

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

Case Number:

In the matter between:

SAKELIGA NPC

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

**THE MINISTER OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

Second Respondent

**THE MINISTER OF TRADE, INDUSTRY AND
COMPETITION**

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

THE NATIONAL COMMISSIONER OF POLICE

Fifth Respondent

**THE COMMISSION FOR INTELLECTUAL PROPERTY
AND COMPANIES**

Sixth Respondent

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

Seventh Respondent

THE NATIONAL COMMAND CENTRE

Eighth Respondent

THE MINISTER OF HEALTH

Ninth Respondent

NOTICE OF MOTION

TAKE NOTICE THAT the applicants intend to apply to the abovementioned Honourable Court on Tuesday **26 May 2020** at **10h00** or as soon thereafter as counsel may be heard, for an order in the following terms:

1. That this application be heard as one of urgency in terms of Rule 6(12) and that the applicants' failure to comply with the ordinary time limits of service of process be condoned.
2. That a declaratory order be issued to the effect that the sixth respondent has no authority to issue "*Essential Services Permits / Certificates*" to enable any company or close corporation to conduct emergency or permitted service in terms of the Regulation issued under the Disaster Management Act, Act 57 of 2002 and published as Government Notice R480 on 29 April 2020, ("the Regulations");
3. That a declaratory order be issued that the South African Police Service and any other enforcement agency mandated to enforce the Regulations, have no authority to demand from any person, an "*Essential/Permitted Service Permits / Certificates*" issued by the Sixth Respondent;
4. That a declaratory order be issued to the effect that the Respondents have no authority to direct any other Organ of State to issue "*Essential/Permitted Service Permits / Certificates*" pursuant to the National State of Disaster;
5. That a declaratory order be issued to the effect that no enforcement agency, mandated to enforce the Regulations issued pursuant to the Declaration of

a National State of Disaster, including the South African Police Service, may require an permit save those provided for in the Regulations in order to render a necessary or permitted service as described therein;

6. That an order be issued declaring illegal and invalid the Directions purportedly issued by the Seventh Respondent on 12 May 2020, under Government Notice R522, in Government Gazette 34406;

7. That an interdict be issued restraining the respondents and any individual falling under their control and / or authority from:

7.1. Interfering with the business operations of any person permitted under and in terms of the Regulations; and

7.2. Preventing or obstructing any person from trading in compliance with the Regulations.

8. That the sixth and seventh respondents, jointly and severally with any other respondent who elects to oppose this application, be ordered to pay the costs of this application.

9. That such further or alternative relief as the Honourable Court may consider just and equitable, be granted in favour of the applicants.

TAKE NOTICE FURTHER that the affidavit of Pieter Jacobus le Roux and all annexures thereto, will be used in support of this application.

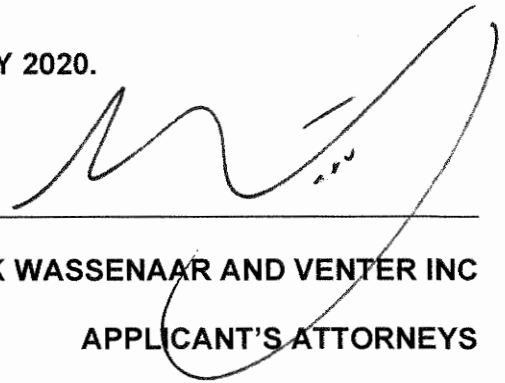
TAKE NOTICE FURTHER that, if you elect to oppose this application, you must, by close of business on **Monday 18 May 2020** notify the applicants attorney in writing at peter@kriekprok.co.za , pieterk@kriekprok.co.za **AND** rohann@kriekprok.co.za and file your answering affidavits, if any, by close of business on **Tuesday 19 May 2020**, on the Caselines platform **AND** by email to the applicant's attorneys.

TAKE NOTICE FURTHER that you must, in your notice of opposition, indicate an address for service within 15 km of the court as well as an email address at which you will accept service of process in these proceedings.

TAKE NOTICE FURTHER that the applicant reserves the right by 12 noon on Thursday **20 May 2020** to file its replication, if so advised.

KINDLY ENROL THE MATTER ACCORDINGLY.

SIGNED AT PRETORIA THIS 15TH DAY OF MAY 2020.



KRIEK WASSENAAR AND VENTER INC
APPLICANT'S ATTORNEYS

1ST FLOOR, NOREX HOUSE, 79 RAUCH AVENUE

GEORGEVILLE, PRETORIA, 0184

(T) (+27) 12 803 4719 (C) 0829204474

(e) peter@kriekprok.co.za

pieterk@kriekprok.co.za / rohann@kriekprok.co.za

REF: P WASSENAAR / QB0693

TO: **THE REGISTRAR OF THE HIGH COURT**
PRETORIA

AND TO: **THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA**
THE FIRST RESPONDENT

c/o THE STATE ATTORNEY

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ZNhlayisi@justice.gov.za
TiPillay@justice.gov.za
VDhulam@justice.gov.za

SERVICE BY EMAIL

AND TO: **THE MINISTER OF COOPERATIVE GOVERNANCE AND**
TRADITIONAL AFFAIRS
THE SECOND RESPONDENT

c/o THE STATE ATTORNEY

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SERVICE BY EMAIL

AND TO: **THE MINISTER OF TRADE, INDUSTRY AND COMPETITION**
THE THIRD RESPONDENT

c/o THE STATE ATTORNEY

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ZNhlayisi@justice.gov.za
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SERVICE BY EMAIL

AND TO: **THE MINISTER OF POLICE**
THE FOURTH RESPONDENT

c/o THE STATE ATTORNEY

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AND TO: **THE NATIONAL COMMISSIONER OF POLICE**
THE FIFTH RESPONDENT

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c/o THE STATE ATTORNEY

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VDhulam@justice.gov.za

SERVICE BY EMAIL

AND TO: **THE COMMISSION FOR INTELLECTUAL PROPERTY AND
COMPANIES**
THE SIXTH RESPONDENT

loctober@thedti.gov.za
EMsiza@thedti.gov.za
MSMedupe@thedti.gov.za

SERVICE BY EMAIL

AND TO: **THE MINISTER OF SMALL BUSINESS DEVELOPMENT**
THE SEVENTH RESPONDENT

c/o THE STATE ATTORNEY

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ZNhlayisi@justice.gov.za
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SERVICE BY EMAIL

AND TO: **THE NATIONAL COMMAND CENTRE**
THE EIGHT RESPONDENT

c/o OFFICE OF THE DIRECTOR-GENERAL AND SECRETARY OF
THE CABINET

nokukhanya@presidency.gov.za
Phumeza@presidency.gov.za

c/o THE STATE ATTORNEY

SMzozoyana@justice.gov.za
TRamohlale@justice.gov.za
ZNhlayisi@justice.gov.za
TiPillay@justice.gov.za
VDhulam@justice.gov.za

SERVICE BY EMAIL

AND TO: **THE MINISTER OF HEALTH**
THE NINTH RESPONDENT

c/o THE STATE ATTORNEY

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VDhulam@justice.gov.za

SERVICE BY EMAIL

**IN THE HIGH COURT OF SOUTH AFRICA
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Case Number:

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THE MINISTER OF TRADE, INDUSTRY AND COMPETITION

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

THE NATIONAL COMMISSIONER OF POLICE

Fifth Respondent

**THE COMMISSION FOR INTELLECTUAL PROPERTY AND
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Sixth Respondent

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

Seventh Respondent

THE NATIONAL COMMAND CENTRE

Eighth Respondent

THE MINISTER OF HEALTH

Ninth Respondent

FOUNDING AFFIDAVIT

I the undersigned

PIETER JACOBUS LE ROUX

make oath and state:

1. I am the Chief Executive Officer of the applicant.
2. The facts herein deposed to are within my personal knowledge unless otherwise indicated and are to the best of my knowledge both true and correct.
3. Where I make submissions of a legal nature I do so on the advice of the applicant's legal advisors which advice I accept as correct.

THE PARTIES

4. The applicant is **SAKELIGA NPC**, a non-profit company with limited liability duly incorporated in terms of the Company Laws of the Republic of South Africa and registered under registration number 2012/043725/08 and with registered address at 117 Gerhardt Street, Die Hoewes, Extension 158, Centurion, Gauteng Province.



5. The first respondent is the **PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA** who is cited herein in his official capacity and whose offices are situated in Union Buildings, Pretoria.
6. The second respondent is **THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS** who is cited herein in her official capacity as the Minister mandated in terms of the provisions of the Disaster Management Act, Act 57 of 2002 (*"the DMA"*) and whose offices are situated at 87 Hamilton Street, Arcadia, Pretoria.
7. The third respondent is **THE MINISTER OF TRADE, INDUSTRY AND COMPETITION** who is cited herein in his official capacity as the Minister responsible for the administration of the Competitions Act, Act 88 of 1998, and to whom certain responsibilities were delegated by the second respondent, in terms of the DMA, whose offices are situated at 77 Meintjes Street, Sunnyside, Pretoria.
8. The fourth respondent is **THE MINISTER OF POLICE** who is cited herein in his official capacity as such of 756 - 7th Floor, Wachthuis Building, 231 Pretorius Street, Pretoria.
9. The fifth respondent is **THE NATIONAL COMMISSIONER OF POLICE** who is cited herein in his official capacity as such of Wachthuis Building, 231 Pretorius Street, Pretoria.

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10. The sixth respondent is **THE COMMISSION FOR INTELLECTUAL PROPERTY AND COMPANIES**, a statutory body and organ of state established in terms of Section 185 of the Companies Act, Act 71 of 2008, whose offices are situated at 77 Meintjes Street, Sunnyside, Pretoria.
11. The seventh respondent is **THE MINISTER OF SMALL BUSINESS DEVELOPMENT**, who is cited herein in her official capacity, whose offices are situated at The dti, Block A, 3rd Floor, 77 Meintjes Street, Sunnyside, PRETORIA.
12. The eighth respondent is **THE NATIONAL COMMAND CENTRE**, a structure, whose full and further particulars are unknown to the applicant, set up to control the National State of Disaster, announced by the first respondent on 13 March 2020, c/o the second respondent, 87 Hamilton Street, Arcadia, Pretoria, who is cited herein in so far as they may have an interest in these proceedings.
13. The ninth respondent is **THE MINISTER OF HEALTH** who is cited herein in his official capacity, whose offices are situated at Civitas Building, Floor 20, cnr Struben and Thabo Sehume Streets, PRETORIA.

THE PURPOSE OF THE APPLICATION

14. The purpose of this application is to obtain:

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- 14.1. A declaratory order to the effect that the sixth respondent has no authority to issue "*Essential Services Permits / Certificates*" to enable any company or close corporation to conduct emergency or permitted service in terms of the Regulation issued under the Disaster Management Act, Act 57 of 2002 and published as Government Notice R480 on 29 April 2020, ("the Regulations");
- 14.2. A declaratory order that the South African Police Service and any other enforcement agency mandated to enforce the Regulations, have no authority to demand from any person, an "*Essential/Permitted Service Permits / Certificates*" issued by the sixth respondent;
- 14.3. A declaratory order to the effect that the respondents have no authority to direct any other Organ of State to issue "*Essential/Permitted Service Permits / Certificates*" pursuant to the National State of Disaster;
- 14.4. A declaratory order to the effect that no enforcement agency, mandated to enforce the Regulations issued pursuant to the Declaration of a National State of Disaster, including the South African Police Service, may require a permit save those provided for in the Regulations issued by the second respondent on 29 April 2020, under Government Notice

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480, in Government Gazette 43258 of that date ("the Regulations"), in order to render a necessary or permitted service as described therein;

14.5. An order declaring illegal and invalid the Directions purportedly issued by the seventh respondent on 12 May 2020, under Government Notice R522, in Government Gazette 34406;

14.6. An interdict restraining the respondents and any individual falling under their control and / or authority from:

14.6.1. Interfering with the business operations of any person permitted under and in terms of the Regulations; and

14.6.2. Preventing or obstructing any person from trading in compliance with the Regulations.

THE APPLICANT'S LOCUS STANDI

15. The applicant is 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. The applicant supports a constitutional order, free markets, prosperity and a favourable business environment in the public interest and for its members and all communities that are served by them.

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16. The applicant acknowledges the fact that the Covid-19 pandemic has placed an enormous burden on the State in general and the respondents in particular, and that, under the tremendous strain imposed by circumstances, mistakes are inevitable. However, the applicant cannot sit idly by when the principles of law contained in the Constitution and other legislation are ignored and contravened and trampled upon by those involved in the combatting of the Covid-19 pandemic, however *bona fide* such actions may be.
17. The applicant brings this application by virtue of section 38(a) of the Constitution by acting in its own interest and in accordance with its own objectives directed at the protection of constitutional rights which include the rule of law.
18. The applicant also brings the application in the interest of a group or class of persons in terms of section 38(c) of the Constitution, specifically the following classes of persons:
 - 18.1. Business owners entitled to issue permits under the Regulations;
 - 18.2. Persons receiving and/or relying on permits issued by business owners under the Regulations;

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- 18.3. Businesses that operate as sole proprietorships, partnerships, joint ventures and/or any other accepted body corporate under the law;
- 18.4. Persons deemed by the Regulations and Directions to constitute so-called:
- 18.4.1. Small scale bakeries and confectioneries;
 - 18.4.2. Small scale hardware stores
 - 18.4.3. Informal and micro restaurants and shisanyamas
 - 18.4.4. Tradesmen and artisan's businesses
 - 18.4.5. Sole traders within the clothing and textiles business
 - 18.4.6. Cooperatives
 - 18.4.7. Informal, micro and small businesses
 - 18.4.8. Non-South African citizens and asylum seekers that own businesses

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19. The applicant therefore brings this application in its own name, on behalf of its members and in the public interest.

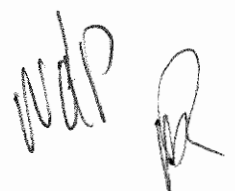
THE STRUCTURE OF THIS AFFIDAVIT

20. The structure of this affidavit is as follows:

- 20.1. First, I will deal with the legal and Constitutional principles involved.
- 20.2. Second, I will deal with the development and progression of the national state of disaster and Regulations and Directions issued pursuant thereto and the permit systems introduced and sought to be introduced thereby.
- 20.3. Third, I will deal with various incidents which have occurred and could occur if the permit system continues its course.
- 20.4. Finally, I will deal with the requirements for the interdict sought.

THE LEGAL AND CONSTITUTIONAL PRINCIPLES INVOLVED

21. Section 1 of the Constitution provides that the Republic of South Africa is one, sovereign, democratic state founded, inter alia, on the following values:

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- 21.1. Human dignity, the achievement of equality and the advancement of human rights and freedoms.
 - 21.2. Non-racialism and non-sexism.
 - 21.3. Supremacy of the Constitution and the Rule of Law.
22. The Constitution, however, distinguishes between three spheres of government, i.e. national, provincial and local. Those three spheres of government each have original powers deriving from the Constitution. Section 41(1) of the Constitution provides that:

"All spheres of government and all organs of state within each sphere must-


- (a) preserve the peace, national unity and the indivisibility of the Republic;*
- (b) secure the well-being of the people of the Republic;*
- (c) provide effective, transparent, accountable and coherent government for the Republic as a whole;*
- (d) be loyal to the Constitution, the Republic and its people;*
- (e) respect the constitutional status, institutions, powers and functions of government in the other spheres;*
- (f) not assume any power or function except those conferred on them in terms of the Constitution;*

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- (g) exercise their powers and perform their functions in a manner that does not encroach on the geographical, functional or institutional integrity of government in another sphere; and
- (h) co-operate with one another in mutual trust and good faith by-
 - (i) fostering friendly relations;
 - (ii) assisting and supporting one another;
 - (iii) informing one another of, and consulting one another on, matters of common interest;
 - (iv) co-ordinating their actions and legislation with one another;
 - (v) adhering to agreed procedures; and
 - (vi) avoiding legal proceedings against one another.

23. The DMA expressly acknowledges this separation, in that it provides expressly, and separately, for the handling of disasters on a national, provincial and local level. In this regard, reference is made to section 4 and chapters 3, 4 and 5 of the DMA. I submit that, upon a proper interpretation of the DMA, the provisions thereof do not entitle the National Government, in the case of a national disaster, to usurp the functions of provincial and local authorities. Furthermore, I submit that the DMA, being a statute which by its very nature, authorises the placing of limitations on the rights entrenched in the Bill of Rights, must be restrictively interpreted, so as to impose a minimum limitation on those rights, in accordance with section 36 of the Constitution.

24. Licensing and permitting of business ventures is a provincial or local government competency, and then restricted to the sale of food and liquor only. The national government has no authority to issue such licences or permits, or authorise such licences to be issued by any organ of state, or require such licences to be produced as a prerequisite for the exercise of any constitutional or statutory right.
25. It is therefore submitted that, in so far as the Regulations or any Direction purportedly issued pursuant thereto, allow any organ of state in the national sphere of government to issue such licenses, or authorise such licences to be issued by any organ of state, or require such licences to be produced as a prerequisite for the exercise of any constitutional or statutory right, such provision is inconsistent with the Constitution, and therefore illegal and void to the extent of such inconsistency.
26. Furthermore, the rights in the Bill of Rights cannot be infringed upon or limited in any way save in terms of the provisions of section 36 or 37. The national state of disaster, announced in terms of the DMA, is not a state of emergency, as contemplated in section 37, and therefore the rights contained in the Bill of rights continue to apply and may only be limited in terms of section 36.
27. Section 22 of the Constitution guarantees the right to freedom of trade, occupation or profession, subject to regulation of that trade, occupation or

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profession. Other than regulating how that trade, profession or occupation is to be practised, the State may not interfere with those freedoms, except under section 36.

THE DEVELOPMENT AND PROGRESSION OF THE STATE OF DISASTER AND THE REGULATIONS THEREUNDER

28. On 15 March 2020, Dr Mmaphaka Tau, the Head of the National Disaster Management Centre in the Department of Cooperative Governance gave notice that the Covid-19 pandemic was declared as a National Disaster. I attach hereto as **Annexure "A"** a copy of the notice to that effect in the Government Gazette.
29. Also, on 15 March 2020, the second respondent issued a declaration of a National State of Disaster in evidence of which I attach hereto as **Annexure "B"** a copy of Notice 313 published in the Government Gazette of that date.
30. Section 27(2) of the DMA provides:

"If a national state of disaster has been declared in terms of subsection (1), the Minister may, subject to subsection (3), and after consulting the responsible Cabinet member, make regulations or issue directions or authorise the issue of directions concerning-

- (a) *the release of any available resources of the national government, including stores, equipment, vehicles and facilities;*
- (b) *the release of personnel of a national organ of state for the rendering of emergency services;*
- (c) *the implementation of all or any of the provisions of a national disaster management plan that are applicable in the circumstances;*
- (d) *the evacuation to temporary shelters of all or part of the population from the disaster-stricken or threatened area if such action is necessary for the preservation of life;*
- (e) *the regulation of traffic to, from or within the disaster-stricken or threatened area;*
- (f) *the regulation of the movement of persons and goods to, from or within the disaster-stricken or threatened area;*
- (g) *the control and occupancy of premises in the disaster-stricken or threatened area;*
- (h) *the provision, control or use of temporary emergency accommodation;*
- (i) *the suspension or limiting of the sale, dispensing or transportation of alcoholic beverages in the disaster-stricken or threatened area;*
- (j) *the maintenance or installation of temporary lines of communication to, from or within the disaster area;*
- (k) *the dissemination of information required for dealing with the disaster;*
- (l) *emergency procurement procedures;*

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- (m) *the facilitation of response and post-disaster recovery and rehabilitation;*
- (n) *other steps that may be necessary to prevent an escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster;*
or
- (o) *steps to facilitate international assistance.*

31. Section 27(3) of the DMA provides:

"The powers referred to in subsection (2) may be exercised only to the extent that this is necessary for the purpose of-

- (a) assisting and protecting the public;*
- (b) providing relief to the public;*
- (c) protecting property;*
- (d) preventing or combating disruption; or*
- (e) dealing with the destructive and other effects of the disaster."*

32. Two days later, on 18 March 2020, the second respondent, in terms of Section 27(2) of the Disaster Management Act ("DMA") made certain Regulations set out in the schedule to Government Notice 318 published in the Government Gazette of that date. I attach hereto as **Annexure "C"** a copy of those Regulations (hereinafter referred to as "*the 18 March 2020 Regulations*").

33. In the 18 March 2020 Regulations, the second respondent imposed a number of restrictions on the movement of persons, goods and services. In Regulation 10 thereof the second respondent purported to authorise various other ministers to issue directives in terms of the DMA.

34. Regulation 10(6) provides:

“The Minister of Trade and Industry 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.”

