

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG DIVISION, PRETORIA**

**CASE NO: 22352/2020**

In the matter between:

<b>SAKELIGA NPC</b>	<b>APPLICANT</b>
<b>and</b>	
<b>THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA</b>	<b>1<sup>ST</sup> RESPONDENT</b>
<b>THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS</b>	<b>2<sup>ND</sup> RESPONDENT</b>
<b>THE MINISTER OF TRADE, INDUSTRY AND COMPETITION</b>	<b>3<sup>RD</sup> RESPONDENT</b>
<b>THE MINISTER OF POLICE</b>	<b>4<sup>TH</sup> RESPONDENT</b>
<b>THE NATIONAL COMMISSIONER OF POLICE</b>	<b>5<sup>TH</sup> RESPONDENT</b>
<b>THE COMMISSION FOR INTERLECTUAL PROPERTY AND COMPANIES</b>	<b>6<sup>TH</sup> RESPONDENT</b>
<b>THE MINISTER OF SMALL BUSINESS DEVELOPMENT</b>	<b>7<sup>TH</sup> RESPONDENT</b>
<b>THE NATIONAL COMMAND CENTRE</b>	<b>8<sup>TH</sup> RESPONDENT</b>
<b>THE MINISTER OF HEALTH</b>	<b>9<sup>TH</sup> RESPONDENT</b>

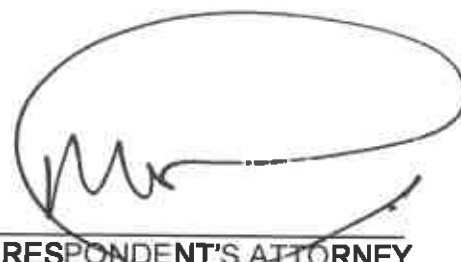
**FILING NOTICE**

**DOCUMENT FILED** : **ANSWERING AFFIDAVIT ON BEHALF OF  
THIRD AND SEVENTH RESPONDENTS**

: **UNSIGNED CONFIRMATORY AFFIDAVIT  
ON BEHALF OF 1<sup>st</sup> ,2<sup>nd</sup> ;4<sup>th</sup> AND 5<sup>th</sup>  
RESPONDENTS**

FILED BY

:



THE RESPONDENT'S ATTORNEY  
**THE STATE ATTORNEY**  
SALU BUILDING, GROUND FLOOR  
316 THABO SEHUME STREET  
P.O. BOX X91  
PRETORIA  
**REF: 1603/2020/Z42/DM**  
TEL: (012) 309-1572/  
Cell: 0768926024  
ENQ: T MUKASI  
FAX: 086 406 6203  
E-MAIL: [TMukasi@justice.gov.za](mailto:TMukasi@justice.gov.za)

TO : THE REGISTRAR OF THE ABOVE  
HONOURABLE COURT  
PRETORIA

AND TO: **KRIEK WASSENAAR AND VENTER INC.**  
APPLICANT'S ATTORNEYS  
**1<sup>ST</sup> FLOOR, NOREX HOUSE, 79 RAUCHAVENUE**  
GEORGEVILLE, PRETORIA, 0184  
TEL: (012) 803-4719/ (c) 082 9204474  
EMAIL: [pieterk@kriekprok.co.za](mailto:pieterk@kriekprok.co.za);  
[peter@kriekprok.co.za](mailto:peter@kriekprok.co.za)  
[rohann@kriekprok.co.za](mailto:rohann@kriekprok.co.za)  
REF: P WASSENAAR/ QB0693

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG PROVINCIAL DIVISION, PRETORIA**

Case No. 22352/20

In the matter between:

**SAKELIGA NPC** Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA** First Respondent

**MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS** Second Respondent

**MINISTER OF TRADE, INDUSTRY  
AND COMPETITION** Third Respondent

**MINISTER OF POLICE** Fourth Respondent

**NATIONAL COMMISSIONER OF POLICE** Fifth Respondent

**COMMISSION FOR INTELLECTUAL PROPERTY  
AND COMPANIES** Sixth Respondent

**MINISTER OF SMALL BUSINESS DEVELOPMENT** Seventh Respondent

**THE NATIONAL COMMAND CENTRE** Eighth Respondent

**MINISTER OF HEALTH** Ninth Respondent

---

**RESPONDENTS' ANSWERING AFFIDAVIT**

---

I, the undersigned,

**LIONEL OCTOBER**

state the following under oath:

 M.O.

- 1 I am the Director General of Trade, Industry and Competition (“the Department”). The Minister of Trade, Industry and Competition (“the Minister”) is cited as the third respondent in this application. I am duly authorised to depose to this affidavit on behalf of the Minister and the Department.
- 2 The contents of this affidavit are within my personal knowledge, unless stated otherwise or so apparent from the context. I believe the contents to be true and correct. Where I rely on other respondents for information, their confirmatory affidavits will be filed together with this affidavit.
- 3 I depose to this affidavit on behalf of the respondents. The Minister of Small Business Development (“SBD”) will also depose to an answering affidavit dealing with the Directions issued by her on 6 April 2020 and on 12 May 2020.
- 4 I have read the founding affidavit in this application, deposed to by Mr Pieter Jacobus le Roux. Any allegation in Mr Le Roux’s affidavit, that is not dealt with specifically below, is denied.
- 5 I have structured this affidavit in four parts.
  - 5.1 First, I deal with the issue of urgency. The respondents contend that the application is not urgent and ought to be struck from the roll.
  - 5.2 Second, I deal with the applicant’s lack of *locus standi* to bring this application.

NM  


5.3 Third, I deal with the context within which the Companies and Intellectual Property Commission ("CIPC"), the sixth respondent, issues the certificates that are in issue in the application, and the role of the South African Police Service (SAPS) in that regard.

5.4 Finally, I deal with the remaining allegations in the affidavit of Mr Le Roux, to the extent required.

### **Lack of urgency**

6 Mr Le Roux argues that this matter warrants an urgent hearing because *"the measures against which these proceedings are aimed, will by [the time a hearing in due course is held] have expired, with lasting damage to the rights of those affected by them."*

7 This is not true for a number of reasons.

7.1 The measures against which the proceedings are aimed are: (a) the certificates issued by the CIPC; and (b) Directions issued by the Minister of SBD on 12 May 2020.

7.2 Since 25 March 2020, the applicant has been aware that certain businesses are encouraged to enter basic information online so that they can be issued (again online) with a certificate by the CIPC, indicating that they have registered to continue trading in terms of the applicable regulations during the lockdown.

7.3 It was also made clear in the Minister's announcement, on 26 March 2020, that a CIPC certificate does not constitute

permission to operate during the lockdown, and that companies should be guided by the regulations in force as to whether their businesses fall within the categories of business permitted to operate.

- 7.4 On 16 April 2020, when the lockdown was extended to 30 April 2020, it was announced by Department that companies with CIPC certificates would be required to display new certificates which would be available for download from 16 April 2020 and would be sent to companies by the weekend. The Department also emphasised *"that possession of the CIPC certificate is still subject to the company fully complying with the applicable Lockdown Regulations and is a record of the company's details, and does not in itself constitute the right to continue operating during the period."*
- 7.5 The applicant took no steps in March or April 2020 to challenge the issuing of the CIPC certificates, or the reliance placed by the SAPS on these certificates.
- 7.6 In addition, the first Directions issued by the Minister of SBD in terms of the Regulations of 18 March 2020 (annexure "C" to the affidavit of Mr Le Roux) were issued on 6 April 2020. A copy of the Directions of 6 April 2020 is annexed hereto, marked "EP1".
- 7.7 The applicant took no steps during April 2020 to challenge the first Directions issued by the Minister of SBD.

NM 

- 7.8 The application was only issued on 18 May 2020, calling upon the respondents, if they intend to oppose, to notify the applicant's attorneys by close of business on 18 May 2020, and to file our answering affidavits by close of business on 19 May 2020.
- 7.9 No case is made out by the applicant as to why the application could not be brought in March or early April 2020, nor are any reasons put forward to explain why the applicant waited for more than seven weeks before launching this application.
- 7.10 Officials from the Department met with Mr Le Roux, and others who said that they represented Sakeliga, on 24 April 2020. The meeting was held over the video conferencing facility, Zoom, and was intended to establish a line of communication between Sakeliga and the Department, and to ensure that matters which required urgent attention could be addressed that way.
- 7.11 The Department has established similar platforms with other business organisations, as well as trade unions. Where such business organisations have felt that their members have been unfairly treated, the Department used these lines of communication to address issues of concern.
- 7.12 The Sakeliga representatives had this platform available to them, but they decided not to take the opportunity. Had they brought any issues to our attention the Department could have dealt with them in a collaborative manner.

NM  


- 7.13 It is clear that the issue of the CIPC certificates is not an urgent one. If it could be put on hold for more than seven weeks, there is no reason why a hearing in due course could not afford the applicant substantial relief. Similarly, the issue of the Directions issued by the Minister of SBD is not urgent. In this instance, the application was launched six weeks after the Minister first issued Directions.
- 7.14 Furthermore, there is no reason why the respondents have had to be put under such pressure to file an answering affidavit.
- 7.15 The CIPC certificates and the Directions issued by the Minister of SBD do not affect the vested rights of those permitted to trade in terms of the Regulations. Anyone, who is permitted to trade in terms of the Regulations and who is unlawfully interfered with or unlawfully arrested by a member of the SAPS, will be entitled to sue for damages. If the Regulations do expire before a hearing in due course is held, an action for damages will not be affected.
- 7.16 It is not insignificant that the applicant has only managed to cite one example of alleged unlawful conduct on the part of a SAPS official.
- 8 There is no basis for this Court to entertain this application on an urgent basis. If there is any urgency (which is denied) then it is self-created. The respondents submit that the application ought to be struck from the roll for lack of urgency, with costs including the costs of two counsel.

**Lack of locus standi**

- 9 Mr Le Roux states that he is the Chief Executive Officer of the applicant, describing it as a non-profit company "*with a membership and donor base of 17 000 businesspeople, companies and business organisations, and a network of more than 40 000 subscribers.*"
- 10 Mr Le Roux has produced no evidence regarding the existence of the applicant, its founding documents, its membership and donor base, or its subscribers. There is no indication as to whom specifically its members, donors or subscribers are.
- 11 Furthermore, nothing is said about the applicant's constitutional make up, what powers are devolved upon Mr Le Roux and others in its structures, or on what basis it purports to act in the public interest. Nor is there any indication that Mr Le Roux is properly authorised, either to depose to an affidavit, or to institute this application, on behalf of the applicant.
- 12 I am advised that the applicant was required to establish its *locus standi* in its founding affidavit. It has not done so. The applicant therefore lacks *locus standi* to bring this application.

**The CIPC certificate**

- 13 In terms of the Regulations of 18 March 2020, the Minister was empowered to issue directions. On 19 March 2020, the Minister issued directions that are not relevant to this application (annexure "D" to the affidavit of Mr Le Roux). He was again empowered to issue directions in terms of the Regulations of 29 April 2020, a copy of which is annexed



hereto, marked "EP2".

- 14 On 23 March 2020, the President announced that a full lockdown of economic and social activities would take effect from midnight on 26 March 2020, with exceptions for specified essential services. Regulations were subsequently drafted to give effect to this announcement.
- 15 On 25 March 2020, the Minister requested that the CIPC provide an on-line service to companies currently registered under the Companies Act, to register as essential services, for reasons as will be set out hereunder. As an undertaking of this size and magnitude needed to be put in place at short notice, the Minister took the view that it should not be put as an obligation on businesses and that a direction under the Regulations would therefore not be warranted. The Department spokesperson issued a media statement (annexure "H1" to the affidavit of Mr le Roux) to publicise the service, in which it was announced that businesses entitled to provide essential services under the Regulations of 18 March 2020 (as amended on 25 March 2020) would be required to apply to the CIPC for a certificate that would allow them to continue trading. After the statement had been issued, it was realised that the statement mistakenly stated that the CIPC certificate was required as proof that the business had been given government approval to trade.
- 16 The Minister therefore requested the issue of a further statement (annexure "H2" to the affidavit of Mr Le Roux), on 26 March 2020, to clarify the position. In that statement, it was made clear that possession of a CIPC certificate does not constitute permission to operate during the



lockdown and that companies should be guided by the Regulations as to whether they are permitted to operate. Only those companies that were permitted by the Regulations to operate (essential services) were urged to register with the CIPC. The statement further noted: "it is not a requirement that companies complete registration before the lockdown begins".

- 17 On 27 March 2020, In a press briefing after the first day of the lockdown, the Minister further clarified the role of CIPC certificate. He indicated that a facility through the CIPC website ([www.bizportal.gov.za](http://www.bizportal.gov.za)) was introduced so that companies could register to indicate that they are essential services, and so that the Department could create a national list of essential services.
- 18 Already at that stage, more than 50 000 companies had registered their businesses as providers of essential services and goods through the lockdown period. These companies employ approximately 1.5 million workers in essential industries from food production and retail to cleaning materials, medical and pharmaceutical products, and other necessary products and transport.
- 19 In the same press briefing, the Minister further clarified that the registration portal is only for registered companies operating in South Africa. He indicated that Healthcare professionals registered with the Health Professions Council of South Africa (HPCSA), sole proprietors who provide essential goods and services (like spaza shops), and small-scale farmers would not register through the Bizportal website.


Handwritten signature and initials, possibly 'MM', in black ink.

- 20 At the start of the lockdown many companies, who provided essential services and were therefore permitted to operate, requested that they be able to log their details with Government. This was welcomed because it enabled the Minister and the Department to keep an accurate database of those companies that are supplying essential services. This was done in part to help identify companies in the supply of essential goods and services to the public during the lockdown, and thus provide the Department with the necessary information to assist in unblocking issues related to the supply of essential goods and services. There are more than 475 000 companies who have since registered on the database.
- 21 The CIPC certificate (annexure "J" to the affidavit of Mr Le Roux) makes it clear that possession of the certificate *"is still subject to the business complying with the definition of an Essential Service business in terms of the applicable Regulations."* This is because all that the CIPC certificate certifies is *"that the business ... has registered as an Essential Service business during the lockdown period as announced by the President of the Republic on 23 March 2020."* The CIPC certificate does not purport to authorise the business to operate. Compliance with the Regulations is still the only basis upon which companies are permitted to operate. This message also appears on the screen after a company has successfully entered the very basic information that is required for registration.
- 22 The CIPC certificate also serves as a guideline for SAPS officials and others to identify a business that is providing an essential service. The SAPS officials are required at all times to enforce the law, including the

NH 

Regulations promulgated during the lockdown. In the early stages of the lockdown, the Department played an important role in ensuring that SAPS officials and other enforcement officers understood which kinds of businesses were operating as essential services. The Department also worked closely with the business and labour representatives on unblocking issues relating to essential services to enable food and health supply-lines to be functional.

- 23 The process of obtaining a CIPC certificate was designed to be, and is, as simple as it can be. All a designated representative of a company, which provides an essential service, has to do is to enter certain basic information online, following which the CIPC certificate is issued. This happens automatically. Initially the certificate was only emailed to the designated recipient, however later a download option was also made available. The certificate can serve as *prima facie* proof to SAPS officials that the management of the business has determined that in their opinion, they are permitted by the Regulations to operate. SAPS officials are entitled to investigate further as to whether the business is permitted to operate.
- 24 When the lockdown was extended to 30 April 2020, the Department issued a further statement (annexure "K" to the affidavit of Mr Le Roux). It was made clear in the statement that companies which were already registered with the CIPC should display a new certificate as from Monday, 20 April 2020. There was nothing that these companies were required to do, other than replacing their existing certificate with the new certificate

NM 

that would be emailed to them by the weekend. It was also stated that registered companies could download the new certificate from the *BizPortal* website as from 16 April 2020. Once again, officials of the SAPS would be told about the new certificate that companies would be displaying as *prima facie* proof that the management asserted that the Regulations permitted them to operate during the extended lockdown.

25 The statement stated clearly:

25.1 *"The department reminds the public that possession of the CIPC certificate is still subject to the company fully complying with the applicable Lockdown Regulations and is a record of the company's details, and does not in itself constitute the right to continue operating during the period."*

25.2 *"The CIPC certificate is a reference to the legal registration of the company in terms of the Companies Act, 2008 (Act No. 71 of 2008) and a record of registration to the CIPC. It does not give a firm or individual a right to trade if that company does not fall into an Essential Service as defined in the Lockdown Regulations."*

26 The CIPC continues to receive registration applications from companies that are permitted to operate in terms of the lockdown Regulations. To date, more than 475 000 companies have been issued CIPC certificates.

**The affidavit of Mr Le Roux**

27 I am advised that it is not necessary for me to deal expressly with each allegation in Mr Le Roux's affidavit. Where I do not deal expressly with an

allegation that is inconsistent with what I have stated elsewhere in this affidavit, I deny the allegation.

Ad paragraph 7

28 In addition to being responsible for the administration of the Competition Act 89 of 1998, the Minister has much broader responsibilities, which include all industrial activity in the Republic and our trade with international partners.

Ad paragraph 12

29 The National Coronavirus Command Centre ("NCCC") is not a juristic person and ought not to have been cited. It is a committee of Cabinet.

