

South Africa

Disaster Management Act, 2002

## Directions regarding correctional centres and remand detention facilities

Government Notice 460 of 2020

Legislation as at 9 April 2020

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Directions regarding correctional centres and remand detention facilities

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### Disaster Management Act, 2002

# Directions regarding correctional centres and remand detention facilities

## Government Notice 460 of 2020

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Assented to on 9 April 2020

Commenced on 9 April 2020

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*[Repealed by [Directions to Address, Prevent and Combat the Spread of COVID-19 in Correctional Centres and Remand Detention Facilities \(Government Notice of 2020\)](#) on 22 June 2020]*

I, Ronald Ozzy Lamola, Minister of Justice and Correctional Services, in terms of regulation 10(2)(a) of the Regulations issued under section 27(2) of the Disaster Management Act, 2002 ([Act No. 57 of 2002](#)), as published under Government Gazette No. 43107, Government Notice No. 318 of 18 March 2020, as amended, issue the Directions in the Schedule to address, prevent and combat the spread of COVID-19 in all Correctional Centres and Remand Detention Facilities in the Republic of South Africa.

Mr. Ronald Ozzy Lamola, MP

Minister of Justice and Correctional Services

### 1. Definitions

In these directions, a word or expression bears the meaning assigned to it in the Correctional Services Act, 1998 ([Act No. 111 of 1998](#)) and in the regulations published on 18 March 2020 by the Minister of Cooperative Government and Traditional Affairs in terms section 27(2) of the Disaster Management Act, 2002, as amended on 25 March 2020, 26 March 2020 and 2 April 2020, respectively, and unless the context otherwise indicates—

**"Chief Operations Commissioner"** means a correctional official designated by the National Commissioner to manage and control all operational matters with the Department;

**"correctional centre"** means any place established under the Correctional Services Act, 1998 ([Act No. 111 of 1998](#)) as a place for the reception, detention, confinement, training or treatment of persons liable to detention in custody or to placement under protective custody, and all land, outbuildings and premises adjacent to any such place and used in connection therewith and all land, branches, outstations, camps, buildings, premises or places to which any such persons have been sent for the purpose of incarceration, detention, protection, labour, treatment or otherwise, and all quarters of correctional officials used in connection with any such correctional centre;

**"Correctional Supervision and Parole Board"** means a board appointed by the Minister under section 74 of the CSA;

**"COVID-19"** means the Novel Coronavirus (2019-nCov), which is an infectious disease caused by a virus, which emerged during 2019 and was declared a global pandemic by the World Health Organization during the year 2020 that has previously not been scientifically identified in humans;

**"Department"** means the Department of Correctional Services;

**"day parole"** means a form of community corrections contemplated in section 54 of the CSA;

**"Head of Centre"** means a correctional official designated by the National Commissioner to manage and control a particular correctional centre or remand detention facility;

**"inmate"** means any person, whether convicted or not, who is detained in custody in any correctional centre or remand detention facility or who is being transferred in custody or is *en route* from one correctional centre or remand detention facility to another correctional centre or remand detention facility;

**"lockdown"** means the period from 23h59 on Thursday, 26 March 2020, until 23h59 on Thursday 16 April 2020, or any extended period to be determined and during which time the movement of persons is restricted;

**"movement"** means entering or leaving a correctional centre or remand detention facility by sentenced offenders and remand detainees;

**"National Commissioner"** means the National Commissioner of Correctional Services as contemplated section 3(3) of the CSA;

**"parole"** means a form of community corrections contemplated in Chapter VI of the CSA;

**"remand detainee"** -

- (a) Means a person detained in a remand detention facility awaiting the finalisation of his or her trial, whether by acquittal or sentence or is not already serving a prior sentence; and
- (b) Includes a person contemplated in section 9 of the Extradition Act, 1962 ([Act No. 67 of 1962](#)), detained for the purposes of extradition;

**"remand detention facility"** means a place established under the CSA as a place for the reception, detention or confinement of a person liable to detention in custody, all land, branches, outstations, camps, buildings, premises or places to which any such persons have been sent for the purpose of detention, protection, treatment or otherwise, and all quarters used by correctional officials in connection with any such remand detention facility;

**"sentenced offender"** means a convicted person sentenced to incarceration or correctional supervision;

**"the Regulations"** means the regulations issued in terms of section 27(2) of the Disaster Management Act, 2002 ([Act No. 57 of 2002](#)) and published under Government Notice No. R. 318 in Government Gazette No. 43107 of 18 March 2020, as amended on 25 March 2020, 26 March 2020 and 2 April 2020, respectively. .

## 2. Restrictions regarding placement, movement and release of inmates

- (1) Regarding those sentenced offenders who are illegal foreign nationals and whose sentences will expire during the lockdown period, the following provisions apply during the lockdown period:
  - (a) These categories of sentenced offenders will be released into temporary deportation facilities as designated by the Department of Home Affairs and detained in these facilities;
  - (b) the process of confirmation of detention for purpose of deportation will be performed during this period;
  - (c) temporary deportation facilities will be identified, by the Department, at current correctional centres and the resources of the Department will be utilised for this purpose. The Department shall provide details of the facilities identified to the Department of Home Affairs, who in turn will follow due processes to designate these facilities accordingly.
  - (d) after the period of lockdown, these detainees will be released into the facilities of the Department of Home Affairs for further processing in terms of the applicable legislation.

- (2) Day parole granted to sentenced offenders is hereby suspended during the lockdown period. Such sentenced offenders must be incarcerated for the duration of the lockdown period, unless the day parolee is rendering essential services.
- (3) The transfer of inmates must be referred to the Chief Operations Commissioner for consideration.

### **3. Referral of remand detainees to court for review of bail and consideration of length of detention**

The referral of remand detainees to court for consideration of their length of detention and bail review will continue as it assists with the reduction management of the population of remand detainees.

### **4. Communication between inmates and legal representatives**

- (1) Legal representatives and inmates may, in urgent matters, communicate telephonically through the Head of Centre, where circumstances and resources permit.
- (2) Heads of Centres must designate areas within their facilities to be used by inmates for this purpose.

### **5. Duration and commencement**

- (1) Unless circumstances otherwise dictate, the directions will apply during the lockdown period, and may be varied as circumstances require.
- (2) These directions come into operation on the date of publication in the *Government Gazette*.