

# The Law during a State of Disaster and Human Rights Risks: Level 4

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# INTRODUCTION

The Corona Virus is a new virus for which there is no immunity in humans, for some people it causes the disease, COVID-19. There is no vaccine and there is also no cure. It is also highly contagious. Extreme and enforced social distancing measures have therefore been put in place globally in order to slow down the rate of infection and give time to governments and scientists to come up with appropriate response plans.

In South Africa, on 15 March 2020, the President declared a National State of Disaster in the face of the global pandemic caused by the outbreak of the coronavirus. A nationwide lockdown was implemented a week later on 26 March 2020. The lockdown was then extended until 30 April 2020.

Both lockdown periods were governed by government regulations and directions which were enacted, released and amended on a consistent basis. The initial lockdown regulations as amended until 30 April will be referred to as the “Lockdown Regulations”.

From 1 May new Regulations were enacted and introduced a phased/leveled approach (these will be referred to as “Level 4 Regulations”) to the relaxation of some of the lockdown restrictions that had been applied between 26 March and 30 April (which is now called “Level 5”). Since 1 May the whole country has been at “Level 4”, but it is envisaged that different districts will be at different levels in the future with the Levels ranging between Level 5 (with the heaviest restrictions) and Level 1 (with the least restrictions).

The National State of Disaster was declared in terms of section 27 of the Disaster Management Act 57 of 2002 (DMA). The Level 4 Regulations empower Cabinet Ministers to issue “Directions” giving further detail to the Regulations and the government’s response to COVID-19. There are many such Directions like this. **It is important to understand that contravention of either the Regulations or Directions during lockdown is unlawful and will sometimes result in criminal liability.** In terms Regulation 2(3) of Level 4 Regulations all Directions issued by Ministers in terms of the initial Lockdown Regulations continue to apply.

The law relating to the lockdown, and in particular, the Directions issued in terms of the DMA Regulations, are changing frequently. New directions are brought into effect on a daily basis. We will be updating this document as necessary on the C19 People’s Coalition [website](#) to ensure that it is up-to-date (but please keep in mind that there may be some time delays). A collection of regularly updated materials including Regulations, Directions and other legal documents can be accessed at this same link.

This document includes the following:

1. A **summary** of the Level 4 Regulations and key Directions and an explanation of which rights they expressly restrict;
2. A description of the human rights **risks** arising from the **implementation** of the Level 4 Regulations and Directions; and
3. Specific **risks** arising from the implementation of the Level 4 Regulations and Directions for **vulnerable groups** of people

## What does the Declaration of National Disaster mean?

A declaration of a state of disaster is not the same as declaring a state of emergency. A declaration of a state of emergency must be done in terms of section 37 of the Constitution and done in terms of the State of Emergency Act. This is important because a state of emergency permits greater restriction or “limitation” of rights than the declaration of a national disaster. However, even in a state of emergency any limitation or restriction of rights would need to:

- Have a legal basis;
- Be strictly necessary to address Corona Virus/COVID-19;
- Be proportionate to achieve this necessary objective;
- Be based on scientific evidence;
- Not be arbitrary or discriminatory;
- Be of limited duration;
- Be respectful of human dignity; and
- Be subject to oversight by the courts.

# SUMMARY OF THE LEVEL 4 REGULATIONS

A “disaster” in terms of the Disaster Management Act is when there has been a “progressive or sudden, widespread or localised, natural or human-caused occurrence which causes or threatens to cause death, injury or disease....”. The risk and presence of the Corona Virus/COVID-19 in South Africa has been declared a disaster. The aim of the DMA is to ensure an integrated and coordinated response to prevent and reduce the risk of the spread of the Virus.

According to section 27 of the Disaster Management Act the following rights can be limited by Regulations:

- Freedom of movement and residence (section 21 of the Constitution);
- Freedom of assembly, demonstration, picket and petition (section 17 of the Constitution);
- Freedom of expression (section 16 of the Constitution); and
- Indirectly, freedom of trade, occupation and profession (section 22 of the Constitution).

All limitations of rights in terms of the DMA are, like all limitations of rights, subject to section 36 of the Constitution which requires any such limitation to be: based on a generally applicable law; proportionate; and reasonable and justifiable in an open and democratic society based on human dignity and human rights.

If you think that your rights have been violated or unjustifiably limited or you have observed the rights of someone being violated or unjustifiably limited, please contact the **Legal Response Access to Justice Hotline 066 076 8845**.



The Level 4 Regulations repeal the Lockdown Regulations and all amendments to these Regulations. However, any criminal or legal proceedings arising out of the Lockdown Regulations will still continue. Further all Directions issued will remain valid unless amended or withdrawn by the relevant Cabinet Minister. What follows is a summary of the DMA Level 4 Regulations issued by the Minister of Cooperative Governance and Traditional Affairs on 29 April 2020.

## Authority to Issue Directions (Regulation 4)

The Ministers of Health, Justice and Correctional Services, Basic and Higher Education, Police, Social Development, Trade, Industry and Competition, Transport, Home Affairs and Small Businesses may all issue Directions. Any cabinet member can also issue directions to address, prevent and combat the spread of COVID-19. Copies of these Directions can be accessed [here](#). These Directions apply unless withdrawn by the relevant Cabinet member. Some key Directions are included in the section on the Risks arising from Implementation of the Level 4 Regulations (see below). A summary of some of the important Directions issued so far is also included in Annexure A.

## General Measures to Contain the Spread of COVID-19 (Regulation 5)

Every person must wear a cloth face mask or homemade item that covers your nose and mouth when in public. This kind of “homemade item” could, as examples, include ones fashioned from cloth (including by tying a scarf, handkerchief or bandana) or be made with paper (such as serviettes) and elastic. The Regulations do not specify or restrict what such a “homemade item” must be made from. You are not allowed to enter any public space, shop or public transport without a mask or homemade item covering your nose and mouth on.

Your employer must provide you with a mask if you are likely to come into contact with members of the public. All business premises must at very least:

- Work out how many customers are allowed inside their premises at any time based on their size;

- Manage physical distancing in the queues outside (each person must be one and a half metres away from the next person);
- Provide hand sanitisers at the entrance; and
- Assign someone to be the compliance officer to ensure compliance with these measures.

As will be detailed below, not all businesses are allowed to open at Level 4 and those that are allowed to open are often permitted to open to only a certain level of operation. Employers that are allowed to open must allow workers, where possible, to work from home and they must provide adequate space and restrict face-to-face meetings as much as possible. Special measures should be taken to protect workers who fall into the high risk categories (for example, if you have diabetes, hypertension or HIV) in respect of COVID-19 and for employees above the age of 60.

### **Refusal of Medical Examination, Prophylaxis, Treatment, Isolation and Quarantine (Regulation 6)**

A person who has or is suspected to have COVID-19 or has been in contact with a person who has COVID-19 cannot refuse:

1. Medical examination,
2. Admission to a health establishment or quarantine or isolation site;
3. To take medicine, have treatment or be isolated or quarantined.

If a person refuses any of the above, that person can be placed in forced isolation or quarantine for a period of 48 hours by an enforcement officer pending a warrant being issued to require a medical examination. A magistrate can issue such a warrant if the person is confirmed to have COVID-19 or is reasonably suspected to have contracted it, or has been in contact with someone who has COVID-19. Quarantine and isolation sites must be identified by the State for those who cannot self-isolate or quarantine in their homes (read with Regulation 10).

According to these regulations, an “**enforcement officer**” includes:

- Members of the **South African Police Services**
- Members of the **South African National Defence Force**
- Metro police, traffic officers, immigration inspectors and
- Peace Officers, including Magistrate, Justice, Municipal / Metropolitan Police or Correctional Service officials

### **Isolation or Quarantine of Persons (Regulation 7)**

The state can require someone to take a test for COVID-19 if they have reasonable grounds to believe that the person has the Virus or has been in close physical contact with a person who has the Virus. They can also, in writing, direct a person to be taken to a health establishment, isolation or quarantine facility. The Minister of Public Works and Infrastructure, the Provincial Executive Council responsible for public works and accounting officers of municipalities must all identify and make available sites to be used as isolation and quarantine facilities. If a person refuses to go to such a facility, a Magistrate can make an order to force that person to go to such a site.

