



Disaster Management Amendment Regulations

Prepared for
COGTA

Contact persons:
Prof. Thuli Madonsela
Enq: Nolwandle Made
E-mail: tmadonsela@sun.ac.za
nmade@sun.ac.za
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The Law Trust Chair in Social Justice (CSJ) at Stellenbosch University is grateful for the opportunity to present written comments on on the DMA Regulations Amendments dated 29 March 2022.04.01

Due to time constraints we request an opportunity to send the rest of the policy brief which is being edited by the end of today, 01 April 2022.

1. Table summary

	Regulation Amendment	Commentary
<p>Amendment of regulation 67 (22 March 2022)</p> <p>"Mandatory protocols when in a public place"</p> <p>67. (1) For the purposes of these Regulations, a 'face mask' means a cloth face mask or a homemade item that covers the nose and mouth, or another appropriate item to cover the nose and mouth.</p> <p>(2) The wearing of a face mask is mandatory for every person when in an indoor public place, excluding a child under the age of six years, <u>and any person who fails to comply with a verbal instruction by an enforcement officer to wear a face mask, commits an offence and is, on conviction, liable to a fine or a period of imprisonment not exceeding six months, or to both such fine and imprisonment.</u></p>	<p>Substitution of regulation 67 of the Regulations (29 March 2022)</p> <p>"Mandatory protocols when in a public place"</p> <p>67. (1) For the purposes of these Regulations, a 'face mask' means a cloth face mask or a homemade item that covers the nose and mouth, or another appropriate item to cover the nose and mouth.</p> <p>(2) The wearing of a face mask is mandatory for every person when in an indoor public place, excluding a child under the age of six years.</p>	<p>Decriminalising the wearing masks is a progressive move because those impacted by the regulation were predominantly the disadvantaged people due to affordability, commuting and other factors.</p> <p>We suggest that consideration should be given to people without masks.</p>

<p>(3) A person not wearing a face mask will not be allowed to-</p> <ul style="list-style-type: none"> (a) use, operate, perform any service on any form of public transport; or (b) enter or be in a building, place or premises, including government buildings, places or premises, used by the public to obtain goods or services. <p>(4)</p> <ul style="list-style-type: none"> (a) All persons in an open public space need not wear a mask but must maintain a distance of at least one metre from another person. (b) The school environment is excluded from the requirement of maintaining a distance of at least one metre from another person. 	<p>(3) No person will be allowed to—</p> <ul style="list-style-type: none"> (a) use, operate, perform any service on any form of public transport; or (b) enter or be in a building, place or premises, including government buildings, places or premises, used by the public to obtain goods or services, <p>if he or she is not wearing a face mask.</p> <p>(4)</p> <ul style="list-style-type: none"> (a) All persons in an open public space need not wear a face mask but must maintain a distance of at least one metre from another person. (b) The school environment is excluded from the requirement of maintaining a 	
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(5) An employer may not allow any employee to perform any duties or enter the employment premises if the employee is not wearing a face mask while performing his or her duties.

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(5) An employer may not allow any employee to perform any duties or enter the employment premises if the employee is not wearing a face mask while performing his or her duties. (29 March 2022)

Amended Regulation 69 <i>(22 March 2022)</i>	Substitution of regulation 69 of the Regulations	

