



Africa Criminal Justice Reform
Organisation pour la Réforme de la Justice Pénale en Afrique
Organização para a Reforma da Justiça Criminal em África

The COVID-19 lock-down simplified

15 April 2020

Introduction

On 25 March 2020 the South African Department of Co-operative Governance and Traditional Affairs issued regulations in response to the declaration of a national state of disaster and lockdown announcement made by President Cyril Ramaphosa. This document is a simplified reader-friendly summary of the regulations and contains no form of analysis. The first regulations were published on 18 March 2020 and the most recent amendments to the regulations was published on 2 April 2020.¹ This information sheet reflects these updates.

What is a lock-down?

A lock-down is the restriction of movement (entering or leaving a place of residence) of people. The aim of the lock-down is to limit the spread of the COVID-19 virus. To achieve this, it is necessary that people do not move around and come into contact with other people who may be sick or are carriers of the virus. In short, this means stay at home and do not leave home unless it is absolutely necessary or an emergency.

When does it start and when does it end?

The lock-down started on 26 March 2020 at midnight and will continue until midnight on 16 April 2020. The lock-down applies to the whole day and not only a part thereof.

What is quarantine?

It means that the activities and movement of a person is restricted because they were exposed to or is suspected of having been exposed to the COVID-19 virus. The aim is to keep this person away from people who have not been infected. The COVID-19 virus spreads very easily through coughing and sneezing. It means the person who is under quarantine must have no contact with other people.

Is treatment optional?

No. A person who has been diagnosed or who is suspected of having contracted COVID-19 or who has been in contact with a COVID-19 carrier may not refuse a medical examination, including testing and admission to a hospital or place of quarantine or isolation.² If

the person refuses to comply, that person will be placed in isolation or quarantine for 48 hours while a warrant is obtained to secure the medical examination and testing.³

When am I allowed to leave my house?

You are not allowed to leave the place where you stay unless you:

- need to perform an essential service (see list below)⁴
- obtaining an essential good or service (see list below)⁵
- collecting a social grant⁶
- seeking emergency, life-saving or chronic medical care⁷
- need to attend a funeral, subject to the conditions set out in the regulations (see below requirements for attending a funeral between provinces or between towns and cities).⁸
- are a co-holder of parental responsibilities and rights or a caregiver as defined in section 1(1) of the Children's Act (No. 38 of 2005) and are authorised to move your children between homes in terms of a court order or a parental responsibilities and rights agreement or parenting plan, registered with the family advocate.⁹

Can I go for a walk or run (with the dog)?

No. You can only leave your house if you are an essential worker or you need to buy or obtain essential goods or services (see list of essential goods/services below as well as immediately preceding provisions).¹⁰

Can I move between provinces or between towns and cities?

Movement between provinces or between towns and cities are limited to:

- essential workers who have to travel to and from work;
- transportation of cargo from ports of entry to their intended destination, on condition that necessary precautions have been taken to sanitise and disinfect the cargo;
- transportation of mortal remains;
- attendance of a funeral as provided for and under the conditions set out in the regulations. (See below the conditions)¹¹

Can I attend a funeral?

Yes, a funeral is not regarded as an illegal gathering, but there are rules:

- No more than 50 people may attend
- There may not be a night vigil
- The normal guidelines to prevent the spread of COVID-19 must be adhered to.¹²

What conditions apply if I want to attend a funeral or cremation in a different province or town or city?

Movement between a metropolitan or district area, or province by a person wishing to attend a funeral shall only be permitted if the person wishing to attend the funeral is a—

- spouse or partner of the deceased;
- child of the deceased, whether biological, adopted or stepchild;
- child-in-law of the deceased;
- parent of the deceased whether biological, adopted or step-parent;
- sibling, whether biological, adopted or stepbrother or sister of the deceased;

- grandparent of the deceased;
- person closely affiliated to the deceased. Closely affiliated means: (a) a person with parental responsibilities and rights in respect of the deceased or (b) a person who had developed a significant relationship based on caregiving, psychological or emotional attachment to the deceased.¹³

A person wishing to attend a funeral or cremation must obtain a permit from the nearest magistrate's office or police station to travel to the funeral or cremation and back.¹⁴

I am a foreign tourist and arrived prior to or after lock-down, can I leave?

