

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 of 15 March 2020, and extended by Government Notices Nos. 646 of 5 June 2020, 765 of 13 July 2020 and 889 of 15 August 2020, hereby in terms of section 27(2) of the Disaster Management Act, 2002, after consultation with the relevant Cabinet members, make the Regulations in the Schedule.



DR NKOSAZANA DLAMINI ZUMA, MP

MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

DATE: 17.08.2020

SCHEDULE

Definitions

1. In these Regulations, "the Regulations" means the regulations published by Government Notice No. R. 480 of 29 April 2020 as amended by Government Notices Nos. R. 608 of 28 May 2020, R. 714 of 25 June 2020, R.763 of 12 July 2020 and R. 846 of 31 July 2020.

Deletion of declaration of geographical area or cluster of geographical areas as hotspots

2. The declaration of Alert Level 3 and the geographical area or cluster of geographical areas as hotspots for COVID-19 as determined in Government Notice No.608 of 28 May 2020, is hereby deleted.

Amendment of Classification of Regulations

3. The Classification of the Regulations is hereby amended by—
(a) the addition of the following Chapter after Chapter 4:

**"CHAPTER 5
ALERT LEVEL 2**

49. Determination of Alert Level

50. Movement of persons
51. Mandatory protocols when in a public place or attending gathering
52. Attendance of funerals
53. Eviction and demolition of places of residence
54. Rental housing
55. Gatherings
56. Places and premises closed to the public
57. Prohibition of initiation practices
58. Controlled visits by members of the public
59. Closure of borders
60. Public transport
61. Sale, dispensing or transportation of liquor
62. Operation of economic and public sector
63. Operation of economic sector
64. Offences and penalties"; and

(b) the addition of the following Table after "Table 2":

"TABLE 3

Alert Level 2".

Amendment of regulation 1 of the Regulations

4. Regulation 1 of the Regulations is hereby amended by the insertion of the following definition after the definition of 'essential services':

"**face mask**' means a cloth face mask or a homemade item that covers the nose and mouth, or another appropriate item to cover the nose and mouth; "

Addition of Chapter 5 to the Regulations

5. The following Chapter is hereby added to the Regulations after Chapter 4:

**"CHAPTER 5
ALERT LEVEL 2**

Application of Alert Level

49. The regulations set out in this Chapter apply during Alert Level 2.

Movement of persons

50. Every person is confined to his or her place of residence from 22H00 until 04H00 daily, except where a person has been granted a permit,

which corresponds with Form 2 of Annexure A, to perform a service other than a service related to an activity listed under Table 3, or is attending to a security or medical emergency.

Mandatory protocols when in a public place

51. A person—

- (a) must when in a public place, wear a face mask; and
- (b) may not be allowed to be in a public place, use any form of public transport, or enter a public building, place or premises, if that person is not wearing a face mask.

Attendance of funerals

52. (1) Attendance at a funeral is limited to 50 persons and will not be regarded as a prohibited gathering.

(2) Night vigils are not allowed.

(3) During a funeral, a person must wear a face mask and adhere to all health protocols and social distancing measures.

Eviction and demolition of places of residence

53. (1) A person may not be evicted from his or her land or home or have his or her place of residence demolished for the duration of the national state of disaster unless a competent court has granted an order authorising the eviction or demolition.

(2) A competent court may suspend or stay any order for eviction or demolition contemplated in subregulation (1) until after the lapse or termination of the national state of disaster unless the court is of the opinion that it is not just or equitable to suspend or stay the order having regard, in addition to any other relevant consideration, to—

