



4 April 2020

To: THE PRESIDENCY: NATIONAL COMMAND COUNCIL

c/o: Ms Khusela Diko & Mr Mike Louw

Per email: khusela@presidency.gov.za presidentrsa@presidency.gov.za

And To: THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS:

DR NKOSAZANA DLAMINI ZUMA, MP

c/o: Ms Mandisa Mbele & Ms Pamela Salusalu

Per Email: MandisaMB@cogta.gov.za & PamelaS@cogta.gov.za

And To: THE MINISTER OF TRANSPORT:

MR FIKILE MBALULA, MP

c/o Ms Zintle Groepe and Mr Kagiso Moleme

Per Email: GroepeZ@dot.gov.za & MolemeK@dot.gov.za

And To: THE MINISTER OF JUSTICE AND CORRECTIONAL SERVICES:

MR RONALD LAMOLA, MP

c/o Ms Zanele Ndlovu and Mr Bruce Sarela

Per Email: ZaneNdlovu@justice.gov.za & BSarela@justice.gov.za

RE: RECOMMENDATION FOR AMENDMENTS TO THE COVID19 REGULATIONS AND DIRECTIONS

We write to you as the C19 People's Coalition, an alliance of over 190 social movements, trade unions, community organisations and NGOs ("the Coalition"). Information about the Coalition, its members and its programme of action can be found at <https://c19peoplescoalition.org.za/poa/>

The Coalition is involved in several interventions aimed at containing COVID19 and supporting the most vulnerable persons in our society. Many of the member organisations are directly involved in providing essential services and supporting the roll out of government's programmes to combat COVID 19.

We recognise the difficult task that has confronted government in responding to the pandemic and the urgency under which measures have had to be introduced. However, through the work of the Coalition and its members numerous queries and concerns have been raised about the application of the COVID19 regulations and directions.

Drawing from these reports and an ongoing analysis of the COVID19 regulations and directions, the Coalition's Legal Support Group have identified certain provisions thereof that we believe require amendment, clarification and/or further detail. To this end, please see attached as Annexure A, a list of the specific provisions where we have noted challenges that have arisen and the proposed amendments we recommend.

We note that our monitoring and analysis is ongoing and we hope to furnish you with additional recommendations in due course.

We note with encouragement that there have been ongoing revisions to relevant regulations and directions, and we trust that our input will be given urgent consideration in the same spirit. Should you require any clarification, please do not hesitate to contact us.

Yours faithfully.



Please direct any correspondence relating to this letter to Rehad Desai rehad@icon.co.za (on behalf of the C19 People's Coalition Steering Committee) with copy to Nurina Ally nurina@eelawcentre.org.za, Yana Van Leeve yana.vanleeve@gmail.com, Disha Govender Disha@nu.org.za and Tim Fish Hodgson timothy.hodgson@icj.org

Please note that the following organisations have endorsed these recommendations:

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|-------------------------------------|------------------------------------|
| 1. Centre for Applied Legal Studies | 8. SECTION27 |
| 2. Centre for Environmental Rights | 9. Socio Economic Rights Institute |
| 3. Corruption Watch | 10. Sonke Gender Justice |
| 4. Equal Education Law Centre | 11. Ndifuna Ukwazi |
| 5. South African Litigation Centre | 12. Probono.org |
| 6. Legal Resources Centre | 13. Women's Legal Centre |
| 7. Lawyers for Human Rights | |

ANNEXURE A: RECOMMENDATIONS

Issue	Proposed Amendment
<p>Staff members of Chapter 9 institutions</p> <p>Annexure B, B.27 of the Disaster Management Regulations¹ (as amended) (“Lockdown Regulations”) begins with the words “Commissioners” of Chapter 9 institutions. This limits members of the SHARC who can perform essential services to the Commissioners and excludes members of staff trained as human rights monitors.</p> <p>In practice, members of SAHRC who are performing monitoring are not being permitted by Police to move around comfortably in some areas.</p>	<p>Proposed Amendment:</p> <p>The amendment of the wording of Annexure B, B.27 by insertion of the underlined words:</p> <p>“Commissioners <u>and members of staff</u> of the South African Human Rights Commission, Gender Commission, and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, and the Public Protector and Deputy Public Protector”</p>
<p>Human rights monitors</p> <p>An amendment is required to the Lockdown Regulations to allow for training of volunteers as “human rights” monitors to prevent abuse by military or police - these would be independent of SAHRC.</p>	<p>Proposed Amendment:</p> <p>Insertion of the following words in Annexure B, as section B.27a:</p> <p><i>“Volunteer human rights monitors accredited by the South African Human Rights Commission as such”.</i></p>
<p>Movement of people on residential property</p> <p>Reports have circulated of persons being told that they cannot stand in their yards, driveways or gardens.</p>	<p>Proposed Amendment:</p> <p>The insertion in section 11A of the Lockdown Regulations of the following of definition:</p> <p><i>“‘residence’ includes the full erf or portion thereof, which is occupied by a person for residential purposes. This includes the buildings, yard, garden area and drive-way.”</i></p>
<p>Movement of people to access essential services - permit regime and implications for accessing courts / shelters</p> <p>The permit regime may limit the ability of persons seeking protection orders / shelters from moving around without a permit and using public transport.</p>	<p>Proposed Amendment:</p> <p>Including in Annexure B, section B of the Lockdown Regulations the following definitions as essential services:</p> <p>“34. domestic violence and housing shelters.”</p> <p>“35. Court hearings as permitted under the court regulations.”</p>

¹ Published under GN 318 in *Government Gazette* 43107 on 18 March 2020 as amended by GN R398 of 25 March 2020, GN R419 of 26 March 2020 and GN R446 on 2 April 2020.

<p>Essential services – spaza shops and grocery stores</p> <p>We have information that spaza shops and grocery stores owned by foreign nationals are being targeted and closed by government officials and community members.</p>	<p>Proposed amendment:</p> <p>Amending Annexure B, Section B(5) of the Lockdown Regulations to expressly include spaza and grocery shops owned by foreigners in the definition of essential services:</p> <p><i><u>“Grocery stores, including spaza shops, whether owned by South African nationals and foreign nationals or both”.</u></i></p>
<p>Transport</p> <p>S 6(3) of the Transport Directions issued on 26 March 2020² stipulate that “Public transport that shall be permitted to ferry essential workers will operate from 5H00 to 9H00 and again from 16H00 to 20H00”</p> <p>Limited public transport times are restrictive for essential service workers and for persons accessing essential services. This is particularly true for essential services workers who do not work regular 9:00 – 17:00 shifts, but have night shifts or irregular working hours. Such workers are not able to use public transport for this purpose.</p> <p>There should be more flexibility needed in terms of public transport for essential workers</p>	<p>Proposed amendment:</p> <p>Deleting section 6(3) of the transport directions, and replacing it with the following:</p> <p><i>“6(3) Public transport shall be permitted to ferry essential workers to and from their place of work”</i></p>

² Published under GN 412 of 26 March 2020 in *Government Gazette* No 43157.