



OFFICE OF THE JUDGE PRESIDENT
GAUTENG DIVISION OF THE HIGH COURT OF SOUTH AFRICA

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XX APRIL 2025

TO:

- All Judges – Gauteng Division of the High Court, Pretoria and Johannesburg
- The Chief Registrars – Gauteng Division of the High Court, Pretoria and Johannesburg
- Court Staff, Professional Bodies and Organisations, Legal Practitioners, Litigants and Members of the Public
- Government Departments, Entities and Functionaries

DRAFT DIRECTIVE
INTRODUCING OBLIGATORY MEDIATION IN THE GAUTENG DIVISION

A: Introduction

1. This Directive is issued in conformity with and in terms of the authority vested in the Head of Court in terms of Section 8(4) (b) of the Superior Courts Act, 2013, Act 10 of 2013, as amended. The Directive is also in line with Section 173 of the Constitution authorising the Judiciary to regulate their own processes.
2. The Directive will become effective on 14 April 2025.
3. The last occasion the Judicial establishment of the Gauteng Division of the High Court was increased was in 2008, yet the caseload of the Division continued to rise and has now reached unmanageable levels. The state of the Civil Trial rolls, in particular, are a source of serious concern. Civil Trial dates in the Division, are currently issued as far ahead as 2031 i.e. seven years in the future. This state of affairs is self-evidently unacceptable and intolerable.
4. The right of access to Courts as guaranteed in section 34 of the Constitution is not capable of being properly honoured by such lead-time for dates of hearing.

It would be irresponsible for me as the Head of the Gauteng Division to ignore this situation and not develop and initiate appropriate means in an effort to address and overcome the problem.

5. Accordingly, to ensure access to justice and to the Courts, as well as to fulfil the objective of providing an effective litigation service within reasonable timelines, revision of Court processes must be made. It is critical to ensure that cases that genuinely deserve the attention of a Judge are able to be timeously heard. Moreover, it is critical that cases that do not reasonably require a Judge to resolve the parties' dispute, do not clog up the Court roll and consume precious Court time. Currently the majority of cases on the Civil Trial roll, are capable of resolution through mediation, settlement and other alternative dispute resolution means. These are the cases that take up a sizeable portion of the Civil Trial roll and inevitably cause deserving cases to wait for inordinate long periods for a hearing. The statistics of cases accommodated on the Civil Trial roll of this Division evince that 85% of them are settled on the morning of the trial date. These are matters where the parties had obtained trial dates two to three years before. Furthermore, a sizeable number of cases per week, are dealt with in the Default Judgement and Settlement rolls of the Division.
6. The diversion of cases capable of being resolved/settled after effective mediation by professional mediators is an appropriate method of dispute resolution to institutionalize in the processes of the Court. This option will ensure that only cases that deserve a judicial resolution will land on the trial roll. The introduction of this directive and the protocol for Mediation in the Gauteng Division must be understood in this context.
7. The introduction of obligatory mediation is a progressive policy choice which draws support from several sources. First, there is the intrinsic common sense of the mediation process itself. Second, there is the Report of the Law Reform Commission and its Draft Mediation Bill, in which chapter 7 of the Bill, provides for mandatory mediation. Third, the application of obligatory mediation in other jurisdictions has demonstrated a global policy shift in favour of mediation as an effective option to guarantee effective access to justice and Courts. These developments are calculated to safeguard the effectiveness of the Courts' capacity to adjudicate cases that truly require adjudication.
8. Thus, the direction of policy development towards obligatory mediation in litigation is clear. In the Gauteng Division it has been decided to pioneer this progressive development so that effectiveness of the litigation service can be achieved without further delay.
9. It is to this end that this Directive is issued. The Directive applies only to civil trials. It should be understood that this Directive does not affect nor inhibit a

Court ordering or encouraging the parties to engage in mediation in a case which is not a trial.

10. From date of this Directive, The Mediation Protocol for the Gauteng Division (the Protocol), published herewith, shall be in force.
11. New procedures for civil trials are introduced for two periods:
 - 11.1. the period commencing 1 January 2027,
 - 11.2. and for a transitional period from the issue of this Directive until 31 December 2026.

B: The procedure applicable to the civil trial roll for all categories of litigation from 1 January 2027

12. All trial dates for all categories of Trials set down after 1 January 2027 are herewith cancelled.
13. With effect from the first day of term 2 of 2025, the registrar of the Civil Trial roll shall not issue a trial date unless the request for a trial date is accompanied by a mediator's report as contemplated in the Protocol.
14. The registrar shall:
 - 14.1. each week collate all requests for trial-dates received in that week,
 - 14.2. compliant requests which had previously been enrolled where a previous set-down date had been cancelled pursuant to this Directive, shall, in that particular week, be afforded preference in the allocations made.

C: The procedures applicable to the civil trial roll during the transitional period from 2025 to 31 December 2026

15. Distinct procedures are applicable to cases against the RAF and to all other categories of cases as set out in paragraphs CA and CB.

CA: Revision of the status of trial dates already allocated in cases against the RAF in 2025 - 2026

16. In respect of all trial dates issued to cases against the RAF in 2025:
 - 16.1. Dates allocated in term 2 of 2025 shall remain intact.

16.2. Dates allocated in terms 3 and 4 shall provisionally remain on the roll, subject to the following:

16.2.1. If a mediator's report is presented to the court with the civil trial practice note, 7 court days before the trial date the case shall be heard.

16.2.2. If a mediator's report is not so presented the case shall be struck from roll with no costs order.

17. All trial dates issued to cases against the RAF on dates from 1 January 2026 are cancelled. All such cases set down after that date must seek a fresh set-down date and the request must be accompanied by a mediator's report.

CB: Revision of the status of trial dates already allocated in all cases other than the RAF, 2025 – 2026.

18. All trial dates set down in 2025 shall remain intact.

19. All matters with trial dates allocated in 2026 shall provisionally remain on the roll, subject to the: following:

19.1. If a mediator's report is presented to the civil trial registrar 30 court days before the trial date, the case shall be heard.

19.2. If a mediator's report is not so presented the case shall be struck from roll with no costs order.

20. All trial dates issued to cases from 1 January 2027 are cancelled. All such cases requiring a set down after that date must seek a fresh set-down date and the request must be accompanied by a mediator's report. Such mediator's report must be filed not later than 30 Court days and 15 court days before the trial date.

GENERAL

21. No matter shall be allocated a trial date unless the request is accompanied by a Mediator's report, provided that no trial date in excess of 18 months, from date of request, shall be allocated.

**JUDGE PRESIDENT
GAUTENG DIVISION
XX APRIL 2025**