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**THE DEPUTY PROVINCIAL
COMMISSIONER: POLICING
SOUTH AFRICAN POLICE SERVICE
LIMPOPO PROVINCE**

0700

- A All Deputy Provincial Commissioners
South African Police Service
Limpopo Province
- B All Provincial Heads
South African Police Service
Limpopo Province
- C All Cluster Commanders
South African Police Service
Limpopo Province
- D All Station Commanders
South African Police Service
Limpopo Province
- E All Unit Commanders
South African Police Service
Limpopo Province

**ARREST FOR CONTRAVENTION OF THE COVID-19 REGULATIONS WHICH
ARE NOT OFFENCES IN TERMS OF THE REGULATIONS.**

A-E 1 INTRODUCTION

- 1.1 It has come to the attention of this office that members of the public are arrested for not wearing a cloth or other mask. It has further come to the attention that drivers of public transport vehicles are arrested for allowing passengers more than 70 % of the maximum loading capacity of the vehicle.

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1.2 The previous COVID-19 Regulations of 18 March 2020 in GN 318 in GG 43107 as amended were repealed and replaced with the regulations published in GN R.480 in GG 43258 dated 29 April 2020. It became in operation on 1 May 2020.

3 FAILURE TO COMPLY WITH CERTAIN REGULATIONS NOT AN OFFENCE

3.1 There are a number of regulations of which the contravention thereof are not criminal offences, they only render obligations to persons and entities. The following are examples of regulations of which the failure to comply, is not a criminal offence.

3.1.1 Wearing of cloth and other masks

3.1.1.1 Although the regulations specifically provide that every person must wear a mask, the failure to do so is not an offence and no person may be arrested for the contravention thereof.

3.1.2 Directives to persons in control of retail stores or institutions

3.1.2.1 The regulations provides that the persons in control of retail stores or institutions must:

- a) take steps to ensure that customers keep a distance of at least one and a half metres from each other, and that all directions in respect of health protocols and social distancing measures COVID-19, are adhered to,
- b) determine according to the floor space of the business the number of persons to be allowed in the premises of the building
- c) provide hand sanitisers to for use by the public at the entrance of the business,

3.1.2.2 The failure of a business owner to comply with the sub regulation is not an offence and no person may be arrested for such failure.

3.1.3 Directives to employers

3.1.3.1 The regulations render certain obligations to employers in order to prevent the spread of COVID-19 which include:

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- i) the development of a plan as per Annexure E of the regulations and the implementation thereof,
- ii) the adherence to the standards of hygiene and health protocols relating to COVID -19 at the workplace,
- iii) the provision of hand sanitisers to employees.

3.1.3.2 The failure to comply with these sub regulations is not an offence and no person may be arrested for such failure.

3.1.4 The regulations and directives dealing with public transport

3.1.4.1 The Regulations provides that the Minister of Transport may issue directives for the resumption of different modes of public transport. The mentioned minister issued directives in GN 493 dated 4 May 2020, dealing with the conditions regarding sanitation, time of operations and loading capacity of public transport vehicles. It for example directs that minibus Taxi's may not carry more than 70% of their maximum licenced passenger capacity and bussed are not permitted to carry more than 50% of their permissible passenger carrying capacity.

3.1.4.2 The failure to comply with any of the above-mentioned directives is not an offence and no person may be arrested for such failure.

4 REGULATIONS TO BE AMENDED.

4.1 Recommendations were made to COGTA for the amendment of the Regulations to make provision for the criminalization of the mentioned regulations and directives. Until the regulations are amended, if so amended, failure to comply with the mentioned regulations is not an offence.

5 CONSEQUENCES OF ARREST FOR FAILURE TO COMPLY WITH REGULATIONS WHICH ARE NOT OFFENCES.

5.1 When a person is arrested for failure to comply with a regulation of the COVID-19 regulations or a directive issued in terms of the regulations, which is not an offence, the arrest is unlawful. When an arrest is unlawful it is a cause for a civil claim against the SA Police Service.

