

NATIONAL INDUSTRIAL COURT OF NIGERIA  
PRACTICE DIRECTIONS AND GUIDELINES FOR COURT SITTING 2020  
Commencement: 18th day of May 2020

EXPLANATORY NOTE

These Practice Directions and Guidelines set out the Directions and Guidelines to be adopted in remote and physical sittings, recognizing the urgent need for the Court to put in place measures to guarantee continued access to justice and expeditious disposal of cases while minimizing the risk of transmission of Coronavirus (COVID-19).

PREAMBLE

In the exercise of the powers conferred on me by section 254F(1) of the Constitution of the Federal Republic of Nigeria 1999, section 36 of the National Industrial Court Act 2006, Order 1 Rule 8(3) of the National Industrial Court of Nigeria (Civil Procedure) Rules 2017 and all other powers enabling me in that behalf, I, Benedict Bakwaph Kanyip PhD, FNIALS, FCARB, President of the National Industrial Court of Nigeria, do hereby issue the following Practice Directions:

1. OBJECTIVES OF THE PRACTICE DIRECTIONS

- (1) To govern filing and hearing of matters during and after the coronavirus (COVID-19) pandemic.
- (2) To ensure continued access to justice by maintaining social distancing in Court so as to curtail the spread of coronavirus (COVID-19).
- (3) To ensure that Remote Hearing is conducted in accordance with the Constitution of the Federal Republic of Nigeria 1999, applicable Laws and Rules of the Court.

2. The NATIONAL JUDICIAL COUNCIL GUIDELINES FOR COURT SITTINGS AND RELATED MATTERS IN THE COVID-19 PERIOD as communicated vide letter Ref. No. NJC/CIR/HOC/II/660 dated 7th May 2020 under the hand of The Honourable, The Chief Justice of Nigeria and Chairman National Judicial Council is hereby adopted and incorporated into these Practice Directions and same shall be applied to the extent of its applicability to the National Industrial Court of Nigeria.

3. COURT PREMISES

- (1) The Court shall liaise with the relevant security agencies to ensure that the entrances of the Court in the Divisions and Registries of the Court are well manned by security personnel and the entry into the premises shall be regulated in a manner that guarantees and enforces the minimum 2-meter (6-feet) distance between persons as relates to all entrants into the premises.
- (2) The Court shall ensure that:
  - (a) All security personnel who work in the Court premises and in particular the security personnel who man the entrance(s) to the Court premises are well informed on

COVID-19 including in particular, the methods of its spread, its basic symptoms (e.g. fever, dry cough, tiredness, etc), how to prevent its spread, etc; and

(b) All security personnel including those that are attached to the Judge(s) and courtrooms are well kitted and supplied in particular and continuously with disposable gloves, face masks and hand sanitizers/dispensers.

(3) The following guidelines shall apply in regard to the admission of persons into the Court premises:

(a) The security personnel at the entrance of the Court premises shall be equipped with temperature monitors for testing and determining the temperature of each visitor to the Court premises. The security personnel are to be trained in the use of the temperature monitors and the visitors must be shown their temperature readings on the monitors before their admission into the Court premises.

(b) Every person wishing to go into the Court premises, without exception, shall be subjected to the temperature monitor reading for the determination of his/her body temperature. Anyone who refuses to submit himself/herself for the reading of his/her temperature shall be politely refused entry into the Court premises and advised to leave the entrance immediately

(c) The Court shall procure the advice of health experts on the temperature levels that may warrant concern and be indicative of a person with fever (high temperature threshold). The security personnel at the Court entrance(s) must be trained in that regard.

(d) Any visitor to the Court premises who has a high temperature, based on the temperature monitor reading at the entrance to the Court or who is coughing or exhibits any sign of sickness while going through the entry protocols should be politely advised to seek immediate medical assistance and refused entry into the Court premises.

(4) The security personnel at the Court premises shall further ensure that:

(a) Only persons with face masks are allowed entry into the Court premises, without exception. The Judge(s) and Counsel must be exemplary in this regard and must ensure that their support personnel comply strictly with this requirement.

