

LATEST NEWS - COVID-19: REGULATIONS ISSUED IN TERMS OF THE NATIONAL DISASTER MANAGEMENT ACT

The government has issued Regulations¹ in terms of the Disaster Management Act that sets out “the steps necessary to prevent an escalation of the disaster or to alleviate, contain and minimise the effects of the disaster”. This follows on from the President’s declaration of a national state of disaster, and the measures he announced publicly relating to gatherings and travel restrictions.

Below is a brief summary of the provisions.

Prohibition of Gatherings

1. **Prevention and prohibition of gatherings:** as we are already aware, gatherings are prohibited (see definition of ‘gathering’ below). The regulations provide for enforcement mechanisms through enforcement officers (SAPS / SANDF / peace officer) who must, where a gathering takes place:
 - 1.1 Order persons at gatherings to disperse immediately; and
 - 1.2 If they refuse to, then take steps which could include arrest and detention.
2. **What constitutes a ‘gathering’?**
 - 2.1 This has been defined as “any assembly, concourse or procession *of more than 100 persons*, wholly or partially in open air or *in a building or premises.*”
 - 2.2 Please be aware that it is clearly not the intention of the government for this definition to prohibit businesses from operating where they have more than 100 people on the premises doing their work. If this was the case, it would mean hospitals would be limited to 100 people or less on their premises, and grocery stores would need to ensure that only 100 people in total are on the premises at any particular time.
 - 2.3 Therefore, it should be understood that this prohibition *does not mean* that our different business premises need to limit the number of people present to 100 or less.
3. The assembly of more than 50 persons at premises where liquor is sold and consumed is prohibited.

Specific rules - premises where liquor is sold and consumed: taverns, restaurants, clubs

4. These premises² are required to close with immediate effect OR must accommodate no more than 50 people or less at any time, provided that:
 - 4.1 Adequate space is available; (‘adequate space’ means not more than one person per square meter of floor space); and
 - 4.2 All directions in respect of hygienic conditions and limitation of exposure to persons with COVID-19, are adhered to.
5. These establishments must be closed:
 - 5.1 Weekends and Saturdays: between 18:00 and 09:00 the next morning; and
 - 5.2 Sundays and public holidays: from 13:00.

Off-consumption premises selling liquor (bottle stores / liquor stores)

6. All off-consumption premises selling liquor must be closed:
 - 6.1 Weekdays and Saturdays: between 18:00 and 09:00 the next morning; and

¹ in terms of section 27(2) of the Disaster Management Act, 2002

² All on-consumption premises selling liquor, *including taverns, restaurants and clubs*

6.2 Sundays and Public Holidays: from 13:00.

Hotels, guest houses, lodges etc that provide accommodation and sell liquor

7. *All premises selling liquor which provide accommodation must implement measures to stop the spread of COVID-19.*

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

8. A person[★] may not refuse consent to an enforcement officer³ to:
 - 8.1 Submit to a medical examination, including but not limited to the taking of any bodily sample by a person authorised in law to do so;
 - 8.2 admission of that person to a health establishment or a quarantine or isolation site; or
 - 8.3 submission of that person to mandatory prophylaxis, treatment, isolation or quarantine or isolation in order to prevent transmission
9. [★] The reference to 'person' above means a 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.
10. Enforcement by magistrates' courts for people who for example refuse to be tested or go into quarantine. In summary these individuals will be isolated for 48 hours pending application to a magistrate's court for a warrant to be applied for and issued.

Places of quarantine and isolation

11. The Minister of Public Works and Infrastructure is required to identify and make available sites to be used as isolation and quarantine facilities as the need arises.
12. '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.
13. '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.

Closure of schools and partial care facilities

14. The regulation confirms that 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

Authority to issue directions

15. Provision is made for the various Ministers to issue directions - minister of health; minister of justice and correctional services; ministers of basic and higher education; minister of police; minister of social development; minister of transport - specific to their portfolios.
16. Of interest, given the rush to stock up on perishable goods, and the rumours that retailers are raising prices of certain items, is that the Minister of Trade and Industry may issue directions to:
 - 16.1 protect consumers from excessive, unfair, unreasonable or unjust pricing of goods and services during the national state of disaster; and

³ '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

16.2 maintain security and availability of the supply of goods and services during the national state of disaster.

Offences and penalties

17. Any person who does not comply the provisions of regulation 3, for example, convening a gathering, permitting more than 50 people onto premises where liquor is sold and consumed - is guilty of an offence.
18. Any person who intentionally misrepresents that he, she or any other person is infected with COVID-19 is guilty of an offence.
19. If a person is guilty of and convicted of the offences listed above is liable for a fine and / or imprisonment of up to 6 months.
20. Any person who intentionally exposes another person to COVID-19 may be prosecuted for an offence, including assault, attempted murder or murder.