Ad paragraph 14

30 The respondents submit that the application ought to be dismissed with costs, including the costs of two counsel.

Ad paragraphs 21 - 27

31 To the extent that these paragraphs correctly reflect the applicable law, they are admitted.

32 The remaining allegations in these paragraphs are denied.

Ad paragraph 36

33 I submit that the ordinary grammatical meaning of "*direction*" includes "*control*", "*guidance*", "*leadership*" and "*order*".

NM  


34 I deny the allegations in this paragraph.

Ad paragraph 50

35 The position was clarified in the public statement issued on 26 March 2020 (annexure "H2" to the affidavit of Mr Le Roux).

Ad paragraphs 51 - 52

36 The CIPC is an agency of the Department. One of its many functions is to maintain a data base of companies registered in South Africa.

37 I submit that the issuing of certificates, in the context described above, falls comfortably within its scope of activity.

Ad paragraph 63

38 Mr Le Roux has not provided any evidence of essential service providers who were unable to download a CIPC certificate, and who suffered harm as a result.

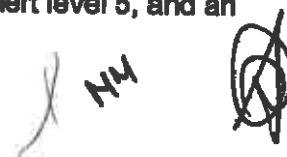
39 Where an essential service provider is unable, during the lockdown, to produce a CIPC certificate to a SAPS official, the service provider would have to furnish other proof that it provides essential services as defined in the Regulations.

40 Accordingly, the allegations in this paragraph are denied.

Ad paragraph 64

41 I submit that Mr Le Roux is conflating the CIPC certificate with the permit that is required to perform an essential service under alert level 5, and an

NW



essential or permitted service under alert level 4.

42 Enterprises not registered as companies or close corporations, such as sole proprietors, only require a permit which is issued by the head of an institution, which could be issued to themselves and/or to the persons in their employ.

43 I therefore deny the allegations in this paragraph.

Ad paragraphs 74 - 75

44 I submit that Mr Le Roux is conflating the position of business owners and their employees. As I have stated, business owners are required to establish that they are entitled to operate under the Regulations, while employees of essential services providers are only required to possess a permit issued by the head of the institution.

45 I deny the remaining allegations in these paragraphs.

46 Ad Annexure "N1"

46.1 I am advised that it is improper to rely on media reports in lieu of evidence.

46.2 I cannot respond in court papers to media reports.

46.3 I therefore deny the allegations.

47 Ad Annexure "N2"

NM  


47.1 The deponent does not state whether his service is provided only to essential service providers, and if so, why he did not inform the SAPS Captain that his laundry performs services to essential service providers.

47.2 If he was not performing such services, he would not have been entitled to operate under alert level 5 or 4.

Ad paragraph 90

48 I deny that the applicant has established a clear right to the relief sought in the Notice of Motion.

Ad paragraph 91

49 I deny that Mr Le Roux has adduced any evidence of an infringement of a clear right.

Ad paragraph 92

50 I deny that the applicant has no alternative remedy.

51 Most of the respondents only received notification of the offer to mediate when the application was served upon them. However, the Minister of SBD became aware of the offer when the letter of letter of 13 May 2020 was brought to her attention. The State Attorney recorded this in a letter to the applicant's attorneys, dated 19 May 2020, a copy of which is



annexed hereto, marked "EP3". In his letter of 19 May 2020, the State Attorney stated that the respondents accepted the offer of mediation.

- 52 The applicant's attorneys responded to the State Attorney in a letter of 20 May 2020, agreeing to mediation but attached specific conditions. A copy of the letter is annexed hereto, marked "EP4".
- 53 The State Attorney responded on 20 May 2020, indicating that he would communicate forthwith with the Office of the Solicitor General. A copy of that letter is annexed hereto, marked "EP5". On the same day, the State Attorney referred the matter to the Office of the Solicitor General. A copy of the referral is annexed hereto, marked "EP6".
- 54 On 22 May 2020, the Solicitor General confirmed that the matter has been referred to the Arbitration Foundation of South Africa ("AFSA") to facilitate the mediation. A copy of the email from the Solicitor General is annexed hereto, marked "EP7".
- 55 On 23 May 2020, the applicant's attorneys wrote to the State Attorney to state that their client is not prepared to continue with the mediation on the ground of alleged partiality on the part of the Solicitor General. A copy of the email from the applicant's attorneys, setting out their position, is annexed hereto, marked "EP8".
- 56 I am advised that the challenge to the mediation process is without any proper basis. It is still open to the applicant to embrace mediation as a

MM 

means of resolving the issues that concern it. AFSA has confirmed this morning, 25 May 2020, that retired judges, Tuchten J and Bertelsmann J, are available, at no cost to the parties, to act as mediators. The applicant can choose which of these retired judges it wishes to act as mediator.

**Ad paragraph 93**

57 I submit that this Court ought to exercise its discretion by denying the relief sought. I am also advised that the interdict sought is unwarranted and framed in such wide terms that it seeks to prohibit the respondents and others from performing their duties.

**Conclusion**

58 The respondents request that this Court strike the urgent application from the roll with costs, including the costs of two counsel, alternatively that this Court dismiss the application with costs, such costs to include the costs of two counsel.



LIONEL OCTOBER

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at PRETORIA on this the 25<sup>th</sup> day of MAY 2020, the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August

1977, as amended, having been complied with.



**COMMISSIONER OF OATHS**

Full names: NTEVHELENI MATHY Moko

Address:

Capacity:

.....  
**NDOU NTEVHE ATTORNEYS**  
PRACTISING ATTORNEY OF R.S.A  
COMMISSIONER OF OATHS  
OFFICE 101, 250 PRETORIUS  
250 PRETORIUS STREET  
PRETORIA, GAUTENG. 0001



## GOVERNMENT NOTICES • GOEWERMENSKENNISGEWINGS

## DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

NO. R. 450

06 APRIL 2020

**DIRECTIONS ISSUED IN TERMS OF REGULATION 10(8) OF THE REGULATIONS MADE UNDER SECTION 27(2) OF THE DISASTER MANAGEMENT ACT, 2002 (ACT NO. 57 OF 2002): MEASURES TO PREVENT AND COMBAT THE SPREAD OF COVID-19**

I, Ms Khumbudzo Ntshavheni, MP, the Minister of Small Business Development, in terms of regulation 10(8) of the Regulations published in Government Gazette No.43107, Government Notice No. 318 of 18 March 2020, and made in terms of section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002), hereby issue the Directions set out in the Schedule hereto in order provide guidance on implementation of the provisions of essential goods and services.

  
**MS KHUMBUDZO NTSHAVHENI, MP**  
**MINISTER OF SMALL BUSINESS DEVELOPMENT**  
**DATE:**

MM  


## SCHEDULE

### Definitions

1. In these Directions, a word or expression bears the meaning assigned to it in the Regulations promulgated in Government Gazette No. 43107, Government Notice No.R318 of 18 March 2020 and in the Regulations promulgated in Government Gazette No. 43148, Government Notice No.398 of 25 March 2020, in terms of section 27(2) of the Disaster Management Act, 2002, and unless the context otherwise indicates—

**“lockdown Regulations”** means the regulations published in Government Gazette No. 43148, Government Notice No.398 of 25 March 2020

- 1.1 These Directions are issued in order to assist SMMEs operating grocery stores including the corner shops, spaza shops, fruit and vegetable stores, to comply with the lockdown Regulations. The Informal Food Traders as referred to in the Regulations are limited to Fruit and Vegetable informal traders and the *Langanas*, who operate in the Northern Cape and Western Cape.
- 1.2 In terms of the lockdown Regulations, all enterprises operating within the borders of the Republic of South Africa are expected to close during the lockdown period except for enterprises which are designated as providers of essential goods and services as per Annexure B to the lockdown Regulations.
- 1.3 All enterprises must ensure that the absolute minimum number of staff necessary to safely operate the enterprises are at work during the



lockdown period. Furthermore, employers are encouraged to provide transport for their employees during the lockdown period.

- 1.4** The grocery stores outlined in paragraph 1.1 above are permitted to operate during the lockdown period irrespective of the nationality of their owners provided that they adhere to the following:
- 1.4.1** All spaza shop owners and informal food traders must hold permits issued by their respective local municipalities allowing them to trade, in line with the provisions of the Business Act, 71 of 1991 as amended;
- 1.4.2** No person may stay overnight in a grocery store in contravention of the Food Safety and Health Standards;
- 1.4.3** Only the sale of foodstuff and basic necessities is permitted, grocery stores must not sell products or goods that are prohibited by the lockdown Regulations;
- 1.4.4** The grocery stores must uphold the health and hygiene requirements by:
- 1.4.4.1** Maintaining a social distance amongst customers and between the trader and customer of at least one metre;
- 1.4.4.2** Disinfecting and sanitising trading spaces in line with the Directions issued by the Department of Health;
- 1.4.5** Spaza shop owners and informal food traders currently trading without permits may apply for temporary permits, and in case of non-South African citizens, the business owner-
- (a) must have been lawfully admitted into the Republic and must hold a valid passport with a visa issued by the Department of Home

MN  


Affairs in terms of section 10 of the Immigration Act, 2002 (Act No. 13 of 2002), authorising him or her to operate a business; or

(b) must alternatively, hold an asylum seeker's permit issued in terms of section 22 of the Refugees Act, 1998 (Act No. 130 of 1998), which allows him or her to work. Permission to operate will be linked to the period covered by the asylum seeker's permit.

**2. MANDATORY IDENTIFICATION REQUIRED BY STAFF WORKING DURING THE LOCKDOWN PERIOD**

**2.1 All staff must at all times carry a permit to perform essential services contemplated regulation 11(B)(3) of the lockdown Regulations.**

**2.2 A stamp or authorised signature on the permit contemplated in regulation 11(B)(3), to perform essential services, is acceptable.**

All staff must at all times carry a positive photo identification such as an identity document, passport or permit, issued by the Department of Home Affairs.

**3. CONTACT DETAILS IN THE EVENT OF SMALL BUSINESSES WISHING TO CLARIFY THEIR STATUS AS RENDERING ESSENTIAL SERVICES OR PROVIDING ESSENTIAL GOODS**

**3.1 SMMEs may contact the Department of Small Business Development (DSBD) on 0860 663 7867 for more information or alternatively send their queries to [info@dsbd.gov.za](mailto:info@dsbd.gov.za)**

MM  


4.1 These Directions come into operation on the date of publication in the Government Gazette.

  
Ms Khumbudzo Ntshavheni

Minister for Small Business Development

Date:

5

NA  


**ANNEXURE C FORM 1**  
**PERMIT TO PERFORM ESSENTIAL SERVICE REGULATION 11B (3)**

Please note that the person to whom the permit is issued must at all times carry a form of identification to be presented together with this permit. If no identification is presented the person to whom the permit is issued will have to return to his or her place of residence during the lockdown.

<b>Surname</b>				
<b>Full names</b>				
<b>Identify number</b>				
<b>Contact details</b>	<b>Cell nr.</b>	<b>Tel nr (w)</b>	<b>Tel no(H)</b>	<b>Email-address</b>
<b>Physical address of institution</b>				

Hereby certify that:

<b>Surname</b>	
<b>Full names</b>	
<b>Identity number</b>	

Signed at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2020

Official stamp of the institution

\_\_\_\_\_  
**Signature of Head of institution**

NM  


## ANNEXURE "EP2"

STAATSKOERANT, 29 APRIL 2020

No. 43256 3

## GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

## DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NO. R. 480

29 APRIL 2020

**DISASTER MANAGEMENT ACT, 2002  
REGULATIONS ISSUED IN TERMS OF SECTION 27(2) OF THE DISASTER  
MANAGEMENT ACT, 2002**

1. Dr Nkosazana Dlamini Zuma, Minister of Cooperative Governance and Traditional Affairs, designated under section 3 of the Disaster Management Act, 2002 (Act No. 57 of 2002), having declared a national state of disaster, published in Government Gazette No. 43000 on 15 March 2020, hereby in terms of section 27(2) of the Disaster Management Act, 2002, after consultation with the relevant Cabinet members, make the Regulations in the Schedule.

*Nk. Zuma*  
DR NKOSAZANA DLAMINI ZUMA, MP  
MINISTER OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS  
DATE: 24.04.2020.

**SCHEDULE  
CLASSIFICATION OF REGULATIONS**

**CHAPTER I  
DEFINITIONS AND APPLICATION**

1. Definitions
2. Transitional and final provisions
3. Application of Regulations

**CHAPTER 2  
GENERAL PROVISIONS APPLICABLE DURING NATIONAL STATE OF DISASTER**

4. Authority to issue directions
5. General measures to contain the spread of COVID-19
6. Refusal of medical examination, prophylaxis, treatment, isolation and quarantine
7. Isolation or quarantine of persons
8. Contact tracing
9. Reliance of resources

This gazette is also available free of charge at [www.gesig.co.za](http://www.gesig.co.za)



**CHAPTER I**  
**DEFINITIONS AND APPLICATION**

**Definitions**

1. In these Regulations, unless the context otherwise indicates—
- 'adequate space'** means not more than one person per one and a half metres of floor space;
- 'Alert Level'** means the determination made under subregulation 3(2);
- 'clinical case'** means a patient that presents with clinical signs and symptoms of COVID-19;
- 'Constitution'** means the Constitution of the Republic of South Africa, 1996;
- 'COVID-19'** means the Novel Coronavirus (2019-nCoV2) which is an infectious disease caused by a virus that has previously not been scientifically identified in humans, which emerged during 2019 and was declared a global pandemic by the WHO in 2020;
- 'Criminal Procedure Act'** means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);
- 'directions'** means the directions contemplated in section 27(2) of the Act, issued by a Cabinet member relating to his or her line functions, after consultation with the Cabinet members responsible for cooperative governance and traditional affairs and justice and correctional services;
- 'donor'** means an individual, corporation or organisation that is a contributor of cash, kind and/or other assets;
- 'enforcement officer'** includes a member of the South African Police Service, the South African National Defence Force, metro police, traffic officers, immigration inspectors; and a peace officer as defined in section 1 of the Criminal Procedure Act;
- 'essential goods for import'** means the goods listed in Annexure B;
- 'essential services'** means the services listed in Annexure D;
- 'gathering'** means any assembly, concourse or procession in or on—
- (a) any public road, as defined in the National Road Traffic Act, 1996 (Act No. 93 of 1996); or
- (b) any other building, place or premises, including wholly or partly in the open air, and including, but not limited to, any premises or place used for any sporting, entertainment, funeral, recreational, religious, or cultural purposes; but excludes a workplace and a place of residence for those persons ordinarily residing at the residence;
- 'health protocols'** means the COVID-19 health protocols determined by the Director General of Health;
- 'head of an institution'** means the accounting officer of a public institution and the chief executive officer or the equivalent of a chief executive officer of a private institution;
- 'institution'** means any public or private institution, including a sole practitioner and any other business owned and operated by a single person, that is engaged in the supply or distribution of a good or service as set out in the Table 1, or which regulates such supply or distribution, including professional regulatory bodies designated in directions made in terms of regulation 4 of the Regulations;
- 'institutions of higher learning'** means 'higher education college' and 'higher education institution' as defined in section 1 of the Higher Education Act, 1997 (Act No. 101 of 1997);
- 'isolation'** means separating a sick individual with a contagious disease from healthy individuals

NH  
B

that are not infected with such disease in a manner that aims to prevent the spreading of infection or contamination;

'laboratory confirmed case' means a patient who has been diagnosed with COVID-19 by means of a laboratory diagnostic method approved by the Department of Health;

'liquor' means—

- (a) any liquor product, as defined in section 1 of the Liquor Products Act, 1989 (Act No. 60 of 1989);
- (b) beer or traditional African beer; or
- (c) any other substance or drink declared to be liquor under the Liquor Act, 2003 (Act No. 59 of 2003), but does not include methylated spirits;

'lockdown' means the period between 23H59 on 26 March 2020, until 23H59 on 30 April 2020.

'movement' means entering or leaving a place of residence or, in the case of people not ordinarily resident in the Republic, their place of temporary residence while in the Republic.

'national state of disaster' means the national state of disaster declared by Government Notice No. R. 313 of 16 March 2020;

'permitted goods' means Part E in the Table 1;

'permitted goods for export' means the goods listed in Annexure C;

'permitted services' means the services permitted in Table 1;

'quarantine' means the restriction of activities or separation of a person, who was or may potentially have been exposed, to COVID-19 and who could potentially spread the disease to other non-exposed persons, to prevent the possible spread of infection or contamination to healthy individuals;

'school' means a school as defined in section 1 of the South African Schools Act, 1984 (Act No. 84 of 1984);

'the Act' means the Disaster Management Act, 2002 (Act No. 57 of 2002); and

'WHO' means the World Health Organization.

#### Repeal and transitional provisions

2. (1) The regulations published by Government Notice No. 316 of 16 March 2020, as amended by Government Notice Nos. R. 388 of 25 March 2020, R.419 of 28 March 2020, R. 446 of 2 April 2020, R. 485 of 16 April 2020 and R. 471 of 20 April 2020, are hereby repealed.

