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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NO. 714

25 JUNE 2020

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

I, Dr Nkosazana Dlamini Zuma, Minister of Cooperative Governance and Traditional Affairs, designated under section 3 of the Disaster Management Act, 2002 (Act No. 57 of 2002), having declared a national state of disaster, published in *Government Gazette* No. 43096 of 15 March 2020, and extended by Government Notice No. R. 646 of 5 June 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: 25.06.2020

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 Notice No. R. 608 of 28 May 2020.

Amendment of regulation 8 of the Regulations

2. Regulation 8 of the Regulations is hereby amended by—
- (a) the substitution for the heading of 'Contact tracing' of the heading "COVID-19 Database";
 - (b) the substitution for the phrase "COVID-19 Tracing Database" wherever it appears for the phrase "COVID-19 Database";
 - (c) the substitution for subregulation (2) of the following subregulation:

"(2) The National Department of Health shall develop and maintain a national database in order to guide appropriate responses in addressing,

preventing or combatting the spread of COVID-19, including contact tracing and geospatial hotspot mapping.";

(d) the substitution for subregulation (3) of the following subregulation:

(3) The COVID-19 Database may include all information considered necessary for the National Department of Health to guide appropriate responses in addressing, preventing or combatting the spread of COVID-19, including but not limited to:

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

(e) the substitution for paragraph (b) of subregulation (11) of the following paragraph:

"(b) may only be obtained, used or disclosed by authorised persons and may only be obtained, used and disclosed when necessary for the purposes of addressing, preventing or combatting the spread of COVID-19 through the contact tracing process or geospatial hotspot mapping;"

(f) the substitution for paragraph (c) of subregulation (11) of the following paragraph:

"(c) where relevant to the contact tracing process, or geospatial hotspot mapping, must be included in the COVID-19 Database; and"

(g) the substitution for subregulation (15) of the following subregulation:

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

(h) the addition of the following subregulations after subregulation (19):

"(20) The National Department of Health may develop and implement electronic systems or applications to be used on mobile devices or computers in order to collect, on a voluntary basis, information from members of the public for inclusion in the COVID-19 Database, provided that—

- (a) the information may only be collected and used in order to guide appropriate responses in addressing, preventing and combatting the

- spread of COVID-19, including for the purposes of geospatial hotspot mapping;
- (b) the information concerned is only obtained from users of mobile devices and computers on a voluntary and opt-in basis;
 - (c) in order to obtain the necessary consent from the user of the mobile device or computer, the terms and conditions of the electronic system or application must explain and request the user's express consent regarding—
 - (i) which information will be collected and stored via the electronic system or application;
 - (ii) the means by which the information will be collected and stored;
 - (iii) the purposes for which any information will be collected and used;
 - (iv) the entities or persons to which that information will be transmitted, and under what conditions;
 - (v) whether the information will be kept on the user's mobile device or a centralised server;
 - (vi) the period for which the information will be retained; and
 - (vii) the notice that will be given to users when the information has been destroyed.

(21) The National Department of Health may receive, on a voluntary basis, information regarding members of the public from electronic systems or applications operated by private entities for inclusion in the COVID-19 Database, provided that—

- (a) the information may only be received and used in order to guide appropriate responses in addressing, preventing and combatting the spread of COVID-19, including for the purposes of geospatial hotspot mapping;
- (b) the private entity concerned has obtained the information concerned from users of mobile devices and computers on a voluntary and opt-in basis; and
- (c) the private entity concerned has obtained the express consent of the user concerned to transmit the information to the National Department of Health for inclusion on the COVID-19 Database.

(22) The Director-General of Health may, in writing and subject to the provisions of subregulation (23), appoint any organ of state outside the Department of Health or private entities to provide services necessary for the carrying out of his or her powers and functions under this regulation.

(23) The appointment of entities in terms of subregulation (22) may only take place where it is not reasonably possible for the services to be performed by the Department of Health itself due to the Department of Health not having the necessary expertise, equipment or personnel available or due to the delays that would result from the Department of Health performing the services itself.

