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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

NO. R. 446

02 APRIL 2020

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

I, Dr Nkosazana Dlamini Zuma, Minister of Cooperative Governance and Traditional Affairs, designated under section 3 of the Disaster Management Act, 2002 (Act No. 57 of 2002), having declared a national state of disaster, published in *Government Gazette* No. 43096 on 15 March 2020, hereby in terms of section 27(2) of the Disaster Management Act, 2002, after consultation with the relevant Cabinet members, make the Regulations in the Schedule.

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

DATE: 01. 04. 2020.

SCHEDULE**Definitions**

1. In these regulations, "the Regulations" means the regulations published by Government Notice No. 318 of 18 March 2020, as amended by Government Notices Nos. R. 398 of 25 March 2020 and R.419 of 26 March 2020.

Amendment of regulation 11A of the Regulations

2. Regulation 11A of the Regulations is hereby amended to insert the following definition before the definition of "essential goods"

"directions" means the directions contemplated in section 27(2) of the Act and regulation 10 of the Regulations, issued by a Cabinet member in regard to his or her line functions, after consultation with the Cabinet members responsible for cooperative governance and traditional affairs and justice and correctional services;"

Amendment of regulation 11B of the Regulations

3. Regulation 11B of the Regulations is hereby amended by—

- (a) the amendment of subregulation (1) by the renumbering of paragraphs (c), (c), (d) and (e) to (c), (d), (e) and (f);
- (b) the substitution for paragraph (a) of subregulation (1) of the following paragraph:
- "(a) For the period of lockdown—
- (i) every person is confined to his or her place of residence, unless strictly for the purpose of performing an essential service, obtaining an essential good or service, collecting a social grant, pension or seeking emergency, life-saving, or chronic medical attention;
- (ii) every gathering, as defined in regulation 1 is hereby prohibited, except for a funeral as provided for in subregulation (8); and
- (iii) movement between provinces and between metropolitan and district areas is prohibited except—
- (aa) for essential workers who have to travel to and from work;
- (bb) transportation of cargo from ports of entry to their intended destination, on condition that necessary precautions have been taken to sanitise and disinfect such cargo;
- (cc) for the transportation of the mortal remains; and
- (dd) attendance of a funeral as provided for and on the conditions set out in subregulation (8).";
- (c) The amendment of subregulation (4A) by—
- (i) the substitution for paragraph (b) of the following paragraph:
- "(b) The Cabinet members responsible for health and social services may by directions designate services which are necessary to provide or maintain essential health and social services listed in Annexure B to the Regulations."; and
- (ii) the addition of the following paragraphs after paragraph (b):
- "(c) The Cabinet member responsible for finance may by direction designate services, excluding debt collection services, in relation to the financial system, as defined in section 1(1) of the Financial Sector Regulation Act, 2017 (Act No. 9 of 2017), generally, which are necessary to—
- (i) provide or maintain essential financial services listed in paragraph 3.1 of Part B of Annexure B; and
- (ii) provide social grants by banks, mutual banks, co-operative banks and the Postbank in terms of paragraph 3.2 of Part B of Annexure B.
- (d) The Prudential Authority, the Financial Sector Authority and the Reserve Bank may exercise their functions in terms of the Financial Sector Regulation Act, 2017, the financial sector laws as defined in section 1(1) of that Act, and the National Payment System Act, 1998 (Act No. 78 of 1998) in the regulation, supervision and oversight of essential financial services as referred to in paragraph 3.1 and 3.2 of Part B of Annexure B and services in respect of which directions are issued in terms of paragraph (c).