(2) Despite the repeal of the regulations referred to in subregulation (1), any regulation, for purpose of the disposal of any investigation, prosecution or any criminal or legal proceedings or the appointment made in regulation 8(13), remains in force as if such regulation had not been repealed.

(3) Despite the repeal of the regulations referred to in subregulation (1), all directions issued in terms of these Regulations shall continue to apply unless, varied, amended or withdrawn by the Cabinet member responsible for such directions.

#### Application of Regulations

3. (1) Chapters 1 and 2 of these Regulations will apply for the duration of the national state of disaster.

MM 

(2) The Cabinet member responsible for cooperative governance and traditional affairs shall, upon the recommendation of the Cabinet member responsible for health and in consultation with Cabinet, declare which of the following alert levels apply, and the extent to which they apply at a national, provincial, metropolitan or district level:

- (a) 'Alert Level 1' as determined by Cabinet;
- (b) 'Alert Level 2' as determined by Cabinet;
- (c) 'Alert Level 3' as determined by Cabinet;
- (d) 'Alert Level 4' as determined by Cabinet; and
- (e) 'Alert Level 5' as determined by Cabinet.

(3) The Cabinet member responsible for health shall issue directions on the criteria that will guide the determination of alert levels;

(4) The detail of permissions and prohibitions for each Alert Level will be set out in the different Alert levels.

## CHAPTER 2

### GENERAL PROVISIONS APPLICABLE DURING NATIONAL STATE OF DISASTER

#### Authority to issue directions

4. (1) The Cabinet member responsible for health may—
- (a) issue directions to address, prevent and combat the spread of COVID-19 in any area of the Republic of South Africa, which directions may include the—
    - (i) recruitment and training of human resources from the Department of Health, and other entities responsible for the handling of COVID-19 mortal remains;
    - (ii) deployment of human resources from the Department of Health to identified sites to render services;
    - (iii) sourcing of human resources from the Expanded Public Works Programme, retired health professionals and Non-Governmental Organisations to render services in identified sites;
    - (iv) provision of health equipment, sanitation materials and medical supplies;
    - (v) identification and establishment of mortuaries that will accommodate all COVID-19 mortal remains;
    - (vi) disposal of COVID-19 mortal remains; and
  - (b) vary the directions referred to in paragraph (a) as the circumstances require.
- (2) The Cabinet member responsible for justice and correctional Services may—
- (a) issue directions to address, prevent and combat the spread of COVID-19 in all Correctional Centres and Remand Detention Facilities in the Republic of South Africa;
  - (b) where appropriate, issue directions to address, prevent and combat the spread of COVID-19 in all courts and court precincts in the Republic of South Africa;
  - (c) issue directions for voluntary alternative dispute resolution mechanisms, pursuant to regulation 13, to resolve COVID-19 disputes and related matters; and
  - (d) vary the directions referred to in paragraphs (a) to (c) as the circumstances require.
- (3) The Cabinet members responsible for basic and higher education may—

NM  
A

- (a) issue directions to address, prevent and combat the spread of COVID-19 in all schools and institutions of higher learning; and
- (b) vary the directions referred to in (a) as the circumstances require.
- (4) The Cabinet member responsible for police may—
- (a) issue directions to address, prevent and combat the spread of COVID-19 in all police stations, police precincts, and holding cells; and
- (b) vary the directions referred to in paragraph (a) as the circumstances require.
- (5) The Cabinet member responsible for social development may—
- (a) issue directions to address, prevent and combat the spread of COVID-19 in all Department of Social Development facilities; and
- (b) vary the directions referred to in paragraph (a) as the circumstances require.
- (6) The Cabinet member responsible for trade, industry and competition may—
- (a) issue directions to—
- (i) protect consumers from excessive, unfair, unreasonable or unjust pricing of goods and services during the national state of disaster; and
- (ii) maintain security and availability of the supply of goods and services during the national state of disaster;
- (b) issue directions to address, prevent and combat the spread of COVID-19; and
- (c) vary the directions referred to in paragraphs (a) and (b) as the circumstances require.
- (7) The Cabinet member responsible for transport may—
- (a) issue directions to address, prevent and combat the spread of COVID-19 in matters falling within his or her mandate; and
- (b) vary the directions referred to in paragraph (a) as the circumstances require.
- (8) The Cabinet member responsible for home affairs may issue directions to allow a person to enter or exit the Republic for emergency medical attention for a life-threatening condition, or for a South African, or foreign national to be repatriated to their country of nationality or permanent residence.
- (9) The Cabinet member responsible for small business may—
- (a) issue directions to address, prevent and combat the spread of COVID-19 in matters falling within his or her mandate; and
- (b) vary the directions referred to in paragraph (a) as the circumstances require.
- (10) Any Cabinet member may issue and vary directions, as required, within his or her mandate, to address, prevent and combat the spread of COVID-19, and its impact on matters relevant to their portfolio, from time to time, as may be required, including—
- (a) disseminating information required for dealing with the national state of disaster;
- (b) implementing emergency procurement procedures;
- (c) taking any other steps that may be necessary to prevent an escalation of the national state of disaster, or to alleviate, contain and minimise the effects of the national state of disaster;
- or
- (d) taking steps to facilitate international assistance.
- (11) All directions issued in terms of these Regulations shall continue to apply unless, varied, amended or withdrawn by the Cabinet member responsible for such directions.

MM  


(12) Directions with regard to health and social services and trade, industry and competition may be issued to designate services which are necessary to provide or maintain essential health and social services and international trade or industrial activities.

(13) Directions may be issued and varied, as required, to address, prevent and combat the spread of COVID-19, from time to time, including—

- (a) disseminating information required for dealing with the national state of disaster;
- (b) implementing emergency procurement procedures;
- (c) taking any other steps that may be necessary to prevent an escalation of the national state of disaster, or to alleviate, contain and minimise the effects of the national state of disaster; or
- (d) taking steps to facilitate international assistance.

(14) All directions issued in terms of these Regulations shall continue to apply unless, varied, amended or withdrawn by the Cabinet member responsible for such directions:

#### General measures to contain the spread of COVID-19

5. (1) A person must wear a cloth face mask or a homemade item that covers the nose and mouth when in a public place, or another appropriate item to cover the nose and mouth

(2) No person will be allowed to use any form of public transport, or enter a building, place or premises, if they do not wear a cloth face mask or a homemade item that covers the nose and mouth when in a public place, or another appropriate item to cover the nose and mouth.

(3) An employer must provide every employee who may come into direct contact with members of the public as part of their duties with a cloth face mask to cover his or her nose and mouth or a homemade item that covers the nose and mouth when in a public place, or another appropriate item to cover the nose and mouth.

(4) Every business premises, including, but not limited to, a supermarket, shop, grocery store, retail store, wholesale produce market or pharmacy shall—

- (a) determine their area of floor space in square metres;
- (b) based on the information contemplated in paragraph (a), determine the number of customers and employees that may be inside the premises at any time with adequate space available;
- (c) take steps to ensure that persons queuing inside or outside the premises are able to maintain a distance of one and a half metres from each other;
- (d) provide hand sanitisers for use by the public and employees at the entrance to the premises; and
- (e) assign, in writing, an employee or any other suitable person, as the compliance employee, who must ensure—
  - (i) compliance with the measures provided for in paragraphs (a) to (d); and
  - (ii) that all directions in respect of hygienic conditions and limitation of exposure to persons with COVID-19 are adhered to.

(5) All employers must, adopt measures to promote physical distancing of employees, including—

- (a) enabling employees to work from home or minimising the need for employees to be physically present at the workplace;
- (b) the provision for adequate space;

NM  
Q

- (c) restrictions on face to face meetings;
- (d) special measures for employees with known or disclosed health issues or comorbidities, or with any condition which may place such employees at a higher risk of complications or death if they are infected with COVID-19;
- (e) special measures for employees above the age of 60 who are at a higher risk of complications or death if they are infected with COVID-19.

(6) The requirements as set out in subregulation (4) applies with the necessary changes, to any other building that is not provided for by subregulation (4).

(7) All courier and delivery services shall provide for minimized personal contact during delivery.

#### Refusal of medical examination, prophylaxis, treatment, isolation and quarantine

8. (1) No person who has been confirmed as a clinical or a laboratory confirmed case as having contracted COVID-19, or who is suspected of having contracted COVID-19, or who has been in contact with a person who is a carrier of COVID-19, may refuse to—

- (a) submit to a medical examination, including, but not limited to, the taking of any bodily sample which is authorised in law;
- (b) be admitted to a health establishment or a quarantine or isolation site; or
- (c) submit to mandatory prophylaxis, treatment, isolation or quarantine, in order to prevent transmission:

Provided that if a person does not comply with the instruction or order of the enforcement officer, that person must be placed in quarantine for a period not exceeding 48 hours, pending a warrant being issued by a competent Court, on application by an enforcement officer for the medical examination contemplated in paragraph (a).

(2) A warrant contemplated in subregulation (1) may be issued by a magistrate, if it appears from information on oath or affirmation by an enforcement officer—

- (a) that a person is confirmed as having been infected with COVID-19;
- (b) who is on reasonable grounds suspected of having contracted COVID-19, or who has been in contact with, or who is on reasonable grounds suspected as having been in contact with a person who is a carrier of, or infected with COVID-19.

(3) The warrant may impose restrictions on the powers of the enforcement officer as the magistrate may deem fit.

(4) A warrant issued in terms of this regulation remains in force until—

- (a) it is executed;
  - (b) it is cancelled by the person who issued it or, if such person is not available, by any other magistrate;
  - (c) the expiry of ninety days from the date of its issue; or
  - (d) the purpose for the issuing of the warrant has lapsed,
- whichever occurs first.

MM

**Isolation or quarantine of persons**

7. (1) Any person who is a clinical case, or who is on reasonable grounds suspected to be infected or contaminated with COVID-19, or who has been in contact with a person who is infected or contaminated with COVID-19; must comply with—

- (a) an oral instruction of, or a written direction, issued by a medical practitioner, a person authorised by the medical practitioner, a nurse or an enforcement officer to subject himself or herself to screening to determine his or her COVID-19 status; or
- (b) a written direction, issued by a medical practitioner, a person authorised by the medical practitioner, a nurse or an enforcement officer to—
  - (i) voluntarily travel to or be taken to a health establishment or any other place for purposes of isolation or quarantine; or
  - (ii) quarantine himself or herself in accordance with the instructions of such medical practitioner or person authorised by him or her, or a nurse,

pending the determination of his or her COVID-19 status, as a precautionary measure to contain the transmission of COVID-19.

(2) If a person refuses to quarantine himself or herself, or travel to a site of isolation or quarantined facility as directed, a magistrate in whose jurisdiction such a person is, must make an order as contemplated in Form 1 of Annexure A, to compel such a person to quarantine himself or herself, travel to such site of isolation, quarantined facility, or medical screening.

(3) The—

- (a) Cabinet member responsible for public works and infrastructure;
- (b) member of the provincial Executive Council responsible for public works; or
- (c) accounting officers of municipalities,

must identify and make available sites to be used as isolation and quarantine facilities as the need arises and provide a list thereof to the Department of Health for resourcing.

**Contact tracing**

8. (1) In this regulation—

- (a) "COVID-19 Tracing Database" means the database established by the National Department of Health in terms of subregulation (2); and
- (b) "COVID-19 Designated Judge" means a judge designated in terms of subregulation (13).

(2) The National Department of Health shall develop and maintain a national database to enable the tracing of persons who are known or reasonably suspected to have come into contact with any person known or reasonably suspected to have contracted COVID-19.

(3) The COVID-19 Tracing Database shall include all information considered necessary for the contact tracing process to be effective, including but not limited to:

- (a) the first name and surname, identity or passport numbers, residential address and other address where such person could be located, and cellular phone numbers of all persons who have been tested for COVID-19;
- (b) the COVID-19 test results of all such persons; and
- (c) the details of the known or suspected contacts of any person who tested positive for COVID-19.

NN  


(4) The information contained in the COVID-19 Tracing Database and any information obtained through this regulation is confidential.

(5) No person may disclose any information contained in the COVID-19 Tracing Database or any information obtained through this regulation unless authorized to do so and unless the disclosure is necessary for the purpose of addressing, preventing or combatting the spread of COVID-19.

(6) Where any person is to be tested for COVID-19, the person taking the sample for purposes of testing must obtain as much of the following information as is available at the time of taking the sample—

- (a) the first name and surname, identity or passport number, residential address, and cellular phone numbers of the person tested; and
- (b) a copy or photograph of the passport, driver's licence, identity card, identity book of the person tested;

and promptly submit this information, along with any information it has regarding likely contacts of the person tested, to the Director-General: Health for inclusion in the COVID-19 Tracing Database.

(7) Where any laboratory has tested a sample for COVID-19, the laboratory must promptly transmit to the Director-General: Health, for inclusion in the COVID-19 Tracing Database—

- (a) all details the laboratory has, including the first name and surname, identity or passport numbers, residential address and cellular phone numbers, regarding the person tested;
- (b) the COVID-19 test result concerned.

(8) The National Institute for Communicable Diseases (NICD) must transmit to the Director-General: Health, for inclusion in the COVID-19 Tracing Database—

- (a) all details the NICD has, including the first name and surname, identity or passport numbers, residential address and cellular phone numbers of any person tested for COVID-19;
- (b) the results of the COVID-19 test concerned; and
- (c) any information the NICD has regarding likely contacts of the person tested.

(9) Every accommodation establishment must, promptly after the coming into force of this regulation, transmit to the Director-General: Health, for inclusion in the COVID-19 Tracing Database, the following information regarding every person staying at the accommodation establishment during the period of lockdown—

- (a) the first name and surname, identity or passport number, residential address and cellular phone numbers of the person concerned; and
- (b) a copy or photograph of the passport, driver's licence, identity card or identity book of the person concerned.

(10) The Director-General: Health may, in writing and without prior notice to the person concerned, direct an electronic communications service provider licensed under the Electronic Communications Act, 2005 (Act No. 36 of 2005) to provide him or her, for inclusion in the COVID-19 Tracing Database, with such information as that electronic communications service provider has available to it regarding—

- (a) the location or movements of any person known or reasonably suspected to have contracted COVID-19; and

NM  
A

- (b) the location or movements of any person known or reasonably suspected to have come into contact, during the period 5 March 2020 to the date on which the national state of disaster has lapsed or has been terminated, with a person contemplated in subparagraph (a).

and the electronic communications service provider must promptly comply with the directive concerned.

(11) The information referred to in subregulation (10)---

- (a) may only be obtained in relation to the location or movements of persons during the period 5 March 2020 to the date on which the national state of disaster has lapsed or has been terminated;
- (b) may only be obtained, used or disclosed by authorised persons and may only be obtained, used and disclosed when necessary for the purposes of addressing, preventing or combatting the spread of COVID-19 through the contact tracing process;
- (c) where relevant to the contact tracing process, must be included in the COVID-19 Tracing Database; and
- (d) apart from what is included in the COVID-19 Tracing Database, may only be retained by the Director-General: Health for a period of six weeks after being obtained and shall thereafter be destroyed.

(12) Nothing in this regulation entitles the Director-General: Health or any other person to intercept the contents of any electronic communication.

(13) The Cabinet member responsible for justice and correctional services has, in terms of section 7(1)(a) read with paragraph (d) of the definition of 'service' in section 1(1) of Judges' Remuneration and Conditions of Employment Act, 2001 (Act No. 47 of 2001), appointed a Constitutional Court Judge who has been discharged from active service to perform service as a COVID-19 Designated Judge as provided for in the Regulations.

(14) The Director-General: Health must file a weekly report with the COVID-19 Designated Judge setting out the names and details of all persons whose location or movements were obtained in terms of subregulation (10)(a) and 10(b) respectively.

(15) The COVID-19 Designated Judge may make such recommendations to the Cabinet members responsible for cooperative governance and traditional affairs, health and justice and correctional services as he or she deems fit regarding the amendment or enforcement of this regulation in order to safeguard the right to privacy while ensuring the ability of the Department of Health to engage in urgent and effective contact tracing to address, prevent and combat the spread of COVID-19.

(16) The Director-General: Health shall, within six weeks after the national state of disaster has lapsed, or has been terminated, notify every person whose information has been obtained in terms of subregulation (10) that information regarding their location or movements was obtained in terms of subregulation (10).

(17) Within six weeks after the national state of disaster has lapsed or has been terminated---

- (a) the information on the COVID-19 Tracing Database shall be de-identified;
- (b) the de-identified information on the COVID-19 Tracing Database shall be retained and used only for research, study and teaching purposes;
- (c) all information on the COVID-19 Tracing Database which has not been de-identified shall be destroyed; and

(d) the Director-General: Health shall file a report with the COVID-19 Designated Judge recording the steps taken in this regard, and the steps taken pursuant to subregulation (16).

(18) Upon receipt of the report in subregulation (17)(d), the COVID-19 Designated Judge shall be entitled to give directions as to any further steps to be taken to protect the right to privacy of those persons whose data has been collected, which directions must be complied with.

(19) The report required by subregulation (17)(d) and any directions given in terms of subregulation (18) shall be tabled in Parliament.