- (a) the need, in the public interest for all persons to have access to a place of residence and basic services to protect their health and the health of others and to avoid unnecessary movement and gathering with other persons;
- (b) any restrictions on movement or other relevant restrictions in place at the relevant time in terms of these regulations;
- (c) the impact of the disaster on the parties;
- (d) the prejudice to any party of a delay in executing the order and whether such prejudice outweighs the prejudice of the person who will be subject to the order;
- (e) whether any affected person has been prejudiced in his or her ability to access legal services as a result of the disaster;
- (f) whether affected persons will have immediate access to an alternative place of residence and basic services;
- (g) whether adequate measures are in place to protect the health of any person in the process of a relocation;

- (h) whether any occupier is causing harm to others or there is a threat to life; and
- (i) whether the party applying for such an order has taken reasonable steps in good faith, to make alternative arrangements with all affected persons, including, but not limited to, payment arrangements that would preclude the need for any relocation during the national state of disaster.

(3) A court hearing any application to authorise an eviction or demolition may, where appropriate and in addition to any other report that is required by law, request a report from the responsible member of the executive regarding the availability of any emergency accommodation or quarantine or isolation facilities pursuant to these regulations.

Rental housing

54. (1) During the disaster, the Rental Housing Tribunals established under the Rental Housing Act, 1999 (Act No. 50 of 1999)—

- (a) must determine fair procedures for the urgent hearing of disputes; or
- (b) may grant an urgent *ex parte* spoliation order including to restore occupation of a dwelling or access to services provided that an affected party may, on 24 hours' notice, require that a hearing be promptly convened.

(2) During the disaster and without derogating from the protections afforded by the Rental Housing Act, 1999 or any provincial unfair practice regulation in place or the duty to consider the interests of both the landlord and tenant on a just and equitable basis, the following conduct is presumed to be an unfair practice for purposes of the Act:

- (a) The termination of services in circumstances where—
 - (i) the landlord has failed to provide reasonable notice and an opportunity to make representations;
 - (ii) the landlord has failed, reasonably and in good faith, to make the necessary arrangements including to reach an agreement regarding alternative payment arrangements, where applicable; or
 - (iii) no provision has been made for the ongoing provision of basic services during the national state of disaster.
- (b) The imposition of any penalty for late payment of rental where the default is caused by the disaster, whether or not the penalty takes the form of an administrative charge or any other form other than interest.
- (c) The failure of a landlord or tenant to engage reasonably and in good faith to make arrangements to cater for the exigencies of the disaster.
- (d) Any other conduct prejudicing the ongoing occupancy of a place of residence, prejudicing the health of any person or prejudicing the ability of any person to comply with the applicable restrictions on movement that is unreasonable or oppressive having regard to the prevailing circumstances.

(3) Where the protections afforded by any Unfair Practice Regulations in force in any province are greater than those provided in this Regulation, the provisions of the provincial Unfair Practice Regulations shall apply.

(4) The Cabinet member responsible for human settlements must, after consulting with the Rental Housing Tribunals, issue directions disseminating information about the manner in which the Tribunals will conduct

their proceedings during the national state of disaster, including but not limited to—

- (a) the manner in which Tribunals will facilitate expeditious access to any aggrieved person; and
- (b) the convening of remote hearings or convening of hearings at any suitable place.

Gatherings

55. (1) All persons must wear a face mask and adhere to all health protocols and social distancing measures when attending a gathering, to limit exposure to COVID-19: Provided that a person undertaking vigorous sporting activity is not obliged to wear a face mask, during such activity.