- (e) The Prudential Authority, the Financial Sector Conduct Authority and the Reserve Bank—
- (i) must issue directives to institutions under their respective jurisdictions to take appropriate precautionary measures when performing essential financial services in terms of these Regulations to limit staff at offices to the minimum and to take other precautionary measures to limit the spread of COVID-19.
 - (ii) may issue guidance and other directives in relation to the performance of essential financial services in terms of these Regulations.”;
- (d) the substitution for subregulation (6) of the following subregulation:
- “(6)(a) All borders of the Republic are closed during the period of lockdown, except for ports of entry designated by the responsible Cabinet member for the transportation of fuel, cargo and goods during the period of lockdown.
- (b) The Cabinet member responsible for home affairs, or a person designated by him or her, may allow a person to enter or exit the Republic for emergency medical attention for a life-threatening condition, or for a South African, or foreign national to be repatriated to their country of nationality or permanent residence.
- (c) The Cabinet member responsible for transport may issue directions with regard to sea cargo operations and air freight operations.
- (d) All foreign tourists who arrived in the Republic prior to, or after, the lockdown, and who remain in the Republic, must remain in their place of temporary residence in the Republic for the duration of the lockdown or 14 days, as the case may be, and may be subject to screening for COVID-19 and be quarantined or isolated as required: Provided that the evacuation of foreign tourists where arrangements, including an arrangement for the evacuation by air charter, has been made by the relevant embassy, may be allowed: Provided further that a tourist is escorted to the point of exit where he or she may be screened again.”;
- (e) the substitution for subregulation (7) of the following subregulation:
- “(7) Any Cabinet member may, after consultation with Ministers of Cooperative Governance and Traditional Affairs and Justice and Correctional Services, issue directions which fall within his or her line functions to provide for further conditions that will apply to activities referred to in subregulation (1), or other activities provided for in these Regulations, for the protection and safety of any person, including essential workers from COVID-19, provide reasonable measures for persons with disabilities and may vary the directions as the circumstances require.”; and
- (f) the substitution for subregulation (8) of the following subregulation:

"(8)(a) Movement between a metropolitan or district area, or province by a person wishing to attend a funeral shall only be permitted if the person so wishing to attend the funeral is a—

- (i) spouse or partner of the deceased;
- (ii) child of the deceased, whether biological, adopted or stepchild;
- (iii) child-in-law of the deceased;
- (iv) parent of the deceased whether biological, adopted or stepparent;
- (v) sibling, whether biological, adopted or stepbrother or sister of the deceased;
- (vi) grandparent of the deceased; and
- (vii) person closely affiliated to the deceased.

(b) For purposes of this subregulation, closely affiliated means:

- (i) a person with parental responsibilities and rights in respect of the deceased; or
- (ii) a person who had developed a significant relationship based on care-giving, psychological or emotional attachment to the deceased.

(c) Notwithstanding paragraph (a), attendance at a funeral or cremation is limited to 50 people and will for purposes of these Regulations not be regarded as a prohibited gathering: Provided that no night vigil shall be held and that all safety hygiene measures are strictly adhered to.

(d) Each person, whether traveling alone or not, wishing to attend a funeral or cremation and who has to travel between metropolitan and district areas, or between provinces to attend a funeral, or a cremation must obtain a permit which corresponds substantially with Form 2 of Annexure C, from his or her nearest magistrate's office or police station to travel to the funeral or cremation and back.

(e) A Magistrate who is the head of office or a station commander of a police station or a person designated by him or her, may issue the permit contemplated in paragraph (d).

(f) Upon a request for a permit contemplated in paragraph (d), a person requesting a permit must produce a death certificate or a certified copy of the death certificate to the Magistrate who is the head of office or a station commander of a police station or a person designated by him or her: Provided that where a death certificate is not yet available the person requesting the permit must make a sworn affidavit which corresponds substantially with Form 3 of Annexure C.

(g) Before a permit contemplated in paragraph (d) may be issued the Magistrate who is the head of office or a station commander of a police station or a person designated by him or her, must be provided with a death certificate, a certified copy of a death certificate or a sworn affidavit contemplated in paragraph (f).

(h) A person issued with a permit contemplated in paragraph (d), traveling to another metropolitan or district area, or province and who has to be in

that metropolitan or district area, or province for the duration of the funeral or cremation, but not for more than 48 hours, and cannot stay at the place of residence of a relative or friend, may stay at a hotel, lodge or guest house for the period of 48 hours: Provided that the permit issued in terms of paragraph (d) is presented to the owner or manager of the hotel, lodge or guest house.

(i) Only 2 family members or a person with a close affiliation to the deceased may, with the required permits, accompany the vehicle transporting the mortal remains to the metropolitan or district area, or province where the burial or cremation will take place.

(j) The provisions of regulation 11C(1) must be strictly adhered to when travelling.

(k) A copy of the permit issued and the death certificate or sworn affidavit made, must be kept by the Magistrate who is the head of office or station commander of a police station in a file opened for each person for a period of three months after the lockdown has lapsed, whereafter it may be destroyed."