No. You must remain in your place of temporary residence for the duration of the lock-down or 14 days as the case may be and may be subject to COVID-19 screening and may be isolated or quarantined.¹⁵

You may only be allowed to leave if arrangements have been made by your embassy to be evacuated to your country of origin. It is therefore important that you contact the embassy of your country in South Africa to inform them about your situation.¹⁶

I have a relative who is outside South Africa and needs emergency medical treatment for a life-threatening condition. Can he/she enter the country?

Yes, but only with the permission of the Minister of Home Affairs.¹⁷

Can I use public transport?

All public transport is prohibited except bus services, taxi services and e-hailing services to get essential goods, services medical attention, attend a funeral or receive a grant payment. The following restrictions apply in terms of the number of passengers that may be transported:

- bus services and e-hailing services must not carry more than 50% of the licensed capacity.
- taxi services must not carry more than 70% of the licensed capacity.
- private vehicles must not carry more than 60% of the licensed capacity.¹⁸

What can I buy?

Only shops and businesses providing essential goods and services are permitted to remain open. If it is not on the list of essential goods and services, it is not permitted. See list below. In shops and businesses providing essential services people must stay at least 1 m away from each other and adhere to the normal rules for preventing the spread of COVID-19.

Can I leave the country?

No. All borders will be closed except for the transportation of fuel, cargo and goods during the period of lock-down.¹⁹

Foreigners may be repatriated to their country of origin subject to their embassies making the necessary arrangements with the South African government to do so.²⁰

What are essential goods and services?

There are five categories of essential goods:

- Food, animal food, chemicals and packaging associated with making food. Alcohol is excluded from essential foods.
- Cleaning and hygiene products such as toilet paper, female sanitary products, condoms, hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products and personal protective gear.

- Medical and Hospital Supplies, medicine, equipment and personal protective equipment and chemicals and other products associated in making the supplies.
- Basic good such as airtime, electricity and the withdrawal of cash.²¹

There are 28 essential services and are listed below:

- Medical, health (including mental health), laboratory and medical services;
- Disaster management, fire prevention, firefighting and emergency services;
- Services necessary to maintain the functioning of a financial system, only when the operation of a place of business or entity is necessary to continue to perform those services (i.e. the banking environment, the payments environment, the financial markets, the insurance environment, the savings and investment environment, pension fund administration, outsourced administration, medical schemes administration and additional services designated in terms of regulation 11B(4A)(c)(i));
- Services necessary for the provision of social grants designated in terms of regulation 11B(4A)(c)(ii);
- Production and sales of the goods (related to food, cleaning and hygiene products, medical products, fuel and basic goods such as airtime and electricity);
- Grocery stores and wholesale produce markets, including spaza shops and informal food traders, with written permission from a municipal authority to operate being required in respect of informal food traders;
- Electricity, water, gas and fuel production, supply and maintenance;
- Critical jobs for essential government services as determined by the head of national or provincial departments in accordance with the guidance of the Department of public service and administration, including social grant payments and pension payments;
- Birth and death certificates and replacement ID documents;
- Essential municipal services;
- Care services and social relief of distress provided to older persons, mentally ill, persons with disabilities, the sick and children;
- Funeral and cremation services, including mortuaries services and the transportation of mortal remains;
- Wildlife management, anti-poaching, animal care and vet services;
- Newspaper, broadcasting and telecommunications infrastructure and services; including call centres critical for the support of such services;
- Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector;
- Cleaning, sanitation, pest control, sewerage, waste and refuse removal services;
- Services related to the essential functioning of courts, judicial officers, the Master of the High Court, Sheriffs, and legal practitioners required for those services;
- Essential SARS services defined by the Commissioner of SARS;
- Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services;
- Postal services and courier services related to transport of medical products;
- Private security services;
- Air-traffic navigation, civil aviation authority, air charters, cargo shipping and dockyard services;
- Gold, gold refinery, coal and essential mining;
- Accommodation used for persons rendering essential services, quarantine, isolation and the lockdown;
- Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment;
- Transport services for persons rendering essential services and goods, and transportation of patients;
- Services rendered by the Executive, members of Parliament, Members of the Provincial Legislature, Members of Local Councils, the Judiciary, traditional leaders, and National Office Bearers of Political Parties represented in Parliament;
- Commissioners of the South African Human Rights Commission, Gender Commission, and the Commission for the Promotion and Protections of the Rights of Cultural, Religious, and Linguistic Communities, and the Public Protector and Deputy Public Protector;