<p>"Gatherings</p> <p>69. (1) All gatherings, including faith-based or religious, social, political and cultural, gatherings at restaurants, bars, shebeens and taverns; gatherings at conferencing, exhibitions, dining, gyms, fitness centres, casinos and entertainment, facilities, gatherings at venues hosting auctions including agricultural auctions, sporting activities, including both professional and non-professional matches, by recognised sporting bodies, where persons who are-</p> <p>(a) fully vaccinated and in possession of a valid vaccination certificate; or</p> <p>(b) unvaccinated but in possession of a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of the gathering,</p> <p>are allowed at up to 50% of the capacity of the venue: Provided that entry to the venue is conditional upon production of a valid certificate</p>	<p>"Gatherings</p> <p>69. (1) All gatherings, including faith-based or religious, social, political and cultural, gatherings at restaurants, bars, shebeens and taverns; gatherings at conferencing, exhibitions, dining, gyms, fitness centres, casinos and entertainment, facilities, gatherings at venues hosting auctions including agricultural auctions, sporting activities, including both professional and non-professional matches, by recognised sporting bodies, where persons who are—</p> <p>(a) fully vaccinated and in possession of a valid vaccination certificate; or</p> <p>(b) unvaccinated but in possession of a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of the gathering,</p> <p>are allowed at up to 50% of the capacity of the venue: Provided that entry to the venue is conditional upon production of a valid certificate as referred to in paragraph (a) or (b) and subject</p>	<p>We welcome the relaxation of the restrictions for gatherings as this will improve social life and economic activity for many who have not been able to do so up until now. However, we are concerned about the practicability and social justice implications of distinguishing between unvaccinated and vaccinated crowds and the burdens imposed on events organisers in this regard.</p>
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<p>as referred to in paragraph (a) or (b) and subject to strict adherence to all health protocols and social distancing measures.</p> <p>(2) All gatherings, including faith-based or religious, social, political and cultural, gatherings at restaurants, bars, shebeens and taverns; gatherings at conferencing, exhibitions, dining, gyms, fitness centres, casinos and entertainment facilities, gatherings at venues hosting auctions including agricultural auctions, sporting activities, including both professional and non-professional matches, by recognised sporting bodies, where persons who are-</p> <p>(a) not fully vaccinated or in possession of a valid vaccination certificate; or</p> <p>(b) unvaccinated and not in possession of a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of the gathering,</p> <p>are allowed but limited to 1000 persons or less for indoor venues and 2000 persons or less for outdoor venues and if the venue is too small to</p>	<p>to strict adherence to all health protocols and social distancing measures.</p> <p>(2) All gatherings, including faith-based or religious, social, political and cultural, gatherings at restaurants, bars, shebeens and taverns; gatherings at conferencing, exhibitions, dining, gyms, fitness centres, casinos and entertainment facilities, gatherings at venues hosting auctions including agricultural auctions, sporting activities, including both professional and non-professional matches, by recognised sporting bodies, where persons who are—</p> <p>(a) not fully vaccinated or in possession of a valid vaccination certificate; or</p> <p>(b) unvaccinated and not in possession of a valid certificate of a negative COVID- 19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of the gathering,</p> <p>are allowed but limited to 1000 persons or less for indoor venues and 2000 persons or less for outdoor venues and if the venue is too small to hold the prescribed number of persons observing</p>	
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hold the prescribed number of persons observing a distance of at least one metre from each other, then not more than 50 percent of the capacity of the venue may be used, subject to strict adherence to all health protocols and social distancing measures.

(3) An owner or operator of any indoor or outdoor facility where gatherings are held must display the certificate of occupancy which sets out the maximum number of persons the facility may hold.

(4) An owner or operator of any indoor or outdoor facility where gatherings are held and who fails to display the certificate of occupancy as contemplated in subregulation (3), commits an offence and is, on conviction, liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

(5) A convener of a gathering who fails to comply with subregulation (1) or (2), commits an offence and is, on conviction, liable to a fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.

a distance of at least one metre from each other, then not more than 50 percent of the capacity of the venue may be used, subject to strict adherence to all health protocols and social distancing measures.

(3) An owner or operator of any indoor or outdoor facility where gatherings are held must display the certificate of occupancy which sets out the maximum number of persons the facility may hold.

(6) Gatherings at a workplace for work purposes are allowed, subject to strict adherence to all health protocols and social distancing measures.

(7) Hotels, lodges, bed and breakfasts, timeshare facilities, resorts and guest houses are allowed full capacity of the available rooms for accommodation, with patrons wearing face masks and observing a distance of at least one metre from each other when in common spaces.

(4) Gatherings at a workplace for work purposes are allowed, subject to strict adherence to all health protocols and social distancing measures.

(5) Hotels, lodges, bed and breakfasts, timeshare facilities, resorts and guest houses are allowed full capacity of the available rooms for accommodation, with patrons wearing face masks and observing a distance of at least one metre from each other when in common spaces."

We welcome the decriminalisation as a progressive move. However, we suggest an increase in public education and awareness to foster the social responsibility and accountability needed to undergird social self-regulation.

<p>Regulation 75 (22 March 2022)</p> <p>"Partial re-opening of borders</p> <p>75. (1)</p> <p>(a) The 21 land borders which are fully operational will remain as such and the 32 land borders which were closed will remain closed <u>except for the Telle Bridge Port of Entry which will reopen on the</u></p>	<p>Substitution of regulation 75 of the Regulations</p> <p>"Partial re-opening of borders</p> <p>75. (1)</p> <p>(a) The 21 land borders which are fully operational, will remain as such and the 32 land borders which were closed, will remain closed.</p>	<p>We welcome this.</p>