(24) Where entities are appointed in terms of subregulation (22)—

- (a) the appointed entities are bound by these Regulations as if it were the Director-General of Health or an official appointed by him or her;
- (b) the appointed entities shall conclude a written agreement with the Director-General of Health which records that the appointed entities have understood this regulation and accepts that it and its employees are bound to comply with it;
- (c) every employee of an appointed entity who has access to any of the information or data obtained pursuant to the appointment of the entity shall sign an undertaking recording that she or he has understood this regulation and accept that he or she is bound to comply with it;
- (d) information stored by the appointed entities or transferred to or from the appointed entities must be in an encrypted form, save where this is not possible in achieving the purposes of this regulation, and access must be subject to password protection;
- (e) logs of every person who has had access to the data in encrypted or unencrypted form must be kept by the appointed entities, including the person's name, function, the date on which and the reason for which the data was accessed, which logs must be submitted by the appointed entities to Director-General of Health every two weeks;
- (f) only personal data that is adequate, relevant and limited to what is necessary in relation to the purpose may be processed;
- (g) the appointed entities will keep any information or data obtained pursuant to its appointment separate from any of the appointed entities other information or data;
- (h) following the end of the appointment period, the appointed entities may not retain any of the information or data obtained pursuant to its appointment, whether in original or duplicate form;
- (i) the appointed entities may not disclose any information or data obtained pursuant to their appointment with any other person or entity, other than where expressly permitted in writing by the Director-General of Health for the purposes of this regulation; and
- (j) the Director-General of Health shall inform the COVID-19 Designated Judge of the appointment of entities concerned.”.

Amendment of regulation 33 of the Regulations

3. Regulation 33 of the Regulations is hereby amended by—
- (a) the substitution for subregulation (1) of the following subregulation:

- “(1) A person may leave his or her place of residence to—
- (a) perform any service, as permitted under Alert Level 3;
 - (b) travel to and from work;
 - (c) buy goods or obtain services, as permitted under Alert Level 3;
 - (d) move children, as allowed;
 - (e) exercise between the hours of 06h00 to 18h00: Provided that the exercise is not done in organised groups of more than four people and adheres to health protocols and social distancing measures;

- (f) attend a place of worship in the same or another metropolitan area or district within the same province;
 - (g) attend a school or learning institution, once these are opened; and
 - (h) travel for leisure purposes as allowed under Alert Level 3.";
- (b) the substitution for subregulation (4) of the following subregulation:
- "(4) Movement of persons between provinces is prohibited, except for—
- (a) persons doing so in the course of carrying out work responsibilities or performing any service permitted under Alert Level 3, provided that such person is in possession of a permit issued by the employer which corresponds with Form 2 of Annexure A;
 - (b) persons travelling for purposes of—
 - (i) moving to a new place of residence; or
 - (ii) caring for an immediate family member:
 Provided that such person is in possession of an affidavit which corresponds with Form 6 of Annexure A.
 - (c) members of Parliament performing oversight responsibilities;
 - (d) learners or students referred to in regulation 34(5) who have to commute to and from those schools or institutions of higher learning during periods when those schools or institutions are permitted to operate;
 - (e) the attendance of funerals as provided for in regulation 35;
 - (f) the transportation of mortal remains;
 - (g) obtaining medical treatment;
 - (h) persons who are returning to their place of residence from a quarantine or isolation facility; or
 - (i) any movement permitted under regulation 41."