(b) At no time and in no circumstance should anyone while within the Court premises, including inside courtrooms, offices and the Chambers of the Judge(s), not wear face mask. Anyone who refuses, neglects or is unwilling to wear face mask at any time while in the Court premises should be politely advised to leave and be escorted outside the premises by security personnel

(c) Face masks must be properly worn by everyone within the Court premises to cover their mouth and nose at all times.

(5) With regard to the Court premises itself:

(a) As much as possible, it must be ensured that the toilet facilities in the Court premises are functional and have constant running water, soap and tissue papers. The toilets must be kept clean at all times and it must be ensured that cleaners are employed to maintain the cleanliness of toiletries at the toilet.

(b) Visitors to the Court premises must maintain social and physical distances (not less than 2 meters or 6 feet apart from each other) and must avoid congregations or assembly of more than 20 persons within the Court premises (including the Courtrooms).

- (c) Persons who have no business in the Court must be discouraged from visiting the Court premises. Court-related business that can be transacted without physical visits to the Court premises must be transacted through available alternative channels.
- (d) It must be pasted on or flashing from all notice boards in all the Divisions and Registries of the Court the dos and don'ts by visitors to the premises vis-à-vis COVID-19. Those notices and the notice boards must be placed at strategic and visible locations within the Court premises and at the entrances thereto.
- (e) The Court must ensure the availability of sanitizers in bottles and/or dispensers, liberally mounted and placed in strategic and easily noticeable and accessible locations within the Court premises for the use of all visitors and Court personnel.
- (f) The Court premises including Courtrooms, Registries, Offices and the Chambers of the Judge(s) should be periodically disinfected as frequently as may be considered necessary.

#### 4. FILING OF PROCESSES

- (1) The Court, where feasible, shall receive processes for filing electronically. All documents to be filed shall be scanned or converted to PDF format and forwarded to the Registry via designated email addresses or WhatsApp. Every process filed by counsel shall be signed and sealed by the counsel.
- (2) Where it is impracticable to file processes electronically, they may be physically filed at the Registry of the Court. The dropbox method may be used as appropriate.
- (3) Where there is no electronic filing system and pending the institution of such electronic filing systems, hardcopy/paper-based manual filings at the Court registries shall continue to be the default filing process for litigants but with the following required mitigated steps:
  - (a) The hardcopy of the processes to be filed should be sanitized with alcohol-based sanitizers by dedicated Court official(s) as soon as they are brought to the registry and left in secure facilities immediately thereafter, without processing, for a minimum period of 120 hours by which time, if there was any coronavirus still attached to the processes, it would have expired.
  - (b) The Court is to ensure regular stock of the sanitizers and also ensure the training of designated Court officials in their use without destroying the filed processes or any part thereof. The Court shall furthermore provide secure facilities for quarantining the hardcopy of the filed processes in the terms of subparagraph (3)(a) of this paragraph.
  - (c) At the expiration of the quarantine period afore specified, the processes shall be brought out from the secure facilities and processed by the Court officials. Parties would have responsibility for monitoring and following up with the Court officials on the filing processes in respect of their respective filing, right up to completion.
  - (d) Notwithstanding the procedures specified in the preceding subparagraphs of this paragraph, the date of filing shall be the date that the filing fees were paid therefore by the filing party pursuant to and in the terms of the applicable Rules of Court as complemented by these Practice Directions.
- (4) Where processes are filed electronically:

(a) Parties and counsel shall ensure that every process filed electronically or in Court has the email address and mobile telephone number of the counsel or contact person where parties are not represented by counsel.

(b) The designated officer shall assess the fees payable by Parties and communicate same by email, WhatsApp or text message.

(5) Documents howsoever filed by any party must be marked distinctively before it is filed or accepted for filing. And any paragraph of the pleadings and sworn depositions of the parties referring to any part of the marked documents filed must refer to the specific part of the marked document relied upon as evidence. The effect of the failure of any party to so mark and refer to the exact part of the document filed as supporting evidence in both the pleadings and sworn depositions is that such document shall be regarded as having been dumped on the Court.

#### 5. PAYMENT OF FILING FEES

(1) Parties shall pay all assessed fees electronically via the appropriate Remita account.