<p><u>commencement of this amendment to the Regulations.</u></p> <p>(b) The Cabinet member responsible for Home Affairs may, from the date of commencement of this amendment to the Regulations, issue directions regarding the opening and closing of any further Ports of Entry.</p> <p>(2) Traveling to and from the Republic from neighbouring countries is allowed, subject to subregulation (3): Provided that travellers who are-</p> <p>(a) fully vaccinated must upon arrival at the land border, produce, a valid vaccination certificate; and</p> <p>(b) unvaccinated must upon arrival at the land border, provide a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of travel.</p> <p><u>(3) Daily commuters from neighbouring countries who attend or teach at a school in the Republic, and who are allowed entry into and exit from the</u></p>	<p>(b) The Cabinet member responsible for Home Affairs may, from the date of commencement of this amendment to the Regulations, issue directions regarding the opening and closing of any further Ports of Entry.</p> <p>(2) Traveling to and from the Republic from neighbouring countries is allowed: Provided that travellers who are—</p> <p>(a) fully vaccinated must upon arrival at the land border produce a valid vaccination certificate; and</p> <p>(b) unvaccinated must upon arrival at the land border, provide a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of travel.</p>	
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Republic, are subject to compliance with protocols relating to-

- (a) screening for COVID -19 and quarantine or isolation, where necessary;
- (b) the wearing of a face mask;
- (c) transportation; and
- (d) sanitisation and social distancing measures as per the relevant health protocols on safety and prevention of the spread of COVID-19.

(4) (a) International air travel is restricted to the following airports-

- (i) OR Tambo International Airport;
- (ii) King Shaka International Airport;
- (iii) Cape Town International Airport;
- (iv) Lanseria International Airport; and
- (v) Kruger Mpumalanga International Airport.

(b) Long-haul flight departures and landings at the airports listed in paragraph (a) are permitted during the hours of curfew as provided for in regulation 68(1).

(3) (a) International air travel is restricted to the following airports—

- (i) OR Tambo International Airport;
- (ii) King Shaka International Airport;

<p>(c) All international travellers arriving at the Ports of Entry listed in paragraph (a) who are-</p> <p>(i) fully vaccinated must upon arrival at the Port of Entry, produce a valid vaccination certificate; and</p> <p>(ii) unvaccinated must upon arrival at the Port of Entry, provide a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of travel.</p> <p>(d) In the event of the traveller's failure to submit a certificate as proof of a negative COVID-19 test, the traveller will be required to do an antigen test on arrival at his or her own cost and in the event of a traveller testing positive for COVID-19, he or she will be required to isolate him or herself at his or her own cost, for a period of 10 days.</p>	<p>(iii) Cape Town International Airport; (iv) Lanseria International Airport; and (v) Kruger Mpumalanga International Airport.</p> <p>(b) All international travellers arriving at the Ports of Entry listed in paragraph (a) who are—</p> <p>(i) fully vaccinated must upon arrival at the Port of Entry, produce a valid vaccination certificate; and</p> <p>(ii) unvaccinated must upon arrival at the Port of Entry, provide a valid certificate of a negative COVID-19 test, recognised by the World Health Organisation, which was obtained not more than 72 hours before the date of travel."</p>	
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<p>(e) Outbound travellers from South Africa must comply with the requirements of the country of destination.</p> <p>(5) All commercial seaports will remain open and small crafts will be allowed entry into seaports, in-line with all health and border law enforcement protocols.</p>	<p>(c) In the event of the traveller's failure to submit a certificate as proof of a negative COVID-19 test, the traveller will be required to do an antigen test on arrival at his or her own cost and in the event of a traveller testing positive for COVID-19, he or she will be required to isolate him or herself at his or her own cost, for a period of 10 days.</p> <p>(d) Outbound travellers from South Africa must comply with the requirements of the country of destination.</p> <p>(4) All commercial seaports will remain open and small crafts, <u>and all passenger ships, including cruise ships</u>, will be allowed entry into seaports, in-line with all health and border law enforcement protocols."</p>	
	<p>Transitional provisions</p> <p>5. (1) The regulations and directions specified in sub-regulation (2):</p>	

(a) will not cease to operate or cease to be of force and effect merely because the national state of disaster comes to an end; and

(b) will continue to operate and be of force and effect until 30 days after the national state of disaster ends, whereupon the regulations and directions concerned will automatically lapse.

(2) The regulations and directions specified in sub-regulation (1) are as follows:

- (a) Regulation 67;
- (b) Regulations 69;
- (c) Regulations 75; and
- (d) Directions, as amended, issued in terms of Regulation 4(5) and (10), which provide for Social Relief of Distress Grant; and
- (e) Directions, as amended, issued in terms of Regulation 4(7)(b), which provide for the extension of the validity period of a learner's license, driving licence card, license disc, professional driving permit and registration of a motor vehicle.

(3) The Regulations in Chapter 8 and the Directions in terms thereof which provide for: Covid -19 Vaccine Injury No -fault Compensation

	Scheme shall be subject to the transitional measures contained in Chapter 8.	
	Commencement 6. The amendment to the Regulations will come into operation on publication in the Gazette.	

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