Amendment of regulation 11C of the Regulations

4. Regulation 11C of the Regulations is hereby amended by the substitution for subregulation (1) and (3) of the following subregulation:

"(1) All commuter transport services including passenger rail services, bus services, taxi services, e-hailing services, maritime and air passenger transport are prohibited, except bus services, taxi services, e-hailing services and private motor vehicles necessary for purposes of rendering essential services, obtaining essential goods or services, seeking medical attention, funeral services and for collecting payment of grants and pensions: Provided that—

- (a) bus services and e-hailing services shall not carry more than 50% of the licensed capacity;
- (b) taxi services shall not carry more than 70% of the licensed capacity; and
- (c) private vehicles shall not carry more than 60% of the licensed capacity, and that all directions in respect of hygienic conditions and the limitation of exposure of persons to COVID-19, are adhered to.

(3) The Cabinet member responsible for transport must issue directions for the transportation of persons who must obtain essential goods or services where such person has no other means of transport except public transport, as contemplated in subregulation (1)."

Substitution of regulation 11G of the Regulations

5. Regulation 11G of the Regulations is hereby substituted for the following regulation:

"**11G.** For purposes of this Chapter any person who contravenes—

- (a) regulation 11B(1)(a), (b), (c), (e), (4), (6)(a), (8)(d), (i) and (j); or
- (b) 11C(1),

shall be guilty of an offence and, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment."

Insertion of Chapter 3 into the Regulations

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

"CHAPTER 3

Contact tracing

11H. (1) In this regulation—

- (a) "COVID-19 Tracing Database" means the database established by the National Department of Health in terms of subregulation (2); and
- (b) "COVID-19 Designated Judge" means a judge designated in terms of subregulation (13).

(2) The National Department of Health shall develop and maintain a national database to enable the tracing of persons who are known or reasonably suspected to have come into contact with any person known or reasonably suspected to have contracted COVID-19.

(3) The COVID-19 Tracing Database shall include all information considered necessary for the contact tracing process to be effective, 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.

(4) The information contained in the COVID-19 Tracing Database and any information obtained through this regulation is confidential.

(5) No person may disclose any information contained in the COVID-19 Tracing Database or any information obtained through this regulation unless authorized to do so and unless the disclosure is necessary for the purpose of addressing, preventing or combatting the spread of COVID-19.

(6) Where any person is to be tested for COVID-19, the person taking the sample for purposes of testing must obtain as much of the following information as is available at the time of taking the sample—

- (a) the first name and surname, identity or passport number, residential address, and cellular phone numbers of the person tested; and

(b) a copy or photograph of the passport, driver's licence, identity card or identity book of the person tested, and promptly submit this information, along with any information it has regarding likely contacts of the person tested, to the Director-General: Health for inclusion in the COVID-19 Tracing Database.

(7) Where any laboratory has tested a sample for COVID-19, the laboratory must promptly transmit to the Director-General: Health, for inclusion in the COVID-19 Tracing Database—

- (a) all details the laboratory has, including the first name and surname, identity or passport numbers, residential address and cellular phone numbers, regarding the person tested; and
- (b) the COVID-19 test result concerned.

(8) The National Institute for Communicable Diseases (NICD) must transmit to the Director-General: Health, for inclusion in the COVID-19 Tracing Database—

- (a) all details the NICD has, including the first name and surname, identity or passport numbers, residential address and cellular phone numbers of any person tested for COVID-19;
- (b) the results of the COVID-19 test concerned; and
- (c) any information the NICD has regarding likely contacts of the person tested.

(9) Every accommodation establishment referred to in subparagraphs (c)(vii) to (c)(ix) of Annexure D to these Regulations must, promptly after the coming into force of this regulation, transmit to the Director-General: Health, for inclusion in the COVID-19 Tracing Database, the following information regarding every person staying at the accommodation establishment during the period of lockdown—

- (a) the first name and surname, identity or passport number, residential address and cellular phone numbers of the person concerned; and
- (b) a copy or photograph of the passport, driver's licence, identity card or identity book of the person concerned.

(10) The Director-General: Health may, in writing and without prior notice to the person concerned, direct an electronic communications service provider licensed under the Electronic Communications Act, 2005 (Act No. 36 of 2005) to provide him or her, for inclusion in the COVID-19 Tracing Database, with such information as that electronic communications service provider has available to it regarding—

- (a) the location or movements of any person known or reasonably suspected to have contracted COVID-19; and
- (b) the location or movements of any person known or reasonably suspected to have come into contact, during the period 5 March 2020 to the date on which the national state of disaster has lapsed or has been terminated, with a person contemplated in subparagraph (a),

and the electronic communications service provider must promptly comply with the directive concerned.

