



# GOVERNMENT GAZETTE

## OF THE

# REPUBLIC OF NAMIBIA

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WINDHOEK - 14 July 2020

No. 7270

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## Proclamation

by the

**PRESIDENT OF THE REPUBLIC OF NAMIBIA**

No. 33

2020

#### STAGE 4: STATE OF EMERGENCY - COVID-19 REGULATIONS: NAMIBIAN CONSTITUTION

Under the powers vested in me by Sub-Article (5) of Article 26 of the Namibian Constitution, I -

- (a) subsequent to having declared by Proclamation No. 7 of 18 March of 2020 that a State of Emergency exists in the whole of Namibia following a worldwide outbreak of the disease known as Coronavirus Disease 2019 (COVID-19), make the regulations set out in the Schedule; and
- (b) repeal the Stage 4: State of Emergency - Covid-19 Regulations published under Proclamation No. 28 of 28 June 2020.

Given under my Hand and the Seal of the Republic of Namibia at Windhoek, this 14th day of July, Two Thousand and Twenty.

**HAGE G. GEINGOB**

**President**

**BY ORDER OF THE PRESIDENT**

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### Definitions

1. In these regulations -

“authorised officer” means -

- (a) the Director referred to in section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);
- (b) a member of the Namibian Police as defined in section 1 of the Police Act, 1990 (Act No. 19 of 1990);
- (c) a member of the municipal police service referred to in section 43C of the Police Act, 1990 (Act No. 19 of 1990);
- (d) a member of the Defence Force as defined in section 1 of the Defence Act, 2002 (Act No. 1 of 2002);
- (e) a correctional officer as defined in section 1 of the Correctional Service Act, 2012 (Act No. 9 of 2012);
- (f) an immigration officer as defined in section 1 of the Immigration Control Act;
- (g) an officer as defined in section 1 of Customs and Excise Act, 1998 (Act No. 20 of 1998) charged with the responsibility of enforcing the customs and excise legislation; and
- (h) any other staff member designated or person appointed as an authorised officer under section 32 of the Disaster Risk Management Act, 2012 (Act No. 10 of 2012);

“COVID-19” means the coronavirus disease of 2019 which is caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“head of the institution” means the administrative head of a public institution and the chief executive officer or the equivalent of a chief executive officer of a private institution;

“health regulations” means the health regulations published under Sub-Article (5) of Article 26 of the Namibian Constitution;

“higher education institution” means an institution that provides learning programmes leading to qualifications higher than grade 12 or its equivalent;

“Immigration Control Act” means the Immigration Control Act, 1993 (Act No. 7 of 1993);

“liquor” means any spirits, wine, beer, cider or other beverage, including a traditional beverage which contains alcohol, and intended for human consumption but excludes any substance that contains alcohol but used or is intended to be used for medicinal purposes;

“Liquor Act” means the Liquor Act, 1998 (Act No. 6 of 1998);

“mask” means a covering made of any suitable material that is worn on and around a person’s nose and mouth so as to fully cover that person’s nose and mouth for purposes of preventing the transmission of the severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2);

“Public and Environmental Health Act” means the Public and Environmental Health Act, 2015 (Act No. 1 of 2015);

“school” means a school as defined in section 1 of the Education Act, 2001 (Act No. 16 of 2001);

“specified period” means the period referred to in regulation 3 and indicating Stage 4 of the State of Emergency as determined by Cabinet;

“vehicle” means a motor vehicle, a locomotive, an aircraft or a vessel; and

“vulnerable employee” means an employee who is pregnant, an employee who is a nursing mother, an employee with a pre-existing condition such as a heart disease, high blood pressure, respiratory problems, obesity, diabetes, tuberculosis or a condition which might compromise the immune system of the employee.

### **Application of regulations**

2. (1) These regulations apply to the whole of Namibia during the specified period but they do not apply to the Erongo Region for the duration of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 26 of 22 June 2020, except as provided in subregulation (2).

(2) Despite subregulation (1), regulations 10, 11 and 12 apply to the Erongo Region for the duration of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 26 of 22 June 2020.

