



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

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Proclamation

by the

PRESIDENT OF THE REPUBLIC OF NAMIBIA

No. 17

2020

STAGE 2: STATE OF EMERGENCY - COVID-19 REGULATIONS: NAMIBIAN CONSTITUTION

Under the powers vested in me by Sub-Article (5) of Article 26 of the Namibian Constitution, I, subsequent to having declared by Proclamation No. 7 of 18 March of 2020 that a State of Emergency exists in the whole of Namibia following a worldwide outbreak of the disease known as Coronavirus Disease 2019 (COVID-19), make the regulations set out in the Schedule.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek, this 4th day of May, Two Thousand and Twenty.

HAGE G. GEINGOB

President

BY ORDER OF THE PRESIDENT

Definitions

1. In these regulations -

“authorised officer” means -

- (a) the Director referred to in section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);
- (b) a member of the Namibian Police as defined in section 1 of the Police Act, 1990 (Act No. 19 of 1990);
- (c) a member of the municipal police service referred to in section 43C of the Police Act, 1990 (Act No. 19 of 1990);
- (c) a member of the Defence Force as defined in section 1 of the Defence Act, 2002 (Act No.1 of 2002);
- (d) a correctional officer as defined in section 1 of the Correctional Service Act, 2012 (Act No. 9 of 2012);
- (e) an immigration officer as defined in section 1 of the Immigration Control Act, 1993 (Act No. 7 of 1993);
- (f) an officer as defined in section 1 of Customs and Excise Act, 1998 (Act No. 20 of 1998) charged with the responsibility of enforcing the customs and excise legislation; and
- (g) any other staff member designated or person appointed as an authorised officer under section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);

“COVID-19” means the coronavirus disease of 2019 which is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“head of the institution” means the administrative head of a public institution and the chief executive officer or the equivalent of a chief executive officer of a private institution;

“higher education institution” means a higher education institution as defined in section 1 of the Higher Education Act, 2003 (Act No. 26 of 2003);

“Immigration Control Act” means the Immigration Control Act, 1993 (Act No.7 of 1993);

“liquor” means any spirits, wine, beer, cider or other beverage, which contains alcohol by weight or volume, intended for human consumption but excludes any substance that contains alcohol but used or is intended to be used for medicinal purposes;

“mask” means a covering made of any suitable material that covers a person’s nose and mouth for purposes of preventing the transmission of the coronavirus;

“quarantine” means separating asymptomatic individuals potentially exposed to COVID-19 from non-exposed individuals in such a manner as to prevent the possible spread of an infection or contamination;

“school” means a school as defined in section 1 of the Education Act, 2001 (Act No. 16 of 2001);

“specified period” means the period referred to in regulation 3 and indicating Stage 2 of the State of Emergency as determined by Cabinet;

“these regulations” include directions and directives issued under regulation 14 and 15;

“vehicle” means a motor vehicle, a locomotive, an aircraft or a vessel; and

“vulnerable employee” means expecting mothers, nursing mothers, employees with pre-existing conditions such as a heart disease, high blood pressure, respiratory problems, obesity, diabetes, tuberculosis or a condition which might compromise the immune system of the employee.

Application of regulations

2. (1) These regulations apply to the whole of Namibia during the specified period.

(2) If there is a conflict between the provisions of these regulations and any other law the provisions of these regulations prevail.

Specified period

3. The specified period starts from 23:59 on 4 May 2020 and ends at 23:59 on 1 June 2020.

Closure of schools and higher education institutions

4. All schools and higher education institutions in Namibia must remain closed during the specified period, but the closure of schools and higher education institutions does not prevent -

- (a) in the case of a state school, the relevant minister responsible for education; and
- (b) in any other case, the governing bodies of schools and institutions,

from employing other alternative forms of learning that do not involve the physical presence of learners or students at the schools or institutions.

Wearing of masks

5. (1) During the specified period every person must wear a mask in a public place.

(2) An authorised officer may instruct a person who is not wearing a mask as contemplated in subregulation (1) to wear a mask or to leave the public place .

(3) A person who refuses to comply with an instruction under subregulation (2) commits an offence and on conviction is liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Gatherings

6. (1) For the purpose of this regulation, “gathering” means a group of more than 10 persons who meet for a common purpose.

