE PRESIDENT MEER

**RE: MATTERS CAPABLE OF VIRTUAL HEARINGS DURING
COVID-19 LOCKDOWN**

DATE: 27 JULY 2020

It is of concern that fewer matters have been set down for hearing in the Land Claims Court. It is appreciated that numerous cases are affected by the Covid-19 lockdown and are unable to proceed to finality by reason of the nature of the relief sought or the difficulty in consulting with communities, witnesses and the like. There are nonetheless matters that can engage the court at this stage so that when the lockdown restrictions end they will already be trial ready or significantly closer to that status. Without being prescriptive they may involve;

1. Matters which meet the test for a separate determination of law or fact under rule 57 or which may proceed as a stated case;
2. Case management conferences in order to narrow issues, give directions in moving the case forward or for any other purpose provided for in Rule 30

3. Compelling orders where the inability to obtain instructions or otherwise consult as a result of the lockdown is not a factor;
4. Any other matter only involving paper without the need for oral evidence or where the credibility of the witness is not an issue and provided the decision does not result in a consequence not permitted under the lockdown regulations and directives.
5. Ascertaining or obtaining consensus as to the areas actually under claim.

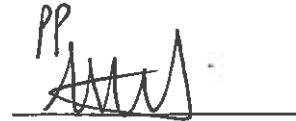
As you are aware the Land Claims has the facilities to conduct virtual hearings as recorded in lockdown directives.

The issue of paperless hearings, filing and serving of hardcopy pleadings and other documents can be accommodated either by opposing parties all being on an e-filing platform which indexes, paginates and retains a permanent record of electronically filed documents (such as Litigator), or by the conversion of pleadings to electronic format and emailing to the Court. The allocated judge can then be invited to access the files on-line and arrangements can be made to file a hardcopy of the e-filed documents with the Registrar.

It is also appreciated that Commission officials and practitioners alike are handling matters where the current delay due to the lockdown may already be having a prejudicial effect not only on the litigants but their own performance or sustainability. The Court is therefore willing to consider utilising ordinary email services for the reception of documents provided that, for the purpose of a hearing, they are indexed and paginated and the maintaining of a hard copy file record is not compromised.

In order to prevent a considerable logback of cases Users are encouraged to set matters down within the current constraints, in the interests of justice and those of Land Claims Court litigants. Practitioners are requested to notify my registrar by email by Monday 3 August 2020 of any matter which can be so heard. They are to provide the name of the case with case number and a brief description of the nature of the hearing sought. The notification is also to be sent to the other involved parties.

Preferential dates during this term will be given to those cases where all parties are agreeable to conduct a virtual hearing with electronically uploaded documents.

A handwritten signature in black ink, appearing to be 'Y.S. Meer', written over a horizontal line. The initials 'PP' are written above the signature.

JUSTICE Y.S MEER
ACTING JUDGE PRESIDENT
Land Claims Court
Randburg