(2) A copy of the electronic receipt issued shall be forwarded to the designated officer for verification.

(3) The processes shall be deemed to have been filed when payment is verified by the Court.

(4) As part of the filing processes and for its completion, the Court shall publish to Counsel the acceptable methods for sending such e-payment evidence to the Court official e.g. e-mail, SMS, WhatsApp, etc, with the requisite e-mail address and mobile numbers included in such publication. Counsel may call the nominated Court officials on telephone to confirm receipt of such e-payment evidence.

(5) The email address and contact telephone number of the Court's Divisions/Registries can be found at the Court's Website.

#### 6. SERVICE OF PROCESSES AND HEARING NOTICES/ELECTRONIC MODE OF SERVICE

(1) The Nigerian Bar Association (NBA) shall at no cost to the Court supply to the Court the publication on a State-by-State basis of counsel directory, complete with addresses, e-mail and telephone numbers (including telephone numbers with functional WhatsApp capabilities) to which filed processes and hearing notices may be served by the Court and opposing parties. The directories shall be periodically updated by the NBA and supplied, at no cost, to the Court.

(2) Counsel shall also indicate in all filed processes their e-mail addresses and telephone numbers (including telephone numbers with functioning WhatsApp capabilities) to which filed processes and hearing notices may be served by the Court and the opposing parties.

(3) Where counsel has a functioning legal mail address, he shall furnish the Court with such an e-mail address. Where a counsel has no Legal Mail address or his Legal Mail Address is not functioning, he shall furnish the Court with any other functioning email address that he has.

(4) Notwithstanding the provisions of Order 7 of the National Industrial Court Nigeria (Civil Procedure) Rules 2017, parties shall be mandatorily required to serve their filed processes on

opposing parties by sending such processes to both the opposing parties' e-mail addresses and WhatsApp telephone numbers that are contained and specified in filed process and/or directories pursuant to subparagraph (1) and (2) of this paragraph, or as may be otherwise directed by the Court. The party effecting service shall also send SMS notification of the service to the opposing parties and copy the Court Registrar on telephone number(s) as may be published by the Court.

(5) Service of hearing notices shall be done electronically via e-mail, WhatsApp, text messages or as directed by the Court.

(6) Service shall be deemed completed and delivered, and hence proper, once the electronic device shows notice of delivery. A printout shall be sufficient proof of service and in the case of service by text message, by sighting the word "delivered" in the delivery status of the electronic device by the judge in Court.

(7) Where an electronic mode of service is employed, time shall begin to run from the date the process was sent.

(8) The provisions of subparagraph(4) of this paragraph do not replace the statutory service provisions in the Rules of the Court; they complement those statutory provisions and are especially mandated for the COVID-19 period. Upon being served with the filed processes as mandated in subparagraph (4) of this paragraph, the served party shall follow up with the Court registry for the service on them the hardcopy versions of the filed processes. The served party has the responsibility for examining and ensuring that the electronic version of the filed processes that were served on him are the same as the hardcopy versions in the Court's file.

(9) It shall be unprofessional conduct deserving of being reported to the Legal Practitioners Disciplinary Committee if Counsel serves on opposing party or sends to the Court an electronic version of a filed process that is different howsoever from the filed hardcopy version.

(10) In the event of conflict between the hardcopy and the electronic copy, the hardcopy shall be preferred.

## 7. VIRTUAL OR REMOTE COURT SITTING /PREPARATION FOR HEARING

(1) The Court shall avoid physical court sitting in courtrooms during the COVID-19 period as much as possible. Physical court sitting shall be limited to only time bound, extremely urgent and essential matters that may not be heard by the Court remotely or virtually. The President of the Court shall determine the matters that fall within these set boundaries and shall publish the list thereof for the information of the Judge(s), litigants, Counsel and members of the public. Such list may be reviewed by the President of the Court from time to time as necessary and required.

(2) As much as practicable and with a view to encourage and promote Virtual Court sitting (alternatively referred to as "remote court sitting" or "online court sitting"), all matters that do not require taking of evidence shall be conducted via remote hearing. All judgments, rulings and directions may be delivered and handed down by the Court in and through remote court sittings.