(2) All gatherings are prohibited except a gathering at—

- (a) a faith-based institution, which is limited to 50 persons or less, depending on the size of the place of worship: Provided that all health protocols and social distancing measures are being adhered to as provided for in directions issued by the relevant Cabinet member responsible for cooperative governance and traditional affairs;
- (b) a funeral, subject to regulation 52;
- (c) a workplace for work purposes;
- (d) conferences and meetings which are—
 - (i) subject to a limitation of 50 persons, excluding those who participate through electronic platforms; and
 - (ii) restricted to business purposes;
- (e) cinemas, subject to—
 - (i) a limitation of 50 persons or less per cinema; and
 - (ii) the sale of tickets through a booking system;
- (f) theatres, concerts and live performances, subject to a limitation of 50 persons or less, strict adherence to all health protocols and social distancing measures, as provided for in directions that must be issued by the relevant Cabinet member after consultation with the Cabinet member responsible for health;
- (g) casinos, subject to a restriction on the number of persons allowed in the casino to not more than 50 percent of the available floor space, with patrons observing a distance of least one and a half metres from each other: Provided that this percentage may be increased as provided for in directions issued by the relevant Cabinet member;
- (h) all auctions, subject to strict adherence to all health protocols and social distancing measures and directions issued by the relevant Cabinet member, in consultation with the Cabinet member responsible for health;
- (i) sporting activities, including professional and non-professional matches, authorised by recognised sporting bodies, subject to the following:

- (i) Directions for sports matches issued by the Cabinet member responsible for sport, after consultation with the Cabinet member responsible for health;
- (ii) only journalists, radio, television crew, security personnel, emergency medical services, and the necessary employees employed by the owners of the venue of the sport match, are allowed at the venue of the sport match;
- (iii) only the required number of players, match officials, support staff and medical crew required for the sport match, are allowed at the venue of the sport match;
- (iv) no spectators are allowed at the venue of the sports match;
- (v) no international sport events are allowed;
- (j) weddings, subject to a limitation of 50 persons, and directions issued by the relevant Cabinet member;
- (k) a social event at a place of residence, subject to a limitation of 10 visitors or less;
- (l) concerts and entertainment events, subject to a limitation of 50 persons, and directions issued by the relevant Cabinet member;
- (m) events at function venues, subject to a limitation of 50 persons, and directions issued by the relevant Cabinet member;
- (n) the following places which are open to the public, subject to all persons wearing face masks and strict adherence to all health protocols and social distancing measures as provided for in the directions issued by the relevant Cabinet member, after consultation with the Cabinet member responsible for health:
 - (i) Fitness centres and gyms, further subject to a limitation of 50 persons or less;
 - (ii) sports grounds and fields;
 - (iii) swimming pools, further subject to a limitation of 50 persons or less;
 - (iv) beaches and public parks;
 - (v) museums, galleries, libraries and archives;
 - (vi) personal care services, including hairdressing, beauty treatments, make-up and nails salons and piercing and tattoo parlours;
 - (vii) restaurants;
 - (viii) bars, taverns, shebeens, and similar establishments, further subject to a limitation of 50 persons or less; and
 - (ix) all accommodation establishments and tour operators, subject to a restriction on the number of persons allowed in such establishments to not more than 50 percent of the available floor space, with patrons observing a distance of least one and a half metres from each other: Provided that this percentage may be increased as provided for in the directions issued by the relevant Cabinet member.

(3) An enforcement officer must, where a gathering in contravention of the regulations takes place—

- (a) order the persons at the gathering to disperse immediately; and
- (b) if the persons refuse to disperse, take appropriate action, which may, subject to the Criminal Procedure Act, 1977 (Act No. 51 of 1977), include the arrest and detention of any person at the gathering.

Places and premises closed to the public

56. (1) Night clubs are closed to the public.

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

Prohibition of initiation practices

57. (1) For the duration of the national state of disaster—

- (a) male and female initiation practices are prohibited;
- (b) a person may not arrange or hold an initiation school or conduct an initiation practice;
- (c) a prospective initiate may not attend an initiation school;
- (d) an owner of land may not provide consent for the use of his or her land for the holding of an initiation school; and
- (e) a traditional surgeon or medical practitioner may not perform circumcision as part of an initiation practice.

(2) The National House of Traditional Leaders and provincial houses of traditional leaders must take steps to ensure that traditional leaders are aware of the content of this regulation.