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35. I submit that the DMA only authorises the second respondent to issue Regulations in terms of section 27(2) of the DMA: no other person may do so. The DMA also authorises the second respondent to authorise other persons to issue Directions. They must act within the boundaries of their respective authorisations.
36. I submit that the ordinary grammatical meaning of "*Direction*" is "*an instruction on how to reach a destination or how to do something*". I submit that a direction may not include an instruction on what to do and what not to do. I further submit that the *how* should be read restrictively in light of section 36 of the Constitution, that is: that it should have a negative character which restricts specific unacceptable conduct, rather than a positive character which prohibits all conduct except those to which a person is limited or compelled.
37. Pursuant to the aforesaid authorisation the third respondent issued Regulation R350 on 19 March 2020. A copy thereof is attached hereto as **Annexure "D"**.
38. On 23 March 2020 the first respondent, in a public address to the nation, announced a three week "*lockdown*". I attach hereto as **Annexure "E"** a copy of the first respondent's speech.
39. Following the announcement of the lockdown, the third respondent, during a media briefing on 24 March 2020 made certain further announcements. I attach hereto as **Annexure "F"** a copy of the text of the media briefing held by the third respondent.

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I point out that the third respondent announced a number of categories of essential services which would be considered for inclusion in the Regulations to follow. The third respondent specifically said the following:

"A number of businesses are essential services and will remain open during this period. We will publish further details and add specific businesses to the list as required... I am working with the Minister of Police and the Minister of Employment and Labour to ensure that police officers and health inspectors are well briefed on the kinds of businesses which should be allowed to continue with larger numbers of people"

40. On 25 March 2020, the second respondent in terms of Section 27(2) of the DMA published a far-reaching amendment to the 18 March 2020 Regulations under Government Notice R398, a copy of which is attached hereto as **Annexure "G"**.
41. I specifically draw attention to the introduction of Chapter 2 thereof containing Regulations 11A to 11G.
42. Important for purposes hereof are the definition of "*essential goods*" and "*essential services*" referred to in Regulation 11A.

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43. *"Essential Goods" are defined to be "the goods referred to in paragraph A of Annexure B as may be amended from time to time by the Cabinet member designated under section 3 of the Disaster Management Act".*
44. *"Essential Services" is defined as "the services as defined in Section 213 of the Labour Relations Act, 1995 (Act 66 of 1995) and designated in terms of Section 71(8) of the Labour Relations Act 1995 (and which designation remains valid at the date of publication of this Regulation) and as listed in paragraph B of Annexure B as may be amended from time to time".*
45. Important further is the definition of *"Institution"* which is defined as *"any public or private institution that is engaged in the supply or distribution of an essential good or service."* *"Head of an institution"* is then defined as *"the accounting officer of a public institution and the Chief Executive Officer or the equivalent of a Chief Executive Officer of a private institution."*
46. Under the heading *"Restriction on the movement of persons and goods"* in Regulation 11B(3) the following is stipulated:
- "Persons performing essential services as determined in sub regulation 2 must be duly designated in writing by the head of an institution on a form that corresponds substantially with form 1 in Annexure C".*

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47. Form 1 in Annexure C is a *"permit to perform essential service"*. The Regulations were amended on numerous occasions thereafter. However, Regulation 11C(6) has not yet been amended.
48. On 25 March 2020 the third respondent published a statement under the heading *"Minister Ebrahim Patel announces essential service application portal for Coronavirus COVID-19 lockdown"* a copy of which is attached hereto as **Annexure "H1"**. It *inter alia* provides: *"The Minister of Trade and Industry, Mr Ebrahim Patel has announced that all businesses that will be allowed to provide essential services are required to seek approval from the Department of Trade, Industry and Competition (the dtic) in order for them to trade during the period of the lockdown."*
49. On 26 March 2020 the third respondent published a statement under the heading *"Trade and Industry update on online Bizportal to register businesses that provide essential goods and service during the Coronavirus COVID-19 lockdown"* a copy of which is attached hereto as **Annexure "H2"**. It *inter alia* provides:
- "We would like to clarify that the registration portal is only for registered companies operating in South Africa. Healthcare professionals registered with the Health Professions Council of South Africa, sole proprietors who provide essential goods and services (like spaza shops), and small-scale farmers will not have to register through the Bizportal."*



Only companies, spaza shops, healthcare professionals and farmers permitted in terms of the lockdown regulations will be allowed to continue operating through the period. Possession of a CIPC certificate does not constitute permission to operate during the lockdown. Companies must be guided by the regulation as to whether their business operations constitute essential services. Any misrepresentation of information is a criminal offence and will be prosecuted. Already we have seen companies selling on-premise consumption of alcohol registering through the platform. Other examples include non-essential grooming for pets. We will advise these companies that this is not permitted and may take further action if required."

50. Notwithstanding the media statement on 26 March 2020, the government website <https://www.gov.za/Coronavirus/essential-services> as on date of this affidavit still states inter alia the following:

All businesses that will be allowed to provide essential services are required to seek approval from the Department of Trade, Industry and Competition (the dtic) in order for them to trade during the period of the lockdown. The registration portal is only for registered companies operating in South Africa. Healthcare professionals registered with the Health Professions Council of South Africa, sole proprietors who provide essential goods and services (like spaza shops), and small-scale farmers will not have to register through the Bizportal.

Such businesses are required to apply to the Companies and Intellectual Property Commission (CIPC) Bizportal website at www.bizportal.gov.za and obtain a

certificate from the Commission that allows them to continue trading. The Bizportal website will contain a menu icon listed as "Essential Service Businesses" through which an application can be made to the CIPC." See in this regard **Annexure "H3"**.

51. I submit that upon a proper interpretation of the Regulations as amended, the sixth respondent, being a creature of statute and more particularly of the Companies Act, 2008 was not and is still not empowered to issue "Essential Service Business Certificates", either in terms of the Companies Act or the DMA or any Regulation published thereunder.

52. More particularly I refer to Section 186 of the Companies Act which provides:

"1. The objectives of the commission are –

a. The efficient and effective registration of –

i. Companies and external companies in terms of this Act;

ii. Other juristic persons in terms of any applicable legislation referred to in schedule 4; and

iii. Intellectual property rights in terms of any relevant legislation.

- b. Maintenance of accurate, up to date and relevant information concerning companies, foreign companies and other juristic persons contemplated in subsection 1(a)(ii) and concerning intellectual property rights and the provision of that information to the public and other organs of state.*
 - c. The promotion of education and awareness of company and intellectual property laws and related matters.*
 - d. The promotion of compliance with this act, and any other applicable legislation; and*
 - e. The efficient, effective and widest possible enforcement of this Act and any other legislation listed in schedule 4.*
- 2. To achieve its objectives, the commission may –*
 - a. Have regard to international developments in the field of company and intellectual property law; or*
 - b. Consult any person, organisation or institution with regard to any matter.”*

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53. The DMA is not included in schedule 4 of the Companies Act.
54. Provision was made for the issue of *"Essential Service Business Certificates"* through an electronic platform called Bizportal. An applicant for such certificate merely needed to complete a form online. The form was entitled *"Essential Services Registration: Director / Member Details"*. In the block *"Essential Service Category"* the applicant needed to select one of a finite list of categories. A copy of the list is attached hereto as **Annexure "I"**.
55. A computer-generated form is then emailed to the applicant, a specimen of which is attached hereto as **Annexure "J"**. It had no expiry date.
56. I point out that, in terms of the Companies Act, 2008, it is not required of a company to state its business in its application for registration as a company. The sixth respondent therefore does not have a database against which it could verify whether a category so selected was accorded with the actual business of the company concerned: the selection is solely dependent on the ability to correctly interpret the novel and complicated regulations of a user of the system.
57. The result of the application is also entirely computer driven and no human intervention appears to be required or possible on the side of the sixth respondent: the sixth respondent therefore does not apply its mind or bring any judgment or discretion to bear on the result of the process: no decision of an administrative



nature is taken. Yet the “*Essential Services Business Certificate*” resulting from this exercise, purports to authorise a person to conduct the business of the company on the basis of an essential or permitted service, in contradistinction with other services.

58. The regulatory provisions referred to in paragraph 41 above were not amended when the lockdown was extended on 16 April 2020 to 30 April 2020. However, the third respondent thought it appropriate, through his spokesperson, Sidwell Medupe, to issue a media release on 16 April 2020 regarding the issue of such certificates, a copy of which is attached hereto as **Annexure “K”**.

59. I deem it necessary to quote extensively from the said press release:

“Companies which are registered through the Companies and Intellectual Property Commission (CIPC) Bizportal to perform essential services during the lockdown period, will be required to have a new certificate from the Bizportal website for the extended period which begins tomorrow, 17 April 2020... Certificates issued before today will no longer be valid and must be disposed of. To provide time for businesses to adjust to the new requirements, the new certificates will be available to be displayed from start of business on Monday 20 April 2020. The department reminds the public that possession of the CIPC Certificate is still subject to the company fully complying with the applicable lockdown Regulation and is a record of the company's details and does not in itself constitute the right to continue operating during the period... “

60. The spokesperson then proceeded to state:

The CIPC Certificate is a reference to the legal registration of the company in terms of the Companies Act, 2008 (Act 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 Regulation... Where the CIPC finds that certificates have been issued to companies which do not meet definitions of an essential service, such certificate will be revoked, and the company will be referred to the South African Police Services. False declaration by the company is a criminal offence and will result in prosecution, in terms of lockdown Regulation..."

61. I point out that:

61.1. The third respondent purported, by the press of a button to invalidate all CIPC certificates issued prior to 16 April 2020 despite the fact that they merely constituted "a record of the company's details".

61.2. Notwithstanding the phrase "To provide time for businesses to adjust to the new requirements", there were none except that additional categories of businesses were allowed to trade, and that new certificates were only available as from the start of business on 20 April 2020 leaving a window



of 4 days during which no company or close corporation would have been able to present a valid CIPC Certificate.

61.3. Then follows an alarming disclaimer in which the third respondent *"reminds the public"* that the certificate is actually worthless and does not provide a company or close corporation with the right to trade during the extended lockdown, since such a company or close corporation *"must still comply with the provisions of the lockdown Regulation"* i.e. to acquire a permit from a *"Head of Institution"*.

62. Despite this *"clarification"* the third respondent made it clear that the new certificates *"will clearly state that it is for the extended lockdown period beginning 17 April 2020 and SAPS officials will be told which certificates to look for"*. This statement suggests that they have some validity during the extended lockdown period only. The sixth respondent simply has no power to undo evidence of the registration of a company or close corporation.

63. The implication, as will be demonstrated with reference to various occurrences since 17 April 2020, is that the failure to produce an *"Essential Services Business Certificate"* post 17 April 2020, purportedly (but not actually) authorising the bearer to provide an emergency service will expose the person concerned to arrest by the SAPS under circumstances where such person actually complies with the Regulation.

64. More problematic though is the fact that enterprises not registered as companies or close corporations but who actually do render emergency services cannot be issued with CIPC Certificates and similarly run the risk of arrest by the SAPS.
65. On 29 April 2020 the second respondent issued a new set of Regulations herein after referred to as "*the Level 4 Regulations*". They repealed the 18 March 2020 Regulation as amended but in Regulations 2(3) provided that, despite the repeal of those Regulations, all directions issued in terms of those Regulations shall continue to apply unless varied, amended or withdrawn by the cabinet member responsible for such directions.
66. The third respondent has not issued any amended, varied or cancelling directions. He did, however, on 12 May 2020, issue directions regarding the sale of clothing, footwear and bedding during level 4. Those directions do not form part of this application, although the applicant reserves the right to include them at a later stage in this or similar proceedings.
67. The Level 4 Regulations provide that providers of emergency services may continue to provide such services, but a new category of services called "*permitted services*" was created.
68. Regulations 16(2)(a) and (b) provide:

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"A person may only leave their (sic) 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..."*

69. Regulation 16(3) introduces a curfew from 20h00 to 05h00 and provides:

"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".

70. Regulations 28(4) provides:

"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 the 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".

NAP
10

71. The seventh respondent, on 12 May 2020, purported to issue such directions in terms of Government Notice R522, in Government Gazette 43306 of even date. A copy of those directions is attached hereto as **Annexure “L”**. I will revert to the provisions thereof shortly.
72. Upon a proper interpretation of the level 4 Regulation it is required of every person leaving his / her residence for work purposes to have been issued with a permit. “*Essential Services Business Certificates*” issued by the sixth respondent (which are in any event only “valid” for a finite time) are not such permits because they are not issued, by anybody, definitely not by a “Head of Institution” and the sixth respondent does not take any responsibility for the correctness of the information contained in such certificates. Moreover, the Companies Act, 2008, does not provide for the issue of such certificates.
73. In order to comply with the Regulation, a permit in the format of Form 2 is required: if by a company, issued by the CEO of that company (or person of equivalent rank); if by a close corporation, by a member of that corporation; if by a sole proprietor, by him / herself; if by a trust, by a trustee of that trust; if by a partnership, by a partner of that partnership.
74. The invalidity of “Essential Service Certificates” appeared to have finally dawned on the sixth respondent, because the Commissioner, on 11 May 2020, issued a letter, a copy of which is attached hereto as **Annexure “M”**, wherein it is said that

“the CIPC cannot provide any guidance as to whether an industry is allowed or prohibited to trade”.

75. However, despite this *communiqué*, such certificates are still made available from Bizportal, and the members of the South African Police Service still require sight thereof, in order to determine whether persons are entitled to travel to and from their workplaces, in order to perform essential or permitted services.
76. Apart from the “*Essential Services Certificates*” electronically issued as a result of the efforts of the sixth respondent, the seventh respondent, in her directions issued on 12 May 2020, directed that four categories of businesses must be in possession of “*a business licence or permit to trade issued in accordance with the Businesses Act, (Act 71 of 1991) or a business licence or trading permit issued by the relevant municipality*”. They are:
- 76.1. Small scale bakeries and confectionaries: Directive 5;
 - 76.2. Small scale Hardware stores: Directive 6;
 - 76.3. Informal and micro restaurants and shisanyamas: Directive 7; and
 - 76.4. Tradesmen and artisans’ businesses: Directive 8.
77. I point out that the Directions do not contain definitions of those types of enterprises. It is impossible to distinguish between small, medium and large-scale bakeries, confectionaries and hardware stores. To that extent, the ambit of the Direction is



indeterminable, except in the discretion of the law enforcement officer, and should therefore be void for vagueness.

78. I further point out that two of the four categories which are now required to have business licences in terms of the Businesses Act, i.e. hardware stores and artisans, do not require and cannot legally be issued with such permits or licences in terms of that Act. The Businesses Act is applicable only to the sale and supply of perishable foodstuffs, certain health and entertainment facilities and the hawking of meals or perishable foodstuffs. The inclusion of hardware stores and artisans under the compulsory Directions, therefore postulates an insurmountable obstacle to their operation as such.
79. In any event, the Directions do not exempt businesses excluded from the Businesses Act from the Directions. Such businesses are mentioned in Schedule 2 of that Act. They are charitable, religious, educational, cultural and agricultural businesses. Even they are now obliged to obtain such permits, under circumstances where the local authorities may not issue such licences to them.
80. The Directions do provide for alternatives such as "business licences or trading permits". However, no provision is made for the issue of such licences or permits in the DMA, the Level 4 Regulations (except such permits as are issued by "Heads of Institutions"), or any other legislation.

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81. The seventh respondent can also not instruct local authorities to issue such licences or permits, since she is a minister in the national sphere of government, and the competence to issue licences and permits is either a provincial or local competency, in terms of the Constitution.
82. Furthermore, the issue of licences or permits in terms of the Businesses Act, may only take place if "an administrator (the predecessor of the Provincial Premier) by notice in the Provincial Gazette designates a local authority or appoint a person or body as a licensing authority for a specific area and from a specific date. (See section 2(1)(a)). Despite a diligent search, I could not find any such delegation, at least not any delegation by any Premier of any Province designating any local authority to issue licences or trade permits for use by enterprises under the Level 4 Regulations.
83. Direction 8(b) takes the matter a step further, where certain types of tradesmen, such as those operating vehicle service centres, fitment centres, or body repair workshops, who do not require any licence or trade permit from any local authority, are required to now apply for such a licence or permit, which local authorities may not issue.
84. Co-operatives are also placed under an additional burden to produce "a valid and original certificate of registration". A co-operative is, by definition, an entity consisting of two or more persons. Certificates are only issued in original form once.



It is therefore impossible for more than one member of a co-operative to be in possession of an original, when going about the business of such co-operative.

85. I submit that the Level 4 Regulations adequately caters for the permission of persons going about essential or permitted business: if the “head of institution” issues a permit, under circumstances where a person purports to be authorised to perform an essential or permitted service and such service is not allowed under the Regulations, that head of that institution commits fraud and can be dealt with under the common law of fraud.

86. I consequently submit that:

86.1. The Level 4 Regulations only require essential and permitted service providers to produce a permit issued by a “head of institution” as defined therein. Any requirement to produce any other permit or licence purportedly required by directive of any other Minister or by members of the SAPS is inconsistent with the Constitution, the Businesses Act, 1991 and the Level 4 Regulations.

86.2. The sixth respondent acts illegally by issuing “essential services certificates” to companies and close corporations;



86.3. The eighth respondent acted illegally by issuing Government Notice R522;

86.4. Any law enforcement officer who requires a person to comply with a more stringent requirement than those laid down in the Level 4 Regulations, also acts illegally.

PRACTICAL EXAMPLES OF ABUSE OF THE PERMIT SYSTEM:

87. In practice these "*Essential Services Business Certificates*" (or lack thereof) have *inter alia* led to the following situations:

87.1. Sole proprietorships, partnerships and other bodies corporate who are entitled to trade under the Regulations, are discouraged from doing so for fear of breaking the law. Many businesses and even members of law enforcement are under the impression that the duplicate CIPC essential service certificate of the sixth respondent, is a requirement in order to lawfully trade.

87.2. Businesses who are not registered entities with the sixth respondent, are required to apply for municipal permits now suddenly during the lockdown. This has led to many businesses being unable to trade due to either an

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inability of local authorities to issue such permits and/or a lack of information regarding the availability of an application process.

- 87.3. Small business, hawkers and other tradespeople are exposed to even more harassment because of these extraordinary local government permits that they suddenly need comply with. They must undergo a far more strenuous process in order to trade, especially compared to other businesses who can merely rely on regulation 28(4) to issue their permits.
- 87.4. The new Directives issued by the seventh respondent has in particular created a lot of uncertainty amongst tradespeople and hardware store owners who do not own large business chain stores. What is supposed to be the “scale” against which a so called “Small scale” hardware stores are to be measured, is impossible to determine. These businesses now stand the risk of being closed down if the authorities apply different interpretations to the interpretation of the Directives.
- 87.5. The ambiguous and vague nature of the wording of the regulations expose the public to the risk of arrest if law enforcement differs on the interpretation. Business owners relying on the dictionary meaning of words within the regulations are summarily arrested. At ground level it is clearly whatever interpretation law enforcement attaches to the extremely wide wording of



the regulations that will determine whether or not you are acting within the confines of the regulations.

- 87.6. The continued insistence on *Essential Service Certificates* by the SAPS and the creation of further sub-categories of business that are required to obtain further special permits, results in great inequality and an uncompetitive environment between businesses who effectively conduct the same services.
- 87.7. Small business, tradespeople and hawkers are especially hard hit. Because of their size, they are subjected to harsh scrutiny and additional permit processes that are difficult to navigate. Even established and experienced businesses struggle to act during the lockdown with legal certainty.
- 87.8. Humanitarian organisations are especially hampered in their efforts due to municipal permits that need to be navigated from place to place. Some municipalities seemingly even require that permits must be renewed daily before they may even start distributing humanitarian relief to the hungry. In this regard I refer to a news article, attached as annexure **N1** taken from the Sandton Chronicle reporting about an organisation, Cradle of Hope, that is required to apply for a permit every day before they are allowed to distribute food to between 300 and 400 hungry adults. The applicant has been in

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connection with persons assisting the organisation, but due to the urgency of this application could not secure supporting affidavits.

88. In support of paragraph 85 above, the applicant attaches supporting affidavits received from members of the public as annexures **N2 – N6**.
89. It is therefore clear that business persons who actually qualify as providers of essential or permitted services, are being detained, prosecuted or otherwise harassed by the South African Police Service when they are unable to produce such certificates, or are too scared to participate in the economy legally for fear of detention, prosecution or harassment by the South African Police Service.

THE ELEMENTS OF AN INTERDICT:

90. Clear right: The applicant and those whom it represents and in whose interest these proceedings are brought, have a clear right to go about their lives and livelihoods legally and without illegal interference.

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91. Infringement of clear right: The illegal conduct described above, infringe the rights of ordinary citizens to go about their lives and livelihoods legally, and justify the censure of this Honourable Court.
92. No alternative remedy: The applicant has written to the respondents calling upon them to reconsider their conduct and to submit to mediation in terms of Regulation 13 of the Level 4 Regulations. Copies of the correspondence are attached hereto as annexures "O1" to "O3" The applicant has not received the courtesy of a reply. I submit that the applicant has no option but to resort to legal action.
93. The Court's discretion: I submit that the Court has a limited discretion in considering an application such as the present. I submit that this application raises a matter of considerable public interest in that clarity be obtained about the legality of the conduct of the sixth respondent, the Directions issued by the seventh respondent and the conduct of the South African Police Service in enforcing the Level 4 Regulations.

