

PRACTICE DIRECTION 3/ 2013

PROPER USE AND APPLICATION OF THE TERMS 'STRUCK OFF THE ROLL'; 'POSTPONED *SINE DIE*' AND 'REMOVED FROM THE ROLL'

Application

1. This practice direction applies to all the Superior Courts of Zimbabwe.

General Note

2. With a view to ensuring the uniform use and application of the terms 'struck off the roll'; 'postponed *sine die*' and 'removed from the roll', the following changes to the current practice take effect from 1 January, 2014.

Struck off the roll

3. The term shall be used to effectively dispose of matters which are fatally defective and should not have been enrolled in that form in the first place.
4. In accordance with the decision in *Matanhire vs. BP & Shell Marketing Services (Pvt) Ltd* 2004 (2) ZLR 147 (S) and *S vs. Ncube* 1990 (2) ZLR 303 (SC), if a Court issues an order that a matter is struck off the roll, the effect is that such a matter is no longer before the Court¹.
5. Where a matter has been struck off the roll for failure by a party to abide by the Rules of the Court, the party will have thirty (30) days within which to rectify the defect, failing which the matter will be deemed to have been abandoned.

Provided that a Judge may on application and for good cause shown, reinstate the matter, on such terms as he deems fit.

Postponed *sine die* / Removed from the roll

6. The term 'postponed *sine die*' shall be used where a matter is adjourned indefinitely without the Court specifying the date when the matter shall be heard again.

¹ Such a matter can only be re-enrolled following an application for which an appropriate Court order is issued. The Registrar shall not reset the matter without a Court order.

7. The term 'removed from the roll' shall have the same meaning as 'postponed *sine die*'.
8. Where a Court either postpones a matter *sine die* or removes it from the roll, the Court shall direct what a party must do and the time frames by which the directive must be complied with.
9. On the expiry of the time frame set, the Registrar shall advise a party of the non-compliance and call upon the party to rectify the defect within thirty (30) days, failing which the matter shall be deemed to have been abandoned.
10. Where directives have not been given in terms of paragraph 8 above, and a matter postponed *sine die* or removed from the roll is not set down within three (3) months from the date on which it was postponed *sine die* or removed from the roll, such matter shall be regarded as abandoned and shall be deemed to have lapsed.

Inactive matters

11. Currently, there are matters that were either "*postponed sine die*" or "*struck off the roll*" in all the Courts and which have been in that state for long periods of time. Heads of Courts are requested to direct Registrars to set those matters down and have them finalised.

Hon. Mr. Justice G.G. Chidyausiku
Chief Justice of Zimbabwe

HARARE

29 November 2013