#### Release of resources

9. (1) The Department of Defence must, for the duration of the declared national state of disaster, within its available resources—

- (a) release and mobilise available resources, including human resources, stores, equipment, ships, aircraft platforms, vehicles and facilities; and
- (b) ensure the delivery of essential services, as may be required, to prevent, limit, contain, combat and manage the spreading of COVID-19.

(2) National organs of state must, within their available resources, release their personnel for the rendering of emergency services, as contemplated in section 27(2)(b) of the Act.

(3) Institutions within national, provincial and local government must make resources, other than funding, available to implement these Regulations or directions issued in terms of section 27(2) of the Act regarding the national state of disaster.

- (4) Institutions within national, provincial and local government must—
- (a) make funding available; and
  - (b) as far as possible, without affecting service delivery in relation to the realisation of the rights contemplated in sections 26 to 29 of the Constitution, shift funding, within its budget to implement these Regulations or directions issued in terms of section 27(2) of the Act, regarding the national state of disaster.

(5) The National Treasury and provincial treasuries must take the necessary steps in terms of applicable legislation to implement these Regulations and directions issued in terms of section 27(2) of the Act, in relation to the national state of disaster.

(6) Donor funding received by institutions, subject to the Public Finance Management Act, 1998 (Act No. 1 of 1998) or the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), to assist with the national state of disaster must be—

- (a) paid into the Reconstruction and Development Fund, established by the Reconstruction and Development Fund Act, 1994 (Act No. 7 of 1994); and
- (b) used strictly for purposes of implementing these Regulations and directions issued in terms of section 27(2) of the Act in relation to the national state of disaster.



**Shelters and sites identified by the State during national state of disaster**

10. (1) The State shall identify—
- (a) temporary shelters for homeless people that comply with the necessary health protocols and adequate spacing standards as provided for in guidelines published by the Director General of Health; and
  - (b) temporary sites for quarantine and self-isolation that comply with the necessary health protocols and adequate spacing standards, as provided for in guidelines published by the Director General of Health, for persons who cannot isolate or quarantine in their homes.
- (2) The provision of the State's resources contemplated in subregulation (1) shall be for the duration of the national state of disaster, and the use thereof will be subject to conditions determined by the Cabinet member responsible for such resources.

**Emergency Procurement Procedures**

11. Emergency procurement for institutions is subject to—
- (a) the Public Finance Management Act, 1999 (Act No. 1 of 1999), and the applicable emergency provisions in the Regulations or Instructions made under section 78 of that Act; and
  - (b) the Municipal Finance Management Act, 2003 (Act No. 56 of 2003), and the applicable emergency provisions in the Regulations made under that Act.

**Powers and indemnity**

12. These Regulations do not limit any powers or indemnities of security services provided for in any law.

**Resolution of disputes**

13. (1) The parties to a civil dispute against the State or any organ of State, which may potentially result in litigation, may—
- (a) either before or after the commencement of litigation but before the granting of judgment by the court, agree to refer the dispute to mediation; or
  - (b) before the commencement of litigation, agree to refer the dispute to arbitration.
- (2) Where the parties agree to mediation or arbitration:
- (a) the Office of the Solicitor General shall assist the parties in coordinating and overseeing the process; and
  - (b) the parties may agree that a judge who has retired from active service shall act as the mediator or arbitrator as the case may be, in which event no fees shall be payable to such mediator or arbitrator.
- (3) The Office of the State Attorney in whose area of jurisdiction a dispute arises shall immediately upon knowledge of such dispute engage the party raising the dispute, or such party's legal representative, in considering mediation or arbitration.

MH  


**Offences and penalties**

14. (1) Any person who intentionally misrepresents that he, she or any other person is infected with COVID-19 is guilty of an offence and on conviction liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(2) Any person who publishes any statement, through any medium, including social media, with the intention to deceive any other person about—

(a) COVID-19;

(b) COVID-19 infection status of any person; or

(c) any measure taken by the Government to address COVID-19,

commits an offence and is liable on conviction to a fine or imprisonment for a period not exceeding six months, or both such fine and imprisonment.

(3) Any person who intentionally exposes another person to COVID-19 may be prosecuted for an offence, including assault, attempted murder or murder.

(4) A person who fails to comply with—

(a) an obligation imposed in terms of regulation 8(5), 8(9), 8(11), 8(17); or

(b) a direction issued in terms of regulation 8(10) or 8(18);

of these Regulations commits an offence and is, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

**CHAPTER 3  
ALERT LEVEL 4**

**Determination of Alert Level**

15. (1) The Cabinet member responsible for cooperative governance and traditional affairs, in terms of regulation 3(2), declares, upon the recommendation of the Cabinet member responsible for health, and in consultation with Cabinet, that Alert Level 4 will be applicable from 1 May 2020 in the Republic of South Africa and will remain in force up to the declaration of different Alert Levels for the duration of the national state of disaster.

(2) The regulations set out in this Chapter apply during Alert Level 4.

**Movement of persons**

16. (1) Every person is confined to his or her place of residence.

(2) A person may only leave their place of residence to—

(a) perform an essential or permitted service, as allowed in Alert Level 4;

(b) go to work where a permit which corresponds with Form 2 of Annexure A, has been issued;

(c) buy permitted goods;

(d) obtain services that are allowed to operate as set out in Table 1 to the Regulations;

(e) move children, as allowed;

(f) walk, run or cycle between the hours of 08H00 to 09H00, within a five kilometre radius of their place of residence: Provided that this is not done in organised groups.

NH  
A

(3) Every person is confined to his or her place of residence from 20H00 until 05H00 daily, except where a person has been granted a permit to perform an essential or permitted service as listed in Annexure D, or is attending to a security or medical emergency.

(4) Movement between provinces, metropolitan areas and districts are prohibited except—

- (a) for workers who have a permit to perform an essential or permitted service who have to commute to and from work on a daily basis;
- (b) the attendance of a funeral, as allowed;
- (c) the transportation of mortal remains; and
- (d) for learners who have to commute to and from school or higher education institutions on a daily basis during periods when those institutions are permitted to operate.

(5) Any person who was not at their place of residence, or work before the lockdown period and who could not travel between provinces, metropolitan and district areas during the lockdown, will be permitted, on a once-off basis, to return to their places of residence or work and will be required to stay in such place until the end of Alert Level 4.

(6) All industries, businesses, entities, both private and in the public sector, which are permitted to operate during Alert Level 4, must—

- (a) designate a COVID-19 compliance officer who will oversee the:
  - (i) implementation of the plan referred to in subregulation (b); and
  - (ii) adherence to the standards of hygiene and health protocols relating to COVID-19 at the workplace;
- (b) develop a plan for the phased in return of their employees to the workplace, prior to reopening the workplace for business, which plan must correspond with Annexure E and be retained for inspection and contain the following information:
  - (i) which employees are permitted to work;
  - (ii) what the plans for the phased-in return of their employees to the workplace are;
  - (iii) what health protocols are in place to protect employees from COVID-19; and
  - (iv) the details of the COVID-19 compliance officer;
- (c) phase in the return of their employees to work to manage the return of employees from other provinces, metropolitan and district areas; and
- (d) develop measures to ensure that the workplace meets the standards of health protocols, adequate space for employees and social distancing measures for the public and service providers, as required.

(6) The Cabinet member responsible for home affairs, or a person designated by him or her, may allow a person to enter or exit the Republic for emergency medical attention for a life-threatening condition, or for a South African, or foreign national to be repatriated to their country of nationality or permanent residence.

(7) All foreign tourists who arrived in the Republic prior to the lockdown period, which ended on 30 April 2020, and who remained in the Republic, must remain in their place of temporary residence in the Republic for the duration of Alert Level 4, as the case may be, and may be subject to screening for COVID-19 and be quarantined or isolated as required: Provided that the evacuation of foreign tourists where arrangements, including an arrangement for the evacuation by air charter, has been made by the relevant embassy, may be allowed: Provided further that a tourist is escorted to the point of exit where he or she may be screened again.

**Movement of children**

17. (1) The movement of children between co-holders of parental responsibilities and rights or a caregiver, as defined in section 1(1) of the Children's Act, 2005 (Act No. 38 of 2005), in the same metropolitan area or district municipality is allowed subject to the following if the co-holders of parental responsibilities and rights or a caregiver is in possession of—

- (a) a court order; or
- (b) a parental responsibilities and rights agreement or parenting plan, registered with the family advocate
- (c) a permit issued by a magistrate where which corresponds with Form 3 of Annexure A if the documentation in paragraphs (a) and (b) is not available.

(2) The movement of children between co-holders of parental responsibilities and rights or a caregiver, as defined in section 1(1) of the Children's Act, 2005 (Act No. 38 of 2005), between different metropolitan areas, district municipalities or provinces is allowed if the co-holders of parental responsibilities and rights or a caregiver is in possession of a permit, issued by a magistrate which corresponds with Form 3 of Annexure A.

(3) Any child who was not at the residence of their primary caregiver before the lockdown period and who could not travel between provinces, metropolitan and district areas during the lockdown will be permitted, on a once-off basis, to return to the residence of their primary caregiver if the co-holders of parental responsibilities and rights or a caregiver is in possession of a permit issued by a magistrate which corresponds with Form 3 of annexure A.

(4) The household to which the child has to move, must be free of COVID-19.

(5) (a) Before a magistrate issues a permit referred to in regulation 17(1)(c), he or she must be provided with—

- (i) a birth certificate or certified copy of a birth certificate of the child or children to prove a legitimate relationship between the co-holders of parental responsibilities and rights; and
- (ii) written reasons why the movement of the child is necessary.

(b) Before a magistrate issues a permit referred to in 17(2) or (3), he or she must be provided with—

- (i) A court order
- (ii) a parental responsibilities and rights agreement or parenting plan registered with the family advocate or
- (iii) a birth certificate or certified copy of a birth certificate of the child or children to prove a legitimate relationship between the co-holders of parental responsibilities and rights; and
- (iv) written reasons why the movement of the child is necessary.

**Attendance of funerals**

18. (1) Movement between a province, metropolitan area or district by a person wishing to attend a funeral shall only be permitted if that person so wishing to attend the funeral is a—

- (a) spouse or partner of the deceased;
- (b) child of the deceased, whether biological, adopted or stepchild;
- (c) child-in-law of the deceased;
- (d) parent of the deceased whether biological, adopted or stepparent;

- (e) sibling, whether biological, adopted or stepbrother or sister of the deceased; or  
 (f) grandparent of the deceased;
- (2) Attendance at a funeral is limited to 50 people and will not be regarded as a prohibited gathering;
- (3) Night vigils at a funeral is banned.
- (4) During a funeral, all hygienic conditions and distancing measures must be adhered to for the limitation of exposure of persons at the funeral to COVID-19.
- (5) Each person, whether travelling alone or not, wishing to attend a funeral and who has to travel between districts, or between provinces to attend a funeral must obtain a permit which corresponds substantially with Form 4 of Annexure A, from his or her nearest magistrate's office or police station to travel to the funeral and back.
- (6) The head of court, or a person designated by him or her, or a station commander of a police station or a person designated by him or her, may issue the permit to travel to a funeral.
- (7) Upon a request for a permit to attend a funeral, a person requesting a permit must produce a death certificate or a certified copy of the death certificate to the head of court, or a person designated by him or her, or a station commander of a police station or a person designated by him or her. Provided that where a death certificate is not yet available, and the funeral must be held within 24 hours in keeping with cultural and religious practices, the person requesting the permit must make a sworn affidavit which corresponds with Form 5 of Annexure A, together with a letter from a cultural or religious leader confirming the need for the funeral within 24 hours.
- (8) Only two family members or a person with a close affiliation to the deceased may, with the required permits, be present in the vehicle transporting the mortal remains to the metropolitan or district area, or province where the funeral will take place; provided that the cause of death of the deceased being transported is non-COVID-19 related.
- (9) The Regulations for the use of public transport must be strictly adhered to when travelling.
- (10) A copy of the permit issued and the death certificate or sworn affidavit made, must be kept safely by the head of court, or station commander of a police station for record keeping for a period of three months after the national state of disaster has ended, where after it may be destroyed.
- (11) All forms must be completed in full, including full names, identification or passport numbers and full contact details as required in the form and failure to do so will result in the form being rejected as invalid.

#### Prohibition on evictions

16. A competent court may grant an order for the eviction of any person from land or a home in terms of the provisions of the Extension of Security of Tenure Act 62 of 1987 and the Prevention of Illegal Eviction from and Unlawful Occupation of Land Act 19 of 1998: Provided that any order of eviction shall be stayed and suspended until the last day Alert Level 4, unless a court decides that it is not just and equitable to stay and suspend the order until the last day of the Alert Level 4 period.

NH  


**Public transport**

20. (1) The Minister of Transport must, after consultation with the Cabinet members responsible for cooperative governance and traditional affairs, health, police and justice and correctional services, issue directions for the resumption of different modes of public transport to cater for the gradual return to work of people, in respect of —

- (a) rail, bus services, taxi services;
- (b) e-hailing services; and
- (c) private vehicles.

(2) The directions to be issued by the cabinet member responsible for Transport must set out the hygienic conditions that must be adhered to and steps to be followed for the limitation of exposure of members of the public using public transport to COVID-19.

**Closure of borders**

21. All borders of the Republic remain closed during the period of Alert Level 4, except for ports of entry designated by the Cabinet member responsible for home affairs and for the transportation of fuel, cargo and goods during the period of Alert Level 4.

**Transportation of cargo**

22. (1) Rail, ocean, air and road transport is permitted for the movement of cargo to other countries and within the Republic of South Africa, subject to national legislation, for the transportation of the following goods—

- (a) essential goods for import as set out in Annexure B to the Regulations;
- (b) the import of materials and components required for manufacturing activities allowed under Alert Level 4;
- (c) cargo at ports of entry;
- (d) goods cleared at ports of entry for removal in transit through the Republic destined for neighboring countries;
- (e) permitted goods for export as set out in Annexure C to the Regulations;
- (f) transport of goods within the Republic of South Africa; and
- (g) any other goods as set out in Directions by the relevant Cabinet member, taking into account health risks, constrained capacity at ports of entry and other factors relevant to the health, public order and economic effects of Covid-19.

(2) The Cabinet member responsible for transport, may, after consultation with the Cabinet members responsible cooperative governance and traditional affairs, trade, industry and competition, health, justice and correctional services and public enterprises, issue directions relating to sea cargo operations and air freight operations.

**Gatherings**

23. (1) All gatherings are banned, except—
- (a) for funerals;
  - (b) when at a workplace; or



- (c) when buying or obtaining goods and services, as allowed in Table 1.
- (2) An enforcement officer must, where a gathering takes place—
- (a) order the persons at the gathering to disperse immediately; and
- (b) if the persons refuse to disperse, take appropriate action, which may, subject to the Criminal Procedure Act, include arrest and detention.

#### Places and premises closed to the public

24. (1) Any place or premises normally open to the public where religious, cultural, sporting, entertainment, recreational, exhibitional, organisational or similar activities may take place, is closed.

(2) Any place or premises normally open to the public or where people may gather, are prohibited. These include—

- (a) public parks, sports grounds and fields, beaches and swimming pools;
- (b) flea markets;
- (c) sites and bazaars;
- (d) night clubs;
- (e) casinos;
- (f) hotels, lodges, bed and breakfasts, *struise*, timeshare facilities and resorts, and guest houses, except to the extent that they are required for remaining tourists confined to hotels, lodges and guest houses;
- (g) private and public game reserves except to the extent that they are required for remaining tourists confined to private and public game reserves;
- (h) holiday resorts except to the extent that they are required for remaining tourists confined to such holiday resort;
- (i) taverns and shebeens, or similar establishments;
- (j) theatres and cinemas; and
- (k) museums.

(3) Persons rendering security and maintenance services may continue to perform these services at the places or premises listed in this regulation.

(4) The Cabinet member responsible for cooperative governance and traditional affairs may, by direction in the Gazette, determine any other place or premises that must be closed, if there is a risk to any person or members of the public being exposed to COVID-19.

#### Controlled visits by members of the public

25. All visits by members of the public to—

- (a) Correctional Centres;
- (b) Remand Detention Facilities;
- (c) Police Holding Cells;
- (d) Military Detention Facilities;
- (e) Health establishments and facilities, except to receive treatment or medication in accordance with health protocols; and

MM  
A

(f) Facilities controlled or managed by the Department of Social Development, including Child and Youth Care Centres, shelters, One Stop Centres, and Treatment Centres, will be allowed to the extent and in the manner as directed by the Cabinet member responsible for cooperative governance and traditional affairs after consultation with the Cabinet members responsible for health, police and justice and correctional services.

#### **Sale, dispensing or transportation of liquor**

26. (1) The sale, dispensing and distribution of liquor is prohibited.
- (2) The transportation of liquor is prohibited, except where alcohol is required for industries producing hand sanitizers, disinfectants, soap, alcohol for industrial use and household cleaning products.
- (3) The transportation of liquor for export purposes is permitted.
- (4) No special or events liquor licenses may be considered for approval during the duration of the national state of disaster.