### **Contact Tracing (Regulation 8)**

The National Department of Health is allowed to develop and maintain a national database (the Tracing Database) to enable the tracing of persons known or reasonably suspected to have come into close physical contact with someone who is known to have COVID-19. The information in the database will include the person’s name, surname, ID number or passport number, address and another address where the person can be located as well as phone numbers. It will include their COVID-19 results and the details of any known or suspected contacts of the person who tested positive for COVID-19. The information on the Tracing Database is confidential. No person can share any information on the Tracing Database unless they



are authorised to do so and it is for the purpose of preventing the spread of COVID-19. All testing results are required to be submitted to the Director-General of Health for inclusion in the Tracing Database.

The Director-General of Health may and without your consent, ask an electronic communications service provider (e.g. MTN, Vodacom, Cell C or 8ta) to provide them with the location details or movements of any persons known or reasonably suspected to have contracted COVID-19 or have come into close physical contact with that person. No information dating back further than 5 March may be obtained by the Director-General of Health. The information requested has to be necessary for the purposes of addressing, preventing, or combating the spread of COVID-19. Your electronic communication (i.e. who you are speaking to and what you are saying to them) cannot be obtained.

Former Constitutional Court judge, Justice Kate O'Regan, has been appointed as the COVID-19 designated Judge and she must receive weekly reports from the Director-General of Health setting out the details of those people whose locations and movements were obtained. The Justice may make recommendations for amendments or enforcement of these regulations in order to safeguard people's right to privacy. Any person whose information was obtained in this way must be notified within six weeks after the national state of disaster is over. In addition, within six weeks after the national state of disaster, the Tracing Database must be "de-identified" (this means that that any information they keep must no longer have your name or ID numbers linked to it). Any information not de-identified must be destroyed. A report regarding this must also be submitted to Justice O'Regan and she can then give further directions regarding any further steps to be taken to safeguard the right to privacy.

Any person who fails to comply with their obligations in terms of the contract tracing will 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.

### **Release of Resources (Regulation 9)**

The Department of Defence, national and provincial Organs of State and local government must make resources available, including human resources and funding, to prevent, limit, contain, combat and manage the spread of COVID-19 and to provide emergency services. The provision of funding must, as far as possible, not affect service delivery or the resources provided for service delivery including access to healthcare, education, social security, food, water, electricity, housing and basic municipal services. Any donor funding received by the government must be paid into the Reconstruction and Development Fund.

### **Shelters and Sites identified by the State (Regulation 10)**

The state must identify temporary shelters for homeless people and temporary sites for quarantine and self-isolation for those who cannot isolate or quarantine at home. These sites must meet necessary health protocols and adequate spacing standards as provided in guidelines published by the Director General of Health. These have not yet been published.

### **Emergency Procurement Procedures (Regulation 11)**

Emergency procurement must be done in terms of the emergency provisions of the Public Finance Management Act 1 of 1999 or the Municipal Finance Management Act 56 of 2003.

The National Treasury has put measures in place to assist government institutions with procuring preventative items to contain and manage the transmission of COVID-19. This means procurement for these items has been centralised by the national government and authorised suppliers have been identified to supply these items to the government without the need for the usual public procurement process including open tender and competitive bidding processes as are normally required by the Constitution. A detailed summary of National Treasury Instruction 5 of 2020/21 can be found [here](#).



### **Powers and Indemnity (Regulation 12)**

In terms of section 61 of the Disaster Management Act indicates that “any other person exercising a power or performing a duty in terms of this Act, is not liable for anything done in good faith in terms of, or in furthering the objects of, this Act”. The regulations reiterate that this indemnity, and any other indemnity provided by other laws, is available to “security services”. Though security services is not defined in the Regulations it can probably be assumed that this provision is intended to apply to all enforcement officers. The regulations also reiterate that any other powers that security services have in any law persist.

### **Determination of Alert level (Regulation 15)**

Different alert levels can be declared in terms of the regulations. Level 4 is currently applicable having started on 1 May. Level 5 is used to refer to the most severe form of lockdown which applied in March and April before Level 4 kicked in.

### **Movement of persons (Regulation 16)**

- Stay at home

For the duration of Level 4, every person must stay in their residence. A person may only leave for the following reasons:

- Performing an essential service or permitted service as allowed in Level 4;
- Going to work for which a permit has been issued;
- Obtaining goods or services as permitted under Level 4;
- Moving children, in accordance with regulations; and
- Running, walking or cycling between 06h00 and 09h00 within a 5km radius of your home, provided this is not done in “organised groups”.

**There is now a curfew:** Every person must stay in their residence between 20h00 and 05h00 daily, except where they have been granted a permit or are attending to a security or medical emergency.

Movement between provinces is prohibited and movement within provinces is limited to staying in your specific area or district. The following are exceptions to this general rule:

- Workers who have a permit to perform an essential or permitted service who have to travel to and from work;
- Persons attending funerals in accordance with Regulations (more on funeral attendance below);
- Persons seeing to the transportation of the mortal remains; and
- Learners and students who need to travel to and from schools or higher education institutions; and
- Any person who signed a new lease before 1 May 2020 is now permitted to move to their new residences (this includes if you need to move between provinces/areas).
- Any person who was not at their place of residence or work before lockdown began and therefore couldn't travel between provinces/areas to get back to their work or residence, is permitted to return to their residence or place of work on a once off basis (they had until 7 May to do this). Such persons are now required to stay in the place that they have traveled to until the end of Level 4.

- Movement of children (Regulation 17)

Children can move between co-parents in the same metropolitan area or district municipality if there is an arrangement to move a child between parents in terms of:

- A court order; or
- A Parental responsibilities and rights agreement or parenting plan registered with the family advocate; or
- A permit issued by a magistrate.

The movement of children between different metropolitan areas, district municipalities or provinces is allowed if you have a permit issued by a magistrate. Any child who was not at the residence of their primary caregiver before the lockdown period and who could not travel between provinces, areas or districts during the lockdown are allowed to return to the residence of their primary caregiver if a permit has been issued by a magistrate. The home where the child is moving to must be “free of COVID-19”.

- Funerals (Regulation 18)

You may attend a funeral if you are the biological child, adopted or step child, child-in-law, parent or sibling of the deceased or the grandparent, spouse or partner of the deceased.

Funerals must be limited to a maximum of 50 people and no night vigils or evening prayer meetings are allowed. If in order to attend the funeral you need to travel between provinces or metropolitan or district areas, then you will need to get a permit from a Magistrate's Court or police station allowing you to travel. In order to get the permit, you must produce a death certificate (or a certified copy of a death certificate) or a sworn affidavit. You will be able to write and sign such an affidavit at a police station.

Only two family members may accompany the vehicle transporting the mortal remains of a deceased person. If traveling across provincial or metropolitan or district boundaries, both family members will need the required permits to do so.

During a funeral, hygiene and social distancing measures must be adhered to limit exposure of all persons attending.

- Business (Regulation 16 and 5)

Business, industry and other entities which are permitted to operate during Level 4 must designate a COVID-19 compliance officer to: 1) ensure compliance with hygiene and health protocols relating to COVID-19 at the workplace; and 2) oversee the implementation of a plan for the phased return of the employees to the workplace. This plan must be kept for inspection and contain the following information: 1) the list of which employees are permitted to work; 2) the plan for the phased return of employees to the workplace; 3) health protocols in place for this workplace; and 4) the name and contact details of the COVID-19 compliance officer.

All business premises must work out how many customers are allowed inside their premises at any time based on their size. They must also manage social distancing in queues outside their premises



(each person must be one and a half metres away from the next person). Businesses must also provide hand sanitisers at the entrance and assign someone to be the compliance officer. Business in Table 1 (see below) may resume operations. Retail stores may only sell goods listed in Table 1. For stores, the name of the COVID-19 compliance officer must be visibly displayed. Directions have been issued for health and safety measures to be implemented at workplaces permitted to resume economic activity under Level 4.

Anyone performing essential services or a permitted service must have a permit. A list of essential services is provided below and in Annexure D of the regulations.