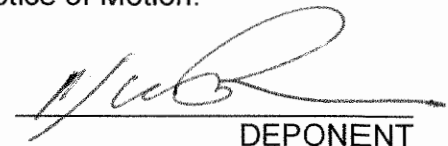
URGENCY:

94. Finally, I submit that these proceedings are urgent and cannot reasonably await a hearing in due course. The very legal system is affected by the Covid-19 pandemic, to the extent that it is unclear when the Courts will be able to resume their ordinary

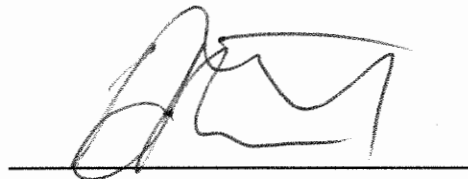
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activities. The Level 4 Regulations will be in place for at least the rest of May 2020, and will have a significant influence on the measures that will follow. I submit that the applicant and those whom it represents will be unable to obtain substantial redress at a hearing in due course, because the measures against which these proceedings are aimed, will by then have expired, with lasting damage to the rights of those affected by them.

95. I consequently pray for an order as set forth in the Notice of Motion.


DEPONENT

Thus signed and sworn to before me on this the 15th day of **MAY 2020**, the Deponent having acknowledged that he knows and understands the content of the above affidavit, the regulations contained in the Government Notice No. R1258 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:

Capacity:

Designation:

Address:

NIEL DU PLESSIS
COMMISSIONER OF OATHS EX OFFICIO
PRACTISING ATTORNEY, REPUBLIC OF SOUTH AFRICA
1250 PRETORIUS STREET, HATFIELD, PRETORIA





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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**NO. 312****15 MARCH 2020****DISASTER MANAGEMENT ACT, 2002 (ACT NO 57 of 2002)****CLASSIFICATION OF A NATIONAL DISASTER.**

I, Dr Mmaphaka Tau, in my capacity as Head of the National Disaster Management Centre after assessing the potential magnitude and severity of the COVID-19 pandemic in the country, hereby give notice that on 15 March 2020, in terms of section 23(1)(b) of the Disaster Management Act, 2002 (Act No. 57 of 2002) (the Act), classified the COVID-19 pandemic as a national disaster.

Emanating from the classification of this occurrence as a national disaster, in terms of section 26, read with section 23 (8) of the Act, the primary responsibility to coordinate and manage the disaster, in terms of existing legislation and contingency arrangements, is designated to the national executive.

I hereby, in terms of Section 15(2)(aA) of the Act, read with section 23(8), call upon organs of state to further strengthen and support the existing structures to implement contingency arrangements and ensure that measures are put in place to enable the national executive to effectively deal with the effects of this disaster.

Also emanating from this classification, and the assistance provided by organs of state in terms of Section 23(8) and Sections 15(2)(aA) of the Act, organs of state are required to prepare and submit reports, as required by the National Disaster Management Centre and as outlined in Section 24(4)-(8) of the Act, to the respective intergovernmental forums as listed therein.



Dr Mmaphaka Tau
Head: National Disaster Management Centre
Department of Cooperative Governance

15.03.2020



DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NO. 313

15 MARCH 2020

DISASTER MANAGEMENT ACT, 2002

DECLARATION OF A NATIONAL STATE OF DISASTER

Considering the magnitude and severity of the COVID-19 outbreak which has been declared a global pandemic by the World Health Organisation (WHO) and classified as a national disaster by the Head of the National Disaster Management Centre, and taking into account the need to augment the existing measures undertaken by organs of state to deal with the pandemic, I, Dr Nkosazana Dlamini Zuma, the Minister of Cooperative Governance and Traditional Affairs, as designated under Section 3 of the Disaster Management Act, 2002 (Act No. 57 of 2002) ("the Act"), in terms of -

- 1) Section 27(1) of the Act, hereby declare a national state of disaster having recognised that special circumstances exist to warrant the declaration of a national state of disaster; and
- 2) Section 27(2) of the Act may, when required, make regulations or issue directions or authorise the issue of directions concerning the matters listed therein, only to the extent that it is necessary for the purpose of —
 - (a) assisting and protecting the public;
 - (b) providing relief to the public;
 - (c) protecting property;
 - (d) preventing or combatting disruption; or
 - (e) dealing with the destructive and other effects of the disaster.

Nkuma

DR NKOSAZANA DLAMINI ZUMA, MP

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

DATE: 15. 03. 2020.

WJP

Annexure "B"

4 No. 43096

GOVERNMENT GAZETTE, 15 MARCH 2020

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NO. 313

15 MARCH 2020

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 - (c) protecting property;
 - (d) preventing or combatting disruption; or
 - (e) dealing with the destructive and other effects of the disaster.



DR NKOSAZANA DLAMINI ZUMA, MP

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

DATE: 15. 03. 2020.





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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS**NO. 318****18 MARCH 2020****DISASTER MANAGEMENT ACT, 2002****REGULATIONS ISSUED IN TERMS OF SECTION 27(2)(i) OF THE DISASTER
MANAGEMENT ACT, 2002.**

I, Dr Nkosazana Dlamini Zuma, the Minister of Cooperative Governance and Traditional Affairs, designated under Section 3 of the Disaster Management Act, 2002 (Act No. 57 of 2002) ("the Act"), having declared a national state of disaster, published in Government Gazette No. 43096 on 15 March 2020, in terms of Section 27(2) of the Act, after consulting the relevant Cabinet members, hereby make the Regulations set out in the schedule hereto regarding the steps necessary to prevent an escalation of the disaster or to alleviate, contain and minimise the effects of the disaster.



DR NKOSAZANA DLAMINI ZUMA, MP
MINISTER OF COOPERATIVE
GOVERNANCE AND TRADITIONAL
AFFAIRS

DATE: 17. 03. 2020



SCHEDULE

Definitions

1. In these Regulations, unless the context otherwise indicates—

‘adequate space’ means not more than one person per square meter of floor space;

‘COVID-19’ means the Novel Coronavirus (2019-nCov) which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the WHO during the year 2020 that has previously not been scientifically identified in humans;

‘Criminal Procedure Act’ means the Criminal Procedure Act, 1977 (Act No. 51 of 1977);

‘enforcement officer’ includes a member of the South African Police Service, the South African National Defence Force and a peace officer as defined in section 1 of the Criminal Procedure Act;

‘donor’ means an individual, corporation or organisation that is a contributor of cash, kind and/or other assets;

‘gathering’ means any assembly, concourse or procession of more than 100 persons, wholly or partially in open air or in a building or premises;

‘isolation’ means separating a sick individual with a contagious disease from healthy individuals without that contagious disease in such a manner as to prevent the spread of infection or contamination;

‘liquor’ means—

- (a) any liquor product, as defined in section 1 of the Liquor Products Act, 1979 (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;

‘national state of disaster’ means the national state of disaster declared by Government Notice No. R. 313 of 15 March 2020;

‘partial care facility’ means a facility offering partial care as defined in section 1 of the Children’s Act, 2005 (Act No. 38 of 2005);

‘quarantine’ means separating asymptomatic individuals potentially exposed to a disease from non-exposed individuals in such a manner as to prevent the possible spread of infection or contamination;



'school' means a school as defined in section 1 of the South African Schools Act, 1984 (Act No. 84 of 1996); and

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

'WHO' means the World Health Organisation.

Release of resources

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

(a) release and mobilise any 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 spread 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 of the Republic of South Africa, 1996, 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 or directions issued in terms of section 27(2) of the Act, in relation to the national state of disaster.

(6) Donor funding received 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.

Prevention and prohibition of gatherings

3. (1) In order to contain the spread of COVID-19, a gathering is prohibited.
- (2) An enforcement officer must, where a gathering takes place—
- (a) order the persons at the gathering to disperse immediately; and
 - (b) if they refuse to disperse, take appropriate action, which may, subject to the Criminal Procedure Act, include arrest and detention.
- (3) The assembly of more than 50 persons at premises where liquor is sold and consumed is prohibited.

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

4. (1) No person who has been clinically, or by a laboratory, confirmed as having 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 consent to an enforcement officer for—
- (a) submission of that person to a medical examination, including but not limited to the taking of any bodily sample by a person authorised in law to do so;
 - (b) admission of that person to a health establishment or a quarantine or isolation site; or
 - (c) submission of that person to mandatory prophylaxis, treatment, isolation or quarantine or isolation 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 isolation or quarantine for a period of 48 hours, as the case may be, pending a warrant being issued by a magistrate, 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 on reasonable grounds suspected to have been in contact with a person who is a carrier 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 person with like authority;
 - (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.

(5) No person is entitled to compensation for any loss or damage arising out of any *bona fide* action or omission by an enforcement officer under this regulation.

Places of quarantine and isolation

5. (1) The Minister of Public Works and Infrastructure must identify and make available sites to be used as isolation and quarantine facilities as the need arises.

(2) The Members of the Executive Council responsible for public works must identify and make available sites to be used as isolation and quarantine facilities within each province, as the need arises.

(3) The accounting officers of municipalities must identify and make available sites to be used as isolation and quarantine facilities within their local areas, and provide the list to the Department of Health for resourcing.

Closure of schools and partial care facilities

6. Schools and partial care facilities must be closed by 18 March 2020 until 15 April 2020, which period may be extended for the duration of the national state of disaster by the cabinet member responsible.

Suspension of visits

7. All visits by members of the public to—

- (a) Correctional Centres;



- (b) Remand Detention Facilities;
 - (c) Holding Cells;
 - (d) Military Detention Facilities; and
 - (e) Department of Social Development facilities, including Child and Youth Care Centres, shelters, One Stop Centres, and Treatment Centres,
- are suspended for a period of 30 days from the date of publication of this Notice, which period may be extended for any period, but not beyond the duration of the national state of disaster by the cabinet member responsible.

Limitation on the sale, dispensing or transportation of liquor

8. (1) All on-consumption premises selling liquor, including taverns, restaurants and clubs, must be closed with immediate effect, or must accommodate no more than 50 persons at any time: Provided that adequate space is available and that all directions in respect of hygienic conditions and limitation of exposure to persons with COVID-19, are adhered to.

(2) All premises selling liquor which provide accommodation must implement measures to stop the spread of COVID-19: Provided that adequate space is available and that all directions in respect of hygienic conditions and limitation of exposure to persons with COVID-19 are adhered to.

(3) No special or events liquor licenses may be considered for approval during the duration of the national state of disaster.

(4) All on-consumption premises selling liquor referred to in subregulation (1) must be closed —

- (i) between 18:00 and 09:00 the next morning on weekdays and Saturdays; and
- (ii) from 13:00 on Sundays and public holidays.

(5) All off-consumption premises selling liquor must be closed —

- (i) between 18:00 and 09:00 the next morning on weekdays and Saturdays; and
- (ii) from 13:00 on Sundays and public holidays.

Emergency Procurement Procedures

9. 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 76 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.

Authority to issue directions

10. (1) The Minister of 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 Minister of 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) after consultation with the Chief Justice, 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; and
- (c) vary the directions referred to in paragraphs (a) and (b) as the circumstances require.

(3) The Ministers of Basic and Higher Education may —

- (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 Minister of 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 Minister of 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 Minister of Trade and Industry 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 Minister of Transport may—
 - (a) issue directions to address, prevent and combat the spread of COVID-19 in matters falling within his mandate; and
 - (b) vary the directions referred to in paragraph (a) as the circumstances require.
 - (8) Any Minister may issue and vary directions, as required, within his or her mandate, to address, prevent and combat the spread of COVID-19, 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.



Offences and penalties

11. (1) For purposes of regulation 3, any person who—

- (a) convenes a gathering;
- (b) permits more than 50 persons at premises where liquor is sold and consumed; or
- (c) hinders, interferes with, or obstructs an enforcement officer in the exercise of his or her powers, or the performance of his or her duties in terms of these Regulations,

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) A person is guilty of an offence if that person fails to comply with or contravenes the provisions of regulations 6 and 9 of these Regulations.

(3) A person convicted of an offence mentioned in subregulation (2) liable on conviction to a fine or to imprisonment not exceeding six months or to both a fine and imprisonment.

(4) 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.

(5) 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.

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

Commencement

12. These Regulations come into operation on the date of publication.



REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUIDAFRIKA

Regulation Gazette

No. 11057

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**19 March
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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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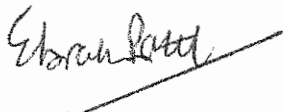
DEPARTMENT OF TRADE AND INDUSTRY

NO. R. 350

19 MARCH 2020

**CONSUMER AND CUSTOMER PROTECTION AND NATIONAL DISASTER
MANAGEMENT REGULATIONS AND DIRECTIONS**

I, Ebrahim Patel, Minister of Trade and Industry, do hereby make the regulations and directions set out in the schedule hereto in terms of and under section 78 read with section 8(3)(f) of the Competition Act, 1998 (Act No. 89 of 1998); section 120 (1)(d) read with sections 40 and 48 of the Consumer Protection Act, 2008 (Act 68 of 2008); and, the regulations issued by the Minister of Co-operative Governance and Traditional Affairs in terms of section 27 (2) of the Disaster Management Act, 1957 (Act 57 of 2002) pursuant to the national disaster declared in Government Notice No. 313 of *Government Gazette* No. 430096 on 15 March 2020.



EBRAHIM PATEL
MINISTER OF TRADE AND INDUSTRY



SCHEDULE**1. Interpretation.**

In these regulations, unless the context indicates otherwise, any word or expression has the meaning assigned to it by the Competition Act, 1998 (Act No. 89 of 1998), Consumer Protection Act, 2008 (Act No. 68 of 2000), the Disaster Management Act, 1957 (Act 57 of 2002), or the regulations issued in terms of section 27 (2) of the Disaster Management Act, 1957 (Act No. 57 of 2002) and published in Government Notice No. 318 of *Government Gazette* No. 43107 on 18 March 2020 and—

- 1.1. **“Competition Act”** means the Competition Act, 1998 (Act No. 89 of 1998);
- 1.2. **“Consumer Protection Act”** means the Consumer Protection Act, 2008 (Act No. 68 of 2008);
- 1.3. **“Disaster Management Act”** means the Disaster Management Act, 1957 (Act No. 57 of 2002);
- 1.4. **“national disaster”** means the national disaster relating to the COVID-19 outbreak declared in Government Notice No. 313 of *Government Gazette* No. 43096 on 15 March 2020; and
- 1.5. **“price increase”** means a direct increase or an increase as a result of unfair conduct such as, amongst others, false or misleading pricing practices, covert manipulation of prices, manipulation through raising or reducing grade levels of goods and services.

2. Application.

- 2.1. These regulations and directions apply to the supply of goods and services contemplated and listed in Annexures A and B during the period of the national disaster.
- 2.2. These regulations and directions come into effect on the date of their publication in the *Government Gazette*.
- 2.3. These regulations and directions will be of no force of effect when the COVID-19 outbreak is no longer declared a disaster.

3. Purpose.

The purpose of these regulations is to—

- 3.1. promote concerted conduct to prevent an escalation of the national disaster and to alleviate, contain and minimise the effects of the national disaster; and
- 3.2. protect consumers and customers from unconscionable, unfair, unreasonable, unjust or improper commercial practices during the national disaster.

4. Excessive Pricing.

- 4.1. In terms of section 8 (1) of the Competition Act a dominant firm may not charge an excessive price to the detriment of consumers or customers.
- 4.2. In terms of section 8 (3)(f) of the Competition Act during any period of the national disaster, a material price increase of a good or service contemplated in Annexure A which—

Two handwritten signatures in black ink are located in the bottom right corner of the page. The first signature is a stylized, cursive 'A' followed by a flourish. The second signature is a more compact, stylized 'A'.

- 4.2.1. does not correspond to or is not equivalent to the increase in the cost of providing that good or service; or
- 4.2.2. increases the net margin or mark-up on that good or service above the average margin or mark-up for that good or service in the three month period prior to 1 March 2020,

is a relevant and critical factor for determining whether the price is excessive or unfair and indicates *prima facie* that the price is excessive or unfair.

5. Unconscionable, unfair, unreasonable and unjust prices.

- 5.1. In terms of sections 40 and 48 of the Consumer Protection Act a supplier may not—
 - 5.1.1. engage in unconscionable conduct, which includes the use of unfair tactics in connection with the marketing of any goods or service and the supply of goods or service to a consumer; and
 - 5.1.2. may not offer to supply, supply or enter into an agreement to supply any good and service at a price that is unfair, unreasonable or unjust.
- 5.2. In terms of section 120 (1)(d) of the Consumer Protection Act, during any period of the national disaster, a price increase of a good or service contemplated in Annexure A which—
 - 5.2.1. does not correspond to or is not equivalent to the increase in the cost of providing that good or service; or
 - 5.2.2. increases the net margin or mark-up on that good or service above the average margin or mark-up for that good or service in the three month period prior to 1 March 2020,



is unconscionable, unfair, unreasonable and unjust and a supplier is prohibited from effecting such a price increase.

- 5.3. The Minister, after consultation with the Minister of Health, may issue directions in terms of the regulations issued in terms of section 27(2) of the Disaster Management Act published in Government Notice No. 318 of *Government Gazette* No. 43107 on 18 March 2020, should it become necessary, to set maximum prices on private medical goods and services relating to the testing, prevention and treatment of the COVID-19 and its associated diseases during the national disaster.

6. Supply of goods.

- 6.1. A supplier must develop and implement reasonable measures to—

6.1.1. ensure the equitable distribution to consumers or customers, including small businesses, of goods contemplated in Annexure A; and

6.1.2. maintain adequate stocks of goods contemplated in Annexure A.

- 6.2. These measures may include limiting the number of items of the goods referred to in Annexure B which a consumer or customer may purchase in a defined period of time.

- 6.3. A retailer must prominently display a notice in each of its stores that states that it has developed and will implement the measures referred to in sub-regulations 6.1 and 6.2 and that it will adequately and diligently carry out these measures.

- 6.4. A wholesaler must take all reasonable steps to ensure that purchases by customers and consumers are not intended to circumvent the object and implementation of the measures referred to in sub-regulation 6.1.



- 6.5. The Minister may, by notice in the *Gazette*, delete or add goods and services contemplated and listed in Annexures A and B.
- 6.6. The Minister may, by notice in the *Gazette*, issue directions in terms of the regulations issued in terms of section 27(2) of the Disaster Management Act published in Government Notice No. 318 of *Government Gazette* No. 43107 on 18 March 2020, should it become necessary, to set maximum quantities limiting the number of items of the goods referred to in Annexure B which a consumer or customer may purchase in a defined period of time.

7. Penalties.

- 7.1. A dominant firm that contravenes or fails to comply with regulation 4 must be investigated by the Competition Commission and, if found to be in contravention, is liable for the penalties imposed upon it as provided for in the Competition Act.
- 7.2. Subject to the requirements of the Competition Act, the Consumer Protection Act and the regulations published in terms of section 27 (2) of the Disaster Management Act, a person or firm which contravenes these regulations could have one of more of the following penalties imposed—
- 7.2.1. a fine of up to R1 000 000;
- 7.2.2. a fine of up to 10% of a firm's turnover; and
- 7.2.3. imprisonment for a period not exceeding 12 months.

8. Representations on these regulations.

- 8.1. Any person may make written representations regarding these regulations and directions.

- 8.2. Representations must reach the Department of Trade and Industry not later than 14 days from the date of publication of this notice.
- 8.3. Representations should be submitted by email to ministry@economic.gov.za.
- 8.4. Following consideration of the representations, the Minister may amend these regulations and directions.

ANNEXURE A

The goods and services are those which relate to—

1. basic food and consumer items;
2. emergency products and services;
3. medical and hygiene supplies;
4. emergency clean-up products and services.

ANNEXURE B

1. The goods are—
 - 1.1. Toilet Paper;
 - 1.2. Hand Sanitiser;
 - 1.3. Facial Masks;
 - 1.4. Disinfectants Cleaners;
 - 1.5. Surgical gloves;



- 1.6. Surgical masks;
- 1.7. Disinfectant Wipes;
- 1.8. Antiseptic Liquids;
- 1.9. All-Purpose Cleaners;
- 1.10. Baby Formula;
- 1.11. Disposable Nappies;
- 1.12. Bleach;
- 1.13. Cooking Oils;
- 1.14. Wheat Flour;
- 1.15. Rice;
- 1.16. Maize meal;
- 1.17. Pasta;
- 1.18. Sugar;
- 1.19. Long-life Milk
- 1.20. Canned and Frozen Vegetables;
- 1.21. Canned, frozen and fresh meat, chicken or fish;
- 1.22. Bottled Water.

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2. The services are—

- 2.1. private medical services relating to the testing, prevention and treatment of the COVID-19 and its associated diseases.

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Annexure "E"



**STATEMENT BY PRESIDENT CYRIL RAMAPHOSA ON ESCALATION OF
MEASURES TO COMBAT COVID-19 EPIDEMIC**

UNION BUILDINGS, TSHWANE

23 MARCH 2020

My fellow South Africans,

It is a week since we declared the coronavirus pandemic a national disaster and announced a package of extraordinary measures to combat this grave public health emergency.