(11) The information referred to in subregulation (10)—

- (a) may only be obtained in relation to the location or movements of persons during the period 5 March 2020 to the date on which the national state of disaster has lapsed or has been terminated;
- (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;
- (c) where relevant to the contact tracing process, must be included in the COVID-19 Tracing Database; and
- (d) apart from what is included in the COVID-19 Tracing Database, may only be retained by the Director-General: Health for a period of six weeks after being obtained and shall thereafter be destroyed.

(12) Nothing in this regulation entitles the Director-General: Health or any other person to intercept the contents of any electronic communication.

(13) The Cabinet member responsible for justice and correctional services shall designate a judge who has been discharged from active service under section 3(2) of the Judges' Remuneration and Conditions of Employment, 2001 (Act No. 47 of 2001) or a retired High Court judge as the COVID-19 Designated Judge.

(14) The Director-General: Health must file a weekly report with the COVID-19 Designated Judge setting out the names and details of all persons whose location or movements were obtained in terms of subregulation (10)(a) and 10(b) respectively.

(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 contact tracing to address, prevent and combat the spread of COVID-19.

(16) The Director-General: Health shall, within six weeks after the national state of disaster has lapsed, or has been terminated, notify every person whose information has been obtained in terms of subregulation (10) that information regarding their location or movements was obtained in terms of subregulation (10).

(17) Within six weeks after the national state of disaster has lapsed or has been terminated—

- (a) the information on the COVID-19 Tracing Database shall be de-identified;
- (b) the de-identified information on the COVID-19 Tracing Database shall be retained and used only for research, study and teaching purposes;

- (c) all information on the COVID-19 Tracing Database which has not been de-identified shall be destroyed; and
- (d) the Director-General: Health shall file a report with the COVID-19 Designated Judge recording the steps taken in this regard, and the steps taken pursuant to subregulation (16).

(18) Upon receipt of the report in subregulation (17)(d), the COVID-19 Designated Judge shall be entitled to give directions as to any further steps to be taken to protect the right to privacy of those persons whose data has been collected, which directions must be complied with.

(19) The report required by subregulation (17)(d) and any directions given in terms of subregulation (18) shall be tabled in Parliament.

Offences and penalty

11I. Any person who fails to comply with their obligations under regulation 11H shall be guilty of an offence and, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.”.

Amendment of Annexure B to the Regulations

- 7.** Annexure B of the Regulations is hereby amended by—
- (a) the substitution for subparagraph (i) of paragraph 3 of Part A of the following subparagraph:
 - "(i) Medical and Hospital Supplies, medicine, equipment and personal protective equipment; and";
 - (b) the substitution for paragraph 4 of the following paragraph:
 - "4. Fuel, including coal, wood and gas.";
 - (c) the substitution for paragraph 5 of Part A of the following paragraph:
 - "5. Basic goods, including airtime, electricity and the withdrawal of cash.";
 - (d) the substitution for paragraph 3 of Part B of the following paragraph:
 - "3.1 (a) The following services necessary to maintain the functioning of a financial system as defined in section 1(1) of the Financial Sector Regulation Act, only when the operation of a place of business or entity is necessary to continue to perform those services:
 - (i) the banking environment (including the operations of mutual banks, co-operative banks, co-operative financial institutions and the Postbank);
 - (ii) the payments environment;
 - (iii) the financial markets (including market infrastructures licensed under the Financial Markets Act, 2012 (Act No. 19 of 2012);
 - (iv) the insurance environment;

- (v) the savings and investment environment;
 - (vi) pension fund administration;
 - (vii) outsourced administration;
 - (viii) medical schemes administration; and
 - (ix) additional services designated in terms of regulation 11B(4A)(c)(i).
- (b) The services listed in paragraph (a) may not be construed to include debt collection services.
- 3.2 Services necessary for the provision of social grants designated in terms of regulation 11B(4A)(c)(ii).";
- (e) the substitution for paragraph 5 of Part B of the following paragraph:
"5. Grocery stores and wholesale produce markets, including *spaza* shops and informal food traders, with written permission from a municipal authority to operate being required in respect of informal food traders;"
- (f) the substitution for paragraph 7 of Part B of the following paragraph:
"7. Critical jobs for essential government services as determined by Head of National or Provincial Departments in accordance with the guidance of the Department of Public Service and Administration, including Social Grant Payments and pension payments.";
- (g) the substitution for paragraph 11 of Part B of the following paragraph:
"11. Funeral and cremation services, including mortuaries services and the transportation of mortal remains;"
- (h) the substitution for paragraph 13 of Part B of the following paragraph:
"13. Newspaper, broadcasting and telecommunication infrastructure and services, including call centres critical for the support of such services;"
- (i) the substitution for paragraph 15 of Part B of the following paragraph:
"15. Cleaning, sanitation, pest control, sewerage, waste and refuse removal services;"
- (j) the substitution for paragraph 21 of the following paragraph:
"21. Air-traffic Navigation, Civil Aviation Authority, air charters, Cargo Shipping and dockyard services;" and
- (k) the substitution for paragraph 28 of Part B of the following paragraph:
"28. Transport and logistics in respect of cargo and goods as set out in Part A to neighbouring countries;"