(3) Remote hearing may be by video conferencing or any other method approved by the Court.

(4) Save for extremely urgent and time bound matters, contentious matters that require the calling of evidence in a physical courtroom setting should not be called up by the Court at this time unless same can be done through remote hearing.

(5) Given that no one can estimate with any degree of certainty how long the COVID-19 pall will hang over humanity or when exactly a therapeutic cure or vaccine may be found for the disease, the Court may, on a trial-run basis, gradually experiment with taking witnesses and evidence virtually.

(6) Notice of a remote hearing shall be stated on the cause list and the Court's website.

(7) The Court will ensure that a remote hearing is accessible to the public unless it involves an *ex parte* application, or other proceedings required by any extant law, or the Rules of Court to be conducted in Chambers. Provided that where it is impracticable for the public to join a remote hearing, the recording thereof may be made available upon application.

(8) The following directions shall apply in the determination of the location for the Virtual Court sitting:

(a) Subject to the further directions hereunder, the Judge(s) and the Court officials and security personnel shall, as a default arrangement, sit and be in the regular Courtrooms for remote Court sittings. Except with the leave of Court, only the Judge(s) and the Court officials and security personnel shall be the ones in the Courtroom for any virtual Court sitting.

(b) Save with the consent of the Court or the prior written agreement of the parties, it is not permissible for any of the parties to a matter that is being heard virtually to be in the courtroom with the Judge(s) during the Virtual Court sitting while the other party or parties to the same matter join the proceedings remotely.

(c) The Judge(s) may conduct Virtual Court sittings from their respective Chambers. The further provisions of subparagraph (8)(a) of this paragraph shall apply *impairi materia* to all such Virtual Court sittings that are hosted in Chambers.

(d) For the purposes of delivering judgments or rulings, the Judge may liaise with the Court officials and conduct the Virtual Court sitting from whichever location the judicial officer may be, provided that the facilities specified in subparagraph (9) below are available in such locations. This provision addresses in particular the Judge who may need to deliver time-bound judgments and/or ruling but is marooned in a location away from his usual station consequent upon the present national lockdown and travel restrictions pursuant to COVID-19.

(e) Further to subparagraph (8)(d) of this paragraph, where virtual hearing is not possible, a Judge that is marooned outside his station may, upon obtaining the fiat of the President of the Court, deliver the judgment or ruling that is time bound or urgent in the courtroom of any of the Divisions of the Court closest to his location. The provisions in regard to physical sittings of the Court shall apply in all respects to such sitting of the Court for the delivery of the judgment or ruling.

(9) In order to host online court sittings, the Court shall ensure the availability of the following facilities in the location or respective locations where the Judge(s) and the Court officials may be located:

(a) Fast speed, pervasive and reliable Internet connectivity.

(b) End-user hardware/devices i.e. desktops, laptops, tablets, smartphones – any one of these or a combination thereof.

(c) Collaborative platform e.g. MS365 (which incorporates Microsoft Teams), Zoom, Google Meetings, etc.

(d) Electricity power for, amongst others, the end-user device and ancillary equipment for the duration of the Court sitting.

(10) Litigants and their Counsel shall be responsible for ensuring that they have the facilities stipulated in subparagraph (9) of this paragraph that would enable them to join and participate in the remote court sittings from their respective locations.

(11) The Court shall publish for the attention of the general public on a weekly basis the matters that would be heard remotely by the Court for that week. The publication shall be effected in the usual manner that the Court publishes information about its weekly sittings including publishing on the Court's notice boards. The publication shall include the information and details set out in subparagraph (8)(a) to (c) of this paragraph.

(12) The Court shall be in charge and in control of the Virtual Court sitting proceedings – not in any way different from the control and management that the Judge exercises in a physical court hearing or setting; and the following additional directions shall apply to any such proceedings:

(a) The Court may enlist the assistance of a technically proficient and trained personnel to assist in handling and managing the end-user device/hardware and the technical issues related to the conduct of the virtual sitting.

(b) The Court shall have discretion in the allotment of time to counsel for making submissions or adopting addresses, subject, in all respects to the provisions of the Court Rules and not in any different way different from what obtains during the regular physical courtroom sittings.