Collieries that supply Eskom and refineries must operate at full capacity. This includes smelters plants and furnaces (Regulation 29). Open-cast mining can scale up to 50% and thereafter to full employment. All other mining can start in batches scaling up to 50%. Mining operations must be conducted at reduced capacity of not more than 50% and at increasing capacity announced through directions. These operations must comply with strict screening and testing requirements, quarantine facilities must be provided for those who test positive for COVID-19 and transport must be provided from employee's homes to their respective areas of operations.

- Repatriation and Foreign tourists (Regulation 16)  
The Minister of Home Affairs may allow for South African and foreign nationals to be repatriated to their country of nationality or permanent residence. The Minister of Home Affairs may also allow people can exit and enter the country for emergency medical attention for a life-threatening condition. Foreign tourists, as with the Lockdown Regulations, are confined to their temporary residence. Evacuations for foreign tourists made by the relevant embassy may be allowed subject to them being escorted to their point of exit from the country.

- Transport (Regulation 20)  
The Minister of Transport will issue Directions for the resumption of different modes of public transport to cater for the gradual return to work for people in respect of bus, taxi, rail etc. These Directions must set out the hygienic conditions that must be adhered to.

- Border closures (Regulation 21)  
All borders are **closed** except for ports of entry designated by the Cabinet member responsible for home affairs and for the transportation and for the transportation of fuel, cargo and goods permitted to be sold during Level 4.

- Prevention and Prohibition of Gatherings (Regulation 23)  
**All gatherings are prohibited** (according to the Regulations of Gatherings Act 205 of 1993, a gathering is more than 15 people) except for at funerals (for which the maximum is 50 people), when at an authorised workplace or when obtaining goods/services permitted under Level 4 (for example at a supermarket). If a gathering does take place, an enforcement officer must order the persons gathering to disperse immediately and if they refuse, the enforcement officer may arrest or detain those people who have gathered.

- Places and premises closed to the public (Regulation 24)  
Any place normally open to the public for religious, cultural, sporting entertainment, recreational, or exhibition activities is closed. The following are also

closed: public parks, sports grounds and fields, beaches, swimming pools, flea markets, fetes and bazars, night clubs, casinos, hotels and all other tourist accommodation facilities, holiday resorts, taverns and shebeens, theatres and cinemas and museums. Security and maintenance services at these places listed in this Regulation are permitted to continue to perform these services.

- Controlled Visits (Regulation 25)  
All visits by members of the public to Correctional Centres; Remand Detention Facilities; Holding Cells; Military Detention Facilities; Health Establishments and Facilities (except to receive treatment or medication in accordance with health protocols); Youth Care Centres; Shelters; One Stop Centres; and Treatment Centres are permitted. The extent to which they are permitted and the manner in which they are permitted will be set out in Directions that will be issued by the Minister of Cooperative Governance and Traditional Affairs in consultation with the Ministers of Health, Police, Justice and Correctional Services. These have not yet been published.

- Sale, Dispensing or Transportation of Liquor (Regulation 26)  
The selling and buying of alcohol during Level 4 is illegal. The transportation of liquor is also prohibited except where alcohol is needed for industries producing hand sanitizers and hygiene products. The transportation of liquor for export purposes is permitted. No special or events liquor licenses may be considered for approval.

- Tobacco products, e-cigarettes and related products (Regulation 27)  
The sale of tobacco, tobacco products, e-cigarettes and related products is prohibited.

- Offences and Penalties (Regulation 14 and 31)  
Any person who **convenes a gathering** or fails to close a school or partial care facility, or hinders, **interferes with or obstructs an enforcement officer** in the performance of their duties 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.

If someone intentionally misrepresents that he or she is infected with COVID-19, that person is guilty of an offence. If someone publishes any statement, through any medium (including social media), with an intention to deceive any other person about COVID-19, the COVID-19 infection status of a person or any measures taken by the government to address COVID 19, that person is also guilty of an offence. If convicted of these offences, the person is liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

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

You will 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 if you:

- Leave your residence for any other reason than is allowed in terms of the Regulations detailed above;
- Violate the curfew;
- Travel unlawfully between provinces;
- Conduct an eviction off a stayed court order;
- Open a business that is not yet allowed;
- Sell goods other than essential or permitted goods;
- Sell liquor or cigarettes then;
- Operate a commuter transport service without following the relevant Regulations.

If information on the tracing database is unlawfully disclosed, or if accommodation facilities do not disclose personal information requested to the Director General of Health, if location data is obtained unlawfully, if the Tracing Database is not deidentified, if electronic communications service providers do not provide the Director General of Health with information requested and if Directions by the Tracing Database Judge are not complied with, then you will 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.



## Table 1 (1 of 4): Alert Level 4

A list of Level 4 permissions and prohibitions can be found [here](#).

Persons in the following list of industries and activities are permitted to perform work outside the home and to travel to and from work subject to health protocols and social distancing rules.

The following is a summary of those permissions and prohibitions:

- **Agriculture, hunting, forestry and fishing:**

- All agriculture, hunting, forestry, fishing, bee-keeping and related services, including the export of agricultural products permitted.

- **Electricity, gas and water supply:**

- All electricity, gas and water supply.

- **Manufacturing:**

- Manufacture of wholesale retail products permitted, scaling up to full employment, except where otherwise indicated;
- Manufacture of paper and paper products, excluding stationery, permitted scaling up to full employment;
- Manufacture of plastics and packaging, including glass, plastic bottles and containers, permitted scaling up to full employment;
- Petroleum smelters, refineries and furnaces, permitted scaling up to full employment;
- Manufacture of winter clothing, footwear, bedding and heaters (and all inputs required) permitted, commencing at 25% and scaling up to 50% employment;
- Automotive, steel and other metal manufacturing, rail and ship-building including components, scaling up in phases to 50% employment;
- Stationery production, scaling up in phases to 50% employment;
- Cement, other construction material, and hardware, scaling up in phases to 50% employment; and
- All other manufacturing, scaling up to 30% employment.

- **Construction and related services (inc. tradespeople):**

- Civil engineering for public works projects (including water, energy, sanitation);
- Public works civil engineering and construction works;
- Road and bridge projects; and
- Critical maintenance and repairs.

- **Wholesale and retail trade, covering stores, spaza shops, eCommerce and informal traders**

- Any food product, including non-alcoholic beverages and animal food;
- The sale of hot cooked food, only for home delivery;
- Toilet Paper, sanitary pads, sanitary tampons, condoms;
- Hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment;
- Products for the care of babies and toddlers;
- Personal toiletries, including haircare, body and face care products, hand and foot care products, roll-ons, deodorants, dental care products;
- Medical and Hospital Supplies, medicine, equipment and personal protective equipment;
- Fuel and lighting, including coal, wood, paraffin and gas;

**Table 1 (2 Of 4): Alert Level 4**

- Airtime and electricity
  - Hardware, components and supplies;
  - Components for vehicles undergoing emergency repairs;
  - Chemicals, packaging and ancillary products used in the production of any of the products listed in this list;
  - Textiles required to produce face masks, winter clothing and other personal protective equipment;
  - Winter clothing, footwear, bedding and heaters and the components and fabrics required to manufacture these;
  - Children’s clothing and the components and fabrics required to manufacture these;
  - Stationery and educational books;
  - Personal ICT equipment including computers, mobile telephones and other home office equipment; and
  - No sale of liquor permitted.
- **Information and communication services:**
    - All telecommunication services and infrastructure;
    - Information and Communication Technology services for all private and business customers; and
    - Postal services and courier services for all permitted Level 4 services.
- **Media and entertainment services:**
    - Online services;
    - Productions for local broadcast; and live streaming in support of COVID-19 subject to directions; and
    - Newspapers and broadcasting.
- **Financial and business services:**
    - Employees should work from home where possible;
    - Call-centres, for local and all international markets may operate subject to directions issues by the relevant cabinet members;
    - Essential financial services may operate subject to directions issues by the relevant cabinet member;
    - Private security services may operate;
    - Implementation of payroll systems;
    - Chauffeur services, rental of motor vehicles, machinery and equipment, and goods to support other Level Four services;
    - Other professional services may operate only where work-from-home is not possible, and only to support other Level Four services; and
    - Services necessary for the provision of social grants.
- **Accommodation and food service activities:**
    - Accommodation not permitted, except for quarantine and essential services; and
    - Restaurants only for food delivery services (9am-7pm) and subject to restriction of movement (no sit down or pick-up allowed).
- **Transport, storage and communication services:**
    - Ocean, rail, road and air transport permitted only for the shipment of cargo set out in Regulation 22(1);
    - Public rail, minibus taxi and bus services will resume at levels and on terms as will be set out in Directions, based on the progressive increase in commuter numbers during the various phases;

**Table 1 (3 of 4): Alert Level 4**

- E-hailing services subject to restrictions on capacity and times, and for permitted activities only; and
- Transport and logistics in respect of specified cargo, and permitted retail goods to neighbouring countries, which shall include all goods imported via SA ports of entry, for re-export to neighbouring countries.
  