Controlled visits by members of the public

58. All visits by members of the public to—

- (a) correctional centres;
- (b) remand detention facilities;
- (c) police holding cells;
- (d) military detention facilities;
- (e) health establishments and facilities, except to receive treatment or medication, subject to strict adherence to health protocols; and
- (f) older persons' residential facilities,

are prohibited except to the extent and in the manner directed by the relevant Cabinet member.

Closure of borders

59. (1) During the national state of disaster all borders of the Republic must be closed, except for ports of entry designated by the Cabinet member responsible for home affairs, for—

- (a) the transportation of fuel, cargo and goods;
- (b) the entry of foreign sea crew for the purposes of the exchange of sea crew in the Republic; or
- (c) humanitarian operations, repatriations, evacuations, medical emergencies, the movement of staff of diplomatic and international organisations and other exceptions as may be determined by the relevant Cabinet member by directions.

(2) The Cabinet member responsible for home affairs, or a person designated by him or her, may allow entry into or exit from the Republic for—

- (a) emergency medical attention for a life-threatening condition;
- (b) the evacuation of a South African national or permanent resident to the Republic;
- (c) the repatriation of a foreign national to his or her country of nationality or permanent residence;
- (d) the return of a South African national or permanent resident to his or her place of employment, study or residence, outside the Republic; or
- (e) daily commuters from neighbouring countries who attend or teach at a school in the Republic, and who are allowed entry and exit into and exit from the Republic, subject to compliance with protocols relating to—
 - (i) screening for COVID-19 and quarantine or isolation, where necessary;
 - (ii) the wearing of a face mask;
 - (iii) transportation; and
 - (iv) sanitisation and social distancing measures as per the relevant health protocols on safety and prevention of the spread of COVID-19.

(3) The Cabinet member responsible for home affairs in consultation with the Cabinet members responsible for health and transport may allow certain categories of international travel to resume once it is deemed safe to do so, subject to directions.

Public transport

60. (1) For purposes of this regulation "long distance travel" is a trip of 200 km or more.

(2) The Cabinet member responsible for transport must, after consultation with the Cabinet members responsible for cooperative governance and traditional affairs, health, police, trade, industry and competition, and justice

and correctional services, issue directions for the resumption of different modes of public transport to cater for the gradual return to work of people, in respect of—

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

(3) Bus and taxi services—

- (a) may not carry more than 70% of the licensed capacity for long distance travel; and
- (b) may carry 100% of the licensed capacity for any trip not regarded as long distance travel in terms of subregulation (1).

(4) A driver, owner or operator of public transport may not allow any member of the public not wearing a face mask, to board or be conveyed in a public transport owned or operated by him or her.

(5) The directions to be issued by the Cabinet member responsible for transport must set out the health protocols that must be adhered to and the steps to be followed for the limitation of the exposure of members of the public using public transport to COVID-19.

Sale, dispensing or transportation of liquor

61. (1) The sale of liquor—

- (a) by a licensed premises for off-consumption, is permitted from 09h00 to 17h00, from Mondays to Thursdays, excluding Fridays, Saturdays, Sundays and public holidays;
- (b) by a licensed premises for on-site consumption is permitted, subject to strict adherence to the curfew contemplated in regulation 50(1).

(2) The sale of liquor in contravention with subregulation (1) is an offence.

Operation of economic sector

62. (1) Businesses may operate except for those set out in Table 3.

(2) Businesses with more than 100 employees, working together in a group in the same floor space, must where possible, make provision for minimising the number of employees at the workplace at any given time, through rotation, staggered working hours, shift systems, remote working arrangements or similar measures, in order to achieve social distancing and to limit congestion in public transport and at the workplace.

(3) Relevant health protocols and social distancing measures for persons employed in private residences must be adhered to.

(4) Relevant health protocols and social distancing measures set out in directions must be adhered to, in addition to the occupational health and safety directions issued by the Cabinet member responsible for employment and labour, and applicable labour legislation.

