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2020-05-11

SAAADA News

Hi folks,

Many dealers received notification from SAPS last week that no dealer may trade in any form whatsoever under Level 4 lockdown conditions. SAAADA, and others, disagreed with this and acted – SAAADA sent a letter of demand to the Minister of Police.

Outdoor Investment Holdings (OIH), the owners of Safari Outdoor, Inyathi and Formalito, also acted, and succeeded last week in obtaining the court order (OIH Court Order) found in Appendix A. Their application was for their business only, but our attorney advises that it sets sufficient precedent to apply to all licensed dealers. Considering this new development, we shall notify the authorities (recipients of our letter last week) of our understanding.

As of today, the way that we understand things will operate under level 4 is detailed in Appendix B. To summarise this:

1. Gun-shops may not generally be open to trade with the public under Level 4.
2. A dealer may apply for a CIPC permit under 'supply chain' to support essential and permitted activities, including
 - a. Private Security, Anti-poaching, Wildlife Conservation
 - b. Farmers, Hunters, Fishermen
 - c. Manufacturers
 - d. *Not sport-shooters, collectors, self-defence, ... this is general-public (for now)*
3. A dealer may support permitted activities by selling them goods and services from the list of sellable items in the OIH Court order (see p 6-7 below).
4. In these confusing times we recommend that any supplies made this way are covered by a signed statement from the farmer / hunter / etc (with appropriate details) to the effect that he is a farmer / hunter / etc and requires the goods for permitted activities.
 - a. *You – the dealer – should retain the statement as proof that you traded within allowed parameters.*

5. You may re-stock your store

- a. As clearly laid out in the OIH Court Order, wholesalers may supply retailers.

Please, wisely consider your approach to trading, and do not open to the public too soon. Under Level 4, assist only hunters, farmers, private security, wildlife conservation and other permitted activities.

Stay safe and remember to comply with the other regulations applicable to your business, i.e. social distancing, sanitation, staff-permits, etc.

Regards,

Jonathan

Appendix A - OIH Court Order

"X" H. Fourie
8.05.2020

IN THE HIGH COURT OF SOUTH AFRICA

GAUTENG DIVISION, PRETORIA

ON THIS THE 8TH DAY OF MAY 2020 BEFORE FOURIE [AJ]

Case no: 21619/2020

In the application between:

OUTDOOR INVESTMENT HOLDINGS (PTY) LTD 1ST APPLICANT

INYATHI SPORTING SUPPLIES (PTY) LTD 2ND APPLICANT

FORMALITO (PTY) LTD 3RD APPLICANT

and

MINISTER OF POLICE 1ST RESPONDENT

MINISTER OF CORPORATE GOVERNANCE AND
TRADITIONAL AFFAIRS 2ND RESPONDENT

MINISTER OF TRADE AND INDUSTRY 3RD RESPONDENT

NATIONAL COMMISSIONER OF POLICE 4TH RESPONDENT

~~DRAFT ORDER~~

THE FOLLOWING ORDER ISSUES AFTER HAVING CONSIDERED THE
APPLICATION AND AFTER HAVING HEARD COUNSEL FOR THE APPLICANTS:

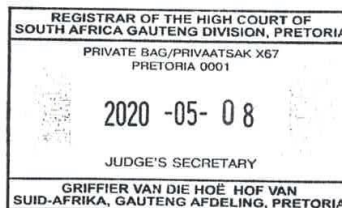
1. It is declared that the regulations issued by the Minister of Cooperative Governance and Traditional Affairs on 29 April 2020 under and in terms of section 27(2) of the Disaster Management Act, 57 of 2002, read with



V.N.P.

Government Notice No R313 of 15 March 2020 published under the Disaster Management Act, 57 of 2002 ("the Regulations"), properly interpreted, permit:

- 1.1. the first applicant to operate its business and conduct trade and/or retail in respect of the sellable and not in respect of the non-sellable products listed in annexure X hereto under and in terms of Alert Level 4 of the National State of Disaster declared in terms of Government Notice No R313 of 15 March 2020 published under the Disaster Management Act, 57 of 2002;
 - 1.2. the second and third applicants to conduct their wholesale businesses under and in terms of Alert Level 4 of the National State of Disaster declared in terms of Government Notice No R313 of 15 March 2020 published under the Disaster Management Act, 57 of 2002.
2. It is declared that the applicants are accordingly permitted and entitled to trade and conduct business in accordance with paragraphs 1.1 and 1.2 above under and in terms of the Regulations.
3. The respondents and any individual falling under their control and/or authority and interdicted and restrained from:
- 3.1. interfering with the business operations of the applicants permitted:
 - 3.1.1. under and in terms of the Regulations; and
 - 3.1.2. in terms of and in compliance with paragraphs 1 and 2 of this order;
 - 3.2. preventing or obstructing the applicants from trading in compliance with this order.




V.N.P.

