

Disaster Management Regulations- 12 July 2020

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On 12 July 2020 the president addressed the public in what was a highly anticipated announcement over the Republic's on-going battle with the Covid-19 pandemic. As expected, South Africans braced themselves for another bout of 'bad news'.

South Africa's struggles with Covid-19 seemed to have worsened since the reopening of its economy under level 3 of the national lockdown, wherein the vast majority of business was set to resume operations.

In the wake of a worsening situation certain regulatory amendments were formulated and gazetted as a quick response to growing numbers of positive cases. The most apparent and controversial of regulatory changes came in the form of an about-turn in the alcohol ban, the regulatory provision on the declaration of geographical hot-spots, the reintroduction of a curfew in terms of which citizens would be confined to their residences and stricter adherence to the wearing of cloth masks.

These regulations will no doubt understandably garner much attention and debate in the forthcoming weeks purely due to the controversy surrounding them and the implications thereof on the economy and freedoms of people overall.

However, the above regulations are fairly straight-forward and self-explanatory, but what is of particular interest is the introduction of less striking regulations which many businesses should pay attention to.

Amendments to Regulation 5 of the Regulations makes it mandatory for any person to wear a cloth facemask, homemade item or any other appropriate item which covers the nose and mouth when such person has entered a public place. The amendment goes further expressly stating that no person shall, in effect, be allowed in public without a facemask or other appropriate item fixed to their face covering both the nose and the mouth.

This was already a well-established norm which had been worked into the prior Disaster Management Regulations. The amendment does, however, introduce two notable changes to the Regulations. The first being that clarity is provided as to what is expected of the people in relation to the wearing of PPE when in public or in any space which is accessible by the general public.

Another implication of the amended Regulations is the introduction of added responsibilities for employers/businesses, school principals, owners, or managers to ensure that learners and employees are wearing masks at all times, even whilst performing their duties.

To further enforce the stricter Regulations, non-adherence has been criminalized through an amendment to Regulation 14 of the Regulations which may result in a fine or to imprisonment for a period not exceeding six months.

The following people will be impacted even more so by the amended Regulations:

1. Drivers or operators of public transport who must don masks at all times whilst further ensuring all passengers are wearing face masks or any other appropriate items which cover the nose and mouth as well;
2. Employers who must ensure that all employees and members of the public who seek to access their goods or services are clad in face masks or any other appropriate item covering the nose and mouth;
3. Principals, owners and managers of schools and early childhood development centres who must ensure that sufficient face masks or other appropriate items which must cover the nose and mouth are available and worn by learners at all times;
4. Individuals in charge of schools or early childhood development centres are further tasked with the obligation of ensuring that learners who do not attend their facilities with a face mask or other appropriate items are suitably isolated and sent home or supplied with a mask or any other appropriate item covering the nose and mouth.

Apart from the abovementioned revision of the regulations it should be noted that 'beaches' and 'public parks' have been added to the list of places which remain closed to the public.

Clarification over the ongoing contentions over public transport has also been provided with only 70% of licensed capacity and 100% of licensed capacity permitted for long distance travel and all other travel not regarded as long distance, respectively.

We are certain that the introduction of these amendments to the regulations will spark a heated debate in the coming weeks, not just in relation to the more controversial aspects such as the alcohol ban or imposition of a curfew, but also in relation to the less newsworthy amendments. Whilst aiming to eradicate any ambiguity and provide 'teeth' to the already existing Regulations further complications can be noted.

For instance, it is uncertain as to how the decision to hold accountable employers, drivers or operators of public transport, principals of schools or owners or managers of early childhood development centres for the actions of their respective passengers, employees, learners and members of the general public was arrived at and whether such decision could be deemed as reasonable.

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