

The various departmental functions available during lock-down

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Lock-down not Shutdown: business may not be running as usual but many government departments continue to run in some respects. Here is what we know about the Department of Environmental Affairs, Forestry and Fisheries, Municipalities, the Competition Commission, the Companies and Intellectual Properties Commission and the B BEE Commission.

On 26 March 2020 the Minister of Cooperative Governance and Traditional Affairs, Dr Nkosozana Dhlamini-Zuma, published further amendments to the regulations ("**Amended Regulations**") to the Disaster Management Act 57 of 2002. The Amended Regulations now recognise a number of **additional** 'goods' and 'services' as being 'essential'. The listed essential services include, *inter alia*, the continued supply of electricity, water, gas and fuel production, supply and maintenance, essential municipal services, critical maintenance services which cannot be delayed for more than twenty-two days and are essential to resume operations after the lock-down and critical jobs for essential government services as determined by the Heads of the numerous National or Provincial Departments in accordance with the guidelines issued by the Department of Public Service and Administration ("**DPSA**"), including Social Grant Payments.

Amidst the current uncertainty regarding whether the current nature of the lock-down halts all Governmental processes, we have been informed that a number of Government Departments remain operational, even to provide only a limited number of services. The below 'list' is however indefinite and may change in the proceeding days and weeks, as the various Heads of National or Provincial Departments evaluate and redefine their respective capacities.

In a statement released by the DPSA, it was made clear to the Heads of both National and Provincial Departments, as well as Provincial Administrators, that notwithstanding the twenty-one day lock-down, the continuous functioning of government operations was critical in order to meet the needs of the South African citizens. As such the DPSA has stated that all Government Departments are meant to continue functioning in accordance with safety guidelines that have been formally published.

Department of Environmental Affairs, Forestry and Fisheries ("**DEAFF**")

Persons whose businesses are regulated in any manner by licenses issued by the DEAFF are advised to do what is necessary, to ensure ongoing compliance with their respective licenses.

In a press release by Ms Barbra Creecy, our Minister of Environmental Affairs, Forestry and Fisheries on 24 March 2020 it was indicated that her department would continue to perform and support the below listed services within its sector. The following preliminary initiatives have been implemented by the department include, *inter alia*:

- continuation of all enforcement activities, specifically with respect to:
 - the management of waste which is considered dangerous and toxic;
 - Poaching
 - air quality, and

- pollution which emanates from oil spill, chemical spill and sewage spills;
- granting a three month exemption for the renewal of all fishing rights which may expire during the lock-down; and
- the Bioprospecting, Access and Benefit Sharing authority of the DEAFF will continue to accept new applications for BAB's permits and renewals via email and will process the BAB'S permits and renewals through a call with the applicant, if necessary. However, any request for permit amendments will only be processed after 16 April 2020.

On the 31 March 2020, Ms Creecy then published further directions in terms of Regulation 10(8) of the Disaster Management Act 57 of 2002, for her Department. The directions are said to apply to national, provincial and local authorities, applicants, appellants, environmental assessment practitioners, companies, interested and affected parties and any stakeholders which are involved in or are obligated to regulate aspects of legislation under DEAFF. The directions provide that:

- the timeframes applicable to all licenses and environmental authorisations are deemed to be extended for the number of days of the duration of the lock-down period, including any extensions thereto. This includes any timeframes regulated in issued environmental authorisations and in terms of the Environmental Impact Assessment Regulations 2014 and National Appeal Regulations;
- any exemptions contemplated in terms of the National Environmental Management: Waste Act 2008, authorisations issued for export of waste tyres and applications for amendment of orders to remediate contaminated land are extended for the number of days of the duration of the lock-down or as extended;
- all reporting contemplated in terms of the National Atmospheric Emission Reporting Regulations and the National Greenhouse Gas Emission Reporting which refers to 31 March must be read as reference to 30 April 2020; and
- authorities responsible for processing any of the above applications or appeals will also not receive or process such applications or appeals until lock-down period is terminated.

Municipalities

Municipalities have been directed, in relation to the provision of water and sanitation services to, among other things, provide the necessary means to prevent transmission of COVID 19, whilst preventing disruptions in the services that are rendered through both municipal programmes and customer interaction. In relation to waste management, cleansing and sanitising, municipalities have been directed to collaborate with the relevant health authorities and establish capacitated, well-equipped response teams who could be deployed to provide cleansing and sanitization of places and facilities that could be at high risk for transmission of the virus and are further directed to ensure that the relevant protocols are followed when disposing of hazardous waste.

In relation to the City of Johannesburg municipality specifically, a notice has been issued stating that the ways in which to contact the municipality for support is through the EMS call centre, water technical call centre and the electricity technical call centre. Support services such as e-mails, e-services, web internet facility and access to billing and account information will be closed during the lock-down period. Refunds and clearances applications will also be closed during the lock-down period. Notwithstanding these provisions, customers are urged to continue paying their municipal accounts during the lock-down period.

In terms of the department of water and sanitation, after consultation with its office, the department has stated that in terms of physical access to the department's offices based in Pretoria, the offices are closed and will remain closed until the end of the national lock-down. The department will however accept electronic communications and will continue to offer its electronic services but made it known that the processing and response speed will be greatly affected due to the decreased staff capacity.