(2) During the specified period, all gatherings are prohibited, except where -

- (a) all persons at the gathering are members of the same household gathered at their place of residence.
- (b) persons are gathered at their workplace;

- (c) the gathering is by a government institution at national, regional or local level or the Cabinet or the Parliament for purposes of its normal operations;
- (d) the gathering is for purposes of court or tribunal proceedings; or
- (e) a group of persons independently or coincidentally find themselves at a specific place.

(3) Persons who gather in the circumstances referred to in subregulation (2) must at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.

(4) An authorised officer may instruct a gathering or a group of more than ten persons, other than a gathering referred to in subregulation (2), to disperse and may use all reasonable measures to cause a gathering or group to disperse.

(5) A person who facilitates, instigates or organises a gathering commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(6) A person who fails or refuses to obey an instruction issued under subregulation (4) commits an offence and is on conviction liable to the penalties provided for in subregulation (5).

Prohibitions relating to liquor

7. (1) During the specified period, a person may not -

- (a) sell liquor; or
- (b) purchase liquor.

(2) Despite subregulation (1), buying and selling of liquor is permitted for purposes of -

- (a) exportation to another country; or
- (b) importation into Namibia and subsequent exportation of the imported liquor,

during the normal course of business.

(3) A person who contravenes subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(4) An authorised officer who is a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) may, without a warrant, seize any liquor that is suspected to have been sold or has been purchased in contravention of this regulation and the seized liquor must, subject to changes required in the context, be dealt with in accordance with the provisions of the Liquor Act, 1998 (Act No. 6 of 1998) as if it were liquor seized in terms of that Act.

Restrictions relating to certain businesses, operations and activities

8. (1) Subject to the provisions of subregulation (3), all businesses, operations and activities, except those listed in subregulation (2), are permitted during the specified period.

(2) During the specified period, the following businesses, operations and activities are prohibited:

- (a) cinemas and theatres;
- (b) contact sports and sporting events;
- (c) casinos and gambling houses;
- (d) nightclubs;
- (e) liquor outlets;
- (f) bars and shebeens;
- (g) entertainment events and concerts;
- (h) gyms and exercise centres; and
- (i) seminars, conferences, workshops and summits, except for seminars, conferences, workshops or summits where the number of persons in attendance does not exceed 10.

(3) Accommodation establishments and other businesses including kapana selling businesses which in the course of business or trade or commerce sell food items must operate on a take away basis.

(4) Heads of institutions of businesses, operations and activities which are allowed during the specified period must ensure that the persons accessing their services at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.

(5) A person who contravenes subregulation (2) or (3) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment

Additional provisions relating to workplace

9. (1) Heads of institutions are encouraged to allow vulnerable employees to work from home, subject to suitable arrangements between the employer and employee.

(2) Heads of institutions are encouraged to provide masks to their employees.

(3) Heads of institutions must ensure that their employees at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.

Prohibition relating to entry into Namibia

10. (1) Subject to subregulation (2) and (3), every person who -

- (a) is not a Namibian citizen;
- (b) does not hold a permanent residence permit for Namibia;
- (c) is not domiciled in Namibia or otherwise lawfully resident in Namibia;
- (d) is not part of a team of medical personnel that is required to provide medical services in Namibia to alleviate the COVID-19 pandemic;

- (e) is not a member of the diplomatic or consular staff of a country that is accredited to Namibia or in transit to another country; or
- (f) is not a spouse or child of a person referred to in paragraphs (a) to (e),

must, during the specified period, be refused entry into Namibia under section 10 of the Immigration Control Act.

- (2) Subject to the Immigration Control Act, a person who -
 - (a) is a driver of a motor vehicle, an operator of a locomotive, a pilot in command of an aircraft or a captain or master of a shipping vessel transporting goods;
 - (b) performs any service relating to the operation of the vehicle referred to in paragraph (a); or
 - (c) performs a necessary service relating to the transportation of goods referred to in paragraph (a),

in the course of business or trade or commerce may be allowed to enter Namibia if such entry is otherwise lawful.

(3) Despite the provisions of subregulation (1), a person who does not fall under any of the categories referred to in that subregulation may be allowed to enter into Namibia if that person complies with or meets such requirements as may be determined by the Minister responsible for immigration in directives issued under these regulations or pursuant to the Immigration Control Act.