Amendment of Annexure C to the Regulations

8. Annexure C to the Regulations is hereby amended by the addition of the following forms after Form 1:

"FORM 2
PERMIT TO TRAVEL TO ANOTHER METROPOLITAN AREA, DISTRICT OR PROVINCE
Regulation 11B(8)(d)

(To be completed by the Magistrate who is the Head of Office or a station commander of a police station or a person designated by him or her.)

I, _____ (full names of * Magistrate / station commander of a police station or a person designated by him or her) for—

(a) the Magistrate's court for the district of _____;

(b) the police station at _____,

hereby issue this permit for travel to another metropolitan *area/district/province, to the following person:

Full names:					
Surname:					
Identity number					
Address of place of residence:					
Province of residence:					
Contact details:	Cell nr		Tel No (h)		e-mail address
Metropolitan area/district travelling to:					
Province travelling to:					
Date of funeral/cremation:					

I also declare that the above-mentioned person presented the *death certificate/certified copy of the death certificate/affidavit to me.

Signed at _____ this _____ day of _____ 2020.

 *Person issuing permit

Official stamp

* Delete whichever is not applicable

FORM 3

**SWORN AFFIDAVIT BY PERSON WHO WISHES TO ATTEND A FUNERAL IN ANOTHER
METROPOLITAN AREA, DISTRICT OR PROVINCE
Regulation 11B(8)(d)**

- Note: 1.** *A person giving false information on this affidavit shall be guilty of an offence and, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.*
- 2.** *This affidavit may only be sworn to or affirmed at a magistrate's court or police station.*

I,

Full names:					
Surname:					
Identity number					
Address of place of residence:					
Province of residence:					
Contact details:	Cell nr		Tel No (h)		e-mail address
Metropolitan area/district of funeral/cremation:					
Province in which funeral/cremation will take place:					

Hereby declare under oath with regards to the deceased:

Names of deceased:				
Surname of deceased:				
Relationship/Affiliation to the deceased (eg spouse/parent/friend etc)				
I am the person making the funeral arrangements/applies for the issue of a death certificate (mark with an X):	Yes		No	
Date of funeral/cremation:				
Province in which funeral/cremation will take place:				
*City/town/village of funeral:				

***OATH/AFFIRMATION**

I, _____ (full names), identity number _____, hereby declare under *oath/affirmation that the above-mentioned information is true and correct.

Signed at _____ on this _____ day of _____ 2020.

Signature of person making affidavit

CERTIFICATION

I hereby certify that before administering the *oath/taking the affirmation, I asked the sheriff(deponent) the following questions and noted *his/her answers in *his/her presence as indicated below:

(a) Do you know and understand the contents of the above declaration?

Answer: _____

(b) Do you have any objection to taking the *oath/affirmation?

Answer: _____

(c) Do you consider the *oath/affirmation to be binding on your conscience?

Answer: _____

I hereby certify that the sheriff (deponent) has acknowledged that *he/she knows and understands the content of this declaration which was *sworn to/affirmed before me, and the sheriff's(deponent's) signature was placed thereon in my presence.

Signed at _____ this _____ day of _____ 2020.

*Justice of the Peace/Commissioner of Oaths

Full names: _____

Designation: _____

Business address: _____

*Delete which is not applicable".

Amendment of Annexure D to the Regulations

9. Annexure D to the Regulations is hereby amended by the substitution for subparagraph (vii) of paragraph (c) of the following subparagraph:

"(vii) hotels, lodges and guest houses, except to the extent that they are required for remaining tourists confined to hotels, lodges and guest houses and for purposes of regulation 11B(8)(h) to the extent that they are required for persons from another metropolitan area, district, or province;"

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