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Date :26 March 2020

EDITION 2 – **KEY INSERTIONS APPEAR IN RED**

(Edition 1 was based solely on the President's statement. Edition 2, includes more detail as set out in the Regulations released by the Minister yesterday late afternoon.)

IMPORTANT NOTE FOR SECTIONAL TITLE SCHEMES

MANAGEMENT RULE 30 (c)

The body corporate (represented by the trustees) must take all reasonable steps to ensure that an occupier does not contravene any law.

IMPORTANT NOTE FOR ALL COMMUNITY SCHEMES

REGULATION 11G

Any person who contravenes regulation 11B (1) shall be guilty of an offence and on conviction, liable to a fine or imprisonment not exceeding 6 months or both.

11B (1) (i) – For the period of the lockdown, every person is confined to his or her place of residence unless strictly for the purpose of performing an essential service, obtaining essential goods or service, collecting a social grant, or seeking emergency, life-saving, or chronic medical attention.

11B (1) (ii, iii and iv) – Not quoted here.

Dear Community Scheme Occupier

(Sectional Title, HOA, Retirement and Shareblock Schemes)

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RE: COMMUNITY SCHEME MEASURES DURING LOCKDOWN

1. Our firm has specialised in the Law of Community Schemes for over 20 years. Below please find our legal opinion, based on the President's statement on Monday 23 March 2020 and the Disaster Management Regulations 25 March 2020 (the Regulations) and their application to living in a community scheme during this lockdown period.

2. **KEY ITEMS OF THE PRESIDENT'S STATEMENT:**

2.1. *"From midnight on Thursday 26 March until midnight on Thursday 16 April, all South Africans will have to stay at home.*

2.2. *The categories of people who will be exempted from this lockdown are the following: health workers in the public and private sectors, emergency personnel, those in security services – such as the police, traffic officers, military medical personnel, soldiers – and other persons necessary for our response to the pandemic.*

2.3. *Individuals will not be allowed to leave their homes except under strictly controlled circumstances, such as to seek medical care, buy food, medicine and other supplies or collect a social grant.*

2.4. *All shops and businesses will be closed, except for pharmacies, laboratories, banks, essential financial and payment services, including the JSE, supermarkets, petrol stations and health care providers".*

(The underlining's are our emphasis)

2A. **KEY ITEMS OF THE DISASTER MANAGEMENT REGULATIONS:**

2A.1 For the period of the lockdown, every person is confined to his/her place of residence, unless strictly:

- To perform an essential service – listed in annexure B to the Regulation's, attached hereto;
- To obtain essential goods – listed in annexure B to the Regulation's attached hereto;n
- To obtain an essential service – listed in annexure B to the Regulation's attached hereto.

APPLICATION OF THE PRESIDENT'S STATEMENT AND THE REGULATIONS TO THOSE LIVING IN A COMMUNITY SCHEME

3. COMMUNITY SCHEMES AMENITIES

3.1. Amenities such as the complex pool, playground, club house, gym and other amenities on the common property may NOT be used in any manner.

3.2. All these amenities should be locked, signage placed thereon prohibiting access and usage. This must be enforced by the trustees.

3.3. Whether occupiers having no private garden and having a dog, can walk the dogs or not in the common property is unclear. Each complex's trustees should determine this based on owners input and if allowed, such walk should be rostered and be by a single occupier and single household member.

3.4. Paragraph 3.3 above will apply equally to an occupier with no dogs who wish to walk themselves.

4. COMPLEX STAFF AND OCCUPIER'S STAFF

4.1. Neither the complex, nor the occupiers are allowed to have any staff access and/or carry out their duties on any part of the complex including the units.

4.2. Access to the complex including the units by these parties must not be allowed and signage should be put up to this effect. This must be enforced by the trustees.

4.3 An exception to this being occupiers requiring home medical treatment i.e. a nurse. If the nurse/other essential service provider is not fully residing with the occupier, the nurse's employer will have to obtain for her an issued permit to commute. This is obtained from the Department of Trade, Industry and Competition's (DTIC) website. A template of the permit is listed in annexure C to the Regulation's.

4.4 Paragraph 4.3 above will apply equally to a domestic worker or family providing an essential service like child care or care of elderly persons.

5. DELIVERIES TO THE COMPLEX

5.1. Only deliveries of groceries and pharmaceuticals, being essential goods will be allowed to be collected by the occupiers from the guardhouse/street gate of the complex or delivered to the unit's front door. No other deliveries will be allowed to be collected/delivered, including take away food.

5.2. Arrangements contrary to the above must not be allowed. Signage should be put up to this effect. This must be enforced by the trustees.

6. EMERGENCY REPAIRS

6.1. No repairmen will be allowed on the complex premises at all for any repairs to the common property or units, unless such repairs are for the essential services referred to in Annexure B and the person effecting such repairs has a permit issued by the DTIC.