(3) On the expiry of the specified period referred to in regulation 3 of the Stage 3: State of Emergency - Covid-19 Regulations: Erongo Region published under Proclamation No. 26 of 22 June 2020, these regulations will apply to the Erongo Region unless the President under Sub-Article (5) of Article 26 of the Namibian Constitution determines otherwise.

(4) If there is a conflict between the provisions of these regulations and any other law the provisions of these regulations prevail.

### **Specified period**

3. The specified period is from the date of commencement of these regulations and ends at 24:00 on 17 September 2020.

**Restrictions relating to schools, higher education institutions and other educational institutions**

4. (1) Except as provided in subregulation (2), all schools, higher education institutions and other educational institutions in Namibia may resume face to face learning and training during the specified period.

(2) During the specified period -

(a) schools and educational institutions providing early childhood development learning, pre-primary learning and primary education at grade one to three levels must remain closed but may resume face to face learning on 7 July 2020;

(b) schools and educational institutions providing primary education at grade seven and nine levels must remain closed but may resume face to face learning on 20 July 2020; and

(c) schools and educational institutions providing primary education at grade four, five, six, eight and 10 levels must remain closed but may resume face to face learning on 3 August 2020.

(3) Heads of schools, higher education institutions and other educational institutions referred to in subregulation (1) and (2) must ensure that the persons accessing their premises at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

**Wearing of masks**

5. (1) During the specified period every person must wear a mask whenever he or she is at or in a public place.

(2) During the specified period, wearing of a see-through face shield is permitted, provided that a mask is worn together with the face shield.

(3) An authorised officer may instruct a person who is not wearing a mask as contemplated in subregulation (1) or (2) to wear a mask or to leave the public place.

(4) A person who fails or refuses to comply with an instruction given under subregulation (2) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

**Gatherings**

6. (1) Persons are permitted to gather for a common purpose provided that their number does not exceed 250 persons and provided that they comply with the provisions of these regulations, the health regulations and other applicable regulations or directives.

(2) Persons are prohibited from gathering for a common purpose if their number exceeds 250 persons, but this prohibition does not apply where -

(a) persons are gathered at their workplace;

(b) the gathering is by a government institution at national, regional or local level or the Cabinet or the Parliament for purposes of its normal operations;

(c) the gathering is for purposes of court or tribunal proceedings; or

- (d) a group of persons independently or coincidentally find themselves at a specific place.

(3) Persons who gather in the circumstances referred to in subregulation (1) and paragraphs (a), (b), (c) and (d) of subregulation (2) must at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

(4) An authorised officer may instruct a gathering, other than a gathering referred to in subregulation (1) and paragraphs (a), (b), (c) and (d) of subregulation (2), to disperse and may use all reasonable measures to cause the gathering to disperse.

(5) The person organising or hosting a gathering referred to in subregulation (1) or the head of the institution in respect of a gathering specified in paragraph (a), (b) or (c) of subregulation (2) must -

- (a) open and maintain a register of the persons who attend the gathering; or
- (b) ensure that the register of the persons referred to in paragraph (a) is opened and maintained,

for the purpose of recording the particulars of persons who attend the gathering.

(6) The person who is required to open and maintain a register in accordance with subregulation (5) must -

- (a) keep the register in a safe place for the duration of the State of Emergency;
- (b) on request, make the register available for inspection by an authorised officer; and
- (c) treat the information provided under this regulation as confidential, and may not disclose that information to any other person except as provided in paragraph (b) or when required to so disclose in terms of any law or by a court.

(7) The register referred to in subregulation (6) must contain the full name, identification number or passport number and telephone number or cellular phone number of each person who attended the gathering.

(8) A person who -

- (a) facilitates, instigates or organises a gathering;
- (b) fails or refuses to obey an instruction issued under subregulation (4);
- (c) fails or refuses to comply with subregulation (5) or (6); or
- (d) intentionally provides false information or refuses to provide the information required under this regulation,

commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment not exceeding six months or to both such fine and imprisonment.

**Restrictions relating to liquor**

7. (1) Despite any contrary condition applicable to any type of liquor licence issued under the Liquor Act, during the specified period -

- (a) the sale of liquor in terms of that liquor licence and the purchase of liquor may only take place -
  - (i) between the hours 09H00 and 18H00 on Mondays to Fridays; and
  - (ii) between the hours of 09H00 and 13H00 on Saturday; and
- (b) a person may not purchase or sell liquor on a Sunday or public holiday.