#### **Tobacco products, e-cigarettes and related products**

27. The sale of tobacco, tobacco products, e-cigarettes and related products is prohibited.

#### **Operation of economic sectors**

28. (1) Businesses and other entities as set out in Table 1 may commence operations.
- (2) Every person in control of a retail store or institution must—
- (a) take steps to ensure that customers keep a distance of at least one and a half metres from each other, and that all directions in respect of health protocols and social distancing measures COVID-19, are adhered to; and
- (b) designate a compliance official to ensure that the safety controls are strictly adhered to, and display the name of the official prominently in the store or in a visible area.
- (3) Retail stores selling goods as provided for the Table 1 are prohibited from selling other goods that are not permitted in terms of the Table 1.
- (4) Persons performing essential services or permitted services, must be duly designated in writing by the head of an institution, or a person designated by him or her, on a form that corresponds with Form 2 in Annexure A: Provided that Cabinet member responsible for small enterprises may issue directions in respect of small and micro enterprises, co-operatives, informal traders and spaza shops in respect of those entities.

#### **Energy and petroleum products supply**

29. To ensure the continuous supply of energy and petroleum products to society as referred to in Table 1—
- (a) collieries that supply Eskom may continue to operate at full capacity; and

MW  
A

**TABLE 1**  
**ALERT LEVEL 4**

All persons who are able to work from home should do so.

Persons in the following list of industries and activities will be permitted to perform work outside the home, and to travel to and from work, under Alert Level 4, subject to—

- (a) strict health protocols, and social distancing rules;
- (b) return to work to be phased in to enable measures to make the workplace COVID-ready; and
- (c) return to work to be done in a manner that avoids and reduces risks of infection.

PERMISSIONS AND PROHIBITIONS	
<b>PART A</b>	<b>AGRICULTURE, HUNTING, FORESTRY AND FISHING</b>
1	All agriculture, hunting, forestry and fishing, bee-keeping, including preparation, cultivation, harvesting, storage, transport of live animals and auctions (subject to health directions) and related agricultural infrastructure and services (including research, inspection, certification and quality control). All fishing, operation of fish hatcheries and fish farms, on such conditions as may be issued in directions by the cabinet members responsible for the environment, forestry and fisheries. Harvesting and storage activities essential to prevent the wastage of primary agricultural, fishing and forestry goods. Export of all agricultural, agro-processed, fishing and forestry products.
<b>PART B</b>	<b>ELECTRICITY, GAS AND WATER SUPPLY</b>
1.	All electricity, gas and water supply is permitted.
<b>PART C</b>	<b>MANUFACTURING</b>
1	Manufacture of wholesale and retail products permitted to be sold under Alert Level 4, and all input products, permitted scaling up to full employment, except where otherwise indicated, and subject to strict health protocols.
2	Manufacture of paper and paper products, excluding stationery, permitted scaling up to full employment and subject to strict health protocols.
3	Manufacture of plastic and packaging, including glass, plastic bottles and containers, permitted scaling up to full employment and subject to strict health protocols.
4	Petroleum refineries, smelters, and furnaces, permitted scaling up to full employment and subject to strict health protocols.
5	Manufacture of winter clothing, footwear, bedding and heaters (and all inputs required, including textiles) permitted, commencing at 25% and scaling up to 50% employment and subject to strict health protocols.
6	Manufacturing of automobiles, steel and other metals, rail and ship-building (including components), scaling up in phases to 50% employment and subject to strict health protocols.
7	Stationery production, scaling up in phases to 50% employment and subject to strict health protocols.
8	Cement, other construction material, and hardware, scaling up in phases to 50% employment and subject to strict health protocols.
9	All other manufacturing, scaling up to 30% employment and subject to strict health protocols.

ANN  
A

<b>PART D</b>	<b>CONSTRUCTION AND RELATED SERVICES (INC. TRADES PERSONS)</b>
1	Civil engineering for public works projects (including water, energy, sanitation).
2	Public works civil engineering and construction works.
3	Road and bridge projects, including local road repairs
4	Critical maintenance and repairs.
<b>PART E</b>	<b>WHOLESALE AND RETAIL TRADE, COVERING STORES, SPAZA SHOPS, E-COMMERCE AND INFORMAL TRADERS</b>
1	Food products, including non-alcoholic beverages and animal food.
2	The sale of hot cooked food, only for home delivery.
3	Toilet Paper, sanitary pads, sanitary tampons, and condoms.
4	Hand sanitizer, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment.
5	Products for the care of babies and toddlers.
6	Personal toiletries, including haircare, body, face, hand and foot care products, roll-ons, deodorants, dental care products.
7	Medical and Hospital Supplies, medicine, equipment and personal protective equipment.
8	Fuel and lighting, including coal, wood, paraffin and gas.
9	Airtime and electricity.
10	Hardware, components and supplies.
12	Components for vehicles undergoing emergency repairs
13	Chemicals, packaging and ancillary products used in the production of any these products listed in Part E.
14	Textiles required to produce face masks and other personal protective equipment and winter clothing.
15	Winter clothing, footwear, bedding and heaters and the components and fabrics required to manufacture these.
16	Children's clothing and fabrics and components required to manufacture these.
17	Stationery and educational books.
18	Personal ICT equipment including computers, mobile telephones and other home office equipment.
19	No sale of liquor permitted.
20	Directions may permit the incremental expansion of e-Commerce, taking into account the need to limit the extent of movement on the road, contact between people, law-enforcement challenges and the impact on other businesses.
<b>PART F</b>	<b>INFORMATION AND COMMUNICATION SERVICES</b>
1	All telecommunication services and infrastructure.
2	Information and Communication Technology services for all private and business customers.
3	Postal services and courier services for all permitted Alert Level 4 services.
<b>PART G</b>	<b>MEDIA AND ENTERTAINMENT SERVICES</b>
1	Online services.
2	Productions for local broadcast and live streaming of creative sector services in support of COVID-19 subject to directions.
3	Newspapers and broadcasting.
<b>PART H</b>	<b>FINANCIAL AND BUSINESS SERVICES</b>
1	Employees should work from home where possible.
2	Essential financial services may operate, subject to directions issued by the relevant Cabinet member, including the following services necessary to maintain the functioning of a financial system as defined in section 1(1) of the Financial

	<p><b>Sector Regulation Act, only when the operation of a place of business or entity is necessary to continue to perform those services:</b></p> <ol style="list-style-type: none"> <li>i. the banking environment (including the operations of mutual banks, co-operative banks, co-operative financial institutions and the Postbank);</li> <li>ii. the payments environment;</li> <li>iii. the financial markets (including market infrastructures licensed under the Financial Markets Act, 2012 (Act No. 19 of 2012);</li> <li>iv. the insurance environment;</li> <li>v. the savings and investment environment;</li> <li>vi. pension fund administration;</li> <li>vii. outsourced administration;</li> <li>viii. medical schemes administration; and</li> <li>ix. additional services designated in terms of regulation 11B (4A) (c) (i).</li> </ol> <p>The services listed above may not include debt collection services.</p>
3	Services necessary for the provision of social grants.
4	Private security services may operate.
5	Implementation of payroll systems.
6	Car sales under specific directions
7	Chauffeur services, rental of motor vehicles, driven vehicles, machinery and equipment, and of goods to support other Alert Level 4 services.
8	Call centres, for local and all international markets, may operate subject to directions issued by the relevant cabinet members.
9	Other professional services may operate only where work-from-home is not possible, and only to support other Alert Level 4 services.
<b>PART I</b>	<b>ACCOMMODATION AND FOOD SERVICE ACTIVITIES PERMITTED</b>
1	Accommodation not permitted, except for quarantine and essential services
2	Restaurants only for food delivery services (9H00-19H00) and subject to restriction on movement (no sit down or pick-up allowed).
<b>PART J</b>	<b>TRANSPORT, STORAGE AND COMMUNICATION SERVICES PERMITTED</b>
1	Ocean, rail, road and air transport of goods permitted only for activities set out in Regulation 22(1).
2	Public rail, minibus taxi and bus services will resume at Alert Levels and on terms as will be set out in Directions, based on the progressive increase in commuter numbers during the various phases.
3	E-hailing services subject to restrictions on capacity and times, and for permitted activities only.
4	Transport and logistics in respect of specified cargo specified in J1, and permitted retail goods to neighbouring countries, which shall include all goods imported via SA ports of entry, for re-export to neighbouring countries.
<b>PART K</b>	<b>MINING AND QUARRYING</b>
1	Coal production for Eskom scaling up to full employment.
2	Open-cast mining scaling up to a baseline of 50% and thereafter scaling up to full employment.
3	All other mining starting in batches scaling up towards 50% employment.
<b>PART L</b>	<b>REPAIR AND RELATED EMERGENCY SERVICES PERMITTED</b>
1	Tow trucks and vehicle recovery services.
2	Emergency repair work, including plumbers, electricians, locksmiths, glaziers, roof repair work.
3	Emergency automobile repairs for all persons.
<b>PART M</b>	<b>SUPPLY CHAINS</b>

1	Production, manufacturing, supply, logistics, transport, delivery and critical maintenance and repair of goods and services (including components and equipment) required for the production or rendering of permitted goods and services
2	All workplaces or premises must have care and maintenance that is essential to the prevention of the destruction or significant impairment of working areas, plant, machinery or inventory, or to permit orderly wind down arrangements, on such conditions as may be issued by means of directions by the relevant cabinet members.
<b>PART N PRIVATE HOUSEHOLDS' EMPLOYMENT</b>	
1	Live-in staff, and staff providing care to the sick, mentally ill, elderly, people with disabilities and children.
<b>PART O PUBLIC ADMINISTRATION, GOVERNMENT SERVICES AND OTHER ARMS OF THE STATE</b>	
Only essential government and administration services may operate, including:	
1	Disaster management services.
2	Licensing, permitting, deeds, masters offices, birth and death certificates, replacement identification documents
3	Any other service designated by the Executive Authority, HODs, Heads of Courts, and Heads of other Chapter 9 Institutions.
4	Essential municipal services.
5	Services related to the functioning of courts; the State Capture Commission.
6	Essential SARS services defined by the Commissioner of SARS.
7	Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services.
8	Services rendered by the Executive, members of Parliament, Members of the Provincial Legislature, Members of Local Councils, the Judiciary, traditional leaders and National Office Bearers of Political Parties represented in Parliament.
9	Commissioners of the South African Human Rights Commission, Gender Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Public Protector and Deputy Public Protector and the Independent Electoral Commission.
<b>PART P HEALTH, SOCIAL AND PERSONAL SERVICES</b>	
1	Medical and veterinary services permitted.
2	Cleaning, sanitation, pest control, sewerage, waste and refuse removal services.
3	Recycling of glass, paper, plastic, metal, tyres and such others as determined by directions, are permitted at 50% capacity. Informal recyclers will be permitted to resume operations.
4	All Social work, counselling, services supporting gender based violence, care and relief activities permitted.
5	Wildlife Management, Anti-poaching, Animal Care and Veterinary services.
6	Funeral services, including mortuaries services and the transportation of mortal remains.
7	Trade union essential staff for workers covered by Alert Level 4, subject to Directions.
<b>PART Q EDUCATION SERVICES</b>	
1	Permitted on dates and schedule set out separately.

MM  
A

**ANNEXURE A**  
**FORM 1**  
**ORDER FOR A PERSON TO GO TO A SITE OF ISOLATION, QUARANTINE FACILITY, OR**  
**FOR A PERSON TO GO FOR MEDICAL EXAMINATION**  
**Regulation 7(2)**

IN THE MAGISTRATES COURT FOR THE DISTRICT OF \_\_\_\_\_ HELD  
 AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.

BEFORE ME \_\_\_\_\_ MAGISTRATE FOR THE  
 AFOREMENTIONED DISTRICT IN CHAMBERS

WHEREAS it appears that \_\_\_\_\_ (name of person)  
 Being a person:

- who has been clinically, or by a laboratory, confirmed as having COVID-19
- who is suspected of having contracted COVID-19
- who has been in contact with a person who is a carrier of COVID-19  
and who has refused to —
- submit to a medical examination, including but not limited to the taking of any bodily sample by a person authorised in law to do so;
- be admitted to a site to be used as isolation or a quarantine facility; or
- submit to mandatory prophylaxis, treatment, isolation or quarantine or isolation in order to prevent transmission.

I hereby issue an order for the submission of the said person to a medical examination, including the taking of any bodily sample by a person authorised in law.

..... DATE .....

MAGISTRATE

**NOTE:** This order remains in force until —  
 (a) it is executed;  
 (b) it is cancelled by the person who issued it or, if such person is not available, by any person with like authority;  
 (c) a period of ninety days has lapsed from the date of its issue; or  
 (d) the purpose for the issuing of the order has lapsed.

Signed at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_  
 2020.



*Handwritten initials: NM*

**FORM 2**  
**PERMIT TO PERFORM AN ESSENTIAL OR PERMITTED SERVICE**  
**Regulations 10(2)(b) and 20(4)**

- Please note that the person to whom the permit is issued must at all times present a form of identification together with this permit. If no identification is presented, the person to whom the permit is issued will have to return to his or her place of residence during Alert Level 4.

I, being the head of institution, with the below mentioned details,

<b>Surname</b>				
<b>Full names</b>				
<b>Identity number</b>				
<b>Contact details</b>	<b>Cell nr.</b>	<b>Tel Nr(W)</b>	<b>Tel Nr(H)</b>	<b>e-mail address</b>
<b>Physical Address of institution</b>				

Hereby certify that the below mentioned official/employee is performing services in my institution

<b>Surname</b>	
<b>Full names</b>	
<b>Identity number</b>	
<b>Place of residence of employee</b>	

Signed at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
*Signature of Head of Institution*



NM

**FORM 3**  
**PERMIT FOR THE MOVEMENT OF CHILDREN TO TRAVEL TO ANOTHER**  
**PROVINCE/METROPOLITAN AREA/DISTRICT**  
**Regulation 17(1)(c)**

*Note: This permit and any form of identification must be in the possession of the person to whom this permit is issued*

**IN THE MAGISTRATES COURT FOR THE DISTRICT OF \_\_\_\_\_ HELD**  
**AT \_\_\_\_\_ ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_ 2020.**

**BEFORE ME \_\_\_\_\_ MAGISTRATE FOR THE**  
**AFOREMENTIONED DISTRICT IN CHAMBERS**

I, hereby issue this permit for travel to the following person:

Full names:			
Surname:			
Identity number:			
Address of place of residence:			
Province of residence:			
Contact details:	Cell nr:	Tel No (h):	e-mail address:
Metropolitan area/district travelling to:			
Province travelling to:			
Date of travel to:			
Date of return travel:			
Name of child concerned (must correspond with the birth certificate):			
Reason for movement of child(ren):			

I also declare that the above-mentioned person presented the documentation as required by regulation 17(5).

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

Magistrate issuing \_\_\_\_\_

Official stamp

NM  


**FORM 4**  
**PERMIT TO TRAVEL TO ANOTHER PROVINCE/METROPOLITAN AREA/DISTRICT FOR A**  
**FUNERAL**  
**Regulations 18(5)**

*(To be completed by the head of court or a station commander or a person designated by him or her respectively.)*

I, \_\_\_\_\_ (full names of \*head of court, or a person designated by him or her / station commander of a police station or a person designated by him or her) for—

(a) the Magistrate's court for the district of \_\_\_\_\_;

(b) the police station at \_\_\_\_\_

hereby issue this permit for travel to another district/province, to the following person:

Full names:					
Surname:					
Identity number:					
Address of place of residence:					
Province of residence:					
Contact details:	Cell nr		Tel No (h)		e-mail address
Metropolitan area/district travelling to:					
Province travelling to:					
Date of funeral:					

I also declare that the above-mentioned person presented the \*death certificate/certified copy of the death certificate/affidavit to me.

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

\_\_\_\_\_  
 \*Person issuing permit

Official stamp

 MH

**FORM 5**  
**SWORN AFFIDAVIT BY PERSON WHO WISHES TO ATTEND A FUNERAL IN ANOTHER**  
**PROVINCE/METROPOLITAN AREA/DISTRICT**  
**Regulations 18(7)**

- Note: 1.** *A person giving false information on this affidavit shall be guilty of an offence and, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.*
- 2.** *This affidavit may only be sworn to or affirmed at a magistrate's court or police station.*

**I,**

Full names:				
Surname:				
Identity number				
Address of place of residence:				
Province of residence:				
Contact details:	Cell nr		Tel No (h)	e-mail address
District of funeral:				
Province in which funeral will take place:				

Hereby **declare under oath with** regards to the deceased:

Names of deceased:				
Surname of deceased:				
Relationship/Affiliation to the deceased (eg spouse/parent)				
I am not in possession of the death certificate for the reasons set out, and a copy of the letter from a cultural or religious leader is attached:	<b>Yes</b>		<b>No</b>	
Date of funeral:				
Province in which funeral will take place:				
*City/town/village of funeral:				

NH  


**\*OATH/AFFIRMATION**

I, \_\_\_\_\_ (full names), Identity number \_\_\_\_\_ hereby declare under \*oath/affirmation that the above-mentioned information is true and correct.

Signed at \_\_\_\_\_ on this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

Signature of person making affidavit \_\_\_\_\_

**CERTIFICATION**

I hereby certify that before administering the \*oath/taking the affirmation, I asked the deponent the following questions and noted \*his/her answers in \*his/her presence as indicated below:

(a) Do you know and understand the contents of the above declaration?

