

## South Africa's level 3 lockdown – what you need to know

The Minister of Cooperative Governance and Traditional Affairs has published the amended regulations for alert level 3, which will enter into operation on the 1<sup>st</sup> of June 2020. Herewith the key points:

### Level 3 regulations

#### *Hotspots*

- The Minister may prescribe more stringent restrictions for 'hot spots' but at the time of writing this has not been exercised.
- Hotspots are calculated according to the cases per 100 000 population, rate of increase, availability of hospital beds and any other relevant factor;
- The metros of Tshwane, Johannesburg, Ekurhuleni, Ethekewini, Nelson Mandela Bay, Buffalo City, and Cape Town have been declared as hotspots; as well as
- The districts of West Coast, Overberg, Cape Winelands, Chris Hani and iLembe.

#### *Permitted industries*

- In a welcome development, the format of the Regulations have reversed insofar as permitted sectors and activities are concerned. In other words, all economic activities will now be permitted unless they are specifically excluded in the new Table 2. Table 2 prohibits the following:
  - Consumption of food and beverages at the place of sale, including restaurants;
  - On-site consumption of liquor;
  - Short term home-sharing, letting, leasing or rental for leisure purposes;
  - Domestic air travel for leisure purposes;
  - Passenger ships;
  - Conferences and events, including sporting events;
  - Personal care services; i.e. hairdressers, beauty treatments etc.
  - Certain public transport as determined by the Minister of Transport;
  - Certain education services (determined by the Minister of Education);
  - Tourist attractions and entertainment, except to the extent provided for otherwise by the Minister of Tourism.
- All other economic activities can resume subject to the protocols detailed below;
- Limitations relating to 30%/60% etc. for manufacturing and other economic activities have been done away with.

#### *Additional protocols for work*

- Where it is possible to work from home, workers must continue to do so;
- Employees with more than 100 employees must make provision for rotation and staggered working hours or work from home arrangements;
  - The Regulations only refer to employers with more than 100 employees and not to workplaces with more than 100 workers. However the obligation is to “*make provision for minimising the number of employees at the workplace at any given time*”. Hence, a single employer with multiple branches or sites will likely be permitted to treat each site on its own merits;
- Special measures must be taken in relation to employees who are over 60 years of age or those with comorbidities to facilitate their safe return to work;

- The regulations are not prescriptive but these measures can include work from home arrangements.
- Construction, manufacturing, business and financial service firms with more than 500 employees must draft sector or workplace arrangements that address the following:
  - Provide or arrange transport for their employees coming to site, or where not possible make provision for staggered worktimes to reduce congestion on public transport;
  - Stagger the return to work for employees to ensure workplace readiness;
  - Screen employees daily for symptoms; and
  - Submit data collected during the screening to the DG of Health.
- Where sector or industry bodies exist, such a body must develop sector-specific health protocols in consultation with the Department of Health.
  - This will have to be considered urgently as Agbiz may qualify as such a body.

#### *Compliance officers*

- All businesses must designate a Covid-19 compliance officer who must:
  - Develop a plan for the phased-in return of employees and which must correspond in substance to Annexure E (Attached), it must contain:
    - Which employees are permitted to work;
    - Plans for phased-in return to work;
    - Health protocols; and
    - The details of the Covid-19 compliance officer;
  - The compliance officer must ensure that health and safety protocols are adhered to.

#### *Transport of cargo*

- The movement of all cargo to other countries as well as within the republic is permitted by rail, ocean, air or road transport;
- The Minister of DTI can make directives regarding the administration and prioritisation of exports or imports to manage bottlenecks at the ports;
- The Minister of Transport may issue directions relating to health protocols for sea or air cargo;

#### *Public transport*

- There is an express requirement placed on the Minister of Transport to issue directions relating to:
  - Domestic air travel;
  - Rail, bus services, taxi services;
  - E-hailing services; and
  - Private vehicles.
- This is not discretionary as the Minister must issue directions, however until such time as he does so, the existing directions continue to apply.

#### *Sale of liquor and tobacco products*

- The sale of tobacco products remain prohibited save for export;
- Liquor product sales may take place between Mondays and Thursdays from 09h00 until 17h00 at any licenced premises;
- No liquor may be consumed on premises but all licence holders may sell liquor in the designated hours;

- Premises licenced for on-site consumption may also sell liquor in sealed containers for take-home purposes;
- Liquor may be transported and distributed to any licenced premises from 29 May 2020.

#### *Gatherings*

- Gatherings continue to be prohibited, however;
- A workplace is specifically excluded from being regarded as a gathering;
- Agricultural auctions are finally excluded from consideration as a gathering, but the Minister of Agriculture must issue directions;
  - The regulations only state 'agricultural auctions', hence it is unclear whether this is limited to animals or if it includes implements and properties but it can be interpreted to include these categories until such time as directions are issued stating otherwise;
- Faith-based gatherings of up to 50 persons are also permitted.

#### *Restrictions on movement*

- The general public is still confined to their place of residence except for:
  - Working or travelling to or from work;
  - Buying goods or obtaining services permitted under level 3;
  - Moving children as per custody agreements;
  - Exercising between 6am and 6pm (the 5 km radius has been done away with);
  - Attending a place of worship;
  - Attending school or tertiary education as permitted under directions;
  - Attending a funeral;
  - Seeking medical attention;
  - Transporting mortal remains.
- One may still only cross municipal or provincial boundaries for work purposes (and subject to the form 2 permit), or to move to a new place of residence or caring for an immediate family member;
- Learners or students who must cross municipal or provincial boundaries are required obtain a sworn affidavit (form 6, firm 3B & 3A).

#### *Cultural, sporting, entertainment, parks or leisure premises*

- These continue to be closed to the public with the notable exceptions:
  - Hotels, lodges and other forms of accommodation can only host persons for work purposes; and
  - Tourist attractions such as parks and game reserves (public and private) must remain closed except that "private self-drive excursion activities" are permitted – this is however qualified in that one is still not permitted to cross municipal, provincial or national boundaries to access same.

Herewith the links to the revised Regulations:

[Regulations Level 3](#)

[Annexure E workplace plans](#)