The response of the South African people to this crisis has been remarkable.

Millions of our people have understood the gravity of the situation.

Most South Africans have accepted the restrictions that have been placed on their lives and have taken responsibility for changing their behaviour.

I am heartened that every sector of society has been mobilised and has accepted the role that it needs to play.

From religious leaders to sporting associations, from political parties to business people, from trade unions to traditional leaders, from NGOs to public servants, every part of our society has come forward to confront this challenge.

Many have had to make difficult choices and sacrifices, but all have been determined that these choices and sacrifices are absolutely necessary if our country is to emerge stronger from this disaster.

Over the past week, South Africans have demonstrated their determination, their sense of purpose, their sense of community and their sense of responsibility.

For this, we salute you and we thank you.

On behalf of the nation, I would also like to thank the health workers, our doctors, nurses and paramedics who are on the frontline of the pandemic, our teachers, border officials, police and traffic officers and all the other people who have been leading our response.

A handwritten signature in black ink, appearing to be 'C. Ramaphosa', written over a circular stamp.

Since the national state of disaster was declared, we have put in place a range of regulations and directives.

These regulations have restricted international travel, prohibited gatherings of more than 100 people, closed schools and other educational institutions and restricted the sale of alcohol after 6pm.

We reiterate that the most effective way to prevent infection is through basic changes in individual behaviour and hygiene.

We are therefore once more calling on everyone to:

- wash hands frequently with hand sanitisers or soap and water for at least 20 seconds;
- cover our nose and mouth when coughing and sneezing with tissue or flexed elbow;
- avoid close contact with anyone with cold or flu-like symptoms.

Everyone must do everything within their means to avoid contact with other people.

Staying at home, avoiding public places and cancelling all social activities is the preferred best defence against the virus.

Over the past week, as we have been implementing these measures, the global crisis has deepened.

When I addressed the nation last Sunday there were over 160,000 confirmed COVID-19 cases worldwide.

Today, there are over 340,000 confirmed cases across the world.

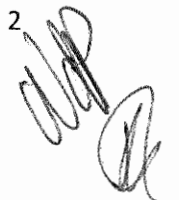
In South Africa, the number of confirmed cases has increased six-fold in just eight days from 61 cases to 402 cases.

This number will continue to rise.

It is clear from the development of the disease in other countries and from our own modelling that immediate, swift and extraordinary action is required if we are to prevent a human catastrophe of enormous proportions in our country.

Our fundamental task at this moment is to contain the spread of the disease.

I am concerned that a rapid rise in infections will stretch our health services beyond what we can manage and many people will not be able to access the care they need.

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We must therefore do everything within our means to reduce the overall number of infections and to delay the spread of infection over a longer period – what is known as flattening the curve of infections.

It is essential that every person in this country adheres strictly – and without exception – to the regulations that have already been put in place and to the measures that I am going to announce this evening.

Our analysis of the progress of the epidemic informs us that we need to urgently and dramatically escalate our response.

The next few days are crucial.

Without decisive action, the number of people infected will rapidly increase from a few hundred to tens of thousands, and within a few weeks to hundreds of thousands.

This is extremely dangerous for a population like ours, with a large number of people with suppressed immunity because of HIV and TB, and high levels of poverty and malnutrition.

We have learnt a great deal from the experiences of other countries.

Those countries that have acted swiftly and dramatically have been far more effective in controlling the spread of the disease.

As a consequence, the National Coronavirus Command Council has decided to enforce a nation-wide lockdown for 21 days with effect from midnight on Thursday 26 March.

This is a decisive measure to save millions of South Africans from infection and save the lives of hundreds of thousands of people.

While this measure will have a considerable impact on people's livelihoods, on the life of our society and on our economy, the human cost of delaying this action would be far, far greater.

The nation-wide lockdown will be enacted in terms of the Disaster Management Act and will entail the following:

- From midnight on Thursday 26 March until midnight on Thursday 16 April, all South Africans will have to stay at home.
- The categories of people who will be exempted from this lockdown are the following: health workers in the public and private sectors, emergency personnel, those in security services – such as the police, traffic officers, military medical personnel, soldiers – and other persons necessary for our response to the pandemic.

It will also include those involved in the production, distribution and supply of food and basic goods, essential banking services, the maintenance of power, water

and telecommunications services, laboratory services, and the provision of medical and hygiene products. A full list of essential personnel will be published.

- Individuals will not be allowed to leave their homes except under strictly controlled circumstances, such as to seek medical care, buy food, medicine and other supplies or collect a social grant.
- Temporary shelters that meet the necessary hygiene standards will be identified for homeless people. Sites are also being identified for quarantine and self-isolation for people who cannot self-isolate at home.
- All shops and businesses will be closed, except for pharmacies, laboratories, banks, essential financial and payment services, including the JSE, supermarkets, petrol stations and health care providers.

Companies that are essential to the production and transportation of food, basic goods and medical supplies will remain open.

We will publish a full list of the categories of businesses that should remain open.

Companies whose operations require continuous processes such as furnaces, underground mine operations will be required to make arrangements for care and maintenance to avoid damage to their continuous operations.

Firms that are able to continue their operations remotely should do so.

- Provision will be made for essential transport services to continue, including transport for essential staff and for patients who need to be managed elsewhere.

The nation-wide lockdown is necessary to fundamentally disrupt the chain of transmission across society.

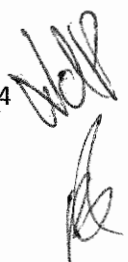
I have accordingly directed the South African National Defence Force be deployed to support the South African Police Service in ensuring that the measures we are announcing are implemented.

This nationwide lockdown will be accompanied by a public health management programme which will significantly increase screening, testing, contact tracing and medical management.

Community health teams will focus on expanding screening and testing where people live, focusing first on high density and high-risk areas.

To ensure that hospitals are not overwhelmed, a system will be put in place for 'centralised patient management' for severe cases and 'decentralised primary care' for mild cases.

Emergency water supplies – using water storage tanks, water tankers, boreholes and communal standpipes – are being provided to informal settlements and rural areas.

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A number of additional measures will be implemented with immediate effect to strengthen prevention measures. Some of those measures are that:

- South African citizens and residents arriving from high-risk countries will automatically be placed under quarantine for 14 days.
- Non-South Africans arriving on flights from high-risk countries we prohibited a week ago will be turned back.
- International flights to Lanseria Airport will be temporarily suspended.
- International travellers who arrived in South Africa after 9 March 2020 from high-risk countries will be confined to their hotels until they have completed a 14-day period of quarantine.

Fellow South Africans,

Our country finds itself confronted not only by a virus that has infected more than a quarter of a million people across the globe, but also by the prospects of a very deep economic recession that will cause businesses to close and many people to lose their jobs.

Therefore, as we marshal our every resource and our every energy to fight this epidemic, working together with business, we are putting in place measures to mitigate the economic impact both of this disease and of our economic response to it.

We are today announcing a set of interventions that will help to cushion our society from these economic difficulties.

This is the first phase of the economic response, and further measures are under consideration and will be deployed as needed.

These interventions are quick and targeted.



Firstly, we are supporting the vulnerable.

- Following consultation with social partners, we have set up a Solidarity Fund, which South African businesses, organisations and individuals, and members of the international community, can contribute to.

The Fund will focus efforts to combat the spread of the virus, help us to track the spread, care for those who are ill and support those whose lives are disrupted.

The Fund will complement what we are doing in the public sector.

I am pleased to announce that this Fund will be chaired by Ms Gloria Serobe and the deputy Chairperson is Mr Adrian Enthoven.

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The Fund has a website – www.solidarityfund.co.za – and you can begin to deposit monies into the account tonight.

The Fund will be administered by a reputable team of people, drawn from financial institutions, accounting firms and government.

It will fully account for every cent contributed and will publish the details on the website.

It will have a board of eminent South Africans to ensure proper governance.

To get things moving, Government is providing seed capital of R150 million and the private sector has already pledged to support this fund with financial contributions in the coming period.

We will be spending money to save lives and to support the economy.

In this regard, we must applaud the commitment made in this time of crisis by the Rupert and Oppenheimer families of R1 billion each to assist small businesses and their employees affected by the coronavirus pandemic.

- We are concerned that there are a number of businesses that are selling certain goods at excessively high prices. This cannot be allowed.

Regulations have been put in place to prohibit unjustified price hikes, to ensure shops maintain adequate stocks of basic goods and to prevent people from 'panic buying'.

It is important for all South Africans to understand that the supply of goods remains continuous and supply chains remain intact.

Government has had discussions with manufacturers and distributors of basic necessities, who have indicated that there will be a continuous supply of these goods. There is therefore no need for stockpiling of any items.

- A safety net is being developed to support persons in the informal sector, where most businesses will suffer as a result of this shutdown. More details will be announced as soon as we have completed the work of assistance measures that will be put in place.
- To alleviate congestion at payment points, old age pensions and disability grants will be available for collection from 30 and 31 March 2020, while other categories of grants will be available for collection from 01 April 2020.

All channels for access will remain open, including ATMs, retail point of sale devices, Post Offices and cash pay points.

Secondly, we are going to support people whose livelihoods will be affected.

- We are in consultation on a proposal for a special dispensation for companies that are in distress because of COVID-19. Through this proposal employees will receive wage payment through the Temporary Employee Relief Scheme, which will enable companies to pay employees directly during this period and avoid retrenchment.
- Any employee who falls ill through exposure at their workplace will be paid through the Compensation Fund.
- Commercial banks have been exempted from provisions of the Competition Act to enable them to develop common approaches to debt relief and other necessary measures.

We have met with all the major banks and expect that most banks will put measures in place within the next few days.

- Many large companies that are currently closed have accepted their responsibility to pay workers affected. We call on larger businesses in particular to take care of their workers during this period.
- In the event that it becomes necessary, we will utilise the reserves within the UIF system to extend support to those workers in SMEs and other vulnerable firms who are faced with loss of income and whose companies are unable to provide support. Details of these will be made available within the next few days.

Thirdly, we are assisting businesses that may be in distress.

- Using the tax system, we will provide a tax subsidy of up to R500 per month for the next four months for those private sector employees earning below R6,500 under the Employment Tax Incentive. This will help over 4 million workers.
- The South African Revenue Service will also work towards accelerating the payment of employment tax incentive reimbursements from twice a year to monthly to get cash into the hands of compliant employers as soon as possible.
- Tax compliant businesses with a turnover of less than R50 million will be allowed to delay 20% of their pay-as-you-earn liabilities over the next four months and a portion of their provisional corporate income tax payments without penalties or interest over the next six months. This intervention is expected to assist over 75 000 small and medium-term enterprises.
- We are exploring the temporary reduction of employer and employee contributions to the Unemployment Insurance Fund and employer contributions to the Skill Development Fund.
- The Department of Small Business Development has made over R500 million available immediately to assist small and medium enterprises that are in distress through a simplified application process.

- The Industrial Development Corporation has put a package together with the Department of Trade, Industry and Competition of more than R3 billion for industrial funding to address the situation of vulnerable firms and to fast-track financing for companies critical to our efforts to fight the virus and its economic impact.
- The Department of Tourism has made an additional R200 million available to assist SMEs in the tourism and hospitality sector who are under particular stress due to the new travel restrictions.

I want to make it clear that we expect all South Africans to act in the interest of the South African nation and not in their own selfish interests.

We will therefore act very strongly against any attempts at corruption and profiteering from this crisis.

I have directed that special units of the NPA be put together to act immediately and arrest those against who we find evidence of corruption.

We will work with the judiciary to expedite cases against implicated persons and make sure the guilty go to jail.

South Africa has a safe, sound, well-regulated and resilient financial sector.

Since the global financial crisis, we have taken steps to strengthen the banking system, including increasing capital, improving liquidity and reducing leverage.

With a strong financial sector and deep and liquid domestic capital markets, we have the space to provide support to the real economy.

We can make sure money flows to firms and households.

We can ensure that our markets are efficient.

Last week, in line with its Constitutional mandate, the South African Reserve Bank cut the repo rate by 100 basis point. This will provide relief to consumers and businesses.

The South African Reserve Bank has also proactively provided additional liquidity to the financial system.

The Governor has assured me that the Bank is ready to do 'whatever it takes' to ensure the financial sector operates well during this pandemic.

The banking system will remain open, the JSE will continue to function, the national payment system will continue to operate and the Reserve Bank and the commercial banks will ensure that bank notes and coins remain available.

The action we are taking now will have lasting economic costs.

But we are convinced that the cost of not acting now would be far greater.

We will prioritise the lives and livelihoods of our people above all else, and will use all of the measures that are within our power to protect them from the economic consequences of this pandemic.

In the days, weeks and months ahead our resolve, our resourcefulness and our unity as a nation will be tested as never before.

I call on all of us, one and all, to play our part.

To be courageous, to be patient, and above all, to show compassion.

Let us never despair.

For we are a nation at one, and we will surely prevail.

May God protect our people.

Nkosi Sikelel' iAfrika. Morena boloka setjhaba sa heso.

God seën Suid-Afrika. God bless South Africa.

Mudzimu fhatutshedza Afurika. Hosi katekisa Afrika.

I thank you.

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the dti
Department
Trade and Industry
REPUBLIC OF SOUTH AFRICA

Annexure "F"

Media Briefing – Remarks by Minister of Trade, Industry and Competition Ebrahim Patel on Tuesday 24 March 2020

2020-03-24

The address by the President last night recognised that saving lives must be the priority and we need to draw on all our resources in the economy and within each of the major economic players to come through this with as little damage.

Across the world, more countries are now doing lockdowns and we want to ensure that it is managed in strong partnership with our people, with large and small businesses, with workers and with consumers.

Last night, the President identified a number of key interventions. Over the next few days, we will release more information as we finalise programmes and interventions.

IDC facility

The President announced that the IDC has put a package together with the Department of Trade, Industry and Competition of more than R3 billion for industrial funding to address the situation of vulnerable firms and to fast-track financing for companies critical to our efforts to fight the virus and its economic impact.

This facility will be available to South African owned businesses.

It is important that industry does not come to a standstill and therefore the Industrial Development Corporation (IDC) is responding to sector challenges that arise from this crisis whether these are surges in demand or those industries that are facing distress.

We have made two special interventions

- R500 million has been allocated for trade finance to import essential medical products;
- R700 million has been allocated for working capital and equipment and machinery

In addition to this, the IDC is engaging industry players to address surges in demand

- Ensuring food security by prioritizing support to Agriculture and food value chains
- Tourism sector support for working capital
- Bridging finance to support supply chain interruptions
- Working capital to ensure energy security by supporting suppliers of primary energy
- Working capital and Bridging Finance to SMEs that provide components to car-makers

In addition to the above, IDC has made available a capital allocation of R3 billion in the next quarter to support businesses during this crisis.

Essential services that fall outside of normal IDC sectors will be considered, as a measure we have now introduced during this period.

For existing clients, IDC is already in contact with its business partners to consider repayment deferrals on a case-by-case basis.

Price increases - Consumer and Competition investigations into pricing of products

Last week we published a list of 22 critical products and categories which the National Consumer and Competition Commission will be monitoring closely to ensure that there are no unjustified price increases.

These include basic food items (like Rice, Maize meal, Milk, Canned Vegetables and Meats), Personal Care products (like Toilet paper, Baby formula and nappies), Hygiene products (like disinfectant, hand sanitiser, and cleaning agents) and key medical supplies (like surgical masks and gloves).

The Consumer and Competition Commissions are investigating 11 firms who have been found to be selling products like face-masks, hand sanitisers and other products, for high prices and abusing the situation. More firms are being investigated and prosecutions will follow.

These 11 firms which the regulators are investigating have been brought to the attention of the authorities by ordinary consumers. The National Consumer Commission has established a toll-free hotline (0800-014-880) and are also reachable on social media through Twitter (@NCC_COVID19)

Consumers can report unjustified price increases on any of these 22 products and other key products to the National Consumer Commission, and we encourage you to do.

Competition exemptions for banks and for retail

On Friday, we issued an exemption to banks under the Competition Act to coordinate on measures which can be used to support businesses and ordinary citizens during this period. It has been published in the Government Gazette yesterday.

The exemptions will allow South African banks to work together to devise programmes and relief measures which can help small businesses and consumers through these financial and economic challenges. In particular, the exemptions will enable banks to coordinate in respect of:

- payment holidays and debt relief for business and individual citizens subject to financial stress.
- limitations set on asset repossessions of business and individual citizens subject to financial stress.
- the extension of credit lines to individuals and businesses subject to financial stress.

The exemptions will allow banks to work together in ensuring continued functioning of the payments system, a critical component of the financial system. This includes sharing information and resources to ensure the continued availability of bank notes to ATMs, branches and businesses.

The COVID-19 National Disaster will put strain on our economy, including small business owners and ordinary citizens. With the Minister of Finance, we have been engaging the banking sector to work together in finding solutions and providing relief packages which will ease the burden on ordinary South African citizens, workers and business owners.

This is a time for all us to pull together as corporate and ordinary citizens to ensure that our people and economy come through this challenge with their lives, their jobs, their businesses, their livelihoods and their property intact. These banking exemptions are a critical step in ensuring an appropriate regulatory environment to do this work.

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Essential services

Last night President Ramaphosa announced that companies that are essential to the production and transportation of food, basic goods and medical supplies will remain open during the 21-day "lockdown". This means that essential personnel required for the continued functioning of these companies during the "lockdown" will be exempted from the stay-home provisions.

We will be publishing further guidelines tomorrow, ahead of the "lockdown", which begins on Thursday evening just after midnight, in other words, the lockdown will come into effect the whole of Friday and beyond.

I can make a few preliminary comments now, with more detail to come in the coming days.

Grocery stores, supermarkets, and spaza shops will remain open during the "lockdown".

We call on our people to limit the trips to shopping centres for the purpose of shopping for food and basic goods only, and not to gather in shopping malls. Pharmacies will remain open during the "lockdown". Healthcare professionals providing essential services to the public will be open as well.

All essential items – food and beverages, medical supplies, personal products, hygiene products, cleaning products – will remain available through the lockdown and the period of the national disaster. This means that all businesses essential for the production and distribution of these essential items will be allowed to remain in operation during the "lockdown".

Businesses which remain in operation during the "lockdown" will be required to do so with all the staff required to ensure that the service or production is uninterrupted.

Businesses will also be required to take necessary protocols to ensure adequate hygiene and social distancing.

Consumer-facing businesses, like grocery stores, supermarkets, pharmacies and spaza shops, especially, will be asked to educate their staff and customers on the required protocols and to take reasonable steps to keep social distancing between customers.

There are a number of categories of essential services that due to time-constraints, the President could not mention yesterday.

These include essential staff in the following areas that are being looked at for inclusion in the Gazetted list:

- those responsible for essential care of the elderly and sick persons, including home-care and old-age homes
- essential private security services for the protection of property and persons
- All essential back-office services to enable salary and human resource departments to work so as to ensure smooth management of wage and salary payments
- essential animal welfare and emergency veterinary services
- those who assist in transporting food and other essentials to people's homes including on-line retail, as well as transport systems that support any of the essential services
- key maintenance systems required at workplaces to avoid serious damage to economic assets, where the interruption of that service will destroy critical working areas, factories or machinery.
- Members of Parliament, Provincial legislatures, Municipal councils and their core staff, as well as government departments and public entities' staff responsible to assist with implementation of the measures announced by the President, as they will all need to be working to make the country safe;
- members of the media and broadcasting services, who will serve as a vital communication between ourselves and the public.
- Transportation of fuel, food and basic goods supply trucks between SADC countries

The full list will be gazetted shortly. The purpose of this illustrative list is to show that we are taking into account the critical services that should remain open in this period.

During the lockdown, we strongly encourage all companies whose employees are able to work from home, to make the necessary arrangements for them to do so, as we need to maintain as much of the economic activity as we can during this critical period, so that we generate resources to finance the measures that we are undertaking.

The sooner we slow the spread of the disease, the sooner we can return to normal life and normal business. While some of may be exempt from the "lockdown" because the nature of our work, none of us are exempt from susceptibility of the virus.

Supply-chains and securing basic supplies

A number of businesses are essential services and will remain open during this period. We will publish further details and add specific businesses to the list as required.

While the limit of 100 people does not apply to essential services, we will still need all the affected businesses to take steps to protect workers through social distancing and public hygiene measures.

I am working with the Minister of Police and the Minister of Employment and Labour to ensure that police offices and health inspectors are well-briefed on the kinds of businesses which should be allowed to continue with larger numbers of people.

These include supermarkets, food production facilities, and farms.

These businesses, must however, take all necessary precautions to ensure adequate social distancing amongst customers and staff, and to educate staff on the appropriate hygiene protocols to counteract the spread of COVID-19. Where staff are not critical to the functioning of the operation, we encourage employers to allow those staff members to stay at home.

The steps that companies must take include

- Providing hand sanitisers at workplaces, as people enter, at key workstations and when they leave
- Managing clocking arrangements and canteen facilities and scheduling of work breaks, to limit the level of social interaction
- Disinfecting work surfaces that workers are exposed to

We are going into the month-end period where the numbers of South Africans in grocery stores and supermarkets naturally increases. We are working with major grocery retailers to ensure that there are appropriate protocols to ensure social distancing, and that their shelves remain well-stocked.