(5) Employers must implement appropriate measures for employees who are over the age of 60 or those with co-morbidities to facilitate their safe return to work, which may include special measures at the work place to limit employees' exposure to COVID-19 infection and where possible for the employees to work from home.

(6) Construction, manufacturing, business and financial services firms with more than 500 employees must adhere to the appropriate sector or workplace arrangements or compacts to address the following—

- (a) provide, or arrange transport to their employees coming to site, or, where this is not possible, consider staggered working time arrangements to reduce congestion in public transport;
- (b) stagger the return to work of employees to ensure workplace readiness and avoid traffic congestion during peak travel times as a result of the return to work;
- (c) screen employees daily for symptoms of COVID-19 and refer the employees who display symptoms for medical examination and testing where necessary; and
- (d) submit data collected during the screening and testing process to the Director-General: Health.

(7) (a) Sector-specific health protocols which must include provisions to limit the spread of COVID-19 in the sector concerned and to provide for circumstances where a firm cannot operate staggered working hours or provide transport to its employees, must be adhered to.

(b) The sector-specific health protocols referred to in paragraph (a) where these are still to be developed, must be developed in consultation with the Department of Health.

Compliance officers

63. (1) Industries, businesses and entities, both private and in the public sector, must—

- (a) designate a COVID-19 compliance officer who must oversee—
 - (i) the implementation of the plan referred to in paragraph (b); and
 - (ii) strict adherence to the standards of hygiene and health protocols relating to COVID-19 at the workplace;
- (b) develop a plan for the phased-in return of their employees to the workplace, prior to reopening the workplace for business, which plan must correspond to Annexure E and must be retained for inspection and must contain information regarding the following:
 - (i) Employees who are permitted to work;

- (ii) what the plans for the phased-in return of their employees to the workplace are;
- (iii) the health protocols that are in place to protect employees from COVID-19; and
- (iv) the details of the COVID-19 compliance officer;
- (c) phased-in the return of their employees to work in order to manage the return of employees from other provinces, metropolitan areas and districts; and
- (d) develop measures to ensure that the workplace meets the standards of health protocols, adequate space for employees and social distancing measures for the public and service providers, as required.
 - (2) A person in control of a retail store or institution must—
 - (a) take steps to ensure that customers keep a distance of at least one and a half metres from each other and that all directions in respect of health protocols and social distancing measures are strictly adhered to; and
 - (b) designate a compliance officer to ensure that safety controls are strictly adhered to and display the name of the compliance officer prominently in the store or institution in a visible area.

Offences and penalties

64. (1) For the duration of the national state of disaster, any person who 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) For the purposes of this Chapter, any person who fails to comply with or contravenes a provision of regulations 56(1), 57(1), 60(3)(a) and 61(1) of these Regulations commits an offence and is, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment."

Addition of Table 3 to the Regulations

6. The following Table is hereby added to the Regulations after Table 2:

**"TABLE 3
ALERT LEVEL 2**

All persons who are able to work from home must do so. However, persons will be permitted to perform any type of work outside the home, and to travel to and from work and for work purposes under Alert Level 2, subject to—

- (a) strict adherence to health protocols and social distancing measures;

- (b) the return to work being phased-in in order to put in place measures to make the workplace COVID-19 ready;
- (c) the return to work being done in a manner that avoids and reduces risks of infection; and
- (d) the work not being listed under the specific economic exclusions in this Table.

SPECIFIC ECONOMIC EXCLUSIONS	
1.	Night clubs.
2.	International passenger air travel for leisure purposes.
3.	Passenger ships for international leisure purposes.
4.	Attendance of any sporting event by spectators.
5.	International sports events.
6.	Exclusions relating to public transport services as set out in the directions issued by the Cabinet member responsible for transport.
7.	Exclusions relating to education services as set out in the directions issued by the Cabinet members responsible for education."

Commencement

- 7. These Regulations come into operation at 00H01 on 18 August 2020.