(2) Subregulation (1) does not apply to the holders of on-consumption liquor licences as defined in the Liquor Act, but the holders of such licences are subject to conditions relating to the sale of liquor that apply to on-consumption liquor licences.

(3) Holders of liquor licences issued in terms of the Liquor Act must ensure that persons accessing their premises at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

(4) A person who contravenes or fails to comply with a provision of subregulation (1), (2) or (3) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(5) An authorised officer who is a peace officer within the meaning of the Criminal Procedure Act, 1977 (Act No. 51 of 1977) may, without a warrant, seize any liquor that is suspected to have been sold or has been purchased in contravention of this regulation and the seized liquor must, subject to changes required in the context, be dealt with in accordance with the provisions of the Liquor Act as if it were liquor seized in terms of that Act.

**Restrictions relating to certain businesses, operations and activities**

8. (1) Subject to the provisions of these regulations, all businesses operations and activities are permitted during the specified period.

- (2) The heads of the institutions of businesses, operations and activities must -
  - (a) open and maintain a register of the persons who access their premises or attend the activities; or
  - (b) ensure that the register of the persons referred to in paragraph (a) is opened and maintained,

for the purpose of recording the particulars of persons who access their premises or attend the activities.

- (3) The heads of the institutions of businesses, operations and activities must -
  - (a) keep the register in a safe place for the duration of the State of Emergency;
  - (b) on request, make the register available for inspection by an authorised officer; and

- (c) treat the information provided under this regulation as confidential, and may not disclose that information to any other person except as provided in paragraph (b) or when required to so disclose in terms of any law or by a court.

(4) The register referred to in subregulation (2) must contain the full name, identification number or passport number and telephone number or cellular phone number of each person accessing the premises of the businesses, operations and activities and the number of people inclusive of the organisers or its staff members may not exceed 250 people at a time.

(5) The heads of the institution of businesses, operations and activities must ensure that the persons accessing their premises at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

(6) A person who contravenes or fails to comply with the provisions of subregulation (2), (3), (4) or (5) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **Additional provisions relating to workplace**

9. (1) Heads of the institutions are encouraged to allow vulnerable employees to work from home, subject to suitable arrangements between the employer and employee.

(2) Heads of the institutions are encouraged to provide masks to their employees.

(3) Heads of the institutions must ensure that their employees at all times adhere to the measures to combat, prevent and suppress the spread of COVID-19 as specified in these regulations, the health regulations and other applicable regulations or directives.

#### **Prohibition relating to entry into Namibia**

10. (1) Subject to the other provisions of these regulations, every person who -

- (a) is not a Namibian citizen;
- (b) does not hold a permanent residence permit for Namibia;
- (c) is not domiciled in Namibia or otherwise lawfully resident in Namibia;
- (d) is not part of a team of medical personnel that is required to provide medical services in Namibia to alleviate the COVID-19 pandemic;
- (e) is not a member of the diplomatic or consular staff of a country that is accredited to Namibia or in transit to another country; or
- (f) is not a spouse or child of a person referred to in paragraphs (a) to (e),

must, during the specified period, be refused entry into Namibia under section 10 of the Immigration Control Act.

(2) Persons permitted to enter Namibia must, two weeks before entering Namibia, in writing inform the relevant Namibian diplomatic representative in the country of intended departure of the intention to enter Namibia.

(3) Despite subregulation (1), a person who -

- (a) is not a Namibian citizen;
- (b) does not hold a permanent residence permit for Namibia; or
- (c) is not domiciled in Namibia or otherwise lawfully resident in Namibia;

may, for the purpose of undertaking tourism activities in Namibia, subject to the Immigration Control Act and subregulation (4), enter Namibia during the period starting on 15 July 2020 and ending on 15 August 2020.

(4) Persons permitted to enter Namibia under subregulation (3) may not enter Namibia unless such persons on entering Namibia present to an authorised officer a negative SARS-COV-2 PCR test result not older than 72 hours at the time of entering Namibia, provided that the laboratory that issued the test result is certified to issue SARS-COV-2 PCR test results.