(c) The Court shall make use of the collaborative platforms (MS365, Zoom, Google Meetings, etc) for the recording of the proceedings in addition to any other recording methods that the Court may wish to deploy.

(d) The Court shall, based on any party's application, provide to the parties certified true copies of the record of any Virtual Court sitting or proceedings. The parties shall be bound by such Court's records.

(e) Without prejudice to the preceding provisions, Counsel may apply to the Court and the Court may permit the recording of any virtual Court sitting or proceedings by such Counsel for his personal use and records, using the electronic recording functionality in the Counsel's end-user device. Where the Court permits any Counsel in any proceedings to carry out such electronic recording of its virtual sitting, all other Counsel in the proceedings shall be deemed to have been also given the same authorization by the Court and the Court's records shall at all times record the application of Counsel for such independent recording and the consequential grant of the application by the Court.

(f) Counsel shall ensure that their respective remote locations from where they participate in the Virtual Court sitting are devoid of distractions and interferences to the proceedings. Counsel shall be responsible to the Court for ensuring that their clients comply with this provision in the event that the client(s) join and participate in the proceedings from different location(s).

(g) Except with the leave of the Court and a party's Counsel, the fact that a party may join a Virtual Court sitting from a different location and using different end-user device does not confer on the party the right to be heard where he/she has a Counsel and the Counsel is present for the Court sitting.

(h) Except with the leave of Court or as may be directed by the Court, Counsel shall be properly robed for any and all Virtual Court sittings and shall at all times address the Court in a posture as may be determined by the Judge.

(i) The matters on the cause list on each day shall not exceed five.

(j) The Court shall give directions to parties on the conduct of the proceedings including the time to be allotted on a case by case basis. Provided that the time allotted in each case shall not exceed one hour.

(k) Parties are encouraged to utilize the trial on record procedure pursuant to Order 38 Rule 33 of the National Industrial Court (Civil Procedure) Rules 2017 especially where they rely only on the processes and exhibits frontloaded thereby dispensing with the need for oral evidence. In such a case, written addresses shall be filed starting with the claimant.

(l) Where a party objects to the admissibility of a document frontloaded whether in a trial on record or not, on the ground that what is before the Court is not the original document, the original document shall be physically produced in court for sighting by the opposing party not later than 120 hours before the hearing.

(13) In order to satisfy the requirements for public hearing of matters:

(a) The Court shall as practicable as possible ensure that there is live streaming of all Virtual Court proceedings through a publicized Uniform Resource Locator (“url” or “web address”) of the Court or any other social media channel so that members of the public can observe the proceedings.

(b) The details of the Virtual Court sittings shall be published in the usual manner that the Court generally publishes its regular sittings provided that such publications shall specify the nature of the sitting i.e. remote proceedings instead of the regular physical courtroom sitting, and shall indicate the web address or social media channel where there would be live streaming of the proceedings.

## 8. PHYSICAL COURT SITTING/COURT ATTENDANCE

For the purpose of court sittings during the Coronavirus (COVID-19) Pandemic, the following directions on social distancing shall be adhered to:

(1) The provisions of paragraph 7(1) and (4) of these directions shall apply in all respects for the determination of matters that should be heard in a physical courtroom setting.

(2) Where the Court must conduct or hold a physical courtroom sitting or hearing, the following guidelines shall apply:

- (a) The containment guidelines in the various published advisories by the World Health Organization and other relevant agencies of the Federal and State Governments, including but not limited to the Nigerian Centre for Disease Control, as may be revised from time to time, must be strictly enforced within the Court premises including courtrooms, offices, registries and the Chambers of the Judges.
- (b) The containment guidelines in the various published advisories include but not limited to avoiding physical contacts with other persons e.g. handshakes, hugs and embraces, maintaining social/physical distances, etc. Furthermore, every person in the courtroom shall comply strictly with the provisions of paragraph 3(4)(a), (b) and (c) of these directions.
- (c) There must not be more than Twenty (20) persons in any courtroom at any time during any court sitting. This number shall include the Judge(s), Counsel for the parties, the litigants, the Court officials, the security personnel for the Court and members of the public who may be attending to observe the proceedings.
- (d) Attendance in Court shall be limited to not more than two Counsel for each litigant, or the litigant and one other person where the litigant is not represented by Counsel.
- (e) Where there are more than two claimants and/or defendants in a matter, not more than two persons representing the claimants and/or defendants shall be allowed into the courtroom.
- (f) Where evidence is to be taken only the witness to testify should be in Court.
- (g) Where a Senior Advocate of Nigeria appears on behalf of a party, he shall not appear with more than two lawyers.
- (h) Social/physical distance of not less than 2-meters (6 feet) must be maintained between each person in the courtroom including between the Court Registrars and the Judge and between the Court Registrars themselves. Maintaining such social/physical distances might require that some rows of seats in the courtroom be left vacant and unoccupied by Counsel, Court officials and other Court attendees.
- (i) Any courtroom that cannot maintain the 2-meter social/physical distance between 20 people must not allow up to that number into the courtroom. In such instances, the number of attendees must be reduced to such lower number that would ensure the mandatory 2-meters social distance between persons and such reduced numbers shall include the Judge, the Court officials, security personnel, Counsel, litigants and members of the public who may be attending Court to observe the proceedings.
- (j) Matters that have multiple parties the aggregate (notably, the Counsel) of which, added to the Judge, Court officials and security personnel would exceed 20 in number should not be listed for hearing at all by any Judge of the Court at this time, particularly where it is impossible or impracticable to limit the number of Counsel and other attendees. Such matters should only be heard where it is possible for the Court to regulate the number of attendees for the matter (enforce restriction on the number of junior counsel that can appear with Senior Advocates of Nigeria) so it does not exceed such numbers as the courtroom could accommodate without breaching the 2-meter social distancing requirement PROVIDED that all the aggregate number of persons in the courtroom does not exceed 20.

(k) Everyone in the courtroom must wear face mask and that includes the Judge, Court Registrars, Counsel, litigants, security personnel and all other Court attendees. On no account must the face mask be removed by any person while in the Court, before, during and even after the Court sitting.

(l) The Court shall deploy temperature monitors at the courtroom entrances. Any person with high temperature or symptoms of illness e.g. cough or fever should be politely turned back from the courtroom and if already inside the courtroom should be politely directed to leave or walked out if he refuses to leave.

(m) The Court shall ensure pervasive supply of alcohol-based hand sanitizers/dispensers at the entrance of and inside the courtrooms. Such sanitizers/dispensers must be pervasive in the entire Court premises for the use of the public.

(n) As much as possible, the number of cases for each day shall be reduced to the lower single digits as part of the human traffic control and social/physical distancing mechanisms in the courtroom.

#### 9. COMPUTATION OF TIME.

The period of the lockdown shall not count in the computation of time and fees for the doing of any act or taking any step specified in the National Industrial Court of Nigeria (Civil Procedure) Rules 2017.

#### 10. ADOPTION OF WRITTEN ADDRESSES

Adoption of written addresses shall be in compliance with the provisions of Order 45 of the Rules of Court. However, it shall in addition suffice for counsel to write a simple letter or send an email to the Court formally adopting or deeming as adopted the written address just so that the physical presence of Counsel is avoided.

#### 11. DELIVERY OF JUDGMENTS AND/OR RULINGS

(1) The Judge may deliver his judgment/ruling by video conferencing or in the courtroom.

(2) Where a case is reserved for ruling or judgment and it becomes practically impossible for the judge to deliver such ruling or judgment in his Judicial Division, the Judge shall apply for a fiat from the President of the Court to deliver such ruling or judgment in any other Judicial Division where the judge is present. Provided that the Court shall, through the Registry, notify Counsel and/or parties by email, text message or WhatsApp of the date reserved for the delivery of the judgment and/or ruling.

#### CITATION

These Practice Directions and Guidelines may be cited as National Industrial Court of Nigeria Practice Directions and Guidelines for Court Sitting of 2020.

Made this 13th day of May 2020

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Hon. Justice B. B. Kanyip PhD, FNIALS, FC Arb  
President  
National Industrial Court of Nigeria