Masters Office

In relation to the masters' offices, a limited number of members of the public are permitted physical access to the various masters' offices at a time, in order to adhere to the provisions of the Disaster Management Act 57 of 2002 and the Amended Regulations. Processes such as the meeting of creditors or in relation to the reporting of deceased estates where there are disputes and family meetings that need to be held, such meetings are to be postponed until 15 April 2020 whereon new protocols will be issued as to how, by whom and where such meetings will be convened. Where a meeting has already been scheduled, such meetings are also postponed until 15 April 2020. In new matters relating to the reporting of deceased estates where there are no disputes, only the nominated representatives shall be allowed access to the office to report the estate.

The masters' offices have made it known that the certain documents may be submitted electronically for the interim period, accompanied by an affidavit confirming the correctness thereof. It is important to note that any authentication received as well as the

originals will need be lodged at the master's office, when called to do so by the Master. The documents (together with an affidavit) that may be lodged electronically for the time being are the following:

- bonds of security;
- requisitions;
- letters of appointment (which will be e-mailed to Agents and original documents will be placed in the respective pigeon holes in the offices for collection. Where appointees do not have access to e-mail such letters shall be made available for collections at the Masters' offices); and
- all hand delivered post is to be placed in the postal boxes of each office, including requests for applications for copies. Postal boxes are to be placed at the main entrances of the buildings so as to limit access to the building, wherein original documents can be deposited together with a copy to be stamped. A register shall be placed next to each box where lodgement of documents shall be recorded. These boxes will then be opened every 12 hours. In all other matters, other than urgent walk-ins dealing with appointment letters, only clients that have made appointments with officials at the discretion of that official will be seen.

Notwithstanding the above, the masters' office has encouraged queries by the public and stakeholders to be communicated by e-mail and followed up telephonically if necessary within seven working days as opposed to physical attendances at the offices of the master.

Competition Commission

The Competition Commission ("**Commission**") has significantly scaled down operations during the lock-down period. Despite the inevitable delays that may accompany scaling down, the Commission will still be fully operational and functional. All Covid 19 cases as well as the enforcement of regulations that have been published by Minister Ebrahim Patel, will, however, take priority.

Although the Commission is still fully functional, it has discouraged the filing of complaints that are not Covid 19 related or that do not have to do with merger transactions which involve firms that are in distress due to the Covid-19.

Affected parties or businesses can report concerns to 0800 014 880 or to any address found on the Commission's website (www.compcom.co.za). Furthermore, the contact person at the Commission is Mr. Shadrack Rambau who can be contacted on 084 743 0000 via phone call, SMS or WhatsApp. He can also be contacted via email at shadrackr@compcom.co.za or ccsa@compcom.co.za.

B-BBEE Commission

The offices of the B BBEE Commission will be closed during the lock-down period. The B BBEE Commission has indicated that it will not be accepting any documents or correspondence in relation to a complaint, transaction, compliance report or any other process in the regulations, whether it is filed by email or delivered to the B BBEE Commission's offices during the lock-down period. The B BBEE Commission's offices will officially reopen on 20 April 2020. The B-BBEE Commission has, however, granted affected stakeholders and clients an indulgence, by means of publishing a notice on its website.

This notice was published on 26 March 2020, applicable with immediate effect. Accordingly, affected stakeholders and clients will now have 30 calendar days after the lock-down period, to:

- file for registration of major B BBEE transactions that have been concluded or will be concluded between 11 March 2020 to 17 April 2020;
- submit any responses or documents that fall due during the lock-down period; and
- file any compliance reports that are due to be submitted by JSE listed entities, organs of state, public entities and Sector Education and Training Authorities (SETAs).

All BEE Commission related inquiries can be made telephonically on +27 82 903 6398.

Companies and Intellectual Property Commission ("CIPC")

On 31 March 2020, CIPC issued a notice to all of its customers stating that only the following fully automated services would be available to the public:

- the filing of annual returns, including annual financial statements or financial accountability supplement;
- a short standard private company without a name;
- compliance checklists;
- an enterprise search;
- a CIPC disclosure for an amount of R30;
- company and close corporation financial year end changes;
- company and close corporation address changes;
- auditor, accounting officer and company secretary changes;
- company name changes;
- B-BBEE Certificate (for companies that have an annual turnover of less than R10 million. For companies who have an annual turnover of more than R10 million, we advise that the company's B-BBEE verification agent is contacted for details on the renewal of B-BBEE certificates during the lock-down); and
- domain name registration.

All other CIPC services will only be reactivated from 16 April 2020. Furthermore, until 16 April 2020, all service related mailboxes and upload functionality will be de-activated as well.

For the purposes of filing annual returns, it should be noted that the filing period, which falls between 25 March 2020 to 15 April 2020 will be extended until 30 April 2020. If the filing period falls outside of such period, the normal prescribed filing period will be applicable. This extension of the filing period has the effect of deferring penalties, compliance checklists and the preparation of annual financial statements.

For purposes of de-registrations, CIPC will not take any action by placing companies and close corporations into deregistration for non-compliance with annual returns or finally deregister any company or close corporation that is currently in deregistration process for non-compliance with annual returns, until further notice.

For purposes of name reservations, all name reservations that falls between 25 March 2020 and 15 April 2020, will automatically be extended until 30 April 2020.

For purposes of business rescue, a general extension is provided for business rescue proceedings which commenced, but which did not complete the procedure as stated within section 129 of the Companies Act 71 of 2008 ("**Act**"), until 30 April 2020. Furthermore, for proceedings that have not yet commenced in terms of section 129 of the Act, *dies non* will apply until 16 April 2020.

We trust this information was helpful and remain committed to providing you with further updates on departments with which we interact.



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