- **Mining and quarrying:**
  - Coal production for Eskom scaling up to full employment;
  - Open-cast mining scaling up to full employment; and
  - All other mining starting in batches scaling up to 50% employment.
  
- **Repair and related emergency services:**
  - Tow trucks and vehicle recovery services;
  - Emergency repair work, including plumbers, electricians, locksmiths, glaziers, roof repair work; and
  - Emergency automobile repairs for all persons.
  
- **Supply Chains:**
  - Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of permitted services including components and equipment; and
  - All workplaces or premises must have care and maintenance that is essential to the prevention of the destruction or significant impairment of working areas, plant, machinery or inventory, or to permit orderly wind down arrangements, on such conditions as may be issued by means of directions by the relevant cabinet members.
  
- **Private households employment:**
  - Live-in staff and staff providing care to the sick, mentally ill, elderly, people with disabilities and children.
  
- **Public administration, government services and other arms of the state:**

Only essential government and administration services may operate, including:

  - Disaster management services;
  - Licensing, permitting, deeds and masters offices; birth and death certificates, replacement identification documents;
  - Any other service designated by the Executive Authority, HODs, Heads of Courts, and Heads of other Chapter 9 Institutions
  - Essential municipal services;
  - Services related to the functioning of courts; the state capture commission;
  - Essential SARS services defined by the Commissioner of SARS;
  - Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services;
  - 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; and
  - 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.

**Table 1 (4 of 4): Alert Level 4**

- **Health, social and personal services:**

- Medical and veterinary services permitted;
- Cleaning, sanitation, pest control, sewerage, waste and refuse removal services;
- Recycling of glass, paper, plastic, tires & metal permitted at 50% capacity;
- Informal recyclers permitted to resume operations;
- All Social work, counselling, services supporting gender based violence, care and relief activities permitted
- Wildlife Management, Antipoaching, Animal Care and Veterinary services;
- Funeral services, including mortuaries services and the transportation of mortal remains; and
- Trade union essential staff for workers covered by Level 4, subject to Directions.

- **Education services:**

- Permitted on dates and schedule set out separately.

### **Essential Services (Annexure D)**

Essential services means any services as defined in section 213 of the Labour Relations Act and the following:

- Medical, Health (including Mental Health), Laboratory and Medical services and the National Institute for Communicable Diseases;
- Disaster Management, Fire Prevention. Fire Fighting and Emergency services;
- (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:
  - the banking environment (including the operations of mutual banks, co-operative banks, co-operative financial institutions and the Postbank);
  - the payments environment;
  - the financial markets (including market infrastructures licensed under the Financial Markets Act, 2012 (Act No. 19 of 2012));
  - the insurance environment;
  - the savings and investment environment;
  - pension fund administration;
  - outsourced administration;
  - medical schemes administration, and
  - additional services set out in directions.
- (b) The services listed in paragraph (a) may not be construed to include debt collection services.
- Services necessary for the provision of social grants.
- Production and sale of the goods listed in Annexure B;
- Whole sale and retail stores for re-stocking;
- Electricity (including vital demand management services), water, gas and fuel production, supply and maintenance;
- 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;
- Essential municipal services;
- Care services and social relief of distress provided to older persons, mentally ill, persons with disabilities, the sick, and children;
- Funeral and cremation services, including mortuaries services and the transportation of mortal remains;
- Wildlife Management, Anti-poaching. Animal Care and Veterinary services;
- Newspaper, broadcasting and telecommunication infrastructure and services, including call centres critical for the support of such services;
- Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector;
- Cleaning, sanitation, pest control, sewerage, waste and refuse removal services;

- Services related to the essential functioning of courts, judicial officers, the Master of the High Court, Sheriffs and legal practitioners required for those services;
- Essential SARS services defined by the Commissioner of SARS;
- Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services;
- Postal services and courier services related to transport of medical products;
- Private security services;
- Air -traffic Navigation, Civil Aviation Authority, air charters. Cargo Shipping and dockyard services;
- Gold, gold refinery, coal and mining;
- Accommodation used for persons rendering essential services, quarantine, isolation and the lockdown;
- Production, manufacturing, supply, logistics, transport, delivery. critical maintenance and repair in relation to the rendering of essential services including components and equipment;
- Transport services for persons rendering essential services and goods. and transportation of patients;
- 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;
  - Commissioners of the South African Human Rights Commission, Gender Commission.the Commission for the Promotion and Protection of the Rights of Cultural, Religious andLinguistic Communities, the Public Protector and Deputy Public Protector and theIndependent Electoral Commission; and
  - Services rendered by the institutions referred to in item above.
- Transport and logistics in respect of cargo and goods as set out in Part A to neighbouring countries:
- Tow trucks and vehicle recovery services;
- 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;
- Harvesting and storage activities essential to prevent the wastage of primary agricultural goods;
- Implementation of payroll systems to the extent that such arrangement has not been made, to ensure timeous payments to workers; and
- Critical maintenance services which cannot be delayed for more than 21 days and are essential to resume operations;
- Trades necessary for the rendering of emergency repair work. including plumbers,electricians. locksmiths, glaziers, roof repair work;
- Trades necessary for emergency automobile repairs for persons rendering essential services;
- Information and Communication Technology services rendered to entities and institutions engaged in delivering essential services in terms of these Regulations.



# RISKS ARISING FROM THE IMPLEMENTATION OF THE DISASTER REGULATIONS

- What happens if you get arrested?

If a person is outside of their residence, they must have a legitimate reason to go out (i.e. have a valid Level 4 permit) or be out for the purposes of buying food, medicine, going to the hospital, clinic or doctor. Mandatory cloth masks or homemade items must be worn at all times. There is a curfew from 20h00-05h00. Persons are permitted to exercise from 06h00 to 09h00.

That person should have all their documents with them (for example, Driver's license, Car license, ID document or permit to drive or be out of the house during the lockdown where applicable). If a person is stopped by an enforcement officer, they should keep calm, explain why they are out in the street and what their destination is and, if possible, show documents that demonstrate the reason they are out. As examples, a clinic card, an appointment card, a receipt (paper) from the shop or the groceries that they bought may help provide evidence to enforcement officers.

The normal rules of bail and arrest apply during lockdown periods.

If someone is arrested:

- They have the right to be informed of the charges on which they are being arrested (**right to be informed that you are being arrested**).
- During the COVID-19 lockdown period they will be taken to a police station and screened for the virus, if you test positive you will be taken to a quarantine facility.
- They have the right to be brought before a court as soon as reasonably possible, but not later than 48 hours after the arrest.
- In detention they may be searched. They may however not be searched without their consent and a person of the same sex should conduct the search.
- The police have the right to take their fingerprints and take photographs.

General rights when a person is under arrest:

- The police must inform you of the following rights in a language that you can understand.

- The right to consult with an attorney of your choice, if you can't afford one, one will be assigned by the state at the state's expense;
- The right to be detained in conditions that are consistent with human dignity;
- The right to communicate with your person's spouse or partner, next of kin, and chosen medical practitioner; and
- The right to be presumed innocent until proven guilty.

There should always be an officer on duty of sufficient rank to make the decision to grant or refuse police bail. An arrested person should request **police bail** so they can avoid waiting to appear before a magistrate and risk being detained until then. Police bail can be granted for minor offences, including the majority of Level 4 Regulation violations.

