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**IN THE HIGH COURT OF SOUTH AFRICA
GAUTENG DIVISION, PRETORIA**

CASE NO:

22802/20

In the matter between:

**THE SOUTH AFRICAN ARMS AND AMMUNITON
DEALERS ASSOCIATION NPO**

Applicant

and



**NATIONAL COMMISSIONER OF SOUTH
AFRICAN POLICE SERVICES**

First Respondent

**MAJOR GENERAL MAMOTHEI
HEAD FLASH**

Second Respondent

**LIEUTENANT GENERAL MD SEMPE
DIVISIONAL COMMISSIONER
VISIBLE POLICING**

Third Respondent

**BRIGADIER LJ MABULE
HEAD CENTRAL FIREARMS REGISTRY**

Fourth Respondent

MINISTER OF POLICE

Fifth Respondent

NOTICE OF URGENT APPLICATION

BE PLEASED TO TAKE NOTICE that application shall be made to the above Honourable Court, as a matter of urgency, **on 2 JUNE 2020**, at **10h00** or so soon thereafter as this application may be heard for an order in the following terms:

1. Dispensing with the normal rules and notice as required by Rule 6 of the above Honourable Court and allowing this application to be made as a matter of urgency.
2. That service of this application by email, WhatsApp message and by the Candidate Legal Practitioner of the Applicant's Attorney be accepted as proper service in terms of the provisions of Uniform Rule 6 as read with Rule 4(6);
3. For and order reviewing and setting aside alternatively, declaring the Second Respondent's directive dated 13th of May 2020, attached as Annexure **"A1"** to this Notice of Motion as invalid;
4. For an order ordering that any licensed firearm dealer may trade in accordance with the provisions of lockdown Level 4 and its regulations and that such dealers are entitled to be open and conduct business.
5. For an order compelling the First, Second and Third Respondents to compel with the Lockdown Regulations Level 4 Part O(2) of Table 1 that the Respondents must accept all licence applications including applications for new firearm licenses.

6. Cost of suit on the attorney and client scale.
7. Further and/or alternative relief.

BE PLEASED TO TAKE FURTHER NOTICE that the Founding Affidavit and the annexures thereto of **JONATHAN FOUCHÉ** will be used in support of this application.

TAKE FURTHER NOTE that the Applicants appoint the address of his attorneys of record below as address where all correspondence and process will be received in this matter.

TAKE FURTHER NOTICE THAT if you intend opposing the relief as applied for herein you are required:

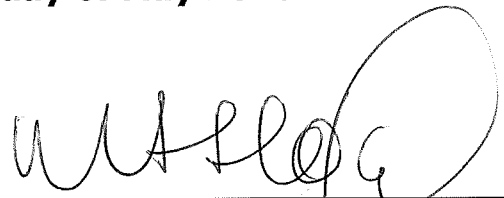
- (a) to notify the applicant's attorney of your intention to oppose the relief as applied for herein on or before **16h00 Monday 25 May 2020**;
- (b) you are further required to appoint in your notification of intention to oppose an address referred to in rule 6(5)(b) at which you will accept service of all documents in these proceedings;

(c) if you are so advised, file an answering affidavit before **16h00**
Tuesday 26 May 2020; and

(d) any service and filing of documentation shall be done by email to the Attorney of the other party by email, the receipt thereof which shall be acknowledged within 24 hours, and which document shall be uploaded on the Case Lines system at the same time as sending the email.

Should no Notice of Intention to Oppose be given, this application will be made on the date allocated on the front of this Notice of Motion at 10h00 or so soon thereafter as Counsel may be heard.

Dated at Woodmead on this the 21st day of May 2020.



