

BUSINESS FOR SA: GUIDANCE NOTE

16 December 2020

1. Introduction

- 1.1 On 14 December 2020, five days after Health Minister Dr Zweli Mkhize had [confirmed](#) a second wave of coronavirus infections in South Africa, President Cyril Ramaphosa [announced](#) the immediate implementation of further measures to attempt to contain the spread of the virus. His announcement was followed by promulgation of an [amendment](#) to the Alert Level (**AL**) 1 Regulations (the **Amended AL1 Regulations**), which took effect immediately and will remain in place until 3 January 2021.
- 1.2 Under the Amended AL1 Regulations, further restrictions have been imposed as the festive season approaches. In what follows, we outline the Amended AL1 Regulations in so far as they differ from the AL1 Regulations.

2. Movement of persons and gatherings

- 2.1 The Amended AL1 Regulations impose an extended daily curfew between 23h00 and 04h00. Employees required to work during these hours must be provided with a Form 7 permit, which is the same standard-form work permit required to be issued by the head of an institution (or his or her delegee) under the AL1 Regulations.¹
- 2.2 In order to meet the 23h00 curfew, the Amended AL1 Regulations provide that any establishment where a gathering may take place (including all faith-based institutions, restaurants, bars and venues) must close at 22h00 daily.² They also expand on the mandatory protocols required to be observed in public places, and in particular the wearing of face masks.³ Entry into public places and the use of public transport remains prohibited if a mask is not worn, regardless of whether the public place is in- or outdoors. Employers may not permit any employee to enter the employment premises or perform any of his or her duties unless he or she is wearing a mask.
- 2.3 Every business premises is required to determine how many people its available area of floor space can accommodate while allowing for a distance between persons of 1,5 meters. A failure to do so is an offence, for which one is be liable to a fine and/or imprisonment of up to six months on conviction. Furthermore, business premises must ensure that this distance can be and is maintained between persons queueing in or outside the business premises, ensure that hand sanitisers are available for both customers and employees, and assign an employee to ensure compliance with physical distancing, use of hand sanitisers and compliance with directions to prevent exposure to COVID-19.
- 2.4 All employers must adopt measures to promote physical distancing of employees, which include:

¹ Regulation 66(1).

² Regulation 66(2).

³ Regulation 67.

- 2.4.1 enabling employees to work from home or minimize the need for them to be physically present at the workplace;
- 2.4.1 providing adequate space for employees;
- 2.4.2 restricting face-to-face meetings;
- 2.4.3 taking special measures for employees with known or disclosed health issues or comorbidities; and
- 2.4.4 taking special measures for employees over the age of 60. ⁴
- 2.5 The Amended AL1 Regulations now specifically provide that courier and delivery services must provide for minimal contact during delivery. ⁵
- 2.6 Different types of gatherings are now subject to different restrictions, as detailed in the table below. ⁶

	Maximum number of persons permitted		
	Indoor gathering	Outdoor gathering	Where the venue cannot accommodate a distance of 1,5m between persons
At faith-based institutions	100	250	No more than 50% of the venue's capacity may be used
Social events	100	250	"
Conferences and meetings	100	250	"
Concerts and live performances	100	250	"
Cinemas and theatres	100	250	"
Casinos	100	N/A	"
Sports grounds and fields	100	250	"
Museums, galleries, libraries, archives	100	N/A	"
Gyms and fitness centres	100	250	"
Restaurants	100	250	"

⁴ Regulation 67(7).

⁵ Regulation 67(9).

⁶ Regulation 69.

Bars, taverns, shebeens, and similar	100	250	“
Hotels, lodges, B ‘n Bs, timeshares, resorts, guest houses	N/A	N/A	“
Auctions	100	250	“

2.7 Gatherings at beaches are allowed, subject to the following exceptions and conditions:

2.7.1 Beaches in the Eastern Cape and the Garden Route District are closed to the public between 16 December 2020 and 3 January 2021;

2.7.2 beaches in KwaZulu Natal are closed to the public on 16, 25, 26 and 31 December 2020, and 1-3 January 2021; and

2.7.3 festivals, live music and performances at beaches are prohibited.

2.8 The restrictions on beach-use do not apply to anglers with permits or exemptions granted in terms of the Marine Living Resources Act 18 of 1998.

2.9 National and provincial parks, and other parks where access control measures are currently in place, will generally remain open over the festive season, subject to certain restrictions.

3. Sale and dispensing of liquor

3.1 The sale of liquor for off-site consumption is permitted only between 10h00 and 18h00 on Monday to Thursday (excluding public holidays).⁷ However, registered wineries and wine farms may offer wine-tastings and may sell liquor to the public for off-site consumption from 10h00 to 18h00 Monday to Saturdays. On-site consumption is permitted at any time that the premises is permitted to be open.⁸

3.2 The sale and dispensing of liquor in contravention of the Regulations remains an offence.⁹

4. Hotspots

For the first time, the Amended AL1 Regulations insert specific provisions applicable to those areas [designated as “hotspots”](#), being the Garden Route and Sarah Baartman districts and the Nelson Mandela Bay Metropolitan Municipality.¹⁰ These include an extended curfew within hotspots of 22h00 to 04h00 daily and the closure of establishments where people may gather at 21h00 daily.

⁷ Duty free shops are exempt from this restriction.

⁸ Regulation 77.

⁹ Regulation 77(5).

¹⁰ At chapter 7.

5. **Conclusion**

With the rate of new coronavirus infections and deaths on the rise, it is incumbent on businesses to cooperate fully with health and safety protocols to protect both their customers and employees and to avoid the potential consequences of non-compliance. While businesses should already have in place the measures required under the Amended AL1 Regulations, the emphasis is now on strict compliance and it appears that enforcement will become more stringent.