6.2. Access to the complex by other parties must not be allowed and signage should be put up to this effect. This must be enforced by the trustees.

7. VISITORS AND LEAVING THE COMPLEX

7.1. No occupiers may have any visitors (from outside the complex) on any part of the complex premises including the units.

7.2. No occupiers may have any visitors (from inside the complex) in their units.

7.3. Occupiers may only leave their units to purchase essential goods and acquire essential services, set out in Annexure B and hence owners cannot also gather on the common property or near thereto.

7.4. Access to the complex/units by these parties must not be allowed and signage should be put up to this effect. This must be enforced by the trustees.

8. OCCUPIERS WHO HAVE CONTRACTED COVID-19

8.1 Regulation 4 paraphrased provides that no person with a clinical case (a patient presenting the signs and symptoms) or a laboratory confirmed case (a patient

diagnosed through a department of Health approved laboratory diagnostic method) of COVID-19, may refuse to consent to:

8.1.1 submission to a medical examination and the taking of a medical sample by a person authorized in law;

8.1.2 be admitted to a health establishment, quarantine or an isolation site;

8.1.3 submission to treatment, isolation or quarantine to prevent transmission.

8.2 Regulation 4 paraphrased continues to provide that if a person does not comply with the instruction of an enforcement officer (SAPS and SANDF), then that person must be placed in isolation or quarantine for 48 hours, pending a warrant being issued by a competent court, applied for by an enforcement officer, for a medical examination.

8.3 For assistance, the COVID-19 hotline below may be dialed, or the SAPS contacted.

Yours faithfully

ALAN LEVY ATTORNEYS
(Electronically distributed and therefore unsigned)

ALA EMERGENCY ADVISE WHATSAPP HOTLINE: 081 742 9075

COVID-19 PUBLIC HOTLINE (FOR MEDICAL PURPOSES): 0800 029 999

ANNEXURE B
CATEGORISATION OF ESSENTIAL GOODS AND SERVICES DURING LOCKDOWN
Regulation 11A

A. GOODS

1. Food
   - (i) Any food product, including non-alcoholic beverages;
   - (ii) Animal food; and
   - (iii) Chemicals, packaging and ancillary products used in the production of any food product.
2. Cleaning and Hygiene Products
   - (i) Toilet Paper, sanitary pads, sanitary tampons, condoms;
   - (ii) Hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment; and
   - (iii) Chemicals, packaging and ancillary products used in the production of any of the above.
3. Medical:
   - (i) Medical and Hospital Supplies, equipment and personal protective equipment; and
   - (ii) Chemicals, packaging and ancillary products used in the production of any of the above.
4. Fuel, including coal and gas
5. Basic goods, including airtime and electricity.

B. SERVICES

Categories of essential services shall be confined to the following services:

1. Medical, Health (including Mental Health), Laboratory and Medical services;
2. Disaster Management, Fire Prevention, Fire Fighting and Emergency services;
3. Financial services necessary to maintain the functioning of the banking and payments environment, including the JSE and similar exchanges, as well as Insurance services;
4. Production and sale of the goods listed in category A, above;
5. Grocery stores, including spaza shops;
6. Electricity, water, gas and fuel production, supply and maintenance;
7. Critical jobs for essential government services as determined by Head of National or Provincial Departments in accordance with the guidance by the DPSA, including Social Grant Payments;
8. Birth and death certificates, and replacement identification documents;
9. Essential municipal services;
10. Care services and social relief of distress provided to older persons, mentally ill, persons with disabilities, the sick, and children;
11. Funeral services, including mortuaries;
12. Wildlife Management, Anti-poaching, Animal Care and Veterinary services;
13. Newspaper, broadcasting and telecommunication infrastructure and services;
14. Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector;
15. Cleaning, sanitation, sewerage, waste and refuse removal services;

16. Services related to the essential functioning of courts, judicial officers, the Master of the High Court, Sheriffs and legal practitioners required for those services;
17. Essential SARS services defined by the Commissioner of SARS;
18. Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services;
19. Postal services and courier services related to transport of medical products;
20. Private security services;
21. Air-traffic Navigation, Civil Aviation Authority, Cargo Shipping and dockyard services;
22. Gold, gold refinery, coal and essential mining;
23. Accommodation used for persons rendering essential services, quarantine, isolation and the lockdown;
24. Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment;
25. Transport services for persons rendering essential services and goods, and transportation of patients;
26. Services rendered by the Executive, members of Parliament, Members of the Provincial Legislature, Members of Local Councils, the Judiciary, traditional leaders and National Office Bearers of Political Parties represented in Parliament;
27. Commissioners of the South African Human Rights Commission, Gender Commission, and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, and the Public Protector and Deputy Public Protector; and
28. Transport and logistics in respect of essential goods as set out in A above to neighboring countries.