Answer: \_\_\_\_\_

(b) Do you have any objection to taking the \*oath/affirmation?

Answer: \_\_\_\_\_

I \_\_\_\_\_ Do you consider the \*oath/affirmation to be binding on your conscience?

Answer: \_\_\_\_\_

I hereby certify that the deponent has acknowledged that \*he/she knows and understands the content of this declaration which was \*sworn to/affirmed before me, and the deponent's signature was placed thereon in my presence.

Signed at \_\_\_\_\_ this \_\_\_\_\_ day of \_\_\_\_\_ 2020

\*Justice of the Peace/Commissioner of Oaths

Full names: \_\_\_\_\_

Designation: \_\_\_\_\_

Business address: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\*Delete which is not applicable\*.

*Handwritten initials: NN*

**ANNEXURE B  
ESSENTIAL GOODS FOR IMPORT  
Regulation 22(1)**

ESSENTIAL GOODS FOR IMPORT	
1.	Food products, including non-alcoholic beverages and animal feed ,
2.	Sanitary pads, sanitary tampons, condoms.
3.	Hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment, excluding cloth face masks.
4.	Products for the care of babies and toddlers.
5.	Personal toiletries, including haircare, body and face care products, roll-ons, deodorants, and dental care products.
6.	Medical and hospital supplies, medicine, equipment and personal protective equipment (excluding cloth face masks).
7.	Fuel, including coal, wood, paraffin and gas.
8.	Hardware, components and supplies.
9.	Components for after-sales vehicles services.
10.	Chemicals, packaging and ancillary products used in the production of any these products.
11.	Textiles required to produce face masks, and other personal protective equipment.
12.	ICT equipment to facilitate work-from-home arrangements including computers, mobile telephones and other home office equipment.

**ANNEXURE C  
PERMITTED GOODS FOR EXPORT  
Regulation 22(1)(e)**

PERMITTED GOODS FOR EXPORT	
1.	Agricultural, agro-processing, forestry and fishing products
2.	Manufacturing products and mining products permitted for production under the Alert Level 4 table subject to directions issued by the relevant Minister



**ANNEXURE D  
ESSENTIAL SERVICES**

- A:** Essential and permitted services referred to in section 16(3) of the Regulation shall refer to:
- (a) the list of essential services as set out in B below; and
- (b) such other service as are set out in Alert Level 4 and where the technological, industrial, structural or similar requirement of the service necessitates a continuous or shift operation, as set out in directions, as set out below.
- B** Essential services means the services as defined in section 213 of the Labour Relations Act, 1995 (Act No. 66 of 1995), and designated in terms of section 71(8) of the Labour Relations Act, 1995 (and which designation remains valid as at the date of publication of this regulation), and as listed below:
1. Medical, Health (including Mental Health), Laboratory and Medical services and the National Institute for Communicable Diseases;
  2. Disaster Management, Fire Prevention, Fire Fighting and Emergency services;
  - 3.1 (a) The following services necessary to maintain the functioning of a financial system as defined in section 1(1) of the Financial Sector Regulation Act, only when the operation of a place of business or entity is necessary to continue to perform those services:
    - (i) the banking environment (including the operations of mutual banks, co-operative banks, co-operative financial institutions and the Postbank);
    - (ii) the payments environment;
    - (iii) the financial markets (including market infrastructures licensed under the Financial Markets Act, 2012 (Act No. 19 of 2012);
    - (iv) the insurance environment;
    - (v) the savings and investment environment;
    - (vi) pension fund administration;
    - (vii) outsourced administration;
    - (viii) medical schemes administration; and

(b) additional services set out in directions.

(b) The services listed in paragraph (a) may not be construed to include debt collection services.
  - 3.2 Services necessary for the provision of social grants.
  4. Production and sale of the goods listed in Annexure B;
  5. Wholesale and retail stores for re-stocking;
  6. Electricity (including vital demand management services); water, gas and fuel production, supply and maintenance;
  7. Critical jobs for essential government services as determined by Head of National or Provincial Departments in accordance with the guidance of the Department of Public Service and Administration, including Social Grant Payments and pension payments;
  8. Essential municipal services;

MM  
Ⓢ

9. Care services and social relief of distress provided to older persons, mentally ill, persons with disabilities, the sick, and children;
10. Funeral and cremation services, including mortuaries services and the transportation of mortal remains;
11. Wildlife Management, Anti-poaching, Animal Care and Veterinary services;
12. Newspaper, broadcasting and telecommunication infrastructure and services, including call centres critical for the support of such services;
13. Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector;
14. Cleaning, sanitation, pest control, sewerage, waste and refuse removal services;
15. Services related to the essential functioning of courts, judicial officers, the Master of the High Court, Sheriffs and legal practitioners required for those services;
16. Essential SARS services defined by the Commissioner of SARS;
17. Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services;
18. Postal services and courier services related to transport of medical products;
19. Private security services;
20. Air-traffic Navigation, Civil Aviation Authority, air charters, Cargo Shipping and dockyard services;
21. Gold, gold refinery, coal and mining;
22. Accommodation used for persons rendering essential services, quarantine, isolation and the lockdown;
23. Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment;
24. Transport services for persons rendering essential services and goods, and transportation of patients;
25. Services rendered by the Executive, members of Parliament, Members of the Provincial Legislature, Members of Local Councils, the Judiciary, traditional leaders and National Office Bearers of Political Parties represented in Parliament;
- 26.1 Commissioners of the South African Human Rights Commission, Gender Commission, the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, the Public Protector and Deputy Public Protector and the Independent Electoral Commission; and
- 26.2 Services rendered by the institutions referred to in item 26.1
27. Transport and logistics in respect of cargo and goods as set out in Part A to neighbouring countries;
28. Tow trucks and vehicle recovery services;
29. Call centres necessary to provide health, safety, social support, government and financial services, debt restructuring for consumers of retailers, and access to short-term insurance policies as a result of reduced income or loss of income;
30. Harvesting and storage activities essential to prevent the wastage of primary agricultural goods;
31. Implementation of payroll systems to the extent that such arrangement has not been made, to ensure timely payments to workers; and

MM

32. Critical maintenance services which cannot be delayed for more than 21 days and are essential to resume operations;
33. Trades necessary for the rendering of emergency repair work, including plumbers, electricians, locksmiths, glaziers, roof repair work;
34. Trades necessary for emergency automobile repairs for persons rendering essential services;
35. Information and Communication Technology services rendered to entities and institutions engaged in delivering essential services in terms of these Regulations.

MM  


**ANNEXURE E**  
**WORKPLACE PLANS**  
**Regulation 18(5)(b)**

A COVID-ready Workplace Plan must be developed prior to the reopening of an enterprise employing persons or serving the public.

For small businesses, the plan can be basic reflecting the size of the business, while for medium and larger businesses, a more detailed written plan should be developed given the larger numbers of persons at the workplace.

The Plan for medium and large businesses must include the following:

1. The date the business will open and the hours of opening;
2. The timetable setting out the phased return-to-work of employees, to enable appropriate measures to be taken to avoid and reduce the spread of the virus in the workplace;
3. The steps taken to get the workplace COVID-19 ready;
4. A list of staff who can work from home; staff who are 60 years or older; and staff with comorbidities who will be required to stay at home or work from home;
5. Arrangements for staff in the establishment:
  - (a) sanitary and social distancing measures and facilities at the entrance and exit to the workplace;
  - (b) screening facilities and systems;
  - (c) the attendance-record system and infrastructure;
  - (d) the work-area of employees;
  - (e) any designated area where the public is served;
  - (f) canteen and bathroom facilities;
  - (g) testing facilities (for establishments with more than 500 employees);
  - (h) staff rotational arrangements (for establishments where fewer than 100% of employees will be permitted to work).
6. Arrangements for customers or members of the public, including sanitation and social distancing measures.

NM  


MM  


Printed by and obtainable from the Government Printer, Boesman Street, Private Bag X85, Pretoria, 0001  
Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za  
Publications: Tel: (012) 748 6053, 748 6081, 748 6066

*Handwritten initials*



ANNEXURE "EP3"

## Office of the State Attorney Pretoria

Private Bag X 91  
PRETORIA  
0001

Salu Building  
Ground Floor  
316 Thabo Sehume Street

Tel: (Switchboard): (012) 309 1500  
(Direct Line): (012) 309 1572  
(Secretary): (012) 309 1557  
(078) 892 8024

Fax/Faks: 086 408 6203  
Direct Fax:  
Docex: 298

19 MAY 2020

Enquires: T MUKASI  
Email: [tmukas1@justice.gov.za](mailto:tmukas1@justice.gov.za)

My Ref: 1603/2020/Z42/DM  
Your Ref: P WASSENAAR/ QB0693

**KRIEK WASSENAAR AND VENTER INC.**  
1<sup>ST</sup> FLOOR, NOREX HOUSE, 79 RAUCHAVENUE  
GEORGEVILLE, PRETORIA, 0184  
EMAIL: [pieterk@kriekprok.co.za](mailto:pieterk@kriekprok.co.za);  
[peter@kriekprok.co.za](mailto:peter@kriekprok.co.za)  
[rohann@kriekprok.co.za](mailto:rohann@kriekprok.co.za)

Dear Sir,

**URGENT APPLICATION: SAKELIGA NPC V THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND OTHERS**

1. We refer to above matter and to your letters dated 2 May 2020, 5 May 2020 and 13 May 2020, which are attached to your client's application at pages 146 to 152.
2. Our clients apologise for not responding to your letters. Regarding the first two letters (2 and 5 May 2020), unfortunately the email addresses that you used did not reach the relevant people. As a result, the two letters did not come to the attention of our clients. Regarding the third letter (13 May 2020), it was only received by the Minister of Small Business Development. The rest of our clients only saw the letters and became aware of your request for mediation when the

Access to Justice for All

Always quote my reference number

urgent application was served on them.

3. Your offer to resolve the dispute by mediation has not been rejected. We stress that, in all matters of this type, our clients are keen to avoid litigation. Had our clients received your letters when they were sent, they would have accepted your offer and agreed to mediation. Accordingly, our clients accept your offer to refer this dispute to mediation in terms of Regulation 13 of the Regulations issued on 29 April 2020 in *Government Gazette* 43258, Government Notice 480 ("the Regulations").
4. Without wishing to bypass the process provided for in Regulation 13, our clients are confident that a meeting between the parties will assist in resolving the dispute. To that end, our clients propose a meeting on Friday, 22 May at 11:00 with you and your client and representatives of the respondents. We propose that the meeting be conducted via Zoom. If your clients agree to the meeting, I will email you the Zoom meeting link before 09:00 on Friday morning.
5. Alternatively, if you wish immediately to conduct the mediation under the auspices of the Office of the Solicitor General, in accordance with Regulation 13, we confirm that our clients are amenable to this process and will make themselves available.
6. Please would you respond by no later than 12:00 on Thursday, 21 May 2020.

Yours sincerely



**T MUKASI**  
For: STATE ATTORNEY (PRETORIA)





**KRIEK WASSENAAR & VENTER ING**  
 Prokurators • Advokateadvokate • Attorneys • Counselors

ANNEXURE "EP4"

Our ref: PJ Wassenaar/es/QB0693  
 Your ref: 1603/2020/242/DM

20 May 2020

THE STATE ATTORNEY  
 PRETORIA

By e-mail: [tmukasi@justice.gov.za](mailto:tmukasi@justice.gov.za)  
[PaMokoena@justice.gov.za](mailto:PaMokoena@justice.gov.za)

Sir,

**URGENT APPLICATION: SAKELIGA NPC / THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND OTHERS**

1. We refer to your letter of 19 May 2020.
2. Our client is still willing to agree to a mediation in terms of regulation 13, subject however to the following:
  - 2.1. That the process be facilitated by the new Solicitor-General as required by the regulations;
  - 2.2. That a retired judge be appointed by agreement between the parties and that said retired judge act as a mediator;
  - 2.3. That the mediation be initiated and finalised by no later than close of office hours on Friday, 22 May 2020;
  - 2.4. That the mediation be without prejudice of rights and conducted without limiting our client's right to proceed with the urgent application on 26 May 2020.
3. Even though our client is amenable to attempt mediation with government with the hope that the parties can resolve the dispute to the benefit of the public and specifically the business community, our client has no intention to allow government to use the regulation 13 mediation process as a mechanism to derail and delay the urgent application.
4. If your client wants to proceed with mediation, we request that your offices communicate with the office of the Solicitor-General for the matter to be properly facilitated in terms of the regulations. Kindly provide us with the nomination list of retired judges as soon as possible. Please also inform us of your client's intentions and a proposed date for mediation by no later than close of office hours today.
5. We note that your clients have failed to file opposing affidavits as required by the notice of motion. Kindly note that we will be preparing the court file for lodgement on 21 May 2020 in terms of the Practice

www.kwv-inc.com

(t) (+27) 12 756 7566 • (f) (+27) 86 596 8799 (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchleyn 79 Rauch Avenue, Georgeville, Pretoria 0184  
 (p) Postnet Suite # A7, Private Bag X592, Silverton, 0127 • BTW Reg: 4020260685 • Lede van die Verantw. van Regslul vir Afrikaans



Directeure / Directors: Johan Kriek (BProc, LL.M.), Pieter Johannes Wassenaar (LL.B.)  
 Hoofstaatsadvokaat / Assisted by Tertie Johanna Wassenaar (LL.B.)  
 Konsultante / Consultants: Catharina Elizabeth Pienaar (BA, BCom, LL.B., LL.M., PhD), Sylvia Adriana Venter (LL.B.)  
 • Reg: 2017/030418/21  
 Bidsno 2019/0401

www.kwv-inc.com

Directives of this division of the High Court. Our client's rights remain strictly reserved. Our client does not condone the late filing of affidavits.

6. Feel free to contact writer if you wish to discuss the matter.

Yours faithfully,



**KRIEK WASSENAAR & VENTER INC**  
PETER WASSENAAR – DIRECTOR  
(f) 085 896 8616 (t) 085 896 8616  
(e) peter@kriekwv.co.za



ANNEXURE "EP5"



## Office of the State Attorney Pretoria

Private Bag X 91  
PRETORIA  
0001

Salu Building  
Ground Floor  
318 Thabo Sehume Street

Tel: (Switchboard): (012) 309 1500  
(Direct Line): (012) 309 1572  
(Secretary): (012) 309 1657  
(078) 892 6024  
Fax/Faks: 086 408 8203

Direct Fax:  
Docex: 298

20 MAY 2020

Enquires: T MUKASI  
Email: [tmukas1@justice.gov.za](mailto:tmukas1@justice.gov.za)

My Ref: 1603/2020/Z42/DM  
Your Ref: P WASSENAAR/ QB0693

**KRIEK WASSENAAR AND VENTER INC.**  
1<sup>ST</sup> FLOOR, NOREX HOUSE, 79 RAUCHAVENUE  
GEORGEVILLE, PRETORIA, 0184  
EMAIL: [peterk@kriekorok.co.za](mailto:peterk@kriekorok.co.za);  
[peter@kriekprok.co.za](mailto:peter@kriekprok.co.za)  
[rohann@kriekorok.co.za](mailto:rohann@kriekorok.co.za)

Dear Sir,

**URGENT APPLICATION: SAKELIGA NPC V THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND OTHERS**

**Urgent application: Sakeliga NPC v The President of the Republic of South Africa and Others**

1. We refer to your letter dated 20 May 2020.
2. Our clients agree to a mediation of this matter in terms of Regulation 13. Our office will forthwith communicate with the office of the Solicitor-General as contemplated in the regulation. We trust that a mediator will be appointed as soon as possible so that the mediation can commence and be finalised without delay.

Access to Justice for All

Always quote my reference number

3. Regarding the filing of our clients' answering affidavit, we point out that it is not for your client to condone the late filing of affidavits. Your client was fully aware of the position before the end of March 2020 but chose to initiate its urgent application over the past weekend, giving our clients two days within which to respond to its lengthy affidavit. Clearly, the time period imposed by your client is unreasonable.
4. Your client has cited nine respondents. We and our counsel are in the process of consulting with our clients and drafting the answering affidavit. Our clients are taking the matter seriously and have not delayed in formulating a response to your client's application. We will file the answering affidavit as soon as it is ready for filing.
5. We will keep you informed of developments as soon as we have more information.