M J HOOD & ASSOCIATES
Attorneys for Applicants
Molton Labe House, Unit 10
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1 Humber Street, Woodmead
Rivonia
Tel 011 234-7520/1
E-mail: martin@mjhood.co.za
Ref: M Hood/md/S0669

TO: THE REGISTRAR OF THE ABOVE
HONOURABLE COURT
PRETORIA

AND TO: **NATIONAL COMMISSIONER OF SOUTH AFRICAN POLICE SERVICES**

1st Respondent
7TH FLOOR, WACHTHUIS
231 PRETORIUS STREET
PRETORIA

AND TO: **MAJOR GENERAL MAMOTHETI HEAD FLASH**

2nd Respondent
546 STANZA BOPAPE STREET
SANCARDIA BUILDING
ARCADIA
PRETORIA

2020-05-22

AND TO: **LIEUTENANT GENERAL SAMPE SEMPE DIVISIONAL COMMISSIONER: VISIBLE POLICING**

3rd Respondent
546 STANZA BOPAPE STREET
SANCARDIA BUILDING
ARCADIA
PRETORIA

SOUTH AFRICAN POLICE SERVICE
DIVISIONAL COMMISSIONER

2020-05-22

VISIBLE POLICING

AND TO: **BRIGADIER LJ MABULE HEAD CENTRAL FIREARMS REGISTRY**

4th Respondent
CENTRAL FIREARMS REGISTRY
VERITAS BUILDING
VOLKSTEM AVENUE
PRETORIA

SUID-AFRIKAANSE POLISIEDIENS
VUURWAPENREGISTER
2020-05-22
PRETORIA
FIRE-ARM REGISTER
SOUTH AFRICAN POLICE SERVICE

AND TO:

THE MINISTER OF POLICE

5th RESPONDENT
7TH FLOOR, WACHTHUIS
231 PRETORIUS STREET
PRETORIA

MINISTRY OF
2020-05-22
PRETORIA
POLICE

AND TO:

THE STATE ATTORNEY
ON BEHALF OF RESPONDENTS
SALU BUILDING
255 SCHOEMAN STREET,
CNR ANDRIES STREET
PRETORIA

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6A

SUID-AFRIKAANSE POLISIEDIENS



SOUTH AFRICAN POLICE SERVICE

Private Bag X540, PRETORIA, 0001

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|-----------|------------------------------|
| Verwysing | : 3/3/8(200) |
| Reference | : |
| Navrae | : Major General MJ Mamotheti |
| Enquiries | : Col G Pretorius |
| Telefoon | : 012 393 9077 |
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DIVISIONAL COMMISSIONER
VISIBLE POLICING
HEAD OFFICE

All Provincial Commissioners
SOUTH AFRICAN POLICE SERVICE

DIRECTIVE RELATING TO REGULATIONS ISSUED IN TERMS OF SECTION 27(2) OF THE DISASTER MANAGEMENT ACT, 2002: ALERT LEVEL 4: FIREARMS, LIQUOR AND SECOND-HAND GOODS

1. The Minister of Cooperative Governance and Traditional Affairs has declared a national State of Disaster in response to the COVID-19 threat by issuing Regulations in terms of Section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002), hereafter referred to as the "Regulations", promulgated in Regulation Gazette No. 11098, dated 29 April 2020. A copy of the Regulations is attached for ease of reference, as per Annexure "A".
2. The Regulations, inter alia, introduces Alert Level 4 which was implemented on 1 May 2020 (see Table 1 to the Regulations: Permissions and Prohibitions).
3. The purpose of this directive is to provide guidance to all Designated Police Officials (DPO's) in the firearms, liquor and second-hand goods (FLASH) environment in relation to the provisions as contained in the Regulation as it relates to the FLASH environment.
4. **Permissions and Prohibitions: Alert Level 4**
 - 4.1 In terms of Table 1 to the Regulations, certain permissions and prohibitions were declared, which have an impact on certain businesses in the FLASH environment.
 - 4.2 The following guidance in relation to the type of business, type of goods and restrictions applicable on such businesses (if any) will be provided:
 - 4.2.1 **Firearms Environment**
 (Explanation of Table 1 of the Regulations in relation to the firearms environment)

