

15 May 2020

Dear Members,

Re: **COVID-19: DIRECTIONS PUBLISHED ON TUESDAY 14 MAY 2020 - e-Commerce and the Relocation of Residences and Businesses**

1. We refer to the latest directions issued by the Ministers of Trade, Industry and Competition as well as of Co-operative Government and Traditional Affairs on Thursday 14 May 2020, which directions pertain to e-commerce and the relocation of residences and businesses respectively.
2. In a very welcome turn of events, the Minister of Trade, Industry and Competition has now published directions to allow most e-commerce to continue, with immediate effect, and will remain in place for the duration of Alert Level 4.
3. E-commerce is defined in the directions as the buying and selling of goods using telephones and digital platforms, including the internet and mobile apps, and includes goods to be delivered by a courier or delivery service. These couriers may be formal couriers such as Postnet or Paxi, or more informal delivery services arranged by spaza shops.
4. The sale of all products via e-commerce channels is allowed, except for liquor, tobacco and vaping products. Therefore, even the sale of goods which may not be sold in traditional brick and mortar shops, such as toys and fiction books, may now be sold by way of e-commerce.
5. Retailers and wholesalers making use of e-commerce must of course adhere to the regulations regulating workplace safety under COVID-19, and employees may not share face masks, equipment and stationery. Importantly, the temperature of employees in this sector must be taken at the start of each shift, and then every four hours thereafter, i.e. in the middle of a shift and at the end thereof, in a normal 8 hour working day, and the records must be kept.
6. The following measures are specifically put in place:
 - 6.1. Retailers are to give prominence to products manufactured in South Africa;
 - 6.2. As many payment options as possible must be provided so as to allow poorer people access to these goods;

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- 6.3. All goods must be sanitized, and, when packaging the goods for delivery, instructions should be included on the safe disinfection of the goods before use;
 - 6.4. Social distancing should be adhered to when the couriers collect goods for delivery from the retailer as well as when the goods are delivered to the customer;
 - 6.5. Courier and delivery personnel must be provided with their own hand sanitiser and disinfectant wipes, which must be replenished daily;
 - 6.6. Customers must wear a cloth mask when receiving goods from the delivery personnel.
7. In our view, therefore, any retailer would be well-advised to explore and set up some form of e-commerce with immediate effect. The regulations are wide enough to allow for even informal e-commerce, and clearly allows for deliveries in a more informal manner. For example, someone who manufactures cloth masks at home, can easily, and at no cost, create a Facebook page to advertise the goods, and may then arrange with someone nearby, such as a person who can only return to work under Alert Level 3, to attend to the deliveries. In this manner, the economy can be restarted slowly but surely.
 8. The Minister of Co-operative Government and Traditional Affairs has also published new directions allowing for the movement of persons and goods. The previous directions, which only allowed for the relocation of people for residential purposes for a window period of 7 May to 7 June 2020, has been repealed.
 9. Importantly, these directions no longer only allow for relocation of residences. The directions now allow for people and their goods to move across municipal and provincial boundaries in any of the following circumstances:
 - 9.1. To relocate their place of residence, in which event copies of both lease agreements, or the deed of transfer, or proof of residence and occupation date are required;
 - 9.2. To move as a result of domestic violence, in which event a copy of the domestic violence order must be provided; or
 - 9.3. To relocate their business, in which event proof of change of the business address is required.



10. Persons who wish to relocate as set out above must still obtain a permit from the local police station in the prescribed format, but permits that have already been issued under the previous directions remain valid. This format has changed somewhat from the previous permit, to allow for the new categories of movement.
11. The movement and transport of goods that are permitted, relates to “household or office furniture or effects”, which seems to be a very poor definition. We would argue that these directions would allow any business to relocate, and would include the relocation of all business assets, including furniture, stock, equipment, and the like, as “effects” as used above can be interpreted in a very wide sense, in order to give efficient and practical effect to the regulations. This is in line with the method of interpretation used by the courts in recent years, to the effect that documents must not be interpreted in an overly technical manner, but rather in order to give efficacy thereto.
12. We trust that the foregoing bring some clarity with regard to the directions that have been issued. For any questions hereon, please contact Ben Groot of GVS Law on 083 287 0909 or ben@gvs.law .

Kind Regards

N Gopal

Chief Executive Officer