

**PRACTICE DIRECTION NO 1 OF 2005**  
**ISSUED BY**  
**The Honourable Chief Justice ML Lehohla**  
**(to all stakeholders)**

1. The delays in the operation of the law and the consequent erosion of respect for the processes of the law have many causes. One of these is the abuse of the privilege to be able to apply for and obtain a postponement of legal proceedings.
2. There is overwhelming evidence that postponements are being sought and granted without proper and persuasive reasons being furnished. It must be borne in mind that in a criminal trial, postponements often cause serious prejudice both to the Crown and to the accused. Witnesses who may have travelled vast distances are inconvenienced, the delay means that their memories may no longer be clear by the time they are called upon to testify, and if a case is postponed on more than one occasion witnesses lose interest and become unwilling to perform the public duty as good citizens would do.
3. The same applies to defence witnesses. More importantly, if an accused is incarcerated pending his trial and is acquitted at the trial, unnecessary postponements also defer his release from unwarranted and unjust imprisonment with all the prejudicial negative consequences.

4. For these reasons I am of the opinion that the interests of justice require the institution of several pre-conditions to be formulated and formal procedures prescribed in order to try to reduce the incidence of postponements being sought and granted without compelling cause. These are the following

4.1 Postponements may not be granted merely because the date of the hearing does not suit a particular counsel or lawyer. This does of course not preclude suitable dates being negotiated pre-hearing.

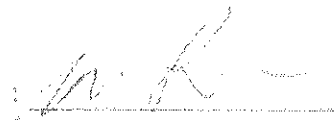
4.2 Good grounds for a postponement such as ill-health or the disappearance of a witness will have to be proved by evidence under oath, either *viva voce* or by way of a duly motivated affidavit.

4.3 Judicial officers may not *mero motu* postpone cases simply because the date of the hearing may cause them some personal inconvenience. The public interest, requiring justice without delay must take precedence over personal convenience.

4.4 The Court granting a postponement must record the reasons submitted for such an application and the factors that have motivated the presiding officer to grant same.

5. The above provisions apply with equal force to civil proceedings.  
ISSUED THIS 30<sup>TH</sup> JUNE BY:

SIGNED



ML LEHOLLA  
CHIEF JUSTICE

ALSO SIGNED BY



JH STEYN  
PRESIDENT – LESOTHO APPEAL COURT

20 Oct. 2006