4. The interdict referred to in paragraph 3 above shall:

4.1. operate with immediate effect and pending the outcome of legal process to be instituted by the applicants for final interdictory relief in accordance with the interdictory relief granted in paragraph 3 above, within 30 business days from the date of this order;

4.2. shall lapse in the event that the applicants do not institute legal process contemplated by paragraph 4.1 within the aforesaid 30-day period.

5. No order as to costs is made.


BY ORDER OF COURT



COUNSEL FOR THE APPLICANTS: KW LÜDERITZ SC
P LOURENS

ATTORNEYS FOR THE APPLICANTS: JW BOTES INC
1ST FLOOR, HAZELDEAN OFFICE PARK
687 SILVER LAKES ROAD FIRST FLOOR
FLAMINGO BUILDING
SILVERLAKES ROAD, PRETORIA
REF: W BOTES [076 424 0057/012 809
3766]

HRF
8.5.20

"X"

SELLABLE ITEMS	
NUMBER:	ITEM:
1.	PISTOLS AND REVOLVERS NEW [IN LINE WITH HUNTING BACKUP]
2.	SCOPES CENTREFIRE RIFLE
3.	RIFLES NEW CENTREFIRE
4.	AMMUNITION RIFLE CENTREFIRE
5.	BULLETS RIFLE
6.	AMMUNITION HANDGUN
7.	POWDER
8.	SHOTGUNS NEW
9.	CLOTHING SHOES, HATS, BELTS [WINTER/HUNTING/FISHING/CHILDREN]
10.	RELOADING SUNDRY EQUIPMENT
11.	BINOCULARS
12.	SCOPE MOUNTS
13.	RIFLE SILINER
14.	AMMUNITION SHOTGUN
15.	PRIMERS
16.	RELOADING SCALES & POWDER MEAS
17.	KNIVES BRANDED KNIVES
18.	STOCK FINISHED - COMPLETE
19.	CLOTHING LUXURY BRANDS [WINTER/HUNTING/FISHING/CHILDREN]
20.	CAMPING & OUTDOOR
21.	NIGHTVISION
22.	AMMUNITION RIMFIRE
23.	RIFLE BRASS CASES
24.	LUGGAGE - HUNTING & FARMING
25.	RIFLE PARTS & SCREWS
26.	RANGEFINDER MONOCULAR
27.	CLOTHING SAFARI & PLAIN CLOTHES [WINTER/HUNTING/FISHING/CHILDREN]
28.	RELOADING DIES
29.	CLEANING EQUIPMT JAGS AND RODS
30.	REST BIPODS AND SHOOTING STICK
31.	AIR RIFLES PCP
32.	CHRONOGRAPHS
33.	TARGET & TARGET STANDS
34.	HEARING PROTECTION
35.	RIFLE PARTS MAGAZINES AND BOTT
36.	AMMO BOXES & STORAGE CASES
37.	RIFLE SAFES
38.	AIR RIFLE PNEUMATIC
39.	CLEANING EQUIPMENT SOLVENTS
40.	RIFLES NEW RIMFIRE
41.	AIR RIFLE PELLETS
42.	HOLSTERS
43.	LIGHTS FLASHLIGHTS
44.	CLOTHING CAMO
45.	RELOADING PRESSES
46.	RIFLE BAG TACTICAL AND VARMINT



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47.	CLEANING EQUIPMENT SUNDRIES
48.	RIFLE SLINGS & STRAPS
49.	RIFLE TOOL
50.	RELOADING KITS
51.	ROEP TOERUSTING
52.	RIFLE BAG HARD CASES
53.	KNIVES SHARPENERS AND SUNDRIES
54.	SELF DEFENCE PRODUCTS – NON-LETHAL [HUNTING & AGRI RELATED]
55.	BARRELS
56.	RIFLE BAG BRANDED
57.	REST X-BAGS AND REAR BAGS
58.	AIR RIFLE TRAPS & ACCESSORIES
59.	SCOPES AIR RIFLE
60.	CLOTHING CHILDREN
61.	LUGGAGE BACKPAKS
62.	OPTICAL TRIPODS AND WINDOW MOU
63.	CAMERA – DIGITAL AND TRAIL
64.	SPOTTING SCOPES
65.	KNIVES MULTITOOLS – AXES & OTHER
66.	WINDMETERS
67.	BOOKS HUNTING AND SHOOTING
68.	EYEWEAR
69.	LIGHTS SPOTLIGHTS
70.	BULLETS HANDGUN
71.	SCOPES HANDGUN
72.	BULK BULLETS
73.	AIR RIFLE PISTOL
74.	WATCHES [HUNTING APPLICATION ONLY]
75.	BATTERIES
76.	BALLISTIC SOFTWARE
77.	KNIVES CUSTOM
78.	BOOKS - EDUCATIONAL
79.	SCOPES RIMFIRE
80.	APPAREL L/S SHIRTS
81.	OPTICAL CLEANING EQUIPMENT
82.	ACCESSORIES LUGGAGE & TACKLE ST
83.	TRIGGERS
84.	HANDGUN BRASS CASES
85.	ACTIONS
86.	FISHING EQUIPMENT & ACCESSORIES