We appeal to all our people to remain calm and to buy only what they need for their immediate requirements. We are keeping the full food supply-chain open, from farms and fisheries, to factories, transport systems and shops, so that we can have food available in this period and beyond. This is a moment to show our caring for each other and to resist any effort to score from the crisis.

Shopping mall tenants

A number of shops and other businesses in shopping malls have already seen a decline in their turnover. They face significant fixed costs, including rents and costs specified in leases.

We will publish a special Gazette today, to enable tenants who are competitors to meet and to reach agreements with shopping mall owners and to address matters such as

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- Payment holidays or rental discounts and
- Limitations on evictions.

These initially cover three categories of retailers, being

- Personal care functions
- Restaurants and
- Clothing, footwear and home-textile shops.

These categories will be expanded as required in the next few days.

Solidarity Fund.

Last night President Cyril Ramaphosa announced the creation of the Solidarity Response Fund. The Solidarity Response Fund is designed to unite the nation and to accelerate the country's response to COVID-19.

The Focus of the fund is to alleviate the suffering and distress caused by the virus to our country and will mobilise the support of business and civil society in support of government's efforts in response to COVID-19.

Government has made an initial R150 million available as seed funding and a number of businesses will be contributing within the next few days. R100m of this is from National Treasury; and R50m from the National Lotteries.

The Chairperson of the Fund is Ms Gloria Serobe and the Vice Chairperson is Mr Adnan Enthoven. The Fund will be independently administered and transparently governed through an independent board to ensure that the funds are effectively and efficiently used to combat COVID-19.

The fund will be a rapid response vehicle through which contributions from citizens, communities, business and international donors can be pooled together to primarily fund four key initiatives:

- Prevent: preventative and supporting measures to "flatten the curve" by lowering infection rates
- Detect: detect and understand the magnitude of the infection problem
- Care: assist with the management of those people in hospital or medical care
- Support: support those people whose lives are disrupted by COVID-19.

Organized business is assisting with the initial formation of the Fund and thereafter the Board which is being appointed will take full responsibility for the fund and its activities.

Details on how to donate will be available on the Fund's website www.solidarityfund.co.za

Trade with neighbours.

We will take all steps to keep open trade links with neighbours to ensure that we have food-supply across the region and that we come through this together as neighbours. The controls on movement of people will not affect the movement of goods across borders with our neighbours.

Thank you!

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REPUBLIC OF SOUTH AFRICA
REPUBLIEK VAN SUID AFRIKA

Regulation Gazette

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AIDS HELPLINE: 0800-0123-22 Prevention is the cure

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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NO. R. 398

25 MARCH 2020

DISASTER MANAGEMENT ACT, 2002: AMENDMENT OF REGULATIONS ISSUED IN
TERMS OF SECTION 27(2)

I, 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. 43096 on 15 March 2020, hereby in terms of section 27(2) of the Disaster Management Act, 2002, after consultation with the Minister of Health, made the Regulations in the Schedule.

NC Zuma
DR NKOSAZANA DLAMINI ZUMA, MP
MINISTER OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS
DATE: 25.03.2020

SCHEDULE

Definitions

1. In these regulations, "the Regulations" means the regulations published by Government Notice No. 318 of 18 March 2020.

Insertion of heading in Regulations

2. The Regulations are hereby amended by the insertion of the following heading after the heading "SCHEDULE":
"CHAPTER 1".

Amendment of regulation 1 of the Regulations

3. Regulation 1 of the Regulations is hereby amended by the—
- (a) insertion of the following definitions after the definition of "adequate space";
"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;";
 - (b) substitution for the definition of "gathering" for the following definition:
"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

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- (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;";
- (c) the insertion of the following definitions after the definition of "gathering":
 "‘**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);
 ‘**laboratory confirmed case**’ means a patient who has been diagnosed with COVID-19 through a Department of Health approved laboratory diagnostic method;";
- (d) insertion of the following definition after the definition of "liquor":
 "‘**quarantine**’ means the restriction of activities or separation of a person, who was exposed, or potentially exposed, to COVID-19 and could be a possible source of the spread of the disease, from other non-exposed persons, in such a manner so as to prevent the possible spread of infection or contamination to healthy individuals;" and
- (e) the substitution for the definition of "school" for the following definition:
 "‘**school**’ means a school as defined in section 1 of the South African Schools Act, 1996 (Act No. 84 of 1996);".

Insertion of regulation 1A in Regulations

4. The following regulation is hereby inserted in the Regulations:

"Application of Chapters 1 and 2

1A. (1) Chapter 1 and any direction issued pursuant to the Regulations shall continue to be force and effect, save that if there are any inconsistencies between Chapter 1 and Chapter 2, Chapter 2 shall prevail to the extent of the inconsistency.

(2) Chapter 2 of these Regulations will apply as from 26 March 2020 at 24H00 until 16 April 2020 at 24H00, or on a date to be determined by the Cabinet member designated under section 3 of the Disaster Management Act."

Amendment of Regulation 4 of the Regulations

5. Regulation 4 of the Regulations is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) No person who has been confirmed, as a clinical case or as 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 consent to—

- (a) submission of that person to a medical examination, including but not limited to the taking of any bodily sample by a person authorised in law to do so;
- (b) admission of that person to a health establishment or a quarantine or isolation site; or



- (c) submission of that person to mandatory prophylaxis, treatment, isolation or quarantine, or isolation 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 isolation or quarantine for a period of 48 hours, as the case may be, pending a warrant being issued by a competent Court, on application by an enforcement officer for the medical examination contemplated in paragraph (a)."

Amendment of Regulation 5 of the Regulations

6. Regulation 5 of the Regulations is hereby amended by the substitution for subregulation (2) of the following subregulation:

"(2) A member of the provincial Executive Council responsible for public works must identify and make available sites to be used as isolation and quarantine facilities within each province as the need arises: Provided that if a person refuses to go to such a site of isolation or quarantined facility a magistrate in whose jurisdiction such a person is, an order as contemplated in Annexure A, must be made by that magistrate to force such a person to go to such site of isolation, quarantined facility, or medical examination."

Amendment of regulation 11 of the Regulations

7. Regulation 11 of the Regulations is hereby amended by the substitution for subsection (2) of the following subsection:

"(2) A person is guilty of an offence if that person fails to comply with or contravenes the provisions of regulations 6 and 8 of these Regulations."

Insertion of Chapter 2 into the Regulations

8. The following Chapter is hereby inserted into the Regulations after regulation 11:

"CHAPTER 2

Definitions

11A. For purposes of this Chapter, unless the context otherwise indicates—

'essential goods' means the goods referred to in paragraph A of Annexure B, as may be amended from time to time by the Cabinet member designated under section 3 of the Disaster Management Act;

'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 in paragraph B of Annexure B, as may be amended from time to time;

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'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 that is engaged in the supply or distribution of an essential good or service;

'lockdown' means the restriction of movement of persons during the period for which this regulation is in force and effect namely from 23H59 on Thursday, 26 March 2020, until 23H59 on Thursday 16 April 2020, and during which time the movement of persons is restricted; and

'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.

Restriction on the movement of persons and goods

11B. (1)(a) For the period of lockdown-

- (i) every person is confined to his or her place of residence, unless strictly for the purpose of performing an essential service, obtaining an essential good or service, collecting a social grant, or seeking emergency, life-saving, or chronic medical attention;
- (ii) every gathering, as defined in regulation 1 is hereby prohibited, except for funeral as provided for in subregulation (8);
- (iii) movement between provinces is prohibited; and
- (iv) movement between the metropolitan and district areas, is prohibited.

(b) All businesses and other entities shall cease operations during the lockdown, save for any business or entity involved in the manufacturing, supply, or provision of an essential good or service.

(c) Retail shops and shopping malls must be closed, except where essential goods are sold and on condition that the person in control of the said store must put in place controls to ensure that customers keep a distance of at least one square meter from each other, and that all directions in respect of hygienic conditions and the exposure of persons to COVID-19 are adhered to.

(c) Retail stores selling essential goods is prohibited from selling any other goods.

(d) The Cabinet member designated under section 3 of the Act may amend the list contemplated in paragraph (c) as required from time to time.

(e) Any place not involved in the provision of an essential good or service must remain closed to all persons for the duration of the lockdown.

(2) The head of an institution must determine essential services to be performed by his or her institution, and must determine the essential staff who will perform those services: Provided that the head of an institution may delegate this function, as may be required in line with the complexity and size of the business operation.



(3) Persons performing essential services as determined in subregulation (2), must be duly designated in writing by the head of an institution, on a form that corresponds substantially with Form 1 in Annexure C.

(4) All places or premises provided for in Annexure D must be closed to the public except to those persons rendering security and maintenance services at those places or premises.

(5) All persons performing essential services, obtaining essential goods or seeking medical attention, may be subjected to screening for COVID-19 by an enforcement officer.

(6)(a) All borders of the Republic are closed during the period of lockdown, except for transportation of fuel, and essential goods.

(b) The Cabinet member responsible for home affairs, or a person designated by him or her, may allow a person who requires to enter the Republic for emergency medical attention for a life-threatening condition.

(c) All foreign tourists who arrived in the Republic prior to, or after, the lockdown, and who remain in the Republic, must remain in their place of temporary residence in the Republic for the duration of the lockdown or 14 days, as the case may be, and may be subject to screening for COVID-19 and be quarantined or isolated as required.

(7) The Minister may issue directions to provide further conditions that will apply to activities referred to in subregulation (1), or other activities, and may vary the directions as the circumstances require.

(8) Attendance at a funeral is limited to 50 people and will for purposes of these Regulations not be regarded as a prohibited gathering: Provided that no night vigil shall be held and that all safety measures are strictly adhered to.

Prohibition of public transport

11C. (1) All commuter transport services including passenger rail services, bus services, taxi services, e-hailing services, maritime and air passenger transport is prohibited, except bus services, taxi services, e-hailing services and private motor vehicles for purposes of rendering essential services, obtaining essential goods, seeking medical attention, funeral services and to receive payment of grants: Provided that such vehicle carries no more than 50% of the licensed capacity and all directions in respect of hygienic conditions and the limitation of exposure of persons to COVID-19, are adhered to.

(2) Where a person rendering essential services is unable to travel to and from his or her place of employment, the employer must make the necessary transport arrangements: Provided that no more than 50% of the licensed capacity of the vehicle or vessel is exceeded and all directions in respect of hygienic conditions and the limitation of exposure to persons with COVID-19, are adhered to.

(3) The Cabinet member responsible for transport must issue directions for the transportation of persons who must obtain essential goods or services and where such person has no other means of transport except public

transport as contemplated in subregulation (1), provided that no more than 50% of the licensed capacity of the vehicle or vessel is exceeded and all directions in respect of hygienic conditions and the limitation of exposure to persons with COVID-19, are adhered to.

Resources by the State during lockdown

11D. (1) For the period of the declaration of a lockdown, a person refusing to be evacuated from any place subject to lockdown, may be evacuated by an enforcement officer to a temporary shelter, if such action is necessary for the preservation of life.

(2) The State shall identify—

- (a) temporary shelters that meet the necessary hygiene standards for homeless people; and
- (b) temporary sites for quarantine and self-isolation that meet the necessary hygiene standards for people who cannot isolate or quarantine in their homes.

(3) The provision of the State's resources listed herein shall be for the duration of the lockdown, and the use thereof will be subject to conditions determined by the Cabinet member responsible for such resources.

Loss or damage

11E. No person is entitled to compensation for any loss or damage arising out of any *bona fide* action or omission by an enforcement officer under these regulations.

Powers and indemnity

11F. These Regulations do not limit any powers or indemnities of security services provided for in any law.

Offences and penalties

11G. For purposes of this Chapter any person who contravenes regulation 11B(1) and (4), 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."

Addition of Annexures to the Regulations

9. The following Annexures are hereby added to the Regulations:



**"ANNEXURE A
ORDER FOR A PERSON TO GO TO A SITE OF ISOLATION, QUARANTINED FACILITY, OR
FOR A PERSON TO GO FOR MEDICAL EXAMINATION
Regulation 5(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 consent for the—

- ☐ submission to a medical examination, including but not limited to the taking of any bodily sample by a person authorised in law to do so
- ☐ admission to a site to be used as isolation or a quarantine facility
- ☐ submission to mandatory prophylaxis, treatment, isolation or quarantine or isolation in order to prevent transmission.

I hereby issue a warrant for the submission of the said person to a medical examination, including but not limited to the taking of any bodily sample by a person authorised in law to do so.

MAGISTRATE

DATE

NOTE: This warrant remains in force until one of the following occurs:

- (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) the expiry of ninety days from the date of its issue; or
- (d) the purpose for the issuing of the warrant has lapsed.



ANNEXURE B
CATEGORISATION OF ESSENTIAL GOODS AND SERVICES DURING LOCKDOWN
Regulation 11A

A. GOODS

1. Food
 - (i) Any food product, including non-alcoholic beverages;
 - (ii) Animal food; and
 - (iii) Chemicals, packaging and ancillary products used in the production of any food product.
2. Cleaning and Hygiene Products
 - (i) Toilet Paper, sanitary pads, sanitary tampons, condoms;
 - (ii) Hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment; and
 - (iii) Chemicals, packaging and ancillary products used in the production of any of the above.
3. Medical:
 - (i) Medical and Hospital Supplies, equipment and personal protective equipment; and
 - (ii) Chemicals, packaging and ancillary products used in the production of any of the above.
4. Fuel, including coal and gas
5. Basic goods, including airline and electricity.

B. SERVICES

Categories of essential services shall be confined to the following services:

1. Medical, Health (including Mental Health), Laboratory and Medical services;
2. Disaster Management, Fire Prevention, Fire Fighting and Emergency services;
3. Financial services necessary to maintain the functioning of the banking and payments environment, including the JSE and similar exchanges, as well as Insurance services;
4. Production and sale of the goods listed in category A, above;
5. Grocery stores, including spaza shops;
6. Electricity, 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 by the DPSA, including Social Grant Payments;
8. Birth and death certificates, and replacement identification documents;
9. Essential municipal services;
10. Care services and social relief of distress provided to older persons, mentally ill, persons with disabilities, the sick, and children;
11. Funeral services, including mortuaries;
12. Wildlife Management, Anti-poaching, Animal Care and Veterinary services;
13. Newspaper, broadcasting and telecommunication infrastructure and services;
14. Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector;
15. Cleaning, sanitation, sewerage, waste and refuse removal services;



16. Services related to the essential functioning of courts, judicial officers, the Master of the High Court, Sheriffs and legal practitioners required for those services;
17. Essential SARS services defined by the Commissioner of SARS;
18. Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services;
19. Postal services and courier services related to transport of medical products;
20. Private security services;
21. Air-traffic Navigation, Civil Aviation Authority, Cargo Shipping and dockyard services;
22. Gold, gold refinery, coal and essential mining;
23. Accommodation used for persons rendering essential services, quarantine, isolation and the lockdown;
24. Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment;
25. Transport services for persons rendering essential services and goods, and transportation of patients;
26. 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;
27. Commissioners of the South African Human Rights Commission, Gender Commission, and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, and the Public Protector and Deputy Public Protector; and
28. Transport and logistics in respect of essential goods as set out in A above to neighboring countries.

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 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

I,

Surname				
Full names				
Identity number				
Contact details	Cell nr.	Tel Nr(W)	Tel Nr(H)	e-mail address



Physical Address of Institution	
---------------------------------------	--

Hereby certify that:

Surname	
Full names	
Identity number	

Signed at _____, on this the _____ day of _____
2020.

Signature of Head of Institution

Official stamp
of Institution

ANNEXURE D
PLACES AND PREMISES CLOSED TO THE PUBLIC
Regulation 11B(4)

The following places and premises are closed to the public:

- (a) Any place or premises normally open to the public where religious, cultural, sporting, entertainment, recreational, exhibitional, organisational or similar activities may take place;
- (b) any place or premises normally open to the public where goods other than essential goods are procured, acquired, disposed of or sold;
- (c) any place or premises normally open to the public such as—
 - (i) public parks, beaches and swimming pools;
 - (ii) flea markets;
 - (iii) open air food markets;
 - (iv) fêtes and bazaars;
 - (v) night clubs;
 - (vi) casinos;
 - (vii) hotels, lodges and guest houses, except to the extent that they are required for remaining tourists confined to hotels, lodges and guest houses;
 - (viii) private and public game reserves except to the extent that they are required for remaining tourists confined to private and public game reserves;
 - (ix) holiday resorts except to the extent that they are required for remaining tourists confined to such holiday resort;

WAP

- (x) on-consumption premises, including taverns, shebeens, *shisanyama* where liquor is sold;
 - (xi) off-consumption premises, including bottle stores, where liquor is sold
 - (xii) off-consumption areas in supermarkets where liquor is sold;
 - (xiii) theatres and cinemas;
 - (xiv) shopping malls and centres (excluding grocery stores and pharmacies); and
 - (xv) taxi ranks, bus depots, train stations and airports; and
- (d) any other place or premises determined by the Cabinet member responsible for cooperative governance and traditional affairs by direction in the *Gazette*."

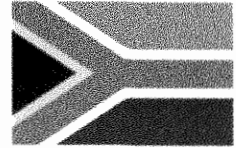




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Minister Ebrahim Patel announces essential service application portal for Coronavirus COVID-19 lockdown

25 Mar 2020

Minister Patel announces essential service application portal

The Minister of Trade and Industry, Mr Ebrahim Patel has announced that all businesses that will be allowed to provide essential services are required to seek approval from the Department of Trade, Industry and Competition (the dtic) in order for them to trade during the period of the lockdown in terms of the regulations published today by the Minister of Cooperative Governance and Traditional Affairs, Ms Nkosazana Dlamini-Zuma in Regulation Gazette No. 11062

Such businesses are required to apply to the Companies and Intellectual Property Commission (CIPC) Bizportal website at www.bizportal.gov.za and obtain a certificate from the Commission that allows them to continue trading. The Bizportal website will contain a menu icon listed as "Essential Service Businesses" through which an application can be made to the CIPC.

The application will be a simple declaration requiring minimal registration details, type of business/trade involved in, what trading name if any is used and whether it meets the requirements contained in the essential services list, the contact details of the person applying as well as the number of employees that will be working during the lockdown period.

The CIPC registry will then pre-populate the remaining company information and email a certificate stating that the business is allowed to remain trading.

The certificate can then be used as evidence to authorities requiring same that indeed the business has been given government permission to trade and that its employees are able to have unrestricted movement ONLY in the course of that trade.

It should be stressed and noted that if you make a false application to the CIPC, and are indeed not an essential service as per the government regulations, such will be taken as a fraudulent application and will render yourself as applicant liable to criminal prosecution and sanction.

This service will be available tomorrow morning 26 March 2020 at the start of business trading hours.

Enquiries:

Sidwell Medupe-Departmental Spokesperson

Tel: (012) 394 1650

Mobile: 079 492 1774

E-mail: MSMedupe@thedti.gov.za

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Trade and Industry update on online Bizportal to register businesses that provide essential goods and service during the Coronavirus COVID-19lockdown

26 Mar 2020

Update on online Bizportal to register businesses that provide essential goods and service during the lockdown period

As of 16h00 this afternoon, nearly 15 000 companies have already registered as providers of essential goods and services. Most of these have been in food supply, medical and pharmaceutical services and transport services.

We will provide further update on communication platforms as to the number of registered businesses during the lockdown period.

We have introduced a portal at the website run by the Companies and Intellectual Property Commission (CIPC) to log company details only where companies comply with the regulations issued by the Minister for Cooperative Governance and Traditional Affairs on 25 March 2020 in Government Notice 398 of Government Gazette No. 43148 ("lockdown regulations").

The website can be found at www.bizportal.gov.za.

We would like to clarify that the registration portal is only for registered companies operating in South Africa. Healthcare professionals registered with the Health Professions Council of South Africa, sole proprietors who provide essential goods and services (like spaza shops), and small-scale farmers will not have to register through the Bizportal.

Only companies, spaza shops, healthcare professionals and farmers permitted in terms of the lockdown regulations will be allowed to continue operating through the period. Possession of a CIPC certificate does not constitute permission to operate during the lockdown. Companies must be guided by the regulation as to whether their business operations constitute essential services. Any misrepresentation of information is a criminal offence and will be prosecuted. Already we have seen companies selling on-premise consumption of alcohol registering through the platform. Other examples include non-essential grooming for pets. We will advise these companies that this is not permitted, and may take further action if required.

The system is currently running with full functionality. We ask that companies be patient through the registration process, as there are large volumes presently being experienced. No companies will be prejudiced by any delay in the system. The service will continue to run tomorrow and beyond and it is not a requirement that companies complete registration before the lockdown begins.

