
GOVERNMENT NOTICE

DEPARTMENT OF EMPLOYMENT AND LABOUR

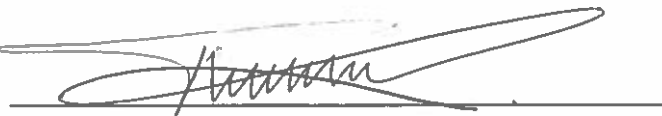
COVID-19 DIRECTION ON LABOUR RELATIONS, MAY 2020

No. R.

2020

DIRECTION BY THE MINISTER OF EMPLOYMENT AND LABOUR IN TERMS OF REGULATION 4(10) ISSUED BY THE MINISTER OF COOPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS IN TERMS OF SECTION 27 (2) OF THE DISASTER MANAGEMENT ACT, 2002 (ACT NO. 57 OF 2002)

I, Thembelani Waltermade Nxesi, the Minister of Employment and Labour, do hereby issue the set out in the Schedule in terms of Regulation 4(10) of the Regulations issued by the Minister of Cooperative Governance and Traditional Affairs in terms of section 27 (2) of the Disaster Management Act, 2002 (Act No. 57 of 2002) and published on 29 April 2020 in Notice No. R. 480 of *Government Gazette* No. 43258.



MR T W NXESI, MP

MINISTER OF EMPLOYMENT AND LABOUR

DATE: 11/05/2020

SCHEDULE

COVID-19 DIRECTION ON LABOUR RELATIONS, MAY 2020

**Issued by the Minister of Employment and Labour in terms of Regulation
4(10) of the National Disaster Regulations**

PREAMBLE

1. The National Disaster Regulations published on 29 April 2020 provided for the essential staff of trade unions, subject to Directions, to perform work outside the home and to travel to and from work subject to strict health protocols, and social distancing rules in respect of workers in an essential or permitted service as determined by the National Disaster Regulations.

2. As South Africa prepares for the unlocking of the economy, trade unions and employer organisations have a critical role in -
 - 2.1 adapting the workplace to prevent and combat the spread of COVID-19;

 - 2.2 educating their members as to dangers of COVID-19 and the need to adapt the workplace;

 - 2.3 ensuring compliance with the measures giving effect to the National Disaster Regulations, Directions and employer risk assessments; and

 - 2.4 resolving disputes that may arise because of the adaptation of the

workplace.

3. Nothing in the Disaster Management Act, 2002 (Act No 57 of 2002) or its Regulations affect the fundamental rights of employees, employers, trade unions and employer organisations in section 23 of the Constitution, as given effect to by the Labour Relations Act, 1995 (Act No 66 of 1995), subject to those rights being exercised in a manner that accords with the measures introduced under the National Disaster Regulations to prevent and combat the spread of COVID-19.

DEFINITIONS

4. For the purposes of this Direction, any term to which a meaning has been assigned in the LRA has that meaning, unless the context indicates otherwise, and-

“Health and Safety Direction” means the COVID-19 Direction on Health and Safety in the Workplace published in GG 43257 on 29 April 2020;

“Employers’ organisation” means an employer organisation registered in terms of the LRA and includes a federation of registered employer organisations;

“LRA” means the Labour Relations Act, 1995 (Act No 66 of 1995);

“National Disaster Regulations” means the Regulations promulgated in terms of GG 43258 of 29 April 2020 in respect of Alert Level 4;

“Official” includes an office bearer;

“Trade union” means a trade union registered in terms of the LRA and a federation of registered trade unions;

“Trade union representatives” includes any recognised shop or shaft steward.

APPLICATION

5. This Direction remains in force for the duration of the national state of disaster.
6. Clauses 14 to 20 in respect of employer organisations come into force as soon as the National Disaster Regulations are amended to permit essential staff of employer organisations to perform work for employers covered by Alert Level 4.

TRADE UNIONS

7. In order to return to work, the trade union must take measures to make its offices COVID-19 ready in a manner that avoids or reduces risks of infection in accordance with the requirements of the National Disaster Regulations and the Health and Safety Direction.
8. Trade union leadership and executive meetings must be conducted online.
9. The trade union must take measures as far as may be reasonably practicable to enable trade union officials to work from home.
10. Trade union officials, when necessary, may attend the following meetings if it is not possible to do so online and only with the permission of the

General Secretary or Chairperson of the trade union:

- 10.1 Meetings at the workplace including those with trade union representatives or individual employees;
 - 10.2 meetings with employers or representatives of employer organisations;
 - 10.3 meetings with legal practitioners representing the union;
 - 10.4 conciliation and arbitration hearings;
 - 10.5 court hearings.
11. All persons attending the meetings referred to in clause 10 must observe the rules relating to the wearing of masks, social distance rules and any other COVID-19 rules specific to the venue.
 12. Enforcement officers under the National Disaster Regulations must, in terms of a permit issued in terms of clause 10, allow trade union officials, to commute between their places of residence, offices, employer's premises, bargaining councils, the CCMA and the courts for performing essential trade union work .
 13. The General Secretary or the Chairperson of the trade union may issue a permit to officials of the trade union -
 - 13.1 authorising them to perform their functions in terms of this Direction; and
 - 13.2 if it is in accordance with Form 2 in Annexure A of the National Disaster Regulations.

Employers' organisations

14. In order to return to work, the employers' organisation must take measures to make its offices COVID-19 ready in a manner that avoids or reduces risks of infection in accordance with the requirements of the National Disaster Regulations and the Health and Safety Direction.
15. Meetings of the executive or leadership of employers' organisations must be conducted online.
16. The employer's organisation must take measures as far as may be reasonably practicable to enable its officials to work from home.
17. Officials of employers' organisations, when necessary, may attend the following meetings if it is not possible to do so online and only with the permission of the head of that organisation:
 - 17.1 Meetings at the workplace with the employer;
 - 17.2. meetings with trade union representatives;
 - 17.3 meetings with legal practitioners representing the organisation;
 - 17.3. conciliation and arbitration hearings;
 - 17.4. court hearings.
18. All persons attending the meetings referred to in clause 17 must observe the rules relating to the wearing of masks, social distance rules and any other COVID-19 rules specific to the venue.
19. Enforcement officers under the National Disaster Regulations must, in terms of a permit issued in terms of clause 20, allow officials of employers'

organisations to commute between their places of residence, offices, employer's premises, bargaining councils, the CCMA and the courts for performing essential employer organisation work.

20. The head of employers' organisation may issue a permit to officials of the employers' organisation-

20.1. authorising them to perform their functions in terms of this Direction; and

20.2. if it is in accordance with Form 2 in Annexure A of the National Disaster Regulations.

Employers

21. Employers must, subject to available resources, provide shop stewards with online access to their trade union, a bargaining council with jurisdiction, CCMA and the courts.

22. Every employer must provide safe facilities for the following meetings in accordance with existing procedures, the Direction and its COVID-19 rules:

22.1. Meetings of trade union representatives provided there is sufficient space for social distancing;

22.2. meetings of any committee or forum established under any labour or employment law;

22.3. meetings between a trade union official and trade union representatives or employees in the workplace provided there is sufficient space for social distancing.