According to the Directions, any person arrested for petty offences must be released and warned to appear in court at a future date (Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020). A victim of unlawful arrest or mistreatment while they're in police custody, may be entitled to claim compensation.

- Policing/ Excessive force

Ordinary policing has not stopped; you can still get arrested for allegedly committing a crime. The Constitution sets out the objects of the police force. These include to "maintain public order", to "protect and secure the inhabitants of the Republic and their property" and to "uphold and enforce the law". The police are not authorised to use force unless it is necessary and proportionate to affect their mandate.

National Instruction 4 of 2014 requires that where force is necessary, even for public order policing of gatherings, "minimum force" must be used to "de-escalate conflict" with the aim to "accomplish this goal". The police may never use force unless it is strictly unavoidable and the **police are never authorised to use force as a form of punishment.**

If you are of the view that police have used force unlawfully, if possible, record the incident with your cellphone. Those who want to lodge a complaint against law enforcement personnel should provide the following:

- Description of the incident, including date, time and place;
- Name(s) of law enforcement officer(s) involved (visible on name tags on uniforms); and
- Names and contact particulars of witnesses; and
- Recordings of the incident (either video or voice, if available).

Public order police are required to wear visible name badges. It is also common (and international best) practice for other enforcement officers engaging with the public to be identifiable (but not necessarily a requirement).

A complaint can be laid with the relevant Independent Police Investigative Directorate (IPID) (contact details in Annexure B). IPID is responsible for dependent oversight over the South African Police Service and the Municipal Police Services. A victim of unlawful mistreatment may be entitled to claim compensation.

- Right to protest

Section 17 of the Constitution says that everybody has the right, to peacefully and unarmed, assemble, and to demonstrate, to picket and to present petitions. This is commonly referred to as the right to protest.

The National State of Disaster, and especially the Regulations operating during the lockdown, place considerable restrictions on this right. Gatherings and in-person protests are prohibited for the period of the lockdown and according to Directions, the issuing of permits for marches, protests and the handover of petitions is suspended for the lockdown period (*Municipalities and provinces directions*, 25 Mar 2020). These include “any assembly, concourse or procession in or on any public road” and in or on any other building, place or premises, whether wholly or partially in the open air, including buildings or premises used normally for sporting, entertainment, religious or cultural purposes.

In addition, there are also a number of Regulations dealing with movement and the supporting directions issued by various ministers limiting the number of people who may congregate (for example, 70% of the carrying capacity in a taxi and no more than 50 people at a funeral etc.).

Although in-person gatherings are prohibited, there are many creative ways in which the right to protest can be exercised without violating the lockdown Regulations and Directions.

Some examples include:

- Virtual or online gatherings or meetings;
- Messages of solidarity or protest shared electronically, via email, SMS or WhatsApp;
- Persons lawfully outside of their homes may gather in groups of less than 15 and conduct protests as long as physical distancing is maintained;
- A person could stand at their gate, alone or with the members of their household, with a placard (and perhaps encourage their neighbours to do the same);
- A person could wear a sign when going to the shop for groceries or when on a permitted journey outside of their home to draw attention to a particular issue;
- Posters with messages or pictures could be placed outside of a person’s home or on their window, on their front door or gate.

However, law enforcement officials may remove placards or banners appearing on any public street, bridge, public place or street pole or other public property.



## SPECIFIC RISKS ARISING FROM THE DISASTER REGULATIONS FOR VULNERABLE GROUPS

- Concerns around limits to freedom of expression  
Freedom of expression, like the right to protest, is very important especially in the context of a national disaster and a lockdown. This is because people need to be able to effectively communicate their frustrations and needs to the government.

Concerned about the spread of “fake news” or false information, the lockdown Regulations prohibit the publication of statements “through any medium, including social media” with the “intention to deceive” anyone about: 1) COVID-19; 2) COVID-19 infection status of any person; 3) any measure taken by the Government to address COVID-19.

A violation of this provision can result in 6 months imprisonment and/or a fine. This is quite an unprecedented move in South Africa from a legal perspective. It will be difficult to prove “intention to deceive” and is arguably overbroad as it does not require the state to prove that harm resulted from the conduct. It can also be argued that there are less restrictive means available (for example administrative sanctions) to have achieved the same result. **The implementation of this provision must be carefully monitored.**

- Right to Privacy / Tracing Database  
From a public health perspective, the ability to track and trace people will be a valuable tool in containing the spread of COVID-19. There are, however, some obvious limitations on the right to privacy as a result. There is no requirement for prior consent and no requirement that the data be anonymised (although six weeks after the lockdown the database must be deidentified). As explained in the legal Summary section above, there are a number of safeguards that have been included in the Regulations to ensure that the laudable goal of containing the virus is balanced with the right to privacy. **The implementation of this provision must be carefully monitored** to ensure that this erosion of privacy rights does not persist beyond what is necessary to respond to the pandemic.

- Homeless people

As stated above, the Regulations to the DMA restrict movement and confine people to their “residences” for the period of the lockdown. A person who is outside of a residence and not providing or obtaining an essential or Level 4 permitted good or service, is at risk of arrest for violation of the Regulations by an enforcement officer. Where people do not have a residence, (e.g. homeless persons) the government is mandated to identify temporary shelters. The Lockdown Regulations were very vague about the required health hygiene standards. Level 4 Regulations now require that these shelters comply with the necessary health protocols and adequate spacing standards as provided for in guidelines published by the Director General of Health. This is an improvement from the previous regulations although we are still waiting for these standards to be published.

These shelters have to be hygienic and homeless people still have a right of access to healthcare (section 27 of the Constitution) and the right to a clean and healthy environment (section 24 of the Constitution). Homeless people in these temporary shelters (particularly large ones) are vulnerable to the following:

- Contracting communicable diseases (COVID-19, TB etc.);
- Gender based violence;
- Violence and crime;
- Targeted harassment and mistreatment from law enforcement officers;
- Lack of access to traditional support network and community; and
- Lack of access to health services (chronic medication, withdrawal and rehabilitation services etc.).

- Gender Based Violence

There has tragically been a rise in gender based violence during the lockdown period. Women and children are particularly at risk. The legal support structures for domestic violence and protection orders and protection from harassment orders are still in place. The Directions make it clear that services must

still continue for domestic violence protection orders, protection from harassment orders and specific and urgent family law matters (Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020). The Gender-Based Violence National Command Centre remains operational and an urgent victim response line has been set up (see Annexure B for contact details). Further, Family Violence, Child Protection and Sexual Offences Units are supposed to be reinforced at police stations during the lockdown period.

Details about how to apply for a protection order can be obtained [here](#).

A list of functional shelters nationwide is available [here](#).

- Spaza shops, informal fruit and vegetable traders and langanas

There was general confusion about the status of spaza shops and informal fruit and vegetable traders when the DMA regulations were first published. As of 16 April the Regulations make it clear that spaza shops and informal fruit and vegetable traders are permitted to trade provided they have written permission from the municipality. These permits remain valid for Level 4. On 20 April, it was made clear that trading in cooked/hot food is not permitted. On 29 April under Level 4 permissions and prohibitions, it became clear that trading in cooked hot food is now permitted for restaurants provided the food is delivered to the consumer (this is not helpful for Spaza shops and informal traders). Spazashops can also apply for a support scheme from Nedbank (this can be accessed from Nedbank or BOXER).

- Non-Citizens

With very few exceptions, such as the right to vote and the right to citizenship, the South African Constitution grants all human rights to “everyone”. This includes, importantly, all social and economic rights such as access to water, education, housing, healthcare and other basic services. These rights may only be limited by a law of general application that is reasonable and justifiable in society based on human dignity and equality.

Like South African law, international law treaties South Africa has signed are also binding on the South African government. These treaties confirm that while non-citizens (whether refugees, asylum seekers or economic migrants) are in South Africa they enjoy a full range of human rights. Even non-citizens' right to work in South Africa is protected in terms of international human rights law and South African courts have confirmed that non-citizens have a right to make a living in terms of their right to dignity. Non-citizens enjoy a right to equality in South Africa and enforcement officers should not discriminate against or target them based on their nationality.