Enquiries:

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Issued by: Department of Trade and Industry

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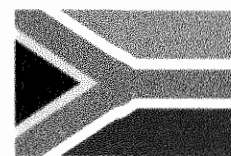
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Annexure H3

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Essential services - Coronavirus COVID-19

All businesses that will be allowed to provide essential services are required to seek approval from the Department of Trade, Industry and Competition (the dtic) in order for them to trade during the period of the lockdown. The registration portal is only for registered companies operating in South Africa. Healthcare professionals registered with the Health Professions Council of South Africa, sole proprietors who provide essential goods and services (like spaza shops), and small-scale farmers will not have to register through the Bizportal.

Such businesses are required to apply to the Companies and Intellectual Property Commission (CIPC) Bizportal website at www.bizportal.gov.za and obtain a certificate from the Commission that allows them to continue trading. The Bizportal website will contain a menu icon listed as "Essential Service Businesses" through which an application can be made to the CIPC.

The application will be a simple declaration requiring minimal registration details, type of business/trade involved in, what trading name if any is used and whether it meets the requirements contained in the essential services list, the contact details of the person applying as well as the number of employees that will be working during the lockdown period.

The CIPC registry will then pre-populate the remaining company information and email a certificate stating that the business is allowed to remain trading.

The certificate can then be used as evidence to authorities requiring same that indeed the business has been given government permission to trade and that its employees are able to have unrestricted movement ONLY in the course of that trade.

Alert level 4 e-commerce sales (Gazette 43321, 14 May 2020)

4. Goods which may be transacted through e-Commerce platforms Subject to all applicable laws, all goods may be transacted through e-Commerce platforms, except for goods prohibited for sale in terms of regulation 26 and 27 (no sale of liquor or cigarettes) of the Regulations.

5. Protocols for e-Commerce retailers

All retailers using e-Commerce platforms to sell goods must ensure the following:

- a) All Regulations and Directions in respect of hygienic workplace conditions and the potential exposure of employees to COVID-19 must be adhered to, including the Covid-19 Occupational Health and Safety Measures in Workplaces directions issued by the Minister of Employment of Labour and published in Government Notice 479 on 29 April 2019, which for ease of reference has been set out in Annexure A.
- b) In addition, employees may not share face masks, equipment, stationery, utensils or similar items, and Designated and adequately trained health and safety officers must take each employee's temperatures using appropriate equipment or instruments at the start of a shift and every four hours after the shift commences. Records of the temperatures of each employee must be kept. Any employee whose temperature is 37,5 degrees or above should immediately be moved to an isolated observation room for a second measurement. If the second test measurement also exceeds 37,5 degrees, the employee must be returned home for self-quarantine, provided with a surgical mask and not be permitted to enter or stay on the premises.
- c) In order to limit the social and economic hardship caused by the pandemic on local industries and enable consumer

choice to support local producers, retailers must give prominence to those goods which are manufactured in the Republic of South Africa.

d) Retailers must provide for as many payment options as possible for consumers, that are based on reducing risks of transmission, and enabling poorer consumers to access delivery services.

e) When packaging goods, retailers must provide written guidelines for customers on how to safely disinfect their goods before use.

f) Retailers must put in place collection protocols to ensure that adequate social distancing is maintained by courier or delivery service personnel when collecting goods from a warehouse or depot.

g) All goods must be sanitised, in line with the guidelines published by the National Department of Health, before leaving the warehouse or depot.

6. Protocols for courier or delivery services

All e-Commerce courier or delivery services must ensure the following:

a) All Regulations and Directions in respect of hygienic workplace conditions and the potential exposure of employees to COVID-19 must be adhered to, including the Covid-19 Occupational Health and Safety Measures in Workplaces directions issued by the Minister of Employment of Labour and published in Government Notice 479 on 29 April 2019, which for ease of reference has been set out in Annexure A.

b) In addition, employees may not share face masks, equipment, stationery, utensils or similar items, and Designated and adequately trained health and safety officers must take each employee's temperatures using appropriate equipment or instruments at the start of a shift and every four hours after the shift commences. Records of the temperatures of each employee must be kept. Any employee whose temperature is 37,5 degrees or above should immediately be moved to an isolated observation room for a second measurement. If the second test measurement also exceeds 37,5 degrees, the employee must be returned home for self-quarantine, provided with a surgical mask and not be permitted to enter or stay on the premises.

c) All courier and delivery personnel must have their own hand sanitiser and disinfectant wipes, which must be refilled daily.

d) Courier and delivery personnel must wear a cloth face mask that covers the nose and mouth when delivering goods to customers.

e) Courier and delivery personnel must maintain at least one and a half metres distance from

i) other courier or delivery personnel when collecting goods for delivery; and

ii) customers when delivering goods.

f) Courier and delivery service personnel may not enter the home of a customer if such customer and any other residents within the immediate vicinity are not wearing cloth face mask or a homemade item that covers the nose and mouth.

7. Protocols for customers

All e-Commerce customers must ensure the following:

a) Customers and all residents within the immediate vicinity must wear a cloth face mask or a homemade item that covers the nose and mouth when receiving goods from courier and delivery personnel.

b) Customers must maintain at least one and a half metres distance from courier and delivery personnel.

c) Customers are encouraged to disinfect goods using guidelines published by the National Department of Health and those provided by retailers.

Alert level 4 car sales and emergency automotive repairs (Gazette 43308, 12 May 2020)

2. Permitted trading activities

2.1. The following trading activities with regard to cars are permitted during Alert Level 4:

2.1.1. Trade in new and used cars;

2.1.2. wholesale trade of new and used cars by OEMs and importers;

2.1.3. export and import of all category of cars through national ports of entry under strict guidelines; and

2.1.4. trade-in purchases, car lease scheme returns and wholesale trading of used cars.

2.2. To allow for and facilitate the sales of cars, and the proper functioning of the supply chain, it is necessary that the various administrative and other functionaries, such as roadworthy assessment and testing centres, and other testing stations are operational.

2.3. Car sales will be allowed under the following conditions:

2.3.1. Phase One:

2.3.1.1 All dealerships and used car outlets will operate with up to 30% of employment subject to a maximum of one employee or customer per every nine (9) square metres of floor space: Provided that small businesses may operate with a minimum of five employees.

2.3.1.2 The majority of car sales will be done remotely via the internet or e-Commerce or telephone. Personal contact will be kept to a minimum and only on appointment under very strict hygiene and social distancing conditions in line with the Regulations.

2.3.1.3 Test drives will be conducted on appointment only.

2.3.1.4 Home delivery of vehicles with full sanitisation will be mandatory.

2.3.1.5 Where possible, electronic, or virtual signatures will be used for finance and insurance documentation.

2.3.1.6 Car auctions for all categories will be conducted online in compliance with the CPA Regulations.

2.3.2 Phase Two:

2.3.2.1 All dealerships and used car outlets will operate with up to 60% of employment.

2.3.2.2 Limited customers will be allowed to enter the dealership under very strict hygiene and social distancing conditions in line with the Regulations.

2.3.2.3 Remote vehicle sales will continue for those potential customers with access to online services.

2.3.2.4 Test drives can be arranged on site by appointment only, and under very strict hygiene conditions including fully sanitised cars.

2.3.2.5 On site pick-ups and deliveries of fully sanitised cars will be allowed under strict hygiene conditions with an option of home delivery of fully sanitised cars, if possible.

2.3.2.6 Car auctions for all categories will be conducted online in compliance with the CPA Regulations and limited physical contact will be allowed for viewing prior to the auction under very strict hygiene conditions including fully sanitised cars.

2.3.3 Phase Three: From 8 June 2020 until Alert Level 4 is Lifted:

2.3.3.1 All dealerships and used car outlets will operate with up to 100% of employment.

2.3.3.2 Customer on-site contact will be allowed, but kept to a minimum, whilst remote vehicle sales is encouraged.

2.3.3.3 Test drives can be arranged on site by appointment only, and under very strict hygiene conditions including fully sanitised cars.

2.3.3.4 On site pick-ups and deliveries of fully sanitised cars will be allowed under strict hygiene conditions with an option of home delivery of fully sanitised cars if possible.

2.3.3.5 Car auctions for all categories will be conducted online in compliance with the CPA Regulations and limited physical contact will be allowed for viewing prior to the auction under very strict hygiene conditions including fully sanitised cars and limits on the numbers of persons at auctions in order to maintain a distance of at least 1,5m between persons at all times, including when entering or exiting from an auction.

3. Emergency Automobile Repairs

3.1. Service Operations:

3.1.1. All car maintenance and repairs will be confirmed through appointment only. Unsolicited walk-ins will only be allowed under exceptional and emergency circumstances and a full record of each such instance will be kept in writing at the premises of the business for a period of 3 months after the state of disaster has been lifted.

3.1.2. Members of the public will not be allowed, under any circumstances, to enter the workshop environment. These workspaces will exclusively be reserved for technical and support staff.

3.1.3. Car owners are to maintain or service their cars within their own municipal boundaries unless in case of extraordinary circumstances.

3.1.4. The following categories are classified as emergency car repairs for passenger cars (PCs), Light Commercial Vehicles (LCV), Medium Commercial Vehicles (MCV), Heavy Commercial Vehicles (HCV), Extra Heavy Commercial Vehicles (XHCV), inclusive of buses, motorcycles, trailers, caravans, agricultural or any other implement designed or adapted to be drawn by such car:

3.1.4.1. Repairs on essential services cars, or on the cars of persons performing essential services;

3.1.4.2. repairs required to restore a car's safety and roadworthiness to good running condition;

3.1.4.3. routine servicing of cars that is due or overdue in terms of the manufacturer's recommended service intervals, whether due as a result of -

- (a) mileage;
- (b) time interval since last service;
- (c) recommendation by car on-board computer;
- (d) urgent collision repairs; and
- (e) specific OEM activated recall or warranty campaigns.

3.1.5 The following categories are not classified as emergency car repairs:

- (a) Cosmetic repairs, such as minor scratches and dents or cosmetic enhancements;
- (b) voluntary or routine servicing that is not overdue in terms of manufacturer's service intervals; and
- (c) warranty campaigns of a cosmetic nature unless warranty is due to expire within 30 days of the intended repair date.

3.2. Parts Supply and Logistics

3.2.1. Aftersales car servicing and parts sales should operate to support regular services and maintenance of cars under Alert Level 4 and to avoid or minimise any mechanical breakdown that might result in permanent damage given continued car usage and mileage increases during the extended lockdown by ensuring the provision of the necessary parts.

3.2.2. In order to give effect to the provisions of subparagraph 3.2.1 the following facilities may be reopened under strict trading risk-adjusted measures, hygiene and social distancing restrictions:

- 3.2.2.1. Auto electricians;
- 3.2.2.2. tyre fitment, windscreen replacement centres;
- 3.2.2.3. bond stores and parts distribution centres;
- 3.2.2.4. motor body repairers; and
- 3.2.2.5. any other related business that can attend to the mentioned repairs.

Alert level 4 essential services (Gazette 43258 of 29 April 2020)

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
- (ix) 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. Whole sale 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;
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 timeous payments to workers; and
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

Categories of essential services shall be confined to the following services: (as amended by Gazette 43168 of 26 March 2020 and Gazette 43199 of 2 April 2020 and Gazette 43232 of 16 April 2020)

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, cooperative 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
 - (ix) additional services designated in terms of regulation 11B(4A)(c)(i).
- (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 designated in terms of regulation 11B(4A)(c)(ii).";
4. Production and sale of the goods listed in category A, above;
5. Grocery stores and wholesale produce markets, spaza shops, informal fruit and vegetable sellers and langanas, with written permission from a municipal authority to operate being required in respect of spaza shops and informal fruit and vegetable traders: Provided that all valid permits for spaza shops and informal fruit and vegetable traders issued before or during the declared national state of disaster and which fall due during the said period, will remain valid for a period of one month after the end of the national state of disaster;
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. Birth and death certificates, and replacement identification documents;



9. Essential municipal services;

10. Care services and social relief of distress provided to older persons, mentally ill, persons with disabilities, the sick, and children;

11. Funeral and cremation services, including mortuaries services and the transportation of mortal remains;

12. Wildlife Management, Anti-poaching, Animal Care and Veterinary services;

13. Newspaper, broadcasting and telecommunication infrastructure and services, including call centres critical for the support of such services;

14. Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector;

15. Cleaning, sanitation, pest control, sewerage, waste and refuse removal services;

16. Services related to the essential functioning of courts, judicial officers, the Master of the High Court, Sheriffs and legal practitioners required for those services;

17. Essential SARS services defined by the Commissioner of SARS;

18. Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services;

19. Postal services and courier services related to transport of medical products;

20. Private security services;

21. Air-traffic Navigation, Civil Aviation Authority, air charters, Cargo Shipping and dockyard services;

22. Gold, gold refinery, coal and mining;

23. Accommodation used for persons rendering essential services, quarantine, isolation and the lockdown;

24. Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment;

25. Transport services for persons rendering essential services and goods, and transportation of patients;

26. 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;

27.1 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

27.2 Services rendered by the institutions referred to in item 27.1;

28. Transport and logistics in respect of cargo and goods as set out in Part A to neighbouring countries;

29. Tow trucks and vehicle recovery services;

30. 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;

31. Harvesting and storage activities essential to prevent the wastage of primary agricultural goods;

32. Implementation of payroll systems to the extent that such arrangement has not been made for the lockdown, to ensure timeous payments to workers; and

33. Critical maintenance services which cannot be delayed for more than 21 days and are essential to resume operations after the lockdown.

34. Trades necessary for the rendering of emergency repair work, including plumbers, electricians, locksmiths, glaziers, roof repair work;

35. Trades necessary for emergency automobile repairs for persons rendering essential services;

36. Information and Communication Technology services rendered to entities and institutions engaged in delivering essential services in terms of these Regulations.



RELATED INFORMATION

[Coronavirus Covid-19](#)

[Regulations and guidelines](#)

[Government statements on Covid-19](#)

[Frequently asked questions](#)

[Update on online Bizportal to register businesses that provide essential goods and service](#)

WAP
R



Does this business use a "trading as" name? If so, type in the name



Essential Service Category:

	Select Category
How in	Select Category
	Agriculture, hunting, forestry, fishing
	Electricity, Gas, Water supply
	Manufacturing
	Construction and related services
	Wholesale, Retail trade, Spaza shops
Compe	Information and Communication services
	Media and Entertainment
	Financial and Business services
	Accommodation for quarantine, essential services
	Food services (Deliveries)
	Transport, Storage, Communication services
	Mining and Quarrying
	Repair and Related Emergency services
	Supply Chain
Specia	Health, Social and Personal services

Special instructions, comments

Verification Code:

1 2 3 4 5 6 7 8 9 0 A B C D E F G H I J K L M N O P Q R S T U V W X Y Z

Handwritten signature

Annexure "J"
Document issued by the Commissioner of
Companies & Intellectual Property Commission

on , at



Companies and Intellectual
Property Commission
a member of the dti group

Enterprise Number:

Enterprise Name:

Business Category: **ELECTRICITY, WATER, GAS, FUEL SUPPLY AND MAINTAIN**

Contact Person Name:

Contact Person Surname:

Contact Person Email:

Contact Person Cell Number:

Number of Employee:

Physical Address

TO WHOM IT MAY CONCERN

The CIPC hereby certifies that the business operating as _____ has registered as an Essential Service business during the lockdown period as announced by the President of the Republic on 23 March 2020.

The possession of this certificate is still subject to the business complying with the definition of an Essential Service business in terms of the applicable Regulations.

Yours truly

CIPC Commissioner



The company has declared that is an essential service based on the regulation issued on 25 March 2020, therefore, this certificate by CIPC is based on accuracy of information submitted. False declaration by the company is a criminal offence and will result in prosecution. This certificate may be revoked if there are changes to the regulation, or if required to better implement the lockdown.

Physical Address
the dti Campus - Block F
77 Meintjies Street
Sunnyside 0001

Postal Address: Companies
P O Box 429
Pretoria
0001

Docex: 256
Web: www.cipc.co.za
Contact Centre: 086 100 2472(CIPC)
Contact Centre (International): +27 12 394 9573



CIPC Certification Process for Essential Service Businesses During Extended Lockdown

 thedtic.gov.za/cipc-certification-process-for-essential-service-businesses-during-extended-lockdown/

CIPC Certification Process for Essential Service Businesses During Extended Lockdown

Companies, which are registered through the Companies and Intellectual Property Commission's (CIPC) BizPortal to perform essential services during the lockdown period, will be required to have a new certificate from the BizPortal website for the extended period, which begins tomorrow 17 April 2020.

The certificate will be sent via email using the details provided at the time of registration, and will also be available for download from today. Companies will receive the certificates from today and the full list of registered companies will have received their certificates by the weekend.

The new certificate will clearly state that it is for the extended lockdown period, beginning 17 April 2020, and South African Police Service officials will be told which certificates to look for.

Certificates issued before today will no longer be valid and must be disposed of. To provide time for businesses to adjust to the new requirements, the new certificates will be available to be displayed from start of business on Monday, 20 April 2020.

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.

Only businesses which provide essential services in terms of the Lockdown Regulations, as amended, issued by the Minister for Cooperative Governance and Traditional Affairs may continue their operations during the COVID-19 lockdown.

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.

The Department clarifies that the registration portal is only for companies registered in terms of the Companies Act. Other essential service providers, like healthcare professionals registered with the Health Professions Council of South Africa, sole proprietors who provide essential goods and services (like small business owners and

1/2


spaza shops), and small-scale farmers will not register through the [Bizportal](#). These businesses will not have a CIPC certificate, but must still comply with the provisions of the lockdown regulations.

Where the CIPC finds that certificates have been issued to companies which do not meet the definitions of an essential service, such certificate will be revoked, and the company will be referred to the South African Police Services. False declaration by the company is a criminal offence and will result in prosecution, in terms of Lockdown Regulations.

The regulations for the extended lockdown have also clarified that 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.

To confirm if your business complies, please consult the necessary regulation at <https://www.gov.za/documents/disaster-management-act-regulations-address-prevent-and-combat-spread-coronavirus-covid-19>.

Enquiries:

Sidwell Medupe-Departmental Spokesperson

Tel: (012) 394 1650

Mobile: 079 492 1774

E-mail: MSMedupe@thedti.gov.za

Issued by: The Department of Trade, Industry and Competition

Follow us on Twitter: @the_dti

Share this:



2/2

GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF SMALL BUSINESS DEVELOPMENT

NO. R. 522

12 MAY 2020

DIRECTIONS ISSUED IN TERMS OF REGULATION 4(9) 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, the Minister of Small Business Development, hereby, in terms of regulation 4(9) of the Regulations made under section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002), and published in Government Gazette No. 43258, Government Notice No. 480 of 29 April 2020, issue the Directions set out in the Schedule hereto in order to assist micro and small businesses trading in permitted services, to comply with the Regulations.



Khumbudzo Ntshavheni, MP
Minister for Small Business Development

Date: 10-05-2020



SCHEDULE

DEFINITIONS

1. In these Directions, a word or expression bears the meaning assigned to it in the Regulations promulgated in Government Gazette No. 43258, Government Notice No. R 480 of 29 April 2020, and unless the context otherwise indicates—

“Regulations” means the regulations published in Government Gazette No. 43258, Government Notice No. R480 of 29 April 2020.

SCOPE

- 2.1 These Directions re-affirm and extend the application of the previous Directions published in Government Gazette No. 43208, Government Notice No. R450 of 6 April 2020 that applied to informal, micro and small businesses that render essential services.
- 2.2 These Directions are issued in order to assist micro and small businesses trading in permitted services, to comply with the Regulations and do not seek to deviate from any previous Directions issued under the regulations repealed by regulation 2(1) of the Regulations.
- 2.3 The permitted businesses covered in these Directions are the following-
 - (a) small scale bakeries and confectioneries;
 - (b) small scale hardware stores;
 - (c) informal restaurants and shisanyamas - for home deliveries only;
 - (d) trades, herein referred to as artisanry businesses, necessary for rendering emergency repair work, including plumbers, electricians, locksmiths, glaziers, roof repair work, tow



trucks, vehicle recovery and automobile repairs (motor mechanics), including small-scale vehicle services centres/ workshops, small-scale motor body repair shops, and fitment centres;

(e) Sole traders within the clothing and textiles and confectionery business; and

(f) Cooperatives operating under permitted businesses in line with the Regulations.

Directions

- 3.1 All formal and informal small businesses are required to comply with the Occupational Health and Safety Measures in Workplaces COVID-19 (C19 OHS), 2020 Directions issued by the Minister of Employment and Labour and the Guidelines of the Department of Health with specific reference to preventing the spread of, and infection by Covid-19.
- 3.2 All formal and informal small businesses must ensure that no person is allowed to enter business premises, if that person is not wearing a cloth face mask, a homemade item or another appropriate item that covers the nose and mouth.
- 3.3 An employer must provide every employee who may come into direct contact with members of the public as part of the employee's duties, with a cloth face mask, a homemade item or another appropriate item that covers the nose and mouth.
- 3.4 All formal and informal small businesses are encouraged to provide transport for their employees during the national state of disaster.



APPLICABLE PERMITS/ BUSINESS LICENCES REQUIRED

4. All other small businesses, not specifically mentioned in these Directions must apply for permits to operate their permitted businesses as per the Regulations.

