

PRACTICE DIRECTIVE No. 1 of 2016
ISSUED BY

The Honourable Chief Justice N. Majara

(in consultation with the Honourable President of the Court of Appeal a.i.)
(to all stakeholders)

Explanatory Note

The main purpose of this Practice Directive is to ensure the Court's readiness for every case that has been set down for hearing and to have availed to the court all pleadings and documents in their proper order. It is also aimed at addressing the disconcerting and now entrenched culture of non-compliance with the Rules of Court, as well as the emerging problem of unauthorised orders that are issued contrary to those granted by the court.

For these reasons, it is my view that the directive will assist and reinforce the ability of the courts to dispense justice in a timely and effective manner in line with the laws of the land as well as its rules and procedures. It is as follows;

- (a) Every court record shall be properly paginated and indexed before it is set down for hearing as is required by the Rules of Court.

- (b) Every party shall give the proper citation of every case it relies upon and state where the case is reported, especially if it is in the Lesotho Law Reports (LLR), Lesotho Law Reports and Legal Bulletin (LLR/LB) and Lesotho Appeal Cases (LAC) Reports.

- (c) Where a party cites an unreported case, he/she shall state the case number, the date of judgment and where it can be accessed. Where a case

referred to in a ruling/judgment was accessed on Leslii, this shall be clearly stated in the footnote and/or annotations.

(d) Every practitioner shall annex copies of all the relevant statutes, unreported cases, articles, extracts and other authorities he/she seeks to rely on to the *Heads of Argument* for the court's ease of reference.

(e) Each party shall submit his/her *Heads of Argument* to the court before a matter is set down for hearing.

(f) Every Judge shall at all times, state the proper citation of the cases he/she referred to in his/her judgment both in the footnotes and/or annotations, especially for purposes of appeals.

(g) Every judgment shall contain the date(s) of hearing and the date it was handed down/delivered.

(h) No case shall be set down for hearing without the involvement of the Presiding Judge.

(i) Every case that has been enrolled for hearing shall not be postponed by and between Counsel without the involvement of the Presiding Judge otherwise it will be struck off as is provided for by the Rules of Court.

(j) Where a postponement is sought, the Judge shall exercise his/her discretion in accordance with the guidelines stipulated in the Chief Justice's Practice Directives No. 1 of 2012.

- (k) Where Counsel withdraws from a matter that has been set down, he shall file notice to that effect and appear before the court to do so formally.
- (l) Counsel shall ensure that matters that are justiciable before a Subordinate Court are not moved before the High Court unless the proper procedure that is laid down by the Rules of Court has been followed.
- (m) In a matter moved on urgent basis, the Presiding Judge shall be afforded sufficient time to peruse the papers before hearing.
- (n) Every Judge shall clearly and fully spell out *verbatim*, the order it is making in every case - over and above stating that an application is granted or confirmed as the case may be - to avoid any misunderstanding and/or misinterpretation of the order by the parties.
- (o) Every Judge shall at all times, check and co-sign the order he/she gave before it is served on the parties to avoid any alteration, amendment and/or making of an unauthorised order.
- (p) An Order that is not co-signed by the Presiding Judge that gave it shall be deemed unauthentic.

1st AMENDMENT to the PRACTICE DIRECTIVE No. 1 Of 2016

ISSUED BY

The Honourable Chief Justice N. Majara

An Order to be co-signed by any available Judge-

Practice Directive No. 1 of 2016 is amended-

(a) by-

(i) Inserting the following new paragraph after paragraph (p):

(q) If the Judge that gave an order is not readily available, any other Judge shall co-sign the order after duly verifying that it is the correct order that was made in the judgment, record or file.