5.2 The arrest of persons for the contravention of the regulations and directives mentioned above is not allowed and will be taken in a serious light. In case of a civil claim against the SA Police Service, members may be held liable for any loss incurred by the state.

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3 ATTACHMENTS

- 3.1 Attached to this letter is a list of offences in terms of the COVID Regulations. Every member must study the list and must ensure not to arrest a person for the contravention of any other COVID - 19 regulation not appearing in the list.



**BRIGADIER
ACTING PROVINCIAL HEAD LEGAL AND POLICY SERVICES
LIMPOPO PROVINCE
MR MAHLOROMELA**

Date: 2020/05/08

**SIGNED FOR AND BY INSTRUCTION OF MAJOR GENERAL
DEPUTY PROVINCIAL COMMISSIONER: POLICING
LIMPOPO PROVINCE
JP SCHEEPERS**

CAS DEFINITIONS: DISASTER MANAGEMENT ACT REGULATIONS, 2020

(in accordance with the Disaster Management Act Regulations promulgated on 29 April 2020)

Article/ Section	Beskrywing van misdryf / Description of offence
14(1)	Making of a misrepresentation that any person is infected with COVID-19
14(2)(a)	Publishing of any statement to deceive any other person about COVID-19
14(2)(b)	Publishing of any statement to deceive any other person about COVID-19 infection status of any person
14(2)(c)	Publishing of any statement to deceive any other person about any measure taken by government to address COVID-19
8(5)	Unauthorised disclosure of information in COVID-19 Tracing Database or obtained during contact tracing, read with Reg 14(4)(a)
8(9)	Failure by accommodation establishment to transmit to DG: Health, information on person staying there for inclusion in COVID-19 Tracing Database, read with Reg 14(4)(a)
8(10)	Failure by electronic communications service provider to comply with directions of DG: Health to give info for inclusion in COVID-19 Tracing Database read/w Reg 14(4)(a)
8(11)	Unauthorised use of information from electronic communications service provider in compliance with direction of DG: Health on COVID-19 Tracing Database, read Reg 14(4)(a)
8(17)	Failure to de-identify and destroy information on COVID-19 Tracing Database within 6 weeks after state of disaster has ended, read with Reg 14(4)(a)
8(18)	Failure to comply with a direction issued by the COVID-19 Designated Judge to protect the privacy of persons whose data has been collected, read with Reg 14(4)(a)
16(1)	Level 4: Failure by person to be confined to his or her residence, read with Reg 31(2)

16(2)	Level 4: Leave place of residence for other reason than allowed in Disaster Management Act Regulations, read with Reg 31(2)
16(3)	Level 4: Failure to be confined to place of residence between 8 pm and 5am without permit for essential/permitted service, attend to security/medical emergency, read with Reg 31(2)
16(4)	Level 4: Movement between provinces, metropolitan areas and districts other than allowed in Disaster Management Act Regulations, read with Reg 31(2)
19	Level 4: Eviction of person from land or home unless directed otherwise by court, read with Reg 31(2)
24(1)	Level 4: Opening place/premises to public where religious, cultural, sporting, entertainment, recreational, exhibitional / similar activities may take place, read with Reg 31(2)
24(2)	Level 4: Opening of place or premises which is normally open to the public or where people may gather, read with Reg 31(2)
26(1)	Level 4: Sale, dispensing and distribution of liquor, read with Reg 31(2)
26(2)	Level 4: Transportation of liquor, read with Reg 31(2)
27	Level 4: Sale of tobacco, tobacco products, e-cigarettes and related products, read with Reg 31(2)
28(3)	Level 4: Selling, by retail stores, of goods other than as provided for in the Table 1, read with reg 31(2)
31(1)(a)	Level 4: Convening of gathering, assembly, concourse/procession in/on public road or building, place/premises, wholly or partially in open air except workplace or normal residence
31(1)(b)	Level 4: Hinder/interfere or obstruct member of SAPS, SANDF or peace officer in execution of his/her powers or duties under the Disaster Management Act Regulations