Amendment of regulation 37 of the Regulations

4. Regulation 37 of the Regulations is hereby amended by the substitution for subregulation (1) of the following subregulation (1):

- "(1) 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 that must be issued by the Cabinet member responsible for cooperative governance and traditional affairs;
 - (b) a funeral, subject to regulation 35;
 - (c) a workplace for work purposes;
 - (d) conferences and meetings which is subject to—
 - (i) a limitation of 50 persons, excluding those who participate through electronic platforms;
 - (ii) restricted to business purposes; and
 - (iii) strict adherence to all health protocols and social distancing measures as provided for in directions that must be issued by the responsible

- Cabinet member, after consultation with the Cabinet member responsible for health;
- (e) cinemas, subject to—
 - (i) a limitation of 50 persons or less;
 - (ii) sale of tickets through a booking system; and
 - (iii) strict adherence to all health protocols and social distancing measures as provided for in directions that must be issued by the responsible Cabinet member, after consultation with the Cabinet member responsible for health;
 - (f) theatres, subject to—
 - (i) a limitation of 50 persons or less;
 - (ii) strict adherence to all health protocols and social distancing measures as provided for in directions that must be issued by the responsible Cabinet member, after consultation with the Cabinet member responsible for health, and;
 - (iii) limitation on performers and crew to a maximum of 15 persons including live streaming or recording for distribution on digital platforms;
 - (g) casinos, subject to—
 - (i) 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 Cabinet member; and
 - (ii) strict adherence to all health protocols and social distancing measures as provided for in directions that must be issued by the responsible Cabinet member, after consultation with the Cabinet member responsible for health;
 - (h) an agricultural auction, subject to directions issued by the Cabinet member responsible for agriculture;
 - (i) sporting activities; subject to directions issued by the Cabinet member responsible for sport after consultation with the Cabinet member responsible for health, in the following manner—
 - (i) non-contact sports matches, which may only include players, match officials, journalists, medical and television crew; and
 - (ii) contact sports for training only;
 - (j) museums, galleries, libraries and archives, subject to strict adherence to all health protocols and social distancing measures as provided for in directions that must be issued by the responsible Cabinet member, after consultation with the Cabinet member responsible for health;
 - (k) personal care services, including hairdressing, beauty treatments, make-up and nails salons and piercing and tattoo parlours, as identified in directions by the responsible Cabinet member, in consultation with the Cabinet member responsible for health, as safe to resume, under specified conditions; and
 - (l) restaurants, subject to the strict adherence to all health protocols and social distancing measures as provided for in directions that must be issued by the responsible Cabinet member, after consultation with the Cabinet member responsible for health."

Amendment of regulation 39 of the Regulations

5. Regulation 39 of the Regulations is hereby amended by—
(a) the substitution for subregulation (1) of the following subregulation:

"(1) A place or premises normally open to the public, where cultural, sporting, entertainment, leisure, exhibitional, organisational or similar activities may take place, is closed to the public, and all gatherings at these places or premises are prohibited, save for the exceptions in subregulation (2) and in regulation 37."; and

- (b) the substitution for subregulation (2) of the following subregulation:

"(2) The places or premises referred to in subregulation (1) include—

- (a) gyms and fitness centres;
- (b) sports grounds and fields and swimming pools, except for—
 - (i) training of professional athletes and non-contact sports matches as referred to in regulation 37(1)(i)(i); and
 - (ii) contact sports for training only, with restricted use of facilities as referred to in regulation 37(1)(i)(ii);
- (c) fêtes and bazaars;
- (d) night clubs;
- (e) accommodation establishments not formally accredited and licensed, such as private homes for paid leisure accommodation;
- (f) conference facilities, except for business use as referred to in regulation 37(1)(d);
- (g) any on-consumption premises, including bars, taverns, *shebeens* and similar establishments, except as provided for in regulation 44; and
- (h) beaches and public parks."

Substitution of Table 2 to the Regulations

6. Table 2 to the Regulations is hereby substituted for the following Table:

**"TABLE 2
ALERT LEVEL 3**

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 3, subject to—

- (a) strict compliance with 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.	On-site consumption of liquor.
2.	Short term home-sharing/letting/leasing/rental for leisure purposes.
3.	Domestic passenger air travel for leisure purposes, until directions with health protocols and social distancing measures are issued by the relevant Cabinet member responsible for transport.
4.	Passenger ships for leisure purposes.
5.	Sporting events, except as provided for in Chapter 4 of the Regulations.
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."

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