Yours sincerely



**T MUKASI**  
**For: STATE ATTORNEY (PRETORIA)**



ANNEXURE "EP6"



## Office of the State Attorney Pretoria

Private Bag X 91  
PRETORIA  
0001

Satu Building  
Ground Floor  
316 Thabo Sehume Street

Tel: (Switchboard): (012) 309 1500  
(Direct Line): (012) 309 1572  
(Secretary): (012) 309 1557  
(076) 892 8024

Fax/Faks: 086 406 8203  
Direct Fax:  
Docex: 298

20 MAY 2020

Enquires: T MUKASI  
Email: [tmukas1@justice.gov.za](mailto:tmukas1@justice.gov.za)

My Ref: 1803/2020/Z42/DM  
Your Ref: NEW REFERRAL

**MR PANDELANI F  
THE SOLICITOR GENERAL  
PRETORIA**

Dear Sir,

**URGENT APPLICATION: SAKELIGA NPC V THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA AND OTHERS**

1. Above matter bear reference.
2. In the above matter, our office acts for the President of the Republic of South Africa and 8 others in an application where Sakeliga NPC is seeking a declaratory orders and related relief as a result of the provisions of the regulations which came into effect from the 29<sup>th</sup> April 2020.
3. We have since written a letter to the attorneys acting for the applicant requesting them to agree to refer the matter to mediation as provided for in regulation 13(3) and they have since responded to the letter with an indication that they are amendable to having the matter mediated. The two letters are attached hereto for your consideration.

MM

Access to Justice for All

Always quote my reference number

4. We direct this letter to you in terms of regulation 13(2) wherein we request your assistance in terms of regulation 13(2)(a).
  
5. Hope you find the above in order and wait to hear from you.

Yours sincerely



**T MUKASI**  
**For: STATE ATTORNEY (PRETORIA)**



## ANNEXURE "EP7"

**Mukasi Terrence**

**From:** Pandelani Fhedzisani  
**Sent:** Friday, May 22, 2020 3:42 PM  
**To:** Mukasi Terrence; peter@kriekprok.co.za; pieterk@kriekprok.co.za; rohann@kriekprok.co.za  
**Cc:** Julia le Roux (julia@arbitration.co.za); Phahlane Mohube  
**Subject:** RE: SAKELIGA NPC vs THE PRESIDENT OF RSA AND OTHERS

Dear Colleagues,

Kindly note that the Office of the Solicitor General has received a request to facilitate mediation as envisaged in section 13 of the Regulations. With particular reference to the contents of the letter dated 20 May 2020 by Applicant's attorneys, the OSG records as follows:

- (1) The *conditions precedent* for the holding of the mediation as contained in the letter aforesaid are as onerous as they equally are unconscionable.
- (2) Mediation envisaged in the Regulations is by arrangement done through and under the auspices of the Arbitration Foundation of South Africa (AFSA) at no cost to the parties. It is unfair on both the office of the Solicitor General and AFSA to expect mediation to occur at such a short notice.
- (3) To this end, it remains the facilitator's view that mediation should not be intended to merely tick-the boxes but should be approached by both parties in good faith.

To the foregoing, the parties are advised that it was impossible to facilitate mediation within a strict short period of time as required by applicant's attorneys. Equally, the facilitator cannot give assurances that then mediation as requested would be concluded before the 26 May 2020 or that the conduct of the mediation would not impact on the case as enrolled.

Notwithstanding the herein aforesaid, parties are advised that a request has been made to AFSA to accord to the parties mediation as requested. AFSA shall be communicating to all parties copied herein on the further handling of the matter. Any communication arising from or relating to the captioned matter should be in writing for the benefit of all parties copied in this email.

Kind regards  
 FR Pandelani  
 Office of the Solicitor General

---

**From:** Mukasi Terrence  
**Sent:** Wednesday, 20 May 2020 14:37  
**To:** Pandelani Fhedzisani  
**Cc:** peter@kriekprok.co.za; pieterk@kriekprok.co.za; rohann@kriekprok.co.za  
**Subject:** SAKELIGA NPC vs THE PRESIDENT OF RSA AND OTHERS

Good afternoon.

We attach hereto our letter to you and the letters exchanged between the parties as well as the application served by the applicant.

Kindly assist in this regard



**TERRENCE MUKASI**

Senior Assistant State Attorney  
Saku Building  
Floor 20, Room 2035  
316 Thabo Sehume street, Pretoria  
Private Bag X91, Pretoria, 0001

Tel: +27[012]309 1572  
Fax: 086 406 6203  
Mobile: +2776 892 6024  
Mailto: [TMukasi@justice.gov.za](mailto:TMukasi@justice.gov.za)



**TOE DITALE**  
[Illegible text]

 NM

Mukasi Terrence

ANNEXURE "EP8"

**From:** peter@kriekprok.co.za  
**Sent:** Saturday, May 23, 2020 12:06 PM  
**To:** Pandelani Fhedzisan; Mukasi Terrence; pieterk@kriekprok.co.za; rohann@kriekprok.co.za  
**Cc:** 'Julia le Roux'; Phahlane Motube  
**Subject:** RE: SAKELIGA NPC vs THE PRESIDENT OF RSA AND OTHERS

Good day,

- 1) I refer to the email received from the office of the Solicitor-General on 22 May 2020.
- 2) Our client does not intend to respond to each and every averment contained in the email. The email however necessitates that our client corrects certain material inaccuracies.
- 3) Regulation 13 was introduced on 30 April 2020. On 2 May 2020 our client requested the offices of the Solicitor-General as well as various ministries responsible for the management of the COVID 19 regulations and directives to initiate mediation regarding the various permit systems employed.
- 4) Our client's urgent application was only brought after government, notwithstanding our earlier request for mediation to which we received no response, proceeded on 12 May 2020 to publish an even more draconian permit system directive.
- 5) Notwithstanding the fact that the matter was already *sub judice*, our client agreed to the State Attorney's request on 19 May 2020 for mediation, but subject to the process being disposed of in a manner that would not derail the urgency of our urgent application. Our client has been more than accommodating towards government. We also point out that our client sought in correspondence, meetings and other interaction with government over the course of more than two months now to avoid litigation, to no avail.
- 6) The Solicitor-General's response is unwarranted. My client takes exception to the allegation made that my client's approach to date constitutes *unconscionable* conduct. The further allegation that that our client is merely attempting to *tick-the-boxes* is even more shocking seeing that our client was the original party to request mediation only to receive a response from the Solicitor-General twenty days after the original request. Regulation 13 is not a formal pre-trial requirement and there are no boxes for our client to merely tick. The response received goes against the face of the goodwill shown by our client to date.
- 7) It appears to our client that the Solicitor-General is unable to impartially manage a government-facilitated mediation process as one would have hoped to glean from the wording of regulation 13. It is unacceptable for the facilitator to make himself a party to the dispute.
- 8) The process requires agreement between the parties. Our client will not subject itself to a mediation process where the facilitator identified to *assist the parties* sees himself as either a referee, or alternatively the protector of the government's interests in the matter. Our client concludes from your letter that the Solicitor-General has formed a detrimental, and may I say improper, view of our client's conduct as well as the urgency of our case. If nothing else, this mediation process deployed by government will only result in further delays and is grossly unequipped to effectively respond to urgent public disputes.

MM  


- 9) Our client takes exception to the lack of urgency in the conduct of the office of the Solicitor-General and the state generally, given the material harm daily befalling businesses and the public under the lockdown regulations.
- 10) There is no agreement between the parties regarding mediation. Our client is proceeding with our preparation for the urgent application on 26 May 2020.

Yours faithfully / Die uwe



Peter Wassenaar  
Kriek Wassenaar & Venter Ing  
Direkteur / Director

• (t) (+27) 12 803 4719 (c) 0829204474  
• (a) 1ste Vloer / 1st Floor, Norex Huis / House, Rauchlaan 79 Rauch Avenue, Georgeville; Pretoria, 0184  
• (p) Postnet Suite # A7, Private Bag X592, Silverton, 0127 • BTW Reg: 4020280685 • Reg: 2012/030418/21



KRIEK WASSENAAR & VENTER

From: Pandelani Fhedziani <FhePandelani@justice.gov.za>  
Sent: Friday, 22 May 2020 15:42  
To: Mukasi Terreace <TMukasi@justice.gov.za>; peter@kriekprok.co.za; pieterk@kriekprok.co.za; rohann@kriekprok.co.za  
Cc: Julia le Roux (Julia@arbitration.co.za) <Julia@arbitration.co.za>; Phahlane Mhube <MPhahlane@justice.gov.za>  
Subject: RE: SAKELIGA NPC vs THE PRESIDENT OF RSA AND OTHERS

Dear Colleagues,

Kindly note that the Office of the Solicitor General has received a request to facilitate mediation as envisaged in section 13 of the Regulations. With particular reference to the contents of the letter dated 20 May 2020 by Applicant's attorneys, the OSG records as follows:

- (1) The conditions precedent for the holding of the mediation as contained in the letter aforesaid are as onerous as they equally are unconscionable.
- (2) Mediation envisaged in the Regulations is by arrangement done through and under the auspices of the Arbitration Foundation of South Africa (AFSA) at no cost to the parties. It is unfair on both the office of the Solicitor General and AFSA to expect mediation to occur at such a short notice.
- (3) To this end, it remains the facilitator's view that mediation should not be intended to merely tick the boxes but should be approached by both parties in good faith.

To the foregoing, the parties are advised that it was impossible to facilitate mediation within a strict short period of time as required by applicant's attorneys. Equally, the facilitator cannot give assurances that then mediation as requested would be concluded before the 26 May 2020 or that the conduct of the mediation would not impact on the case as enrolled.

Notwithstanding the herein aforesaid, parties are advised that a request has been made to AFSA to accord to the parties mediation as requested. AFSA shall be communicating to all parties copied herein on the further handling of the matter. Any communication arising from or relating to the captioned matter should be in writing for the benefit of all parties copied in this email.

Kind regards  
FR Pandelani

MW

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG PROVINCIAL DIVISION, PRETORIA**

Case No. 22352/20

In the matter between:

**SAKELIGA NPC** Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA** First Respondent

**MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS** Second Respondent

**MINISTER OF TRADE, INDUSTRY  
AND COMPETITION** Third Respondent

**MINISTER OF POLICE** Fourth Respondent

**NATIONAL COMMISSIONER OF POLICE** Fifth Respondent

**COMMISSION FOR INTELLECTUAL PROPERTY  
AND COMPANIES** Sixth Respondent

**MINISTER OF SMALL BUSINESS DEVELOPMENT** Seventh Respondent

**THE NATIONAL COMMAND CENTRE** Eighth Respondent

**MINISTER OF HEALTH** Ninth Respondent

---

**RESPONDENTS' ANSWERING AFFIDAVIT**

---

I, the undersigned,

**LINDOKUHLE MKHUMANE**

state the following under oath:

*W. T. ...*

- 1 I am the Acting Director General in the Department of Small Business Development ("the Department"). The Minister of Small Business Development ("the Minister") is cited as the seventh respondent in this application. I am authorised to depose to this affidavit on behalf of the Minister and the Department.
- 2 The contents of this affidavit are within my personal knowledge, unless stated otherwise or so apparent from the context. I believe the contents to be true and correct.
- 3 I have read the answering affidavit in this matter, deposed to by the Director General of the Department of Trade, Industry and Competition. I confirm that the contents of that affidavit are true and correct insofar as they relate to the Directions issued by the Minister on 6 April 2020 and on 12 May 2020.
- 4 I have also read the founding affidavit in this application, deposed to by Mr Pieter Jacobus le Roux. Any allegation in Mr Le Roux's affidavit, that is not dealt with specifically below or in the affidavit of the Director General of Trade, Industry and Competition, is denied.

**The Directions of 12 May 2020**

- 5 Mr Le Roux contends that the Directions issued by the Minister on 12 May 2020 are unlawful and invalid. He says that the Directions create additional obligations on small businesses to acquire business licences or permits, and that the Minister does not have the authority to impose these alleged additional obligations.



- 6 I am advised that these contentions are without merit and that they are based on a misreading of the Directions.

*No additional obligations are created by the Directions*

- 7 The Directions of 12 May 2020 were issued by the Minister to provide guidance to micro and small businesses, permitted to operate under alert level 4, on how to comply with the lockdown Regulations.
- 8 The Directions extended the category of micro and small businesses that previously were allowed to operate under alert level 5. The previous Directions issued by the Minister under alert level 5 are annexed to the affidavit of the Director General of Trade, Industry and Competition, marked "EP1". Under alert level 5, only certain micro and small businesses were permitted to operate, including grocery stores, corner shops, spaza shops, fruit and vegetable stores, and fruit and vegetable informal traders and *Langanas* from the Northern and Western Cape.
- 9 Micro and small businesses permitted to operate during this period (alert level 5) were required to hold permits issued by their local authorities in line with the provisions of the Business Act 71 of 1991. Spaza shop owners and informal food traders who were trading without permits were permitted to apply for temporary permits. Non-South African citizens who were trading without permits were required to be in possession of a valid passport and a valid visa issued by the Department of Home Affairs. Alternatively, they were required to hold an asylum seeker's permit issued in terms of section 22 of the Refugees Act No 130 of 1998, which allowed them to work. Permission to operate was linked to the period



covered by the asylum seeker's permit.

- 10 Staff working in micro and small businesses permitted to operate under alert level 5 were required to carry a permit to perform essential services as provided for in Regulation 11(B)(3) of the lockdown Regulations.
- 11 The Directions of 12 May 2020 extended the category of micro and small businesses, that were permitted to operate under alert level 4, to include:
  - 11.1 Small scale bakeries and confectionaries;
  - 11.2 Small scale hardware stores;
  - 11.3 Informal restaurants and *shisanyamas* for home delivery only;
  - 11.4 Artisans rendering emergency repair work, including plumbers, electricians, locksmiths, glaziers, roof repairers, tow truck drivers, motor mechanics, including small scale vehicle service centres, workshops, small scale motor body repair shops, and fitment centres;
  - 11.5 Sole traders within the clothing and textile and confectionary business; and
  - 11.6 Cooperatives operating under permitted businesses in line with the Regulations.
- 12 As with the 6 April 2020 Directions, the 12 May 2020 Directions required the extended category of businesses to be in possession of permits to trade issued in accordance with the Business Act, or a business licence

or trading permit issued by a relevant municipal authority. The process outlined in paragraph 11 of the Directions provided an alternative way for micro and small businesses, who were not in possession of such permits, to apply for them.

- 13 The requirement for a business licence or trading permit did not amount to an additional condition imposed by the Minister. Nor did it create an additional burden or obstacle on micro and small businesses. The Minister simply restated the existing legal position. In the ordinary course, these types of businesses must be licensed to operate.

**The affidavit of Mr Le Roux**

- 14 I am advised that it is not necessary for me to deal expressly with each allegation in Mr Le Roux's affidavit. Where I do not deal expressly with an allegation inconsistent with the answering affidavit of the Director General of the Department of Trade, Industry and Competition, or inconsistent with what I have stated elsewhere in this affidavit, I deny the allegation.

**Ad paragraph 36**

- 15 I submit that the ordinary grammatical meaning of "*direction*" includes "*control*", "*guidance*", "*leadership*" and "*order*".
- 16 I deny the allegations in this paragraph.

**Ad paragraph 77**

LA L.M

17 I deny that the Directions are vague. The definitions of the various types of enterprises are well known to business owners who operate in these sectors and are set out in the Schedule to the National Small Enterprise Act No 102 of 1996, annexed hereto, marked "KN1".

18 In addition, the licences issued to micro and small businesses define whether the business is micro, small, or medium.

19 I therefore deny the allegations in this paragraph.

Ad paragraph 78

20 It is not a requirement of the Directions that every enterprise must have a licence in terms of the Business Act.

21 Clause 12 of the Directions provides for the furnishing of alternative documents by the head of a small business or a sole proprietor.

22 I therefore deny the allegations in this paragraph.

Ad paragraph 79

23 All the enterprises referred to herein require permission to operate in the ordinary course.

24 I therefore deny the allegations in this paragraph.

Ad paragraph 84

25 Mr Le Roux is once again conflating the issue of registration with the form issued by the head of an institution.

W. L. M.

26 I therefore deny the allegations in this paragraph.

Ad paragraphs 87 - 89

27 The media article and affidavits attached to Mr Le Roux's affidavit do not prove the allegations in these paragraphs.

28 The Regulations, the CIPC certificate, and the Directions issued by the Minister do not obstruct or hinder those enterprises who are entitled to operate from doing so during the lockdown.

29 Ad Annexure "N1"

29.1 I am advised that it is improper to rely on media reports in lieu of evidence. I cannot respond in court papers to media reports.

29.2 I therefore deny the allegations.

30 Ad Annexure "N3"

30.1 The deponent appears not to have familiarised himself with the Directions issued by the Minister.

30.2 I submit that the Directions are clear and self-explanatory.

31 Ad Annexure "N4"

31.1 The deponent appears not to have familiarised himself with the Directions issued by the Minister.

31.2 I submit that the Directions are clear and self-explanatory.

L.A.L.M.  
M. J. H. J.

32 Ad Annexure "N5"

32.1 The deponent appears not to have familiarised himself with the Directions issued by the Minister.

32.2 I submit that the Directions are clear and self-explanatory.

33 Ad Annexure "N6"

33.1 The deponent has not furnished sufficient information to explain why the municipality refused to allow her to trade outside of established supermarkets.

33.2 Had the deponent been in possession of a valid permit prior to the lockdown, she would have been entitled to continue trading.

34 I therefore deny the remaining allegations in these paragraphs.

Conclusion

35 The respondents request that this Court strike the urgent application from the roll with costs, including the costs of two counsel, alternatively that this Court dismiss the application with costs, such costs to include the costs of two counsel.



LINDOKUHLE MKHUMANE



I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at PRETORIA on this the 25<sup>th</sup> day of MAY 2020, the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.