Small scale bakeries and confectioneries

5. A Small scale bakery and a confectionery must–
- (a) possess a business licence or permit to trade issued in accordance with the Business Act, 1999 (Act No. 71 of 1991) or a business licence or trading permit issued by the relevant municipality;
 - (b) not sell products or goods that are prohibited by the Regulations; and
 - (c) not allow the business premises to be used as sleeping quarters.

Small-scale Hardware Stores

6. A Small scale hardware store must–
- (a) possess a business licence or a permit to trade issued in accordance with the Business Act, 1999 (Act No. 71 of 1991) or a business licence or trading permit issued by the relevant municipality;
 - (b) not sell sub-standard goods; and
 - (c) not allow the business premises to be used as sleeping quarters.

Informal and micro restaurants and shisanyamas

7. Informal and micro restaurants and shisanyamas–
- (a) must possess a business licence or permit to trade issued in accordance with the Business Act, 1991 (Act No. 71 of 1991) or a business licence or trading permit issued by the relevant municipality; and
 - (b) may not sell cooked food unless it is for home deliveries and the orders are placed telephonically or online.



Tradesmen and/ or Artisans Businesses

8. (a) An Artisan's business must possess a business licence or permit to trade issued in accordance with the Business Act, 1999 (Act No. 71 of 1991); or
(b) in the case of a vehicle service centre, fitment centre or a motor body repair workshop, if it does not already possess a business licence or trading permit, it must apply for such a business licence or trading permit with the relevant municipality.

Sole traders within the clothing and textiles business

- 9.1 Personal Protective Equipment (PPEs) may not be fitted or tried on by customers before purchase.
- 9.2 Traders within the clothing and textiles sector-
- (a) are prohibited from selling PPEs that had been fitted, tried on or returned by a customer;
 - (b) must ensure that sizes are clearly marked before products are purchased; and
 - (c) must display notices that PPEs may not be fitted or tried on before purchase.

Cooperatives

10. Cooperatives must possess a valid and original certificate of registration as a Cooperative, in order to trade.



APPLICATION FOR BUSINESS LICENCES OR TRADING PERMITS

- 11.1 The Informal, micro and small businesses which are required to possess trading permits or business licences and which are currently trading without permits, must apply for temporary permits to continue trading.
- 11.2 In the case of non-South African citizens, the business owner must–
- (a) have been lawfully admitted into the Republic and must hold a valid passport with a visa issued by the Department of Home 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) 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.
- 11.3 Permission to operate the business will be linked to the period covered by the asylum seeker's permit.

Handwritten signature and initials in the bottom right corner of the page.

PERMITS

- 12.1 All formal and informal small businesses or sole proprietors must have a permit to perform essential or permitted services as per Form 2 of the Regulations.
- 12.2 Form 2 may be signed by the Head of the Small business in respect of employees, and in the case the Head or Sole proprietor, by him or herself provided that—
- (a) in the case of the Head or Sole proprietor, he or she must—
- (i) be in possession of an Affidavit indicating that he or she is performing a service permitted in terms of the Regulations.
- (ii) have in his or her possession a CIPC company registration certificate, or sole trader document issued by SARS, or certified copies of the trade certificate of the owner or college certificate in the related qualification, or other documentary proof of the existence of, and the nature of, the business; and
- (b) produce the documents referred to in subparagraph (a) together with the permit upon request by an enforcement officer.

COMMENCEMENT

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



Annexure "M"



Companies and Intellectual
Property Commission
a member of the dti group

GUIDANCE NOTE

ESSENTIAL SERVICES CERTIFICATE ISSUED BY CIPC

It has come to our attention that there exists a lot of confusion in the marketplace in relation to the essential services certificate issued by CIPC via the online platform www.bizportal.gov.za.

It is important to note that the CIPC essential services certificate **DOES NOT** constitute a permit or permission to provide essential services or goods. The Disaster Management Act, 2002 (the Act) and the Regulations issued in terms of Section 27(2) of the Act prescribes the essential services allowed in terms of alert level 4.

Any entity which falls within descriptions listed in Table 1 Alert Level 4 as well as Annexure B, C and D of the above mentioned legislation, may operate or trade in terms of the requirements of the Act and its Regulations.

Companies, Close Corporations and Co-Operatives may register on www.bizportal.gov.za and apply for a CIPC essential services certificate. This option is non-compulsory and any certificate obtained from the CIPC acts as supporting documentation in the form of identification of an entity.

All members of the public and all business are urged to familiarize themselves with the content of the Disaster Management Act Regulations published in the Government Gazette on 29 April 2020. CIPC cannot provide any guidance as to whether an industry is allowed or prohibited to trade during the current alert level 4. If any uncertainty still exists on whether an enterprise / entity qualifies as an essential service or provider of essential goods, a query may be lodged via lockdownexemptions@thedtic.gov.za

Once an entity acquired a certificate from CIPC, such remains valid until the Regulations in terms of the Disaster Management Act, 2002 is amended, or if revoked by the CIPC. There is no need to obtain a renewed certificate, unless the details contained thereon has changed, such as the information of the responsible person.

Adv. Rory Voller
Commissioner

Date : 11/5/20

ISO 9001: 2008 Certified

The dti Campus (Block F - Entlofokweni), 77 Montfries Street, Sunnyside, Pretoria 1 P.O. Box 429, Pretoria, 0001

Call Centre: 086 160 2472

Email: info@cipc.co.za

Website: www.cipc.co.za



WAP

5/15/2020

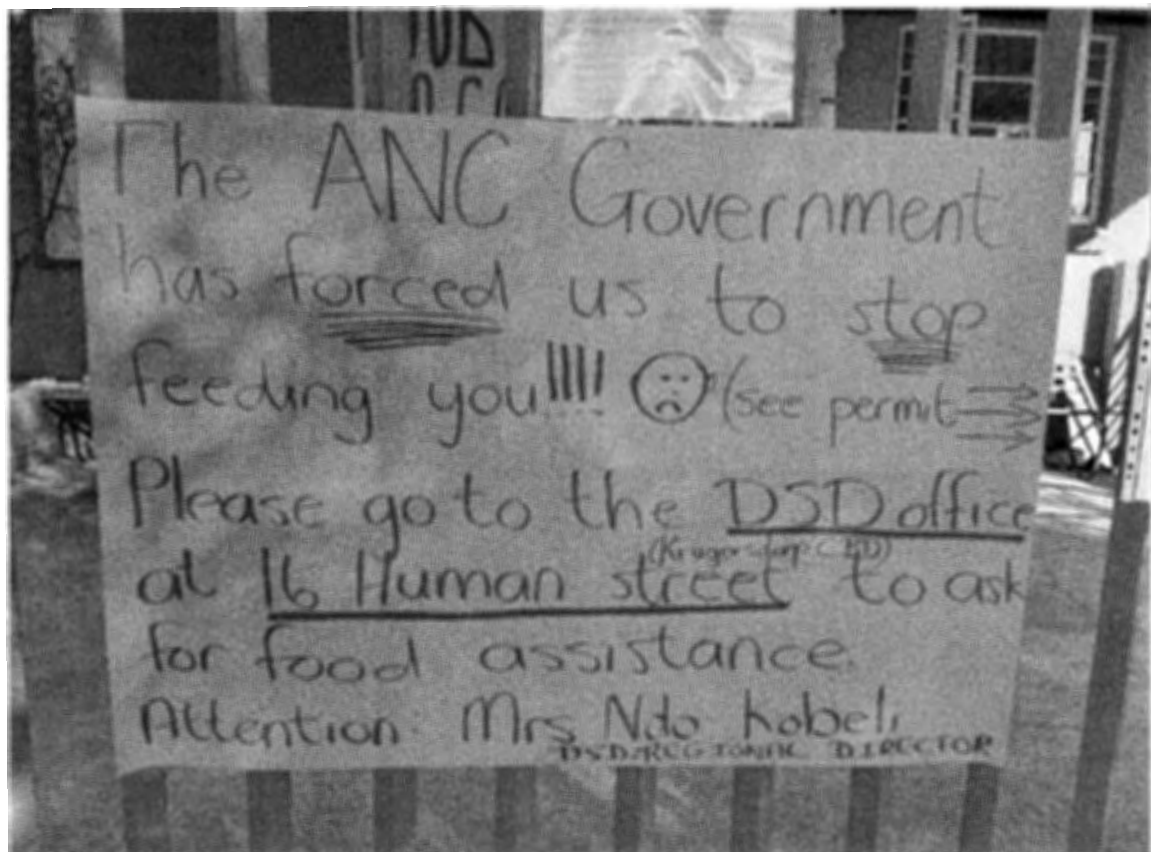
Cradle of Hope organisation forced to stop doing what they have been for three years | LNN | Sandton Chronicle

Annexure "N1"

Cradle of Hope organisation forced to stop doing what they have been for three years

Every day, for the past three years, they have been supplying fresh peanut butter sandwiches to around 300 to 400 hungry adults and children.

2 days ago



The sign on the palisade fence of the Cradle of Hope. Photo: Facebook.



will
B

5/15/2020

Cradle of Hope organisation forced to stop doing what they have been for three years | LNN | Sandton Chronicle

An organisation that feeds around 600 of Krugersdorp's most vulnerable, was dealt a heavy blow yesterday, 12 May.

The Cradle of Hope in Krugersdorp was forced to stop serving the homeless, hungry and destitute their daily warm meal, often the only meal they would receive for the day.



Sometimes the sandwich and a piece of fruit are their only meal for the day. Photos: Facebook.

"Today was a bitterly sad day at The Cradle of Hope," a post from the founder of the organisation, Melodie van Brakel, stated on their Facebook page.

Every day, for the past three years, they have been supplying fresh peanut butter sandwiches to around 300 to 400 hungry adults and children. During the past six weeks this number has doubled.



"Strict hygiene measures were put in place, social distancing was perfected and a health inspector gave us a temporary health certificate to continue our labour of love.

Many of these recipients are homeless persons who do not have any access to cooking facilities.

They are just so poor that they cannot afford any electricity and water.



Walt

5/15/2020

Cradle of Hope organisation forced to stop doing what they have been for three years | LNN | Sandton Chronicle



"Today we were formally forced to stop doing this."

Their permit as issued by Department of Social Development (DSD), very clearly prohibits them from serving any cooked or prepared food, and only allows them to distribute non-perishable food parcels and maize, which they preferably have to deliver to the recipients as well.



"We also need to apply for a new permit for every new day, which has to be picked up, and signed for, from the local DSD offices. I personally phoned the Regional Director of DSD and spoke to her regarding our sandwiches. Her answer was a very clear no. We are forced to comply with the regulations. We have no choice. Our focus now needs to shift to supplying food parcels. We have no choice. At the moment we are supplying between 80 and 120 food parcels every day.

We can only hand out what we receive. Literally anything and everything makes a difference."

Melodie also said they receive neither government funding nor food, and rely solely on donors, sponsors and volunteers for support and assistance. But this very dark cloud has a very faint silver lining; you can still help them by donating funds.

Donate via their account:

The Cradle of Hope

First National Bank

Account no: 621-8035-2628

Branch code: 250241

Reference: FP and YOUR NAME

"We can issue Section 18a SARS tax certificates for all donations received." You can also donate via BackaBuddy (<https://www.backabuddy.co.za/champion/project/hope2020>).

"For a copy of our needs list, please contact Sharon Lee on WhatsApp on 079 049 5802, or email info@thecradleofhope.org (mailto:info@thecradleofhope.org) or visit www.thecradleofhope.org.

*** Notice:** *Coronavirus reporting at Caxton Local Media aims to combat fake news*



Reader,

Handwritten signature/initials.

5/15/2020

Cradle of Hope organisation forced to stop doing what they have been for three years | LNN | Sandton Chronicle

As your local news provider, we have the duty of keeping you factually informed on Covid-19 developments.

As you may have noticed, mis- and disinformation (also known as "fake news") is circulating online. Caxton Local Media is determined to filter through the masses of information doing the rounds and to separate truth from untruth in order to keep you adequately informed.

Local newsrooms follow a strict pre-publication fact-checking protocol.

A national task team has been established to assist in bringing you credible news reports on Covid-19.

Readers with any comments or queries may contact National Group Editor Irma Green (irma@caxton.co.za (mailto:irma@caxton.co.za)) or Legal Adviser Helene Eloff (helene@caxton.co.za (mailto:helene@caxton.co.za)).

Read original story on krugersdorpnews.co.za (<https://krugersdorpnews.co.za/435224/organisation-forced-to-stop-doing-what-they-have-been-for-three-yearsorgood-samaritans-stopped-in-their-tracks/>)

SHARE

4

INTERNATIONAL NEWS



Typhoon forces 140,000 from homes in virus-hit Philippines
<https://sandtonchronicle.co.za/afp/1061911/typhoon-forces-140000-from-homes-in-virus-hit-philippines/>

about 1 hour ago



<https://sandtonchronicle.co.za/inn/1050447/cradle-of-hope-organisation-forced-to-stop-doing-what-they-have-been-for-three-years?fbclid=IwAR1...>

4/6

Wap
1/5

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

Case Number: _____

In the matter between:

SAKELIGA NPC

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

**THE MINISTER OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

Second Respondent

**THE MINISTER OF TRADE, INDUSTRY AND
COMPETITION**

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

THE NATIONAL COMMISSIONER OF POLICE

Fifth Respondent

**THE COMMISSION FOR INTELLECTUAL PROPERTY
AND COMPANIES**

Sixth Respondent

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

Seventh Respondent

THE NATIONAL COMMAND CENTRE

Eight Respondent

THE MINISTER OF HEALTH

Ninth Respondent

SUPPORTING AFFIDAVIT

I the undersigned

ADRIAAN JOSEF WEYERS

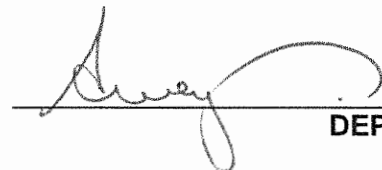
Make oath and state:



- 1 I am a major male businessman. I am the owner member of Exilite 416 CC trading as Laundry Save (hereinafter referred to as "Laundry save"), with registered address at 74 Joseph Road Lynnwood Glen, Pretoria, Gauteng, 0018.
- 2 The facts herein deposed to are within my personal knowledge unless otherwise indicated and are to the best of my knowledge both true and correct.
- 3 Laundry Save is a cleaning business that provides a cleaning service that includes laundry, dry cleaning and alteration services.
- 4 Amongst our clients are doctors, medical staff and other persons working during the lockdown. The clients using our services during the lockdown either do not have their own washing facilities or alternatively do not have the time due to the extreme hours that they must work, to do their own laundry and cleaning. Due to the high heat and specialist cleaning processes we have available, many service providers also prefer to use our services during the COVID 19 pandemic.
- 5 Before commencing any business operations I ensured that my permits were in order. I was also led to believe that a CIPC Essential Services Certificate was a requirement in order for my business to operate, and accordingly also obtained a certificate.
- 6 It was at all times my bona fide understanding that my business would qualify as both an essential and permitted service provider due to Table 1 part P2 and Item 14 to Annexure D of the lockdown regulations that specifically authorised Cleaning, sanitation, pest control, sewerage, waste and refuse removal services.
- 7 On the morning of 29 April 2020, my shop was approached by members of the SAPS and the SANDF. A member of the SAPS questioned me whether or not I had a CIPC permit, which I immediately provided to him along with my other permits. The SAPS member seemed satisfied and left the shop.

A handwritten signature in black ink, appearing to be 'N. N. N.', is located in the bottom right corner of the page.

- 8 Shortly thereafter a captain of the SAPS Brooklyn station entered the store with members of the SANDF. The SAPS captain informed me that I was not entitled to trade as I may only provide my services to essential service providers. The SAPS captain was then instructed by one of the SANDF members in the store that she must arrest me to which the SAPS captain complied. I was arrested and taken to the Brooklyn Police Station. They refused to consider the regulations and the fact that my services clearly fall under the dictionary meaning of the authorised business categories, especially cleaning and sanitation services. I was summarily arrested and detained.
- 9 I was only released on bail on the evening of 29 April 2020 at 22h00. While being detained at Brooklyn Police Station I heard the captain who arrested me mention to another colleague that she has "arrested 26 of them today".
- 10 I have been instructed to ensure that my business remain closed. My business has remained closed since my arrest.


DEPONENT

THUS SWORN AND SIGNED AT Pretoria ON THIS 15th DAY OF
MAY 2020, BEFORE ME,
Niel du Plessis, COMMISSIONER OF OATHS, THE DEPONENT
HAVING ACKNOWLEDGED THAT HE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS
NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HIS
CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE
R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:


COMMISSIONER OF OATHS

NAME:

CAPACITY:

ADDRESS:

NIEL DU PLESSIS
COMMISSIONER OF OATHS EX OFFICIO
PRACTISING ATTORNEY, REPUBLIC OF SOUTH AFRICA
1250 PRETORIUS STREET, HATFIELD, PRETORIA



**IN THE HIGH COURT OF SOUTH AFRICA
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SAKELIGA NPC

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COMPETITION**

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

THE NATIONAL COMMISSIONER OF POLICE

Fifth Respondent

**THE COMMISSION FOR INTELLECTUAL PROPERTY
AND COMPANIES**

Sixth Respondent

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

Seventh Respondent

THE NATIONAL COMMAND CENTRE

Eight Respondent

THE MINISTER OF HEALTH

Ninth Respondent

SUPPORTING AFFIDAVIT

I the undersigned

MARKUS ALEXANDER BAGDAHN

Make oath and state:



- 1 I am the owner of Das Grüne Autohaus an auto-repair shop situated at 537 Bush Road, Equestria, Pretoria, 0184.
- 2 The facts herein deposed to are within my personal knowledge unless otherwise indicated and are to the best of my knowledge both true and correct.
- 3 I trade as a sole proprietorship. My business qualifies as a Level 4 permitted service provider in terms of *Table 1 Part L3 - Emergency automobile repairs for all persons*.
- 4 I confirm that the applicant's attorneys have advised me that an *Essential Service Certificate* from the sixth respondent, the CIPC, is not a requirement in order for me to continue to conduct business as a permitted service provider. Until receiving such advice on 14 May 2020, I was made to believe that only persons who have a *Essential Service Certificate* would be entitled to trade.
- 5 My business however now falls under a class of tradespersons in terms of new directives issued by the seventh respondent on 12 May 2020 which now require me to apparently apply for a special permit in order to operate. I have been advised that the following directive applies to my business:

Tradesmen and/ or Artisans Businesses

8.(a) An Artisan's business must possess a business licence or permit to trade issued in accordance with the Business Act, 1999 (Act No. 71 of 1991); or

(b) in the case of a vehicle service centre, fitment centre or a motor body repair workshop, if it does not already possess a business licence or trading permit, it must apply for such a business licence or trading permit with the relevant municipality.

- 6 I have never been required to apply for a permit to trade and I have been advised that no such permits applicable to my industry exists. I do not even know where or how to apply for a special permit.

A handwritten signature in black ink, appearing to be 'NNP' followed by a large, sweeping loop.

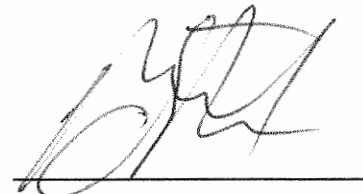
7 I do not understand why my business should be required to get special permission to trade. It is extremely difficult for me to navigate the regulations and I do not know why I should have to issue any further permits other than those already provided for in terms of regulation 28(4). My business is suffering due to the uncertainties caused by these regulations.


DEPONENT

THUS SWORN AND SIGNED AT Pretoria ON THIS 15th DAY OF MAY 2020, BEFORE ME, Niel du Plessis, COMMISSIONER OF OATHS, THE DEPONENT HAVING ACKNOWLEDGED THAT HE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HIS CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:

NIEL DU PLESSIS
COMMISSIONER OF OATHS EX OFFICIO
PRACTISING ATTORNEY, REPUBLIC OF SOUTH AFRICA
1250 PRETORIUS STREET, HATFIELD, PRETORIA


COMMISSIONER OF OATHS

NAME:

CAPACITY:

ADDRESS:

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

Case Number: _____

In the matter between:

SAKELIGA NPC

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

**THE MINISTER OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

Second Respondent

**THE MINISTER OF TRADE, INDUSTRY AND
COMPETITION**

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

THE NATIONAL COMMISSIONER OF POLICE

Fifth Respondent

**THE COMMISSION FOR INTELLECTUAL PROPERTY
AND COMPANIES**

Sixth Respondent

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

Seventh Respondent

THE NATIONAL COMMAND CENTRE

Eight Respondent

THE MINISTER OF HEALTH

Ninth Respondent

SUPPORTING AFFIDAVIT

I the undersigned

ALETTA DU PREEZ

Make oath and state:



- 1 I am a major female businesswoman. I am the owner member of Blits Elektries TV en
Hardware CC ("Blits"), with registered address at 1149 Cunningham Avenue, Villieria,
Pretoria, Gauteng, 0186.
- 2 The facts herein deposed to are within my personal knowledge unless otherwise
indicated and are to the best of my knowledge both true and correct.
- 3 Blits is a specialist electrical and hardware store in Pretoria. We also conduct business
as specialist electritions.
- 4 I have noted the directives issued by the seventh respondent on 12 May 2020 which
provides for the following:

Small -scale Hardware Stores

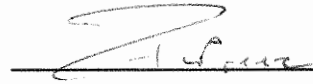
6. A Small scale hardware store must-

- (a) possess a business licence or a permit to trade issued in accordance with the Business Act, 1999 (Act No. 71 of 1991) or a business licence or trading permit issued by the relevant municipality;*
- (b) not sell sub -standard goods; and*
- (c) not allow the business premises to be used as sleeping quarters.*

- 5 As businessowner, I have no idea whether the directions will apply to Blits and what is
meant by a "Small scale hardware store". I have no idea how the scale of a hardware
store is to be determined.
- 6 Our business also operates as electricians. It is becoming increasingly difficult to
manage all the different permits which we will have to get in addition to the standard
form permits provided for in the lockdown regulations. It is however clear that our
business due to its small size will most likely be required to jump through many more
administrative hoops compared to larger chains.

