
COVID-19 (CORONA VIRUS PANDEMIC) | SUMMARY OF COURT UPDATES

Summary of The Various Court's Directives on Judicial Proceedings

Following the confirmation of COVID-19 (*Coronavirus*) case in the country, the Government and the Judiciary in particular have developed several directives to try and mitigate the situation. Below is a summary of the directives so far issued (as at 19th March 2020) by the Judiciary:

1. National Council for the Administration of Justice directives issued on 15th March 2020

The National Council for the Administration of Justice (hereinafter "**NCAJ**") met at the Supreme Court, Nairobi, on March 15, 2020 to deliberate on the implications of the announcement by the Ministry of Health that the first case of COVID-19 (Coronavirus) had been confirmed in the country. From the aforesaid meeting, the following directives were issued with regards to disposal of matters;

- (a) Prisoners and remandees will not be presented to court.
- (b) With regard to new arrests, all cases except serious ones will be dealt with at the police stations in accordance with guidelines to be issued by the Inspector General of Police.
- (c) All appeals, hearings and mentions in Criminal and Civil cases in all courts be suspended with immediate effect.
- (d) All execution proceedings are also suspended during the two weeks.
- (e) Courts will continue to handle certificates of urgency and taking plea for serious cases.
- (f) During this time, all judicial officers and staff will continue being on duty. However, there will be no open court appearances.
- (g) Judges in all stations will in the meantime review the deserving cases already identified by Prisons authorities and issue appropriate revision orders in an effort to decongest the prisons. Magistrate Courts will also review bail terms for those in remand.

2. His Lordship the Chief Justice's Further Directives issued on 15th March 2020

Further to the directive issued by the NCAJ, on the same day, His Lordship the Chief Justice gave the following additional directives (guidelines):

- (a) Members of the public will not be allowed entry into court premises with effect from March 16, 2020 save those coming to file very urgent matters.
- (b) The Court is to maintain a skeleton staff of about 3 members only with one duty Judge/Magistrate in each court station.
- (c) The duty Judge/ Magistrate to sit only for hearings of very urgent matters once a week-on Thursdays only.
- (d) The guidelines are to apply to all Court of Appeal Stations and the Supreme Court.

3. His Lordship the Chief Justice's Practice Directions issued on 16th March 2020

Further to the NCAJ Directives and the subsequent directives issued by His Lordship the Chief Justice on 15th March 2020, the CJ on 16th March 2020 issued the following Practice Directions touching on the following:

(a) Interim Orders,

No precipitate action will be ordered in respect of existing interim orders. Parties are encouraged to extend them by consent.

(b) Time Bound Pleadings

All Court Registries are directed to accept filing of all pleadings.

(c) Remand Period

Mentions of cases of persons in remand, suspended for 30 days from 16th March 2020.

- (d) Mention of cases to be done on priority basis as the soon as the situation stabilises/normalises.

Following the guidelines and directives issued by the NCAJ and the Chief Justice, the various courts have proceeded to give their specific directives and guidelines to facilitate disposal of matters. Below is a summary of the same.

4. Employment & Labour Relations Court directions issued on 16th March 2020

By notice issued on 16th March 2020, it was directed that all matters filed under certificate of urgency would be heard once a week on Thursday at 10 A.M.

Further, matters that had been listed for 16th March 2020 to 28th March 2020 shall be mentioned before the Deputy Registrar as follows;

Matters for 16 th March, 2020	To be mentioned on 20 th April, 2020
Matters for 17 th March, 2020	To be mentioned on 21 st April, 2020
Matters for 18 th March, 2020	To be mentioned on 22 nd April, 2020
Matters for 19 th March, 2020	To be mentioned on 23 rd April, 2020
Matters for 20 th March, 2020	To be mentioned on 24 th April, 2020
Matters for 23 rd March, 2020	To be heard on 29 th June 2020
Matters for 24 th March, 2020	To be heard on 30 th June, 2020
Matters for 25 th March, 2020	To be heard on 1 st July, 2020
Matters for 26 th March, 2020	To be heard on 2 nd July, 2020
Matters for 27 th March, 2020	To be heard on 3 rd July, 2020

5. The High Court of Kenya at Nairobi - Commercial & Tax Division

on 16th March 2020, the Presiding Judge of the division, Honourable Lady Justice Mary Kasango, issued directions encouraging litigants to make use of the e-filing platform when initiating commercial cases both at the High Court (Commercial & Tax Division) and at the Chief Magistrates' Commercial Court and proceeded to give the procedure for e-filing.