NON - SELLABLE ITEMS

NUMBER:	ITEM:
a.	TOYS
b.	BOOKS THAT ARE NOT CONSIDERED EDUCATIONAL
c.	HANDBAGS & WALLETS
d.	LUGGAGE
e.	T-SHIRTS FOR PURPOSES OF ANYTHING OTHER THAN HUNTING FISHING



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f.	FASHION EYEWEAR
g.	GROOMING PRODUCTS
h.	AIRGUNS
i.	CLAY THROWERS OR CLAYS
j.	HOT FOOD & COFFEE
k.	ANY ITEM OF CLOTHING NOT INTENDED FOR HUNTING/WINTER/FISHING/CHILDREN



Appendix B – SAAADA Interpretation of the Level 4 Regulations

The DMA regulations of 28 April (Level 4 Regulations) repealed and replaced the previous regulations

- The previous Regulations for Lockdown directed businesses to be closed.
- The Level 4 Regulations do not have this; the economy is only controlled via the movement of people.

In our ‘firearms world’, Regulation 16 determines that people may only leave their place of residence to:

- Perform an essential or permitted service as allowed in Alert Level 4
- Go to work, where a permit has been issued
 - This is a new permit for ‘essential or permitted services’ in terms of Reg 28(4) – the so-called Form 2.
 - A gun-shop (like any other business) would need to apply for a CIPC permit to support them issuing the ‘Form 2 permit’, and this should be as part of the supply chain to support the permitted Level 4 activities.
- Buy permitted goods
- Obtain services that are allowed to operate (in Alert Level 4)

Considering the Risk Adjusted Strategy, Alert Level 4 (Table 1 in the Regulations)

Part A covers Agriculture, Hunting, Forestry and Fishing

- ALL agriculture, hunting, forestry, and fishing is permitted ... including harvesting of live animals (i.e. hunting)
- *These activities require supplies, such as seed, fencing, water pipes, hunting equipment (guns, ammo, accessories, etc)*

Part C covers Manufacturing

- ALL manufacturing is permitted to at least 30%, and this includes
 - bullet manufacturers like Frontier, Impala, etc
 - propellant manufacturers like Somchem
 - ammunition manufacturers like Nobleteq, Diplopoint, etc
 - firearm manufacturers like JJ Wapen / Musgrave, etc.
- *These manufacturers require supplies, such as cartridge cases, propellant, primers, bullets, test-guns, barrels, etc.*

Part E covers Wholesale and Retail Trade

- The list of permitted activities does not include gun-shops, so gun-shops may not be open to the public
- Any store (including a gun-shop like Safari Outdoor or Wildman) may freely sell ‘winter clothing’ (E.15) or ‘children’s clothing’ (E.16)
 - Neither form of clothing is defined, nor particularly constrained
- Other goods and services that are listed in part E (e.g. hand sanitiser, airtime, firewood, shampoo) may also be freely sold by any store, including a licensed gun-shop.
- Other goods and services not listed in part E (e.g. swimming costumes, beach umbrellas, guns and ammo) may not be sold to the general public under the provisions of Part E.

Part H covers Financial and Business Services

- Point 4: Private security services may operate.
- *These activities require supplies, such as fuel, handcuffs / restraints, uniforms, observation equipment, guns, ammo, etc*

Part P covers Health, Social and Personal Services

- Point 5: Wildlife Management, Anti-poaching, ... is permitted.
- *These activities require supplies, such as lick, fencing, water pipes, observation equipment, hunting equipment (guns, ammo, clothing, etc)*

The concept of 'supporting Level 4 services' is clearly included in Part H, points 7 and 9. This goes further with supply chains, as follows.

Part M covers Supply Chains.

- Point 1 states: Production, manufacturing, supply, logistics, transport, delivery and critical maintenance and repair of goods and services (including components and equipment) required for the production or rendering of permitted goods and services
- This means that any company may obtain a CIPC permit under this section (Part M) to support Level 4 activities by supplying goods required for the rendering of permitted services – including farming, hunting, manufacturing, wildlife management, anti-poaching, etc as indicated above.
- This permit does not allow 'free-trade' to the general public, but would allow a gun-shop to supply any goods (including components and equipment) to a farmer, to a hunter, to a manufacturer, etc. as indicated above.
 - *The OIH Court Order confirms this!*

Re-stock your store

- Annexure D in the DMA regulations published on 29 April defines Essential Services, and B.5. includes the words "Whole sale [sic] and retail stores for re-stocking".
- We understand that dealers may be at their shops to order goods from importers, manufacturers, etc and to receive the purchased stock.
- Wholesalers are included and may operate under Level 4 to re-supply dealers with any products the dealer requires, but only from the list of sellable items in the OIH Court order!
 - *No clays for now ...*
 - *This provision does not permit the retail business to trade!*