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| PART | PERMISSION AND PROHIBITIONS | TYPE OF BUSINESS | GUIDELINES |
|---|---|---|--|
| "A" - Agriculture, Hunting, Forestry and Fishing | | | |
| 1 | <p>All agriculture, <u>hunting</u>, forestry and fishing, bee-keeping, including preparation, cultivation, harvesting, storage, transport of live animals and auctions (subject to health directions) and related agricultural infrastructure and services (including research, inspection, certification and quality control).</p> <p>All Fishing, operation of fish hatcheries and fish farms, on such conditions as may be issued in directions by the cabinet members responsible for the environment, forestry and fisheries.</p> <p>Harvesting and storage activities essential to prevent the wastage of primary agricultural, fishing and forestry goods.</p> <p>Export of all agricultural, agro-processed, fishing and forestry products.</p> | <ul style="list-style-type: none"> • Game Rancher; and • Business in Hunting; | <ul style="list-style-type: none"> • Permitted hunting is limited to Agriculture and culling of wildlife, <u>not</u> for recreational or sport hunting. |
| <p><u>TAKE NOTE:</u> 1) Even though Firearms and Ammunition Dealers are not included in Table 1 of the Regulations, the following three (3) Firearms and Ammunition Dealers will be allowed to operate during AL4 due to a High Court Order (Case Number 21619/2020) issued by the High Court of South Africa, Gauteng Division of Pretoria, dated 8 May 2020:</p> <ul style="list-style-type: none"> • Outdoor Investment Holdings (PTY) Ltd • Inyathi Sporting Supplies (PTY) Ltd • Formalito (PTY) Ltd <p>2) The above mentioned High Court Order was issued pending an instruction that further legal proceedings must be instituted by the above Dealers within 30 days. If no legal proceedings are instituted within the allocated 30 day period, the High Court Order shall lapse on 6 June 2020.</p> <p>3) Further directives relating to this matter will be issued by this office in due course to keep members updated.</p> | | | |
| "O" - Public Administration, Government Services and Other Arms of State | | | |
| 2 | <p><u>Licensing</u>, permitting, deeds, master's office, birth and death certificates, replacement identification documents</p> | <ul style="list-style-type: none"> • All Individual Firearm License Holders due to renew their firearm | <ul style="list-style-type: none"> • Renewal of Firearm License applications in terms of section 24 of the Firearms Control Act, 2000 must be accepted and processed. |

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| | | licenses; <ul style="list-style-type: none"> • All Individuals applying for a firearm Competency Certificate • All Amnesty 2019/2020 Applicants | <ul style="list-style-type: none"> • All Competency Certificate applications must be accepted and processed. • All Amnesty 2019/2020 Applications must be accepted and processed. |
| GENERAL NOTE: 1) Division: Visible Policing Amended Directive with reference 27/5/1, dated 2020-05-11, refers ("Amended directive for handling of the validity of firearm licences, competency certificates as well as the firearm amnesty during the period of lockdown in terms of the Disaster Management Act, 2002). | | | |

4.2.2 Liquor Environment

(Explanation of Table 1 of the Regulations in relation to the liquor environment)

| PART | PERMISSION AND PROHIBITIONS | TYPE OF LIQUOR BUSINESS | GUIDELINES |
|--|------------------------------|---|--|
| "E" - Wholesale and Retail Trade, Covering Stores, Spaza Shops, E-Commerce and Informal Traders | | | |
| 19 | No sale of liquor permitted. | <ul style="list-style-type: none"> • Liquor manufacturers; • Liquor distributors; • Liquor Retailers; and • Shebeens. | <ul style="list-style-type: none"> • Regulation 26(1): The sale, dispensing and distribution of liquor is prohibited. • Regulation 26(2): The transportation of liquor is prohibited, except where alcohol is required for industries producing hand sanitizers, disinfectants, soap, alcohol for industrial use and household cleaning products. • Regulation 26(3): Transportation of liquor for export purposes is permitted. • Regulation 26(4): No special or events liquor licenses may be |

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| | | | considered for approval during the duration of the national state of disaster. |
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4.2.3 Second-Hand Goods Environment