Handwritten signature and initials, possibly 'NCP' and 'A.T.', in the bottom right corner.

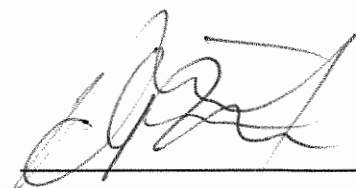
- 7 I have no idea how these regulations will be enforced and what types of permits Blitz should obtain in order to operate


DEPONENT

THUS SWORN AND SIGNED AT Pretoria ON THIS 15th DAY OF
MAY 2020, BEFORE ME,
Niel du Plessis, COMMISSIONER OF OATHS, THE DEPONENT
HAVING ACKNOWLEDGED THAT SHE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT,
HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HER
CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE
R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:

NIEL DU PLESSIS
COMMISSIONER OF OATHS EX OFFICIO
PRACTISING ATTORNEY, REPUBLIC OF SOUTH AFRICA
1250 PRETORIUS STREET, HATFIELD, PRETORIA


COMMISSIONER OF OATHS

NAME:

CAPACITY:

ADDRESS:

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

Case Number: _____

In the matter between:

SAKELIGA NPC

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

**THE MINISTER OF COOPERATIVE GOVERNANCE AND
TRADITIONAL AFFAIRS**

Second Respondent

**THE MINISTER OF TRADE, INDUSTRY AND
COMPETITION**

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

THE NATIONAL COMMISSIONER OF POLICE

Fifth Respondent

**THE COMMISSION FOR INTELLECTUAL PROPERTY
AND COMPANIES**

Sixth Respondent

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

Seventh Respondent

THE NATIONAL COMMAND CENTRE

Eight Respondent

THE MINISTER OF HEALTH

Ninth Respondent

SUPPORTING AFFIDAVIT

I the undersigned

JACK DUVENHAGE

Make oath and state:



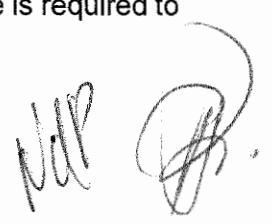
- 1 I am a major male businessman. I am the owner member of Jackrite Building Supplies
CC ("Jackrite"), with registered address at Hendriksstraat 675, Daspoort, Pretoria, 0002.
- 2 The facts herein deposed to are within my personal knowledge unless otherwise
indicated and are to the best of my knowledge both true and correct.
- 3 Jackrite is a specialist paint and hardware store in Pretoria.
- 4 I have noted the directives issued by the seventh respondent on 12 May 2020 which
provides for the following:


Small -scale Hardware Stores

6. A Small scale hardware store must-

- (a) possess a business licence or a permit to trade issued in accordance with
the Business Act, 1999 (Act No. 71 of 1991) or a business licence or trading
permit issued by the relevant municipality;*
- (b) not sell sub -standard goods; and*
- (c) not allow the business premises to be used as sleeping quarters.*

- 5 As businessowner, I have no idea whether the directions will apply to Jackrite and what
is meant by a "Small scale hardware store". Jackrite is a single-owner operation. Even
though we have a strong business operation, we have a relatively small staff component
compared to larger hardware chain stores. Jackrite associates with various large brands
and franchises, but operates independently.
- 6 I have no idea how the scale of a hardware store is to be determined.
- 7 I have been advised that no permit is required for hardware stores in my area. I have no
idea however how these regulations will be enforced and whether Jackrite is required to
obtain a trade permit.

Handwritten signature and initials in the bottom right corner of the page.

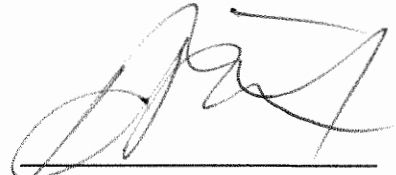


 DEPONENT

THUS SWORN AND SIGNED AT Pretoria ON THIS 15th DAY OF
MAY 2020, BEFORE ME,
Niel du Plessis, COMMISSIONER OF OATHS, THE DEPONENT
 HAVING ACKNOWLEDGED THAT ~~SHE~~ ^{HE} UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT, HAS
 NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON ~~HIS~~ ^{HIS} CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE
 R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:

NIEL DU PLESSIS
 COMMISSIONER OF OATHS EX OFFICIO
 PRACTISING ATTORNEY, REPUBLIC OF SOUTH AFRICA
 1250 PRETORIUS STREET, HATFIELD, PRETORIA



 COMMISSIONER OF OATHS

NAME:

CAPACITY:

ADDRESS:

Annexure "N6"

IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA

Case Number:

In the matter between:

SAKELIGA NPC

Applicant

and

THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

First Respondent

THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

Second Respondent

THE MINISTER OF TRADE, INDUSTRY AND COMPETITION

Third Respondent

THE MINISTER OF POLICE

Fourth Respondent

THE NATIONAL COMMISSIONER OF POLICE

Fifth Respondent

THE COMMISSION FOR INTELLECTUAL PROPERTY AND COMPANIES

Sixth Respondent

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

Seventh Respondent

THE NATIONAL COMMAND CENTRE

Eighth Respondent

THE MINISTER OF HEALTH

Ninth Respondent

SUPPORTING AFFIDAVIT

Nak

R

I the undersigned

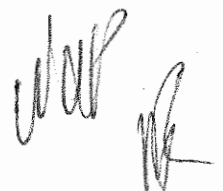
TERRY-LEE GEORGIEV

hereby make oath and state:

- 1 I am a major female businesswoman. I am a farmer trading as a sole proprietor of the Georgiev Farm, with main place of business at Farm 321 Portion 8, Klein Haggelkraal, Pearly Beach, Western Cape.
- 2 The facts herein deposed to are within my personal knowledge unless otherwise indicated and are to the best of my knowledge both true and correct.
- 3 Where I make submissions of a legal nature I do so on the advice of the applicant's legal advisors which advice I accept as correct.
- 4 Georgiev Farm (hereinafter referred to as the "business") farms free range chicken eggs and elephant garlic and also trades in fresh fruit, veg and local produce.
- 5 I have been advised that the business qualifies as an Alert Level 4 essential and / or permitted service provider in terms of the regulations issued by the Minister of Co-operative Governance and Traditional Affairs on 29 April 2020. I have been advised that:
 - 5.1 the products manufactured and supplied by my business are deemed to be essential goods in terms of regulation 22(1) read with the following items to the list of essential goods set out in Annexure B:
 - 5.1.1 Item 2 - "Food products, including non-alcoholic beverages and animal food."



- 5.2 as a supplier of essential goods, I qualify as an essential service provider in terms of item B4 to annexure D of the regulations:
- 5.2.1 Production and sale of the goods listed in Annexure B;
- 5.3 I furthermore also qualify as a permitted service provider under Alert Level 4 in terms of regulation 28 (4) read with Table 1, with specific reference to the following items:
- 5.3.1 Part A1 - 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).
- 5.3.2 Part E1 - Food products, including non -alcoholic beverages and animal food.
- 6 Seeing as the business is a sole proprietorship, the business is not registered with the CIPC and cannot apply for or procure the *Essential Service Certificate* provided by the CIPC.
- 7 Before commencing operation of the business during the lockdown, I tried my best to ensure that I would be lawfully operating. I followed the guidelines and instructions published on <https://sacoronavirus.co.za/> and enforced all of the health and safety measures published on the government website. All the required forms and permits were complete and in order on 26 March 2020 before the lockdown.
- 8 On 31 March 2020 uniformed members of the SAPS visited my farm. The members, who are still unknown to me, informed that I was an informal trader and that was not allowed to conduct business during the lockdown. These members specifically



requested a CIPC certificate. I was able to assist the members on that day to correctly determine that I was indeed an essential service provider.

- 9 On 1 April 2020 I was informed by the SAPS that I am authorised to supply eggs to two of the big supermarkets in my area, Spar and OK Stores, but that I am not allowed to deliver or sell food products to any other person.
- 10 On 3 April 2020 Lindsay Hanekom from Grootbosfoundation Farm and I went to consult with the Overberg Cluster Commander Brigadier Donovan Heilbron in order to try and resolve the matter. Also calling into the meeting was Mrs Helen Davis from the department of economic development and tourism. I was thereafter informed by both Brigadier Heilbron and Mrs Davis that I may proceed to sell my produce as per my process plan discussed in the above meeting.
- 11 On the 3rd of April 2020 I received permission from Brigadier Heilbron and Colonel Coetzee to proceed with operations on my farm. I was also authorised to proceed to sell my products from my normal vending stand near a local bus stop.
- 12 I at all times enforced strict health and safety protocols required by the lockdown regulations (which procedures and protocols I specifically vetted with the SAPS on 3 April 2020). I also issued to myself and my employees an essential service permit on the advice of the SAPS.
- 13 On 11 April 2020 while operating at my business' stand, I was approached by a Mr Kat Myburg, who I later learned is the municipal manager of the Gansbaai municipality. Mr Myburg ordered me to cease all business activities as I was not allowed to trade on municipal property (even though I have always been allowed to trade at the bus stop prior to the lockdown). A customer present at the time informed me that he has a private residential property close by which he will make available to me in order for me to continue to trade.

WAP
R

- 14 Later that day on 11 April 2020, I was again approached by a purported employee of the municipality, a person who was identified as Mr Blankenberg acting on the instructions of Mr Myburg. Mr Blankenberg told me that he has instructed the SAPS to issue me a R1 000.00 fine and that I am instructed to immediately cease all business operations. He also informed my customers that they are breaking the law by supporting my business and that they would be arrested. I was instructed to immediately shut down all operations as I was not in possession of the right municipal permits.
- 15 My business is stuck between a rock and a hard place since as I am unable to secure the CIPC certificates and municipal permits which Mr Myburg requires. I have done my best to try and secure permits from the Gansbaai municipality, but no-one is willing to assist me. I don't even know if the municipal council has even approved a permit and application procedure. There is simply no information.
- 16 My business is suffering immense and irreparable harm. I am however treated as if I am a second-class citizen who is unable to conduct my business in a responsible manner during the COVID 19 pandemic. In the eyes of the law I do not have the same capabilities as the manager of a larger business to conduct responsible business during the lockdown. Needless to say I reject this notion.
- 17 I provide the exact same service as a supermarket. I sell food to the public. I comply with all of the health and safety regulations and I am more than able to ensure strict compliance and social distancing with my clients (not that it is necessary seeing as my clients are all responsible adults who out of their own accord apply social distancing, wear face masks and act no different when conducting business with me than they would have done when conducting business with an established retailer).
- 18 My business cannot however operate due to the unwillingness or inability of the municipality to issue me a permit and my inability to produce a CIPC certificate. I am



only allowed to deliver product to established supermarkets. If I dare conduct business from my normal stand, I do so at the risk of being arrested by the municipality.

DEPONENT

THUS SWORN AND SIGNED AT _____ ON THIS _____ DAY OF
_____, 2020, BEFORE ME,
_____, COMMISSIONER OF OATHS, THE DEPONENT
HAVING ACKNOWLEDGED THAT SHE UNDERSTANDS THE CONTENTS OF THIS AFFIDAVIT,
HAS NO OBJECTION IN TAKING THE OATH AND REGARDS THE OATH AS BINDING ON HER
CONSCIENCE AFTER COMPLYING WITH THE REQUIREMENTS OF GOVERNMENT NOTICE
R1258, DATED 21 JULY 1972, AS AMENDED.

BEFORE ME:

COMMISSIONER OF OATHS

NAME:

CAPACITY:

ADDRESS:

WAP *R*



Annexure "O1"

KRIEK WASSENAAR & VENTER ING

Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0665

Your ref:

2 May 2020

THE ACTING SOLICITOR GENERAL

By email: SMzozoyana@justice.gov.za
TRamohlale@justice.gov.za
ZNhlaysi@justice.gov.za
TiPillay@justice.gov.za
VDhulam@justice.co.za

THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

By e-mail: MandisaMB@cogta.gov.za
PamelaS@cogta.gov.za
MathoM@cogta.gov.za
ThobaniM@cogta.gov.za
legadimal@cogta.gov.za

THE MINISTER OF TRADE AND INDUSTRY

By e-mail: KMashaba@thedtic.gov.za
LGava@justice.gov.za

THE MINISTER OF POLICE

By e-mail: PhokaneN@saps.gov.za
LenzieD@saps.gov.za
GcilisheN@saps.gov.za
Selaob@saps.gov.za
SereroR@saps.gov.za
DlakuV@saps.gov.za

www.kwv-inc.com

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



Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)

Bygestaan deur/assisted by Tertius Johanna Wassenaar (LLB);

Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD) , Sylvia Adriana Venter (LLB)

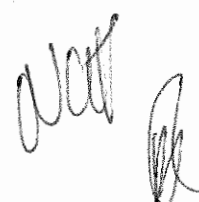
• Reg: 2012/030418/21

DocDate 2019/04/01

Minister/Sir/Madam,

DISPUTE REGARDING THE COVID 19 REGULATIONS: 29 APRIL 2020

1. We act on instructions of Sakeliga NPC (our client).
2. On 29 April 2020, the Minister of COGTA ("the Minister") published a set of revised regulations in terms of the Disaster Management Act, 2002, colloquially referred to as the "Level 4 Regulations". Our client is of the view that they contain numerous provisions which are unconstitutional and should be set aside as invalid.
3. Our client has had regard to the provisions of regulation 13, and, prior to instituting legal proceedings, wishes to engage the Minister through a process of mediation as provided therein. We hereby request the assistance of the Solicitor-General in the co-ordination and oversight of the process, and to that end, invite the Solicitor General to provide us with a list of 5 available mediators, from which our client may select one.
4. The dispute relates to the regulations requiring the issue of permits authorising travel in general, and permits to perform essential and permitted services in particular. It is our client's considered view that the regulations requiring a permit for travelling to and from a person's workplace, in order to perform essential or permitted services, or for any other purpose allowed by the regulations, as currently applied by the law enforcement agencies, is unconstitutional in that they allow such agencies and others to disregard the validity (or ostensible validity) of such permits.
5. The Disaster Management Act, 2002, makes it clear that the Constitution is not thereby suspended, and the rights contained in the Bill of Rights are not suspended by the national state of disaster. Therefore, the issue of a permit remains administrative action, subject to the provisions of the Promotion of Administrative Justice Act, 2000. As such:
 - a. A permit, once issued, remains valid and enforceable, until set aside by a Court of Law, and
 - b. The validity of a permit ostensibly validly issued, cannot be questioned or decided upon by an enforcement officer.
6. Our client's considered view is that the Level 4 Regulations allow enforcement officers an unbridled discretion to question or reject permits duly issued. The permit system is in our client's view unreasonable and irrational in various respects, resulting in an unenforceable system which can only and has already resulted in arbitrary action by law enforcement. Serious rule of law questions arise when trying to interpret and apply this system.
7. Our client also objects to the CIPC certification system introduced by the Minister of Trade and Industry, which also relies on the self-issue of a permit by the public. This system is however only available to registered companies, even though we have feedback from the public that law enforcement requires a CIPC certificate before allowing a business to trade. This additional system has only contributed to further arbitrary and unlawful action by law enforcement.
8. It is our client's position that all permit system/s should immediately be abandoned and withdrawn.
9. We also require that the Minister of COGTA provide reasons for the use of a self-issue permit system as provided for in the regulations.





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10. We seek to urgently resolve the matter, either by mediation or alternatively urgent litigation. Seeing however that regulation 13 has been introduced, we are willing to seek alternative dispute resolution if the process can expedite the finalisation of the dispute.
11. We request your response by 16h00 on 4 May 2020.

Yours faithfully,


KRIEK WASSENAAR & VENTER INC
PÉTER WASSENAAR – DIRECTOR
(f) 086 596 8516
(e) peter@kriekprpk.co.za
Elektronies geteken
Elektronies geteken



Annexure "O2"

KRIEK WASSENAAR & VENTER ING
 Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0665
 Your ref:

5 May 2020

THE ACTING SOLICITOR GENERAL

By e-mail: SMzozoyana@justice.gov.za
TRamohlale@justice.gov.za
ZNhlaysi@justice.gov.za
TiPillay@justice.gov.za
VDhulam@justice.gov.za

THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

By e-mail: MandisaMB@cogta.gov.za
PamelaS@cogta.gov.za
MathoM@cogta.gov.za
ThobaniM@cogta.gov.za
legadimal@cogta.gov.za

THE MINISTER OF TRADE AND INDUSTRY

By e-mail: KMashaba@thedtic.gov.za
LGava@justice.gov.za

THE MINISTER OF POLICE

By e-mail: PhokaneN@saps.gov.za
LenzieD@saps.gov.za
GcilisheN@saps.gov.za
Selaob@saps.gov.za
SereroR@saps.gov.za
DlakuV@saps.gov.za

www.kwv-inc.com

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



Direkteure/ Directors: Johan Kriek (B Proc, LLM), Péter Johannes Wassenaar (LLB)
 Bygestaan deur/assisted by Tertia Johanna Wassenaar (LLB);
 Konsultante / Consultants: Catherina Elizabeth Pienaar (BA, BCur, LLB, LLM, PhD), Sylvia Adriana Venter (LLB)
 • Reg: 2012/030418/21
 DocDate 2019/04/01

Nett


Minister/Sir/Madam,

DISPUTE REGARDING THE COVID 19 REGULATIONS: 29 APRIL 2020

1. We refer to our letter of 2 May 2020 to which we have yet to receive a response.
2. Failing an agreement between the parties to seek alternative dispute resolution, our client has no choice but to now consult with counsel about formal litigation. Without a response, our client can only assume that offer for mediation has been rejected. We will now advise our client accordingly.
3. Our client's rights remain reserved.

Yours faithfully,


KRIEK WASSENAAR & VENTER INC
PÉTER WASSENAAR – DIRECTOR
(f) 086 596 8516
(e) peter@kriekprmk.co.za
Elektronies geteken
Elektronies gelyk

Web 



Annexure "O3"

KRIEK WASSENAAR & VENTER ING
 Prokureurs • Aktevervaardigers • Attorneys • Conveyancers

Our ref: PJ Wassenaar/es/QB0693
 Your ref:

13 May 2020

THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

By e-mail: MandisaMB@cogta.gov.za
PamelaS@cogta.gov.za
MathoM@cogta.gov.za
ThobaniM@cogta.gov.za
legadimal@cogta.gov.za

THE MINISTER OF SMALL BUSINESS DEVELOPMENT

By e-mail rnevhutshena@dsbd.gov.za
smokwebo@dsbd.gov.za
nmonama@dsbd.gov.za
GSithole@dsbd.gov.za

Minister/Sir/Madam,

DISPUTE REGARDING THE COVID 19 REGULATIONS: 29 APRIL 2020
DIRECTIVES ISSUED BY MINISTER OF SMALL BUSINESS DEVELOPMENT ON 12 MAY 2020 (GN 522)

1. We refer to our previous request addressed to the Solicitor General and the Minister of Cooperative Governance and Traditional Affairs (COGTA) dated 5 May 2020.
2. In the aforementioned letter our client, Sakeliga NPC, requested that government agree to mediation in terms of regulation 13 of the main lockdown regulations issued in terms of Sections 27(2) of the Disaster Management Act, in order to mediate and avoid litigation regarding the permit system employed by government.
3. We have yet to receive a response from government. We accept that our offer to mediate has been rejected.
4. Our client has noted the new directions issued by the Minister for Small Business Development on 12 May 2020 which persists with government's confusing approach towards businesses deemed to be *informal*. According to this latest directive, so-called informal, micro and small businesses are required to apply for temporary permits from local government in order to continue trading. Additional permits are required notwithstanding the fact that these businesses already qualify as essential and/or permitted service providers in terms of regulations 16(2) and 28(4).

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 Bygestaan deur/assisted by Tertja Johanna Wassenaar (LLB):
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 • Reg: 2012/030418/21
 DocDate 2019/04/01

Wassenaar
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5. Our client demands the immediate withdrawal of the directives of 12 May 2020 by no later than 16h00 today. Failing thereto our client will proceed with an urgent application.

Yours faithfully,


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