Further, on 16th March 2020, the Deputy Registrar issued a further notice on the Kenya Law Report website rescheduling all matters that had been listed for for 16th March 2020 to 31st March 2020 as follows;

Matters for 16 th March, 2020	To be Mentioned on 20 th April, 2020
Matters for 17 th March, 2020	To be Mentioned on 21 st April, 2020
Matters for 18 th March, 2020	To be Mentioned on 22 nd April, 2020
Matters for 19 th March, 2020	To be Mentioned on 23 rd April, 2020
Matters for 20 th March, 2020	To be Mentioned on 24 th April, 2020
Matters for 23 rd March, 2020	To be Mentioned on 27 th April, 2020
Matters for 24 th March, 2020	To be Mentioned on 28 th April, 2020
Matters for 25 th March, 2020	To be Mentioned on 29 th April, 2020
Matters for 26 th March, 2020	To be Mentioned on 30 th April, 2020
Matters for 27 th March, 2020	To be Mentioned on 4 th May, 2020
Matters for 30 th March, 2020	To be Mentioned on 5 th May, 2020
Matters for 31 st March, 2020	To be Mentioned on 6 th May, 2020

Further, all the Rulings and Judgements due during this period, shall be delivered on Notice and in respect of the Rulings and Judgements that are to be delivered online, the Deputy Registrar (Commercial and Tax Division) shall notify the parties to consent to waive compliance with Order 21 Rule 1 of the Civil Procedure Rules.

6. Chief Magistrates' Court at Milimani Commercial Courts

By notice issued on 16th March 2020, Honourable L.L. Gicheha (Mrs) advised that all the matters that were scheduled for hearing during the two weeks period will be given a hearing date on priority basis in the Registry on specific dates to be communicated.

Further, all certificate of urgency applications will now be heard on Thursdays commencing from 19th March 2020.

On 17th March 2020, Honourable L.L. Gicheha (Mrs) issued the following additional directives:

- (a) Time bound Pleadings will be accepted in the Registry by the skeleton staff;
- (b) To avoid congestion, the persons filing shall be served in groups of five (5) and it shall be on first come first served basis.
- (c) The Registry will be opened at 9.00 am and filing shall be up to 1.00 pm, to give the staff on duty time to file away and perform other Registry duties.
- (d) As earlier directed, all matters affected by the suspension of court operations shall be given hearing dates on priority basis on specific dates to be advised, once we resume operations.
- (e) No precipitate action will be ordered in respect of existing interim orders. Parties are encouraged to extend time by consent

Further to the above, a circular from the Office of the Principal Judge, High Court of Kenya, Honourable Lady Justice Lydia Achode, was circulated on the 19th March 2020 giving the following directions;

1. Presiding judges countrywide shall prepare a duty roster nominating a duty judge who shall sit weekly on Thursdays;
2. For Milimani Divisions, Presiding Judges will nominate Judges to hear urgent civil matters in accordance with the schedule below;
 - a. Family Division – from 16th March to 20th March 2020**
 - b. Commercial Division – from 23rd March to 27th March 2020**
 - c. Civil Division – From 30th March to 3rd April 2020;**

d. Judicial Review – from 6th April to 9th April 2020

e. Constitutional and Human Rights Division – 14th April to 17th April 2020

3. The Presiding Judge Criminal Division shall nominate a Judge to handle urgent criminal matters during the aforesaid period;
4. The Registries shall remain closed and all files secured. Members of the public will be served at the Customer Care Centre or Customer Care Desk only;
5. The Deputy Registrars shall prepare a duty roster for two members of staff per division/station who will offer services at their respective Customer Care Centres/Customer Care Desks;
6. The Customer Care Centres/Customer Care Desks at the respective High Court Stations shall remain open from 8.00 a.m. to 3.00 p.m.;
7. During this period, one register shall be opened and maintained for all cases filed at the Customer Care Centres/Customer Care Desks. All matters filed during this period shall be registered in the said register which information will be transferred to our normal registers once we resume normalcy;
8. In cases where there are already existing files, a skeleton file shall be opened and maintained as a running file. Where the original file is required, the staff on call shall under supervision of the Deputy Registrar, open the registry to access the original file;
9. All matters brought under certificate of urgency shall be placed before the duty court on Thursdays. Kindly note that parties shall not appear before court.
10. Members of staff who are not on duty are encouraged to stay away from the Court Premises.
11. The notice shall operate from 11th March 2020 to 15th April 2020.

Every advocate is therefore encouraged to keenly identify and take the next dates for their matters from the above tables and diarise accordingly to avoid instances of matters being missed.

Further, we are yet to receive any communication from the Civil Division of the High Court and the Environment and Land Court Division. We will notify you as and when such communication is made.

If you have any queries or need clarifications, please do not hesitate to contact us via legal@oraro.co.ke or your usual contact at the firm.