(Explanation of Table 1 of the Regulations in relation to the second-hand goods environment)

| PART | PERMISSION AND PROHIBITIONS | TYPE OF SECOND-HAND GOODS BUSINESS | GUIDELINES |
|--|--|------------------------------------|--|
| "A" - Agriculture, Hunting, Forestry and Fishing | | | |
| 1 | <p>All agriculture, hunting, forestry and fishing, bee-keeping, including preparation, cultivation, harvesting, storage, transport of live animals and auctions (subject to health directions) and related agricultural infrastructure and services (including research, inspection, certification and quality control).</p> <p>All Fishing, operation of fish hatcheries and fish farms, on such conditions as may be issued in directions by the cabinet members responsible for the environment, forestry and fisheries.</p> <p>Harvesting and storage activities essential to prevent the wastage of primary agricultural, fishing and forestry goods.</p> <p>Export of all agricultural, agro-processed, fishing and forestry products.</p> | Auctioneer | <ul style="list-style-type: none"> • Auctioning of agricultural produce only. • No auctioning of any second-hand goods/items. |
| "E" - Wholesale and Retail Trade, Covering Stores, Spaza Shops, E-Commerce and Informal Traders | | | |
| 5 | Products for the care of babies and toddlers. | General Dealer | May acquire and dispose of products for the care of babies and toddlers, for example prams, car seats, cots, baby baths, bottle warmers, humidifiers and other various products aimed at |

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| | | | the care of babies and toddlers. |
| 7 | Medical and Hospital supplies, medicine, equipment and personal protective equipment. | General Dealer | May acquire and dispose of medical products such as nebulizers, crutches, casts, walking (zimmer)-frames, commodes and other related medical products. |
| 10 | Hardware, components and supplies. | General Dealer | May acquire and dispose of hardware, components and supplies such as hand tools, power tools, keys, locks, hinges, plumbing supplies, electrical supplies etc. |
| 12 | Component for vehicles undergoing emergency repairs | <ul style="list-style-type: none">• Motor Vehicle Parts and Accessories Dealers; and• Tyre Dealers. | May acquire and dispose of, inter alia, Batteries, Spare Parts and Tyres. |
| 15 | Winter clothing, footwear, bedding and heaters and the components and fabrics required to manufacture these. | General Dealer | May acquire and dispose of blankets, heaters etc. |
| 17 | Stationery and educational books | <ul style="list-style-type: none">• General Dealer; and• Book Dealer | May acquire and dispose of stationary and educational books. |
| 18 | Personal ICT equipment including computers, mobile telephones and other home office equipment. | General Dealer | May acquire and dispose of, inter alia, personal computers, laptops, tablets, printers, monitors, computer keyboard and mouse, secondary storage devices and cell phones. |
| | | Cell Phone Dealer (Communication Equipment Dealer) | May acquire and dispose of, as well as repair cell phones. |
| "H" - Financial And Business Services | | | |
| 6 | Car sales under specific directions. | Motor Vehicle Dealer | May operate while awaiting specific directions issued by the |

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| | | | relevant Minister. |
| "L" – Repair and Related Emergency Services Permitted | | | |
| 3 | Emergency automobile repairs for all persons. | Panel Beater | May repair vehicle bodies back to their factory state after having been damaged. |
| "P" - Health, Social and Personal Services | | | |
| 3 | Recycling of glass, paper, plastic, metal, tyres and such others as determined by directions, are permitted at 50% capacity. Informal recyclers will be permitted to resume operations. | • Recycler | <ul style="list-style-type: none"> • Registered Recyclers can acquire and dispose of ferrous and non-ferrous metals. • Scrap Metal Dealers are not permitted to acquire and dispose of ferrous and non-ferrous metals unless they are also registered as a Recycler. • Recyclers/Scrap Metal Dealers may only operate at 50% capacity. |
| <p>GENERAL NOTES:1) The following types of second-hand goods dealers are <u>not allowed</u> to operate during Alert Level Status 4:</p> <ul style="list-style-type: none"> • Pawn Brokers; • Flea Markets; and • Jewellers. <p>2) All types of second-hand goods dealers that are allowed to operate during Alert Level Status 4, as set out above, will only be allowed to operate under the provisions of Regulation 28(1) to (4) as well as the conditions of registration as a second-hand goods dealer.</p> <p>3) Transgressions in the second-hand goods environment will mostly be relevant to the contraventions of Regulation 16(1) and/or 16(2), read with Regulation 31(2), and will include transgressions by second-hand goods dealers as well as clients.</p> <p>4) New applications for the Registration as a Second-Hand Goods Dealer for the categories of second-hand goods dealers that is allowed to operate under Alert Level Status 4, as set out above, must be accepted and processed. New applications for the Registration as a Second-Hand Goods Dealer of categories of second-hand goods dealers not resorting under Alert Level Status 4, must not be accepted or processed at this time.</p> <p>5) Renewal applications for the Renewal of Registration as a Second-Hand Goods Dealer, for the categories of second-hand goods dealers allowed to operate under Alert Level Status 4, as set out above, must be accepted and processed. Renewal applications for the Renewal of Registration as a Second-Hand Goods Dealer of categories of second-hand goods dealers that does not resort under Alert Level Status 4, must not be accepted or processed at this time.</p> | | | |