- Transport and logistics in respect of cargo and goods as set out in Part A to neighbouring countries.²²

What places are closed during the lock down?

- Any place normally open to the public where religious (e.g. church or mosque), cultural (e.g. museum), sporting (e.g. sport field or stadium), entertainment (e.g. theatre), recreational (e.g. gym), exhibition (e.g. art gallery), organisational or similar activities take places (e.g. town hall or church hall).
- Any place normally open to the public where non-essential goods are bought or sold.
- Any other place normally open to the public:
 - Parks, beaches and swimming pools
 - Markets and bazaars
 - Nightclubs and casino's
 - Hotels, lodges and guest houses, except to the extent that they are required for remaining tourists confined and authorised persons required to travel from another metropolitan area, district, or province
 - Private and public game reserves, except for the guests who are already there
 - Holiday resorts, except for the guests who are already there
 - On-consumption premises, including taverns, shebeens, *shisanyama*
 - Off-consumption premises, including bottle stores
 - Theatres and cinemas
 - Shopping malls and centres, except grocery stores and pharmacies
 - Taxi ranks, bus depots, train stations and airports.²³

What happens to people who are homeless or do not have suitable accommodation for isolation?

There will be temporary shelters meeting the necessary standards for homeless people, or people who cannot isolate or quarantine in their own homes.²⁴

What will happen if I refuse to leave a place that is subject to lock-down?

For the period of the declaration of the lock-down, a person refusing to be evacuated from any place subject to lockdown, may be evacuated by an enforcement officer to a temporary shelter, if such action is necessary for the preservation of life.²⁵

These regulations seem too strict, what if a person refuses to abide by them?

Any person who do not obey the lock-down orders shall be guilty of an offence and, on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both a fine and imprisonment.²⁶

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¹ Disaster Management Act Regulations, 2002 published in GN No. 318 on 18 March 2020, as amended by GN No. 43148 of 25 March 2020, GN No. 43168 of 26 March 2020, GN No. 43199 of 2 April 2020.

² Regulation 4 (1), Disaster Management Act Regulations, 2002 published in GN No. 318 on 18 March 2020, as amended by GN No. 43148 of 25 March 2020, GN No. 43168 of 26 March 2020, GN No. 43199 of 2 April 2020.

³ Regulation 4 (1).

⁴ Regulation 11B (1) (a) i.

⁵ Regulation 11B (1) (a) i.

⁶ Regulation 11B (1) (a) i.

⁷ Regulation 11B (1) (a) i.

⁸ Regulation 11B (1) (a) ii.

⁹ Dir. 6 (m), Directions issued in terms of Regulation 10 (8) of the Regulations under the Disaster Management Act, 2002 published in GN No. No. 43213 on 7 April 2020. ('Social Development Directions')

¹⁰ Regulation 11B (1) (a).

¹¹ Regulation 11B (1) (a) iii.

¹² Regulation 11B (8) (c)

¹³ Regulation 11B (8) (a), (b).

¹⁴ Regulation 11B (8) (d).

¹⁵ Regulation 11B (6) (d).

¹⁶ Regulation 11B (6) (d).

¹⁷ Regulation 11B (6) (b)

¹⁸ Regulation Regul 3, 11 C (1)

¹⁹ Regulation Regul 3, 11 B (6) (a)

²⁰ Regulation Regul 3, 11 B (6) (d)

²¹ Annexure B Part A, Regulations.

²² Annexure B Part B, Regulations.

²³ Annexure D, Regulations.

²⁴ Regulation 11D (2).

²⁵ Regulation 11D (1).

²⁶ Regulation 11G (a).