- (5) Subject to the Immigration Control Act, a person who -
- (a) is a driver of a motor vehicle, an operator of a locomotive, a pilot in command of an aircraft or a captain or master of a shipping vessel transporting goods;
  - (b) performs any service relating to the operation of the vehicle referred to in paragraph (a); or
  - (c) performs a necessary service relating to the transportation of goods referred to in paragraph (a),

in the course of business or trade or commerce may be allowed to enter Namibia if such entry is otherwise lawful.

(6) Despite the provisions of subregulation (1), a person referred to in that subregulation may be allowed to enter Namibia if that person complies with or meets such requirements as may be determined by the Minister responsible for immigration issued pursuant to the Immigration Control Act.

(7) A person who contravenes or fails to comply with subregulation (1), (4) or (5) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

### **Quarantine and COVID-19 testing**

**11.** (1) Any person who enters Namibia as contemplated in regulation 10 is subject to quarantine requirements as set out in these regulations and the health regulations.

(2) All persons permitted to enter Namibia in terms of regulation 10 must on entering Namibia be tested for COVID-19 during the period of quarantine.

(3) Except where subregulations (4) and (5) apply, all persons entering Namibia during the specified period are subject to mandatory quarantine at own cost.

(4) The following categories of Namibian citizens may be quarantined at the cost of the State:

- (a) students enrolled for and undertaking a course of study at a school or an educational institution in Namibia or in a foreign country;

- (b) State patients;
- (c) health professionals;
- (d) persons entering Namibia on humanitarian grounds;
- (e) persons entering Namibia on official government business; or
- (f) such persons as may be specified in the regulations issued under Sub-Article (5) of Article 26 of the Namibian Constitution.

(5) Namibian citizens who are unable to pay for the cost of quarantine as required by these regulations may request, in the form and manner determined under the regulations issued under Sub-Article (5) of Article 26 of the Namibian Constitution, that the State cover the cost of their quarantine.

(6) Namibian citizens who leave Namibia for private business during the specified period are, on entering Namibia during that period, subject to mandatory quarantine at own cost.

(7) A person who unreasonably refuses to be quarantined or tested as specified in subregulation (1) or (2) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **Restrictions relating to transportation of goods and persons**

**12.** (1) Operators of vehicles transporting goods may not transport passengers unless the persons carried in or on the vehicle are necessary for the operation of the vehicle during the course of business or trade or commerce of the operator.

(2) A person who contravenes subregulations (1) commits an offence and is on conviction liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **Applicability of Act No. 1 of 2015**

**13.** (1) Despite the provisions of section 96 of the Public and Environmental Health Act, the provisions of Part 3 of that Act are, for purposes of these regulations, brought into operation.

(2) In order to attain the objectives of subregulation (1), any provision of the Public Health Act, 1919 (Act No. 36 of 1919) that is inconsistent with any provision of Part 3 of the Public and Environmental Health Act is suspended to the extent of the inconsistency during the period that this regulation is in force.

(3) Despite the provisions of section 22(2) of the Public and Environmental Health Act, the disease caused by severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2) is deemed to be a formidable epidemic disease and it is declared that the threatened outbreak of that disease necessitates the measures referred to in section 29(1) of that Act.

#### **Offences and penalties**

- 14.** (1) A person commits an offence if that person -
- (a) not being an authorised officer, by words, conduct or demeanour falsely represents himself or herself to be an authorised officer;

- (b) hinders, obstructs or improperly attempts to influence an authorised officer when exercising or performing a power or function conferred or imposed by or under these regulations or another law;
  - (c) furnishes or gives false or misleading information to an authorised officer; or
  - (d) does anything calculated to improperly influence an authorised officer concerning a matter connected with the functions of the authorised officer.
- (2) A person commits an offence if that person, through any form of media, including social media, knowingly or without having taken reasonable steps to ascertain the correctness of any information -
- (a) publishes any false or misleading statement about the COVID-19 status of any person; or
  - (b) publishes any false or misleading statement, in connection with measures to combat, prevent and suppress COVID-19 as specified in in these regulations, the health regulations and other applicable regulations or directives.
- (3) A person convicted of an offence in terms of subregulation (1) or (2) is liable to a fine not exceeding N\$2 000 or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

#### **Regulations to bind State**

15. These regulations bind the State.
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