Asylum seekers, refugees and migrants are particularly vulnerable during Covid-19. Although they have various rights guaranteed to them in South Africa's Constitution as well as international refugee law and international law, on a practical level non-citizens are often faced with the requirement of documentation in order to access any services (this includes access to shelter services).

We need to ensure that non-citizens are not discriminated against in COVID-19 testing, screening and tracing. In addition to this, there is also a constant threat of potential detention and deportation if documents are not in order. The COVID-19 Lockdown has already meant that many non-citizens' documentation has expired. This presents further barriers such as frozen bank accounts, difficulty in accessing public health facilities, fear that any identification may result in deportation and potential issues related to xenophobia. Formal directions are required to: address potential expiry of immigration, asylum seeker, and refugee documentation; clearly communicate the continuation of existing services provided to asylum seekers and refugees; clarify the inclusion of non-citizens in economic and social support packages.

- Social grant recipients

The payment of social grants must continue unhindered during the lockdown period. Temporary disability grants whose date of lapsing fall during the lockdown period must be deemed to have not lapsed during this period. Social grants not claimed for three

consecutive months may not lapse during the lockdown period. After almost a month of strong lobbying from civil society and many economists, on 21 April, government announced the following additional social assistance support:

- R300 – extra amount to be added to each CSG in May 2020.
- R500 – additional amount to be received by each caregiver who receives a CSG from June to October 2020.
- R250 – to be received by other grant beneficiaries for the next six months.
- R350 – a special COVID-19 Social Relief of Distress grant be paid for the next six months to individuals who are currently unemployed and do not receive any other form of social grant or Unemployment Insurance Fund payment. Requirements for this grant must be obtained from SASSA. You can lodge an application electronically in addition to through SASSA by sending a WhatsApp message to **0600 123 456** and selecting SASSA or an **E-mail to SRD@sassa.gov.za**.

Grant recipients must carry their ID cards and SASSA cards with them. Older persons and persons with disabilities will be given priority in queues. Queues should be managed according to hygiene standards and staff should have masks and gloves. Grant collection days are also extended and public transport rules relaxed for the collection of grants (buses and taxis are permitted to operate from 5:00 until 20:00).

- **Employment**

If you get the COVID-19 virus while working or as a result of performing your work, you may be protected by COIDA (Compensation for Occupational Injuries and Disease Act). If you receive confirmation that you have the virus, you can apply for compensation for temporary total disablement for up to 30 days. Where you have been ordered to self-quarantine, you have the right to receive remuneration from your employer for your days of absence. In all accepted cases of COVID-19, you have the right to get medical aid for a period of up to 30 days from the date of diagnosis.

If your employer has to stop its operations for a

reason directly related to the pandemic (and it is not financially possible for them to keep paying your salary), your employer can apply for you to get a benefit from the Temporary Employee/Employer Relief Scheme (C19 TERS). TERS benefits are exempt from income tax. Only companies registered with the UIF can access this benefit. From C19 TERS/UIF, you have the right to receive a percentage of your salary, the higher your salary the lower the percentage you get (maximum R17,712.00 per month, but never less than R3500 per month). If you have to be quarantined for 14 days due to the COVID-19 pandemic, you may qualify for an illness benefit from UIF. This benefit is de-linked from the other UIF Benefits and other processes and you must be receiving less than your normal wage while on sick leave to qualify for it.

- **Livelihoods**

The Virus has caused a global recession and it is predicted that in South Africa millions will lose their jobs, businesses will close and food poverty and insecurity will increase. The social consequences of the lockdown are going to be unprecedented. The government has thus far implemented a Tourism Business Relief Fund; Youth Micro Enterprise Relief Fund; COVID-19 Temporary Employee/Employer Relief Scheme (C19 TERS); Unemployment Insurance Fund support; SMME Debt Relief Fund; the Sukuma Relief Programme (already oversubscribed); the Oppenheimer SA Future Trust; exceptional tax measures through SARS; various debt relief from Financial Institutions; and the Covid Business Rescue Assistance War Room (information about these efforts can be accessed [here](#)).

It is widely considered that this will not be enough and may well fall short of the government's obligations in terms of the rights to social security, social assistance and dignity in the South African Constitution and the right to an adequate standard standard of living in international human rights law. There is therefore a strong lobby group for a Basic Income Grant as well as the restarting of the school nutrition programme and a call for the distribution of food parcels. SASSA is now trying to coordinate national distribution of food parcels. Applications can be made by either calling SASSA National Call Center: 0800 60 10 11 or

or Email to: [grantenquiries@sassa.gov.za](mailto:grantenquiries@sassa.gov.za) There may also be NGOs or Community Action Networks operating in your area who can assist. These will be difficult times and we hope that all sectors of society will be mobilised (financially and otherwise) to alleviate the burden on the poorest.

- Evictions (Regulation 19)

In terms of the Lockdown Regulations the government instituted a moratorium on all evictions. This has been scaled back under Level 4. Now a competent court may grant an order for the eviction of a person from land or a home in terms of the Extension of Security of Tenure Act 62 of 1997 and the Prevention of Illegal Eviction from the Unlawful Occupation of Land Act 19 of 1998. Such an order will be however suspended (meaning though an order might have been granted the actual eviction will not take place) until the last day of Level 4 unless a court decides that it is just and equitable for an eviction to proceed before the last day of Level 4. When considering what is just and equitable a court must consider all relevant circumstances including at least the following: 1) the reason for the eviction; 2) the personal circumstances of the person to be evicted, especially taking note of children and persons with disabilities; 3) whether there is alternative accommodation available; and 4) what the risks of those who are evicted being exposed to the Corona Virus will be. It is very unlikely that an eviction which will lead to homelessness will ever be considered just and equitable.

In terms of the South African Constitution (section 26(3)) and South African law no eviction is lawful without a court order granted after a judicial officer has considered all the relevant circumstances. During Level 4, courts may now start granting such orders and – for the most part – those orders will not be able to be carried out until the end of Level 4. The effect of the stayed order means that for the duration of Level 4, any actual evictions of people from their homes remain unlawful.

- Service Delivery

The Constitution protects the right to water of a sufficient quality and quantity for use in cooking, cleaning and for purposes of hygiene. This includes a right to sufficient water to effectively combat COVID-19 by regularly and vigorously washing hands. In the initial announcement of a lockdown in South Africa, President Ramaphosa made it clear that emergency water would be made available to those who currently do not have access to water.

According to the Directions (Municipalities and Provinces Directions, 25 Mar 2020) Municipalities must:

- Ensure that communities are provided with the necessary means to prevent transmission;
- Provide\* potable water and sanitation services to high population density settlements, rural communities, informal settlements;
- Provide other appropriate means, like water tankers, boreholes and storage tanks in water constrained communities that have limited access to municipal water supply;
- Ensure that, in collaboration with the relevant stakeholders, water and sanitation is available at public facilities and public transport points;
- Prepare awareness campaigns on awareness and prevention of COVID-19
- Ensure that municipal offices, clinics etc. are equipped with the appropriate prevention gear e.g. masks, sanitisers etc.;
- Ensure the relevant protocols are followed when disposing of hazardous waste;
- Close public facilities that don't provide essential services;
- Monitor social gatherings; and
- Identify quarantine sites within their jurisdictions.



\*The hotline for water related issues can be found in Annexure B.

- Persons currently incarcerated (Regulation 25)

All visits by members of the public to Correctional Centres; Remand Detention Facilities; Holding Cells and Military Detention Facilities are allowed to the extent and in the manner prescribed in Directions that will be issued by the Minister of Cooperative Governance and Traditional Affairs in consultation with the Ministers of Health, Police, Justice and Correctional Services.

Risks that persons who are incarcerated currently face include:

- There is already gross overcrowding in many of our prisons exacerbating the risk of a devastating outbreak of COVID-19.
- Other rights, such as access to adequate food, exercise and socialising may be further curtailed.
- Lack of access to medical treatment for chronic illnesses is an ongoing problem for the persons who are incarcerated and will likely be exacerbated by the lockdown.