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- 6) All applications for Written Representations, Extension of Time, Condonation or Appeals within the second-hand goods environment must be accepted and processed.
- 7) All functions related to Accredited Second-Hand Goods Dealers' Associations must continue.

5. "Permits" to perform work as an essential service provider

5.1 A Certificate of Record, also referred to as a "CIPC Certificate" (example attached as per **Annexure "B"**), is issued by the Commissioner of Companies and Intellectual Property Commission (CIPC), to a company/business to confirm the following:

- that the said company/business is registered in terms of the Companies Act, 2008; and
- that the Department of Trade and Industry (DTI) has received an application from such company/business to perform essential services under the Disaster Management Act, 2002 (Act No. 57 of 2002).

5.2 It is important for DPO's to note that the CIPC Certificate is not a requirement in terms of the Regulations and in itself **does not** grant permission to a company/business to operate as an essential service during the Alert Level 4 period. The possession of the CIPC Certificate is still subject to the company/business fully complying with the applicable Alert Level 4 Regulations.

5.3 DPO's are encouraged to familiarise themselves with the content of the Regulations and this guideline in order to determine whether a business may operate as an essential service provider during compliance inspections.

6. Offences and penalties

6.1 In terms of Regulation 31(1)(a) and (b), any person who, for the duration of the national state of disaster is guilty of an offence and on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment if such person-

- convenes a gathering; or
- hinders, interferes with, or obstructs an enforcement officer in the exercise of his/her powers, or the performance of his or her duties in terms of the Regulations.

6.2 In terms of Regulation 31(2), any person who fails to comply with or contravenes the provisions of regulations 16(1), 16(2), 16(3) and 16(4), 19, 24(1) and 24(2), 26(1) and 26(2), 27 and 28(3) commits an offence and is,

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on conviction, liable to a fine or to imprisonment for a period not exceeding six months or to both such fine and imprisonment.

- 6.3 Offences applicable to the Regulations are attached as per Annexure "C" and a guideline to be followed in circumstances when the Regulations are contravened is attached as per Annexure "D".
7. With the lowering of each Alert Level Status it is expected that more businesses within the FLASH environment will be granted permission to re-enter the workforce which will place an additional strain on SAPS to monitor not only compliance to the applicable legislation but also to the Regulations. Provincial Commissioners are kindly requested to ensure the optimal functioning of the FLASH environment at station level.
8. The following officers can be contacted with enquiries relating to the content of this guideline within the following environments:

| SECTION | RANK, INITIALS, SURNAME | TELEPHONE NUMBER (WORK) | MOBILE TELEPHONE NUMBER | E-MAIL ADDRESS |
|----------------------------|-------------------------|-------------------------|-------------------------|--|
| Central Firearms Register | Colonel SI Simelane | 012 353 6397 | 082 408 6945 | SimelaneS3@saps.gov.za |
| Firearm Compliance | Colonel S Mboweni | 012 393 9051 | 060 967 1469 | MboweniS@saps.gov.za |
| Liquor Services | Colonel M Pretorius | 012 393 9070 | 082 371 8076 | PretoriusM3@saps.gov.za |
| Second-Hand Goods Services | Colonel G Pretorius | 012 393 9007 | 082 415 6643 | PretoriusG@saps.gov.za |

9. The content of this guideline must be brought to the attention of all Station Commanders and Designated Police Officials (Designated Firearms Officials, Designated Liquor Officials and Designated Second-Hand Goods Officials) in the FLASH environment.


LIEUTENANT GENERAL
DIVISIONAL COMMISSIONER: VISIBLE POLICING
MD SEMPE (SOEG)

Date: 