COMMISSIONER OF OATHS

Full names: NEMUKONGWE LUFUNO

Address: ARCHIBOLD

Capacity: OFFICE NO 611 & 612  
JSL TOWERS  
259 PRETORIOUS STREET

Capacity: Attorney

**NEMUKONGWE ATTORNEYS INC**  
OFFICE NO 611 & 612, JSL TOWERS  
259 PRETORIOUS STREET, PRETORIA  
CELL: 082 973 1673  
Email: lanemukongwe@gmail.com

**GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS****DEPARTMENT OF SMALL BUSINESS DEVELOPMENT**

NO. R. 450

06 APRIL 2020

**DIRECTIONS ISSUED IN TERMS OF REGULATION 10(8) OF THE REGULATIONS MADE UNDER SECTION 27(2) OF THE DISASTER MANAGEMENT ACT, 2002 (ACT NO. 57 OF 2002): MEASURES TO PREVENT AND COMBAT THE SPREAD OF COVID-19**

I, Ms Khumbudzo Ntshavheni, MP, the Minister of Small Business Development, in terms of regulation 10(8) of the Regulations published in Government Gazette No.43107, Government Notice No. 318 of 18 March 2020, and made in terms of section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002), hereby issue the Directions set out in the Schedule hereto in order provide guidance on implementation of the provisions of essential goods and services.

  
**MS KHUMBUDZO NTSHAVHENI, MP**  
**MINISTER OF SMALL BUSINESS DEVELOPMENT**  
**DATE:**

LA - L.A.  
12-85

**SCHEDULE****Definitions**

1. In these Directions, a word or expression bears the meaning assigned to it in the Regulations promulgated in Government Gazette No. 43107, Government Notice No.R318 of 18 March 2020 and in the Regulations promulgated in Government Gazette No. 43148, Government Notice No.398 of 25 March 2020, in terms of section 27(2) of the Disaster Management Act, 2002, and unless the context otherwise indicates—

**"lockdown Regulations"** means the regulations published in Government Gazette No. 43148, Government Notice No.398 of 25 March 2020

- 1.1 These Directions are issued in order to assist SMMEs operating grocery stores including the corner shops, spaza shops, fruit and vegetable stores, to comply with the lockdown Regulations. The Informal Food Traders as referred to in the Regulations are limited to Fruit and Vegetable informal traders and the *Langanas*, who operate in the Northern Cape and Western Cape.
- 1.2 In terms of the lockdown Regulations, all enterprises operating within the borders of the Republic of South Africa are expected to close during the lockdown period except for enterprises which are designated as providers of essential goods and services as per Annexure B to the lockdown Regulations.
- 1.3 All enterprises must ensure that the absolute minimum number of staff necessary to safely operate the enterprises are at work during the



*W. L. M.*

lockdown period. Furthermore, employers are encouraged to provide transport for their employees during the lockdown period.

**1.4** The grocery stores outlined in paragraph 1.1 above are permitted to operate during the lockdown period irrespective of the nationality of their owners provided that they adhere to the following:

- 1.4.1** All spaza shop owners and informal food traders must hold permits issued by their respective local municipalities allowing them to trade, in line with the provisions of the Business Act, 71 of 1991 as amended;
- 1.4.2** No person may stay overnight in a grocery store in contravention of the Food Safety and Health Standards;
- 1.4.3** Only the sale of foodstuff and basic necessities is permitted, grocery stores must not sell products or goods that are prohibited by the lockdown Regulations;
- 1.4.4** The grocery stores must uphold the health and hygiene requirements by:
- 1.4.4.1** Maintaining a social distance amongst customers and between the trader and customer of at least one metre;
- 1.4.4.2** Disinfecting and sanitising trading spaces in line with the Directions issued by the Department of Health;
- 1.4.5** Spaza shop owners and informal food traders currently trading without permits may apply for temporary permits, and in case of non-South African citizens, the business owner-
- (a) must have been lawfully admitted into the Republic and must hold a valid passport with a visa issued by the Department of Home

*LA. L.M.*

Affairs in terms of section 10 of the Immigration Act, 2002 (Act No. 13 of 2002), authorising him or her to operate a business; or

(b) must alternatively, hold an asylum seeker's permit issued in terms of section 22 of the Refugees Act, 1998 (Act No. 130 of 1998), which allows him or her to work. Permission to operate will be linked to the period covered by the asylum seeker's permit.

**2. MANDATORY IDENTIFICATION REQUIRED BY STAFF WORKING DURING THE LOCKDOWN PERIOD**

2.1 All staff must at all times carry a permit to perform essential services contemplated regulation 11(B)(3) of the lockdown Regulations.

2.2 A stamp or authorised signature on the permit contemplated in regulation 11(B)(3), to perform essential services, is acceptable.

All staff must at all times carry a positive photo identification such as an identity document, passport or permit, issued by the Department of Home Affairs.

**3. CONTACT DETAILS IN THE EVENT OF SMALL BUSINESSES WISHING TO CLARIFY THEIR STATUS AS RENDERING ESSENTIAL SERVICES OR PROVIDING ESSENTIAL GOODS**

3.1 SMMEs may contact the Department of Small Business Development (DSBD) on 0860 663 7867 for more information or alternatively send their queries to [info@dsbd.gov.za](mailto:info@dsbd.gov.za)

**Printed by the Government Printer, Pretoria**

*LA. L.M.*

- 4.1 These Directions come into operation on the date of publication in the Government Gazette.

  
Ms Khumbudzo Ntshavheni

Minister for Small Business Development

Date:

5



**ANNEXURE C FORM 1**  
**PERMIT TO PERFORM ESSENTIAL SERVICE REGULATION 11B (3)**

Please note that the person to whom the permit is issued must at all times carry a form of identification to be presented together with this permit. If no identification is presented the person to whom the permit is issued will have to return to his or her place of residence during the lockdown.

Surname				
Full names				
Identify number				
Contact details	Cell nr.	Tel nr (w)	Tel no(H)	Email-address
Physical address of institution				

Hereby certify that:

Surname	
Full names	
Identity number	

Signed at \_\_\_\_\_ on this the \_\_\_\_\_ day of \_\_\_\_\_ 2020

Official stamp of the institution

\_\_\_\_\_  
 Signature of Head of institution

*R.A. L.M*

**NATIONAL SMALL ENTERPRISE ACT  
NO. 102 OF 1996**

**ANNEXURE "KN1"** 12-91

[View Regulation]

[ASSENTED TO 12 NOVEMBER, 1996]  
[DATE OF COMMENCEMENT: 27 JUNE, 1997]  
(Afrikaans text signed by the President)

This Act has been updated to Government Gazette 42304 dated 15 March, 2019.

as amended by

National Small Business Amendment Act, No. 26 of 2003

National Small Business Amendment Act, No. 29 of 2004

Government Notice No. 399 in Government Gazette 42304 dated 15 March, 2019

**GENERAL NOTE**

In terms of s. 6 of Act No. 29 of 2004 the expression "small business" wherever it occurs, is substituted with the expression "small enterprise".

**ACT**

To provide for the establishment of the Advisory Body and the Small Enterprise Development Agency; to provide guidelines for organs of state in order to promote small enterprises in the Republic; and to provide for matters incidental thereto.

[Long title substituted by s. 6 of Act No. 26 of 2003 and by s. 4 of Act No. 29 of 2004.]

**ARRANGEMENT OF SECTIONS**

**CHAPTER 1**

1. Definitions

**CHAPTER 2**

**MINISTER'S POWER TO FACILITATE AND ESTABLISH ADVISORY BODY**

2. Minister's power to facilitate and establish Advisory Body  
3. Minister's duty to determine Constitution of Advisory Body  
4. ....  
5. ....  
6. ....  
7. ....  
8. ....

**CHAPTER 3**

**SMALL ENTERPRISE DEVELOPMENT AGENCY**

9. Establishment of Small Enterprise Development Agency  
9A. Objectives of Agency  
10. Functions of Agency  
11. Constitution of Board and appointment of members of Board  
12. Terms of office of non-executive members of Board  
13. Remuneration and allowances of members of Board  
13A. Conflict of Interest  
13B. Resignation of members of Board  
13C. Termination of appointment of members of Board  
13D. Meetings of Board  
13E. Conduct of meetings  
13F. Resolution without meeting  
13G. Directives issued by Minister  
13H. Chief Executive Officer

W. J. L. M.

21. **Repeal of laws.**—(1) Subject to subsection (2), the Small Business Development Act, 1981 (Act No. 112 of 1981), the Small Business Development Amendment Act, 1984 (Act No. 54 of 1984), and the Small Business Development Amendment Act, 1990 (Act No. 16 of 1990), are hereby repealed. 12-92

(2) Section 2A of the Small Business Development Act, 1981, remains in force until a date determined by the Minister by notice in the Gazette, which date shall not be earlier than 12 months after the date of commencement of this Act.

22. **Short title and commencement.**—This Act is called the National Small Enterprise Act, 1996, and comes into operation on a date fixed by the President by proclamation in the Gazette.

[Short title and commencement substituted by s. 5 of Act No. 29 of 2004.]

#### Schedule

[Schedule substituted by s. 7 of Act No. 26 of 2003 and by GN 399 of 15 March, 2019.]

(See definition of "small enterprise" in section 1)

Column 1	Column 2	Column 3	Column 4
<i>Sectors or subsectors in accordance with the Standard Industrial Classification</i>	<i>Size or class of enterprise</i>	<i>Total full-time equivalent of paid employees</i>	<i>Total annual turnover</i>
Agriculture	Medium	51 - 250	≤ 35,0 million
	Small	11 - 50	≤ 17,0 million
	Micro	0 - 10	≤ 7,0 million
Mining and Quarrying	Medium	51 - 250	≤ 210,0 million
	Small	11 - 50	≤ 50,0 million
	Micro	0 - 10	≤ 15,0 million
Manufacturing	Medium	51 - 250	≤ 170,0 million
	Small	11 - 50	≤ 50,0 million
	Micro	0 - 10	≤ 10,0 million
Electricity, Gas and Water	Medium	51 - 250	≤ 180,0 million
	Small	11 - 50	≤ 60,0 million
	Micro	0 - 10	≤ 10,0 million
Construction	Medium	51 - 250	≤ 170,0 million
	Small	11 - 50	≤ 75,0 million
	Micro	0 - 10	≤ 10,0 million
Retail, motor trade and repair services	Medium	51 - 250	≤ 80,0 million
	Small	11 - 50	≤ 25,0 million
	Micro	0 - 10	≤ 7,5 million
Wholesale	Medium	51 - 250	≤ 220,0 million
	Small	11 - 50	≤ 80,0 million
	Micro	0 - 10	≤ 20,0 million
Catering, Accommodation and other Trade	Medium	51 - 250	≤ 40,0 million
	Small	11 - 50	≤ 15,0 million
	Micro	0 - 10	≤ 5,0 million
Transport, Storage and Communication	Medium	51 - 250	≤ 140,0 million
	Small	11 - 50	≤ 45,0 million
	Micro	0 - 10	≤ 7,5 million
Finance and Business Services	Medium	51 - 250	≤ 85,0 million
	Small	11 - 50	≤ 35,0 million
	Micro	0 - 10	≤ 7,5 million
Community, Social and Personal Services	Medium	51 - 250	≤ 70,0 million
	Small	11 - 50	≤ 22,0 million
	Micro	0 - 10	≤ 5,0 million

hcf.  
L.M

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG PROVINCIAL DIVISION, PRETORIA**

Case No. 22352/20

In the matter between:

**SAKELIGA NPC** Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA** First Respondent

**MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS** Second Respondent

**MINISTER OF TRADE, INDUSTRY  
AND COMPETITION** Third Respondent

**MINISTER OF POLICE** Fourth Respondent

**NATIONAL COMMISSIONER OF POLICE** Fifth Respondent

**COMMISSION FOR INTELLECTUAL PROPERTY  
AND COMPANIES** Sixth Respondent

**MINISTER OF SMALL BUSINESS DEVELOPMENT** Seventh Respondent

**THE NATIONAL COMMAND CENTRE** Eighth Respondent

**MINISTER OF HEALTH** Ninth Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**CASSIUS REGINALD LUBISI**

state the following under oath:

- 1 I am the Director General of the Presidency of the Republic of South Africa. The President is cited as the first respondent in this application. I am authorised to depose to this affidavit on his behalf.
- 2 The contents of this affidavit are within my personal knowledge, unless stated otherwise or so apparent from the context. I believe the contents to be true and correct.
- 3 I have read Mr Le Roux's founding affidavit, as well as the answering affidavits deposed to by the Director General of the Department of Trade, Industry and Competition, and the Director General of the Department of Small Business Development, on behalf of the respondents.
- 4 I understand that this affidavit will be served and filed together with the two answering affidavits. I confirm that the contents of their affidavits are true in so far as they relate to the President.

---

**CASSIUS REGINALD LUBISI**

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at PRETORIA on this the \_\_\_\_ day of MAY 2020, the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

---

**COMMISSIONER OF OATHS**

**Full names:**

**Address:**

**Capacity:**

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG PROVINCIAL DIVISION, PRETORIA**

Case No. 22352/20

In the matter between:

**SAKELIGA NPC** Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA** First Respondent

**MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS** Second Respondent

**MINISTER OF TRADE, INDUSTRY  
AND COMPETITION** Third Respondent

**MINISTER OF POLICE** Fourth Respondent

**NATIONAL COMMISSIONER OF POLICE** Fifth Respondent

**COMMISSION FOR INTELLECTUAL PROPERTY  
AND COMPANIES** Sixth Respondent

**MINISTER OF SMALL BUSINESS DEVELOPMENT** Seventh Respondent

**THE NATIONAL COMMAND CENTRE** Eighth Respondent

**MINISTER OF HEALTH** Ninth Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**AVRIL WILLIAMSON**

state the following under oath:

- 1 I am the Director General of the Department of Cooperative Governance and Traditional Affairs ("the Department"). The Minister of Cooperative Governance and Traditional Affairs ("the Minister") is cited as the second respondent in this application. I am authorised to depose to this affidavit on behalf of the Minister.
- 2 The contents of this affidavit are within my personal knowledge, unless stated otherwise or so apparent from the context. I believe the contents to be true and correct.
- 3 I have read Mr Le Roux's founding affidavit, as well as the answering affidavits deposed to by the Director General of the Department of Trade, Industry and Competition, and the Director General of the Department of Small Business Development, on behalf of the respondents.
- 4 I understand that this affidavit will be served and filed together with the two answering affidavits. I confirm that the contents of the affidavits are true in so far as they relate to the Minister and the Department.

---

**AVRIL WILLIAMSON**

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of her knowledge both true and correct. This affidavit was signed and sworn to before me at PRETORIA on this the \_\_\_\_ day of MAY 2020, the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

---

**COMMISSIONER OF OATHS**

**Full names:**

**Address:**

**Capacity:**

**IN THE HIGH COURT OF SOUTH AFRICA  
GAUTENG PROVINCIAL DIVISION, PRETORIA**

Case No. 22352/20

In the matter between:

**SAKELIGA NPC** Applicant

and

**PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA** First Respondent

**MINISTER OF COOPERATIVE GOVERNANCE  
AND TRADITIONAL AFFAIRS** Second Respondent

**MINISTER OF TRADE, INDUSTRY  
AND COMPETITION** Third Respondent

**MINISTER OF POLICE** Fourth Respondent

**NATIONAL COMMISSIONER OF POLICE** Fifth Respondent

**COMMISSION FOR INTELLECTUAL PROPERTY  
AND COMPANIES** Sixth Respondent

**MINISTER OF SMALL BUSINESS DEVELOPMENT** Seventh Respondent

**THE NATIONAL COMMAND CENTRE** Eighth Respondent

**MINISTER OF HEALTH** Ninth Respondent

---

**CONFIRMATORY AFFIDAVIT**

---

I, the undersigned,

**KEHLA JOHN SITHOLE**

state the following under oath:

- 1 I am the National Commissioner of the South African Police Service ("SAPS"). I am cited as the fifth respondent in this application. The fourth respondent is the Minister of Police ("the Minister"). I am also authorised to depose to this affidavit on behalf of the Minister.
- 2 The contents of this affidavit are within my personal knowledge, unless stated otherwise or so apparent from the context. I believe the contents to be true and correct.
- 3 I have read Mr Le Roux's founding affidavit, as well as the answering affidavits deposed to by the Director General of the Department of Trade, Industry and Competition, and the Director General of the Department of Small Business Development, on behalf of the respondents.
- 4 I confirm that the contents of the two answering affidavits are true and correct in so far as they relate to the Minister and the SAPS.

---

**KEHLA JOHN SITHOLE**

I hereby certify that the deponent knows and understands the contents of this affidavit and that it is to the best of his knowledge both true and correct. This affidavit was signed and sworn to before me at PRETORIA on this the \_\_\_\_ day of MAY 2020, the Regulations contained in Government Notice R.1258 of 21 July 1972, as amended, and Government Notice No R1648 of 19 August 1977, as amended, having been complied with.

---

**COMMISSIONER OF OATHS**

**Full names:**

**Address:**

**Capacity:**