# ANNEXURE A: SUMMARY OF KEY DIRECTIONS

What follows are key Directions issued during the Lockdown Regulations that remain in force as per the Level 4 Regulations:

- All **sporting, arts, cultural and religious events** organised or held in a stadium or venue are suspended until the Minister directs otherwise (*Sports, Arts and Culture Directions 9 Apr 2020*)
- **Day parole** granted to sentenced offenders is suspended during the lockdown period (*Correctional Services and Remand Detention Facilities Directions, 9 Apr 2020*)
- **Persons working** during lockdown must at all times carry a permit (containing a stamp or authorised signature) to perform services permitted under Level 4 and a valid form of identification (*Small Business Development Directions, 7 Apr 2020*)
- Every employer must:
  - Notify workers of the contents of the Direction and how it will be implemented;
  - Inform employees that if they have COVID 19 symptoms they must not be at work and grant paid sick leave or apply for COVID 19 TERS benefits;
  - Appoint a manager (from within the existing structure) to address the concerns of employees and workplace representatives;
  - Take measures to minimise the contact between workers and between workers and the public to prevent transmission;
  - Minimise the number of workers in the workplace at any time through shift or working arrangements to achieve social distancing;
  - Provide employees with information concerning COVID-19 and how to prevent its transmission;
  - Report any diagnosis of COVID-19 at work to the Department of Health and the Department of Employment and Labour, investigate the cause, and take appropriate measures. It is a contravention not to do so as an employer;
  - Support any contact tracing measures initiated by the Department of Health;
- Screen employees for symptoms of COVID-19 at the time that they report for work, namely: fever, cough, sore throat, redness of eyes, shortness of breath etc;
- Provide sufficient quantities of hand sanitiser with at least 70% alcohol content; ensure that work surfaces, equipment and common areas such as toilets, door handles and shared equipment are regularly cleaned and disinfected; and provide facilities for hand washing with soap and clean water and sufficient paper towels;
- Ensure that both employees and members of the public wear masks while in the workplace;
- Provide employees, free of charge, with at least two cloth masks to wear while at work or commuting;
- Keep up to date with recommendations from agencies such as the National Institute for Communicable Diseases and the National Institute for Occupational Health on the appropriate steps to take to prevent transmission in their workplaces and for the provision of PPE;
- Social distancing must be adhered to in the workplace. Workplaces must be arranged to ensure a minimum of 1½ meters between workers. If this is not practicable, physical barriers must be erected and workers must be supplied free of charge with appropriate Personal Protective Equipment (PPE);
- Workers must immediately inform the employer if they experience any symptoms while at work. Not doing so is a contravention of the Occupational Health and Safety Act;
- Workers with symptoms must be placed in isolation and arrangements made for their safe transport for a medical examination or for self-isolation’
- Shops (and other workplaces to which the public have access) must screen all persons entering the workplace for symptoms;
- Employees who recover from COVID19 may return to work after a medical evaluation and subject to ongoing monitoring, in line with instructions of the Department of Health;

- There must be suitable arrangements for washing and drying masks. Ultimately, the employer remains responsible for the maintenance and upkeep of PPEs. Where a risk assessment indicates, workers must be provided with alternative appropriate PPE (eg N95 or N97 masks) to provide a greater level of protection;
  - Every workplace must be well ventilated to reduce the viral load; and
  - Labour Inspectors are empowered to promote, monitor and enforce compliance with the Direction. An employer who does not comply with the Direction may be ordered to close their business.
- In addition, as the failure to comply fully with the OHSA (Occupational Health and Safety Act) is a criminal offence, failure to take the necessary measures to prevent the transmission of COVID19 may result in criminal prosecution.
- **Hotels, lodges, guest houses, game reserves and holiday resorts** are closed to the public unless they are necessary to provide quarantine to tourists who were already at the establishments at the time of lockdown and these persons are to remain in the establishment for the duration of lockdown. In these instances, employers must ensure employees have the necessary protective equipment and are trained on COVID-19 protocols. These establishments are prohibited from offering services to other people other than those quarantined (*Tourism Directions, 2 Apr 2020*)
- Only **approved hotels** near the large airports are permitted to host airline crew for cargo flights bringing supplies permitted under Level 4 or those authorised for the evacuation of international tourists organised through their respective embassies (*Tourism Directions, 2 Apr 2020*)
- There is restricted access to the **court** building during lockdown.
  - Only persons with a material interest in the case will be permitted into the court building (litigants, accused, persons helping vulnerable members of society such as disabled persons or children);
  - Entry into the court may only be allowed for urgent or essential matters;
  - The number of persons entering courts will be limited by court management;
  - A person who has recently been out of the country may not be allowed into the court (unless the matter is urgent or essential and the person has been screened and is not infected with COVID-19);
  - A person who has been in contact with a COVID-19 infected person may not be allowed to enter the court; and
  - Interpreters must be sourced within the province in which the case is heard (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*).
- **Criminal trials** enrolled during lockdown must be postponed to after lockdown (except in exceptional cases where the interests of justice require a special arrangement) (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- No detainees awaiting trial may be brought to the court unless for a first appearance, bail application or a case in which special arrangements have been made with the judge (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- **Persons arrested for petty offences** must be release and warned to appear in court at a future date (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- **Criminal cases** where accused persons are not incarcerated may not be placed on the roll during lockdown and summonses will be issued for new trial dates (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- **Civil cases** that are not urgent and essential services may not be placed on the court roll during lockdown (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- The Chief Registrar or clerks of court are to inform litigants and their legal representatives of new court dates (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
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- Services of process and execution of writs by sheriffs are limited to cases that are urgent and essential including COVID-19 related processes, **domestic violence protection orders, protection from harassment orders, claims which are prescribing, urgent processes and specific and urgent family law matters** (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- **Legal aid** is limited to urgent and essential cases during lockdown (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- Legal practitioners required to travel for litigation purposes must secure a permit (*Courts, Court Precincts and Justice Service Points Directions, 31 Mar 2020*)
- **Family law** services will be limited to the following: orders of court to be made on foster care; adoption; removal of children in need of care and protection; placement of children in child and youth care centres; international child abduction cases; certain maintenance matters; interim domestic violence protection orders; and interim protection against harassment orders (*Legal Directions, 26 Mar 2020*)
- The Electronic Communications Network Service providers are to provide **location-based services** to support and assist and combat the spread of COVID-19 (*Electronic Communications, Postal and Broadcasting Directions, 26 Mar 2020*)
- **The SA Post Office** must make its national address system available to assist authorities to track and trace infected individuals and those who have been in direct contact with infected persons (*Electronic Communications, Postal and Broadcasting Directions, 26 Mar 2020*)
- If an employer closes its operations for a period of three months or less as a direct result of COVID-19 and suffers financial distress, the company qualifies for a **Temporary Relief Benefit** to cover the salaries of employees for the duration of the closure (*COVID-19 Temporary Employee / Employer Relief Scheme Directive, 26 Mar 2020*)
- The issuing of permits for **marches, protests and the handover of petitions** is suspended for the lockdown period (*Municipalities and Provinces Directions, 25 Mar 2020*)
- The National Disaster Water Command Centre (NDWCC) is established to take measures to prevent the spread of COVID-19. The NDWCC must place water tanks in appropriate public spaces in order to provide water to the public, ensure security of these tanks and continued availability of water in the tanks (*Water and Sanitation Directions, 15 Apr 2020*)
- Irrigation boards, water users associations and catchment managers must when asked by NDWCC, make water available for combating and preventing the spread of COVID-19 (*Water and Sanitation Directions, 15 Apr 2020*)
- The Department may employ emergency procurement measures for the procurement water and sanitation-related services. The Department will first use its own resources unless private providers are contracted specifically for this purpose. Procurement of such will be done in line with the Public Finance Act, 1999 and Treasury Regulations (*Water and Sanitation Directions, 15 Apr 2020*)
- Rand Water is the coordinator of the NDWCC and will administer the implementation protocol which includes procuring goods and services that will be deployed to areas identified as in need of them (*Water and Sanitation Directions, 15 Apr 2020*)
- Regions of the department must communicate with Rand Water prior to initiating matters covered by this direction and Rand Water is to give guidance to regions of the Department and municipalities on access to water to reduce the spread of COVID 19 (*Water and Sanitation Directions, 15 Apr 2020*)
- CIPC existing permits obtained from CIPC for the provision of an essential service will remain in force. You can now also [apply](#) on the BizPortal for permits for Level 4 permitted services.

