

**SOUTH AFRICA**

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Our ref: BEN GROOT/SOU5/0001

Date: 16 APRIL 2020

**SOUTH AFRICAN PROPERTY OWNERS' ASSOCIATION**

**ATT: NEIL GOPAL**

**VIA E-MAIL**

Dear Sir

Re: **IMPLICATIONS OF AMENDED LOCKDOWN REGULATIONS DATED 16 APRIL 2020**

1. We refer to the above as well as the further amended regulations issued by the Minister of Cooperative Government and Traditional Affairs, on 16 April 2020 ("the extended lockdown regulations"), which regulations contain various amendments of and additions to the regulations issued on 18 March 2020 ("the initial regulations") as previously amended. This letter should be read with our previous correspondence pertaining to the lockdown regulations, specifically our letter of 27 March 2020.
2. We wish to stress that the content hereof merely contains our interpretation of the regulations, based on the existing law, and in a manner that will be arguable in court.
3. As stated in our previous letter, these regulations carry the penalty of criminal sanction if disobeyed, and therefore landlords, tenants, and the like are to comply with these requirements. The applicable penalties have been amended to provide for imposition of either a fine or imprisonment not exceeding six months, or both a fine and imprisonment in the event of failure to comply with certain of the regulations. The news media also regularly reports on persons who have been arrested for transgression, or deemed transgression, of these regulations. It is therefore safer to err on the side of caution when taking any action that may be impacted by the regulations and amended regulations.
4. Firstly, it has now been formally declared that the lockdown will extend to 23h59 on Thursday 30 April 2020. As we suggested previously, it has now also been formally declared that the other regulations that applied prior to lockdown (social distancing, reduced hours for liquor sales and the like) will remain operational for the duration of the period of disaster.

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5. Also, schools and partial care facilities, such as day-care, creche, aftercare centres and the like, are to remain closed at least until 30 April 2020.
6. The sale of alcohol remains prohibited, irrespective of whether the seller has an on-consumption or off-consumption liquor license. Furthermore, it has now been specifically stated that the transportation of alcohol is prohibited, unless the alcohol is required for purposes of producing hand sanitizers, disinfectants, soap, or alcohol for industrial use and household cleaning products. Therefore, if a person is to be stopped and liquor is found in the vehicle, that will automatically constitute a breach of the regulations.
7. The only extension on trading and retail that has been provided in the amended regulations, is for hardware stores, and only to a very limited extent. Stores selling hardware products and vehicle components may only trade under the following circumstances:
  - 7.1. The sale of hardware, components and supplies to qualified traderspersons;
  - 7.2. The purpose of the purchase may only be in order to buy the necessary items in so as to effect emergency repairs at residential homes;
  - 7.3. The sale of hardware, components and supplies to any entity engaged in the provision of essential services (as defined) to any project related to the provision of water, electricity or any other essential services;
  - 7.4. Components for vehicles undergoing emergency repairs, only where such vehicle is used by a person engaged in essential services work;
  - 7.5. A register must be kept of all persons buying essential goods in the prescribed format, with the purchaser signing a declaration to confirm that those goods bought are bought in compliance with the regulations.
8. To the limited extent as set out above, hardware stores and vehicle repairers have been declared essential services.
9. Therefore, it is quite clear that hardware stores and sellers of automotive spares do not now have a blanket allowance to trade, but rather that they may only trade under very specific circumstances.
10. There are a number of other amendments contained in these amended regulations as well. Certain mining activities will also be allowed, under strict health and safety compliance regulations. Also, providers of ICT-services to entities engaged in essential services may continue trading. Therefore, as an example, an IT service provider supplying such services to a grocery store may still continue delivering such services, but it cannot provide those same services to a law liquor store, unless the service can be provided remotely, such as remote backups.
11. Importantly, trading hours have not been regulated yet, despite repeated requests by yourselves. We note, with dismay, that none of the proposals made by yourselves to government have been accepted by government, despite your continued engagement, and proper motivation. We suggest that your efforts in this regard be continued.

12. Lastly, we are aware of a number of bodies that are still continuing to lobby government to amend the regulations in various respects. To the best of our knowledge, none of these efforts have been successful, and it seems as if government's sole focus is on containment of the virus. We do, however, suggest that you continue with your attempts. In this way, we trust that a happy medium can be found between the need to contain the virus, and the need to keep the economy going as far as possible.
13. We trust that you find the above in order. Please do not hesitate to contact us, should you wish to discuss any aspect hereof.

Yours faithfully

*Ben Groot*

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