Quarantine

11. (1) Any person who enters Namibia as contemplated in regulation 10, is subject to quarantine requirements as may be set out in directives issued under these regulations.

(2) The provisions of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015), brought into force by regulation 13, relating to the enforcement of quarantine, are applicable to a person referred to in subregulation (1).

(3) A person who unreasonably refuses to be quarantined as specified in subregulation (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Restrictions relating to transportation of goods and persons

12. (1) During the specified period public transportation operations relating to transport of goods and persons may operate within Namibia.

(2) Despite subregulation (1), public transportation operations may operate for purposes of transportation of goods, within Namibia or outside Namibia, where this is done in the course of business or trade or commerce.

(3) Owners and operators of public transportation must ensure that their operations, their employees and persons accessing their services at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in and under these regulations.

(4) A person who contravenes subregulation (1) or (2) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Applicability of Act No. 1 of 2015

13. (1) Despite the provisions of section 96 of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015), the provisions of Part 3 of that Act are, for purposes of these regulations, brought into operation.

(2) In order to attain the objectives of subregulation (1), any provision of the Public Health Act, 1919 (Act No. 36 of 1919) that is inconsistent with any provision of Part 3 of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015) is suspended to the extent of the inconsistency during the period that this regulation is in force.

(3) Despite the provisions of section 22(2) of the Public and Environmental Health Act, 2015 (Act No. 1 of 2015) the disease caused by the coronavirus known as COVID-19 is deemed to be a formidable epidemic disease and it is declared that the threatened outbreak of COVID-19 necessitates the measures referred to in section 29(1) of that Act.

Judicial proceedings

14. (1) For the purpose of combating, preventing and suppressing the spread of COVID-19, the Chief Justice may issue directions in respect of all courts in Namibia.

(2) Directions issued under subregulation (1) must be regarded, and have the effect, as directives issued under regulation 15.

Directives

15. (1) The President may authorise a minister to issue directives for the purpose of -

- (a) supplementing or amplifying on any provision of these regulations; or
- (b) ensuring that the objectives of these regulations are attained.

(2) A directive issued under this regulation has the force of law and may deal with any matter that is within the ambit of any legislation or other law that is administered by the minister concerned.

(3) Any directive issued under this regulation must be -

- (a) referred to the Attorney-General for approval; and
- (b) published in the *Gazette*,

for it to have the force of law.

(4) A directive issued in terms of these regulations becomes effective on the date of its publication in the *Gazette*.

(5) A directive may create offences for contraventions of, or failure to comply with, the directive and provide for penalties of a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Offences and penalties

16. (1) A person commits an offence if that person -

- (a) not being an authorised officer, by words, conduct or demeanour falsely represents himself or herself to be an authorised officer;
- (b) hinders, obstructs or improperly attempts to influence an authorised officer when exercising or performing a power or function conferred or imposed by or under these regulations or another law;
- (c) furnishes or gives false or misleading information to an authorised officer; or
- (d) does anything calculated to improperly influence an authorised officer concerning a matter connected with the functions of the authorised officer.

(2) A person commits an offence if that person, through any form of media, including social media, knowingly or without having taken reasonable steps to ascertain the correctness of any information -

- (a) publishes any false or misleading statement about the COVID-19 status of any person; or
- (b) publishes any false or misleading statement, in connection with measures to combat, prevent and suppress COVID-19 as specified in and under these regulations.

(3) A person convicted of an offence in terms of subregulation (1) or (2) is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

Savings and transitional provisions

17. (1) Anything done under the provisions of the State of Emergency Regulations published under Proclamation No. 9 of 28 March 2020 must be regarded as having been done under a corresponding provision of these regulations.

(2) A -

- (a) direction that was issued under regulation 13 or a directive that was issued under regulation 14 of the regulations referred to in subregulation (1) -
 - (i) must be regarded as having been issued under regulation 14 or 15 of these regulations; and
 - (ii) continues to apply for the specified period unless repealed by the Chief Justice or the relevant minister.
- (b) reference, in a direction or a directive referred to in paragraph (a), to a “period of lockdown” is on the commencement of these regulations regarded to be a reference to the “specified period”.

Regulations to bind State

18. These regulations bind the State.