# ANNEXURE B: IMPORTANT CONTACT DETAILS

Organisation	Telephonic	Contact Info	Times	Advice on the Following Issues
ACCESS TO JUSTICE LEGAL SUPPORT HOTLINE	Hotline only	066 076 8845		Phone this number if you think that your rights are being violated/ you have observed a rights violation during the 21 day lockdown
CENTRE FOR APPLIED LEGAL STUDIES	Walk-in consultations temporarily suspended	073 325 5311matimba.hlungwani@wits.ac.za	Mon -Fri 9h00 -17h00	Various issues including, but not limited to evictions, access to water, electricity, sanitation, corporate accountability broadly, sexual violence, issues affecting mine affected communities, protests, prison conditions and access to information
CENTRE FOR CHILD LAW	Walk-in consultations temporarily suspended	012 420 4502centreforchildlaw@up.ac.za	Mon – Fri 8h00 -16h30	Legal issues related to children’s rights and wellbeing
CENTRE FOR ENVIRONMENTAL RIGHTS	No walk-in client consultations.	021 447 1647 info@cer.org.za	Mon – Fri 8h00 -16h30	The right to a healthy environment, including pollution, degradation and climate change caused by coal mines and coal power; supporting mining-affected communities, activists and defenders.
CORRUPTION WATCH	Walk-in consultations temporarily suspended.	WhatsApp and ‘Please Call Me’ line: 072 013 5569 011 242 3900 tsietsik@corruptionwatch.org.za shalatim@corruptionwatch.org.za mzwandileb@corruptionwatch.org.za	Mon – Fri 8h00 -16h00	Reporting corruption, advising whistle-blowers.
EQUAL EDUCATION LAW CENTRE	Walk-in consultations temporarily suspended.		Mon – Fri 8h00 -16h00	Advice on the right to basic education and education related matter.
LAWYERS FOR HUMAN RIGHTS	Walk-in consultations temporarily suspended.	<b>Jhb:</b> +27 66 076 8845 <b>Pta:</b> +27 72 155 6384 <b>Dbn:</b> +27 78 315 1269 <b>Musina:</b> +27 72 369 8780 <b>Upington:</b> +27 54 331 2200* “Please call me” messages will be returned sharone@lhr.org.za	Mon – Fri 8h30 -17h00	Legal advice and representation to people and communities across six strategic programmes, including refugee and migrant rights, land and housing rights, environmental justice, gender equality, penal reform, and strategic litigation.
LEGAL RESOURCES CENTRE	Walk-in consultations temporarily suspended.	011 038 9709 <b>Jhb:</b> lucien@lrc.org.za <b>CT:</b> sherylle@lrc.org.za <b>Dbn:</b> Sharita@lrc.org.za <b>Makhanda:</b> cameron@lrc.org.za	Mon – Fri 9h00 -16h00	General human rights and public interest matters.
NDIFUNA UKWAZILAW CENTRE	Walk-in consultations temporarily suspended.	081 832 9363 disha@nu.org.za	Tues: 9h00 -17h00 (remainder of the week calls answered depending on attorney availability). No after office hours availability	Urban housing issues, particularly evictions, tenant-landlord disputes & displacement

Organisation	Telephonic	Contact Info	Times	Advice on the Following Issues
PROBONO.ORG	Walk-in service temporarily suspended, face-to-face consultation where warranted by appointment only	WhatsApp or call: <b>Labour, Family and Wills:</b> 067 754 3959 <b>Housing, Deceased Estates and Refugee:</b> 067 754 1885 <b>Children:</b> 067 739 8774 <b>General Enquiries:</b> 067 754 6334	Mon – Fri 8h00 -17h00	Refugee and asylum, housing, labour, family law, wills and deceased estate, children’s rights
SECTION27	Walk-in client consultations temporarily suspended.	060 754 0751 067 419 6841 komane@section27.org.za mahlathi@section27.org.za	Mon – Fri 8h00 -17h00	Access to health and basic education and HIV discrimination related issues. Providing advice on human rights violations in health institutions against vulnerable groups such as, women, children, the elderly, refugees and migrants
SOCIO-ECONOMIC RIGHTS INSTITUTE OF SOUTH AFRICA	Walk-in consultations temporarily suspended.	Call or send “please call me”: 072 226 4648 / 071 301 9676 083 720 6600 sanele@seri-sa.org	Mon – Fri 11h00 -15h00	Housing including evictions, sales in execution of residential property and access to basic services. Rights of informal and precarious workers. Freedom of expression and protest.
WOMEN’S LEGAL CENTRE	Walk-in client consultations suspended with immediate effect until 20 April 2020 (4 weeks). Working on remote access for clients via WhatsApp, telephone, email and social media	WhatsApp, call or “please call me”: 0794218197 info@wlce.co.za	Mon – Fri 9h00 -17h00	Legal issues relating to women’s rights (i.e. violence against women, women’s rights to housing, land and tenure, sexual health and reproductive rights, relationship rights, women and the workplace)
INDEPENDENT POLICE INVESTIGATIVE DIRECTORATE (IPID)	Walk-ins into any police station (this is advised against due to social distancing needed)	Gauteng: 076 455 5718; Limpopo: 078 871 4811; KwaZulu-Natal: 079 895 2741; Mpumalanga: 072 881 4196; Northern Cape: 064 624 8203; North West: 078 163 6874; Western Cape: 073 890 1269	Mon – Fri 7h30-16h00	A complaint against the police during this time should be lodged through IPID
ATHLONE HOUSE OF STRENGTH (WC)	Telephonic counselling	021 862 9983		GBV services during the lock down
BADISA (WC)	Telephonic counselling	021 957 7130		GBV services during the lock down
NATIONAL SHELTER MOVEMENT		Bernadine 082 903 8739 (WC) Joy 071 906 3949 (WC) Rudo 083 428 1640 (GP) Zubeda 083 289 9818 (GP) Fisani 079 310 9633 (MP) Sabera 072 446 3337 (KZN) Sarah 072 144 7171 (FS) 081 247 6056 (EC) Rina 072 348 6526 (NW) Rose Clair 080 021 2321 (NC) Rosaline 073 888 8738 (NC)		GBV services during the lock down
SEX WORKERS EDUCATION & ADVOCACY TASKFORCE (SWEAT)		021 448 7875		Support for sex workers
MOSAIC (WC)	Telephonic counselling	021 761 7585		Legal aid

Organisation	Telephonic	Contact Info	Times	Advice on the Following Issues
GAUTENG PROVINCE		0800 428 8364		Food support
LIFELINE		016 428 8364 (Gauteng) 0861322322 0659899238 (whatsapp)		
CHILDLINE	24hr Crisis Line and counselling	080 055 5555		
WOMEN ABUSE HELPLINE	Toll-free helpline	0800 150 150		
MOBIE G		www.mobieg.co.za	Mon-Thurs from 19:00 Sun from 18:00	Live chat counselling for teens
NISAA	Telephonic counselling	Batsi 083 303 1291 Yvonne 063 083 6061 Nokwethu 011 850 0637		
SOUTH AFRICAN DEPRESSION AND ANXIETY GROUP (SADAG)	24 hour helpline	0800 456 789 SMS: 31393		
SADAG SUICIDE CRISIS LINE	24 hour helpline	0800 567 567		
TEARS GBV	SMS help line	*134*7355#		
IMPORTANT GOVERNMENT CONTACT DETAILS	National Institute for Communicable Diseases	0800 029 999		
	South African Police Service:	0860 010 111		
	Department of Home Affairs:	0800 601 190		
	Gender-based Violence Command Centre	0800 428 428 or *120*786# (for call-back)		
	National Crisis Line	0861 322 322		
	Department of Water Affairs	0800 200 200		
	Reporting Undue Price Increases	0800 141 880		
	Department of Tourism	0860 868 747		
	Support to SMMEs in Distress:	0860 663 7867		
	Presidential Hotline:	17737 WhatsApp: 060 012 3456		
SCALABRINI CENTRE	Please call me or SMS can be sent anytime, but a response will be given during office hours.	078 260 3536 (phone/please call )		Offering services for refugees, migrants and asylum seekers.