

South Africa

Disaster Management Act, 2002

Directions to Address, Prevent and Combat the Spread of COVID-19 in all Correctional Centres and Remand Detention Facilities in the Republic of South Africa Government Notice 647 of 2021

Legislation as at 21 July 2021

FRBR URI: /akn/za/act/gn/2021/647/eng@2021-07-21

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Directions to Address, Prevent and Combat the Spread of COVID-19 in all Correctional Centres and Remand Detention Facilities in the Republic of South Africa
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South Africa

Disaster Management Act, 2002

Directions to Address, Prevent and Combat the Spread of COVID-19 in all Correctional Centres and Remand Detention Facilities in the Republic of South Africa

Government Notice 647 of 2021

Published in [Government Gazette no. 44883](#) on 21 July 2021

Assented to on 20 July 2021

Commenced on 21 July 2021

[This is the version of this document from 21 July 2021.]

I, Ronald Ozzy Lamola, Minister of Justice and Correctional Services, hereby, in terms of regulation 4(2), read with regulations 25(1)(a), 25(1)(b), 41(1)(a), 41(1)(b), 58(a), 58(b), 74(1)(a) and 74(1)(b), of the Regulations made under section 27(2) of the Disaster Management Act, 2002 ([Act No. 57 of 2002](#)), as published under Government Notice No. R. 480, in *Government Gazette* No. 43258 of 29 April 2020, as amended, issue the directions in the Schedule to address, prevent and combat the spread of COVID-19 in all correctional centres and remand detention facilities in the Republic of South Africa.

Mr Ronald Ozzy Lamola, MP

Minister of Justice and Correctional Services

1. Definitions

In these directions, a word or expression bears the meaning assigned to it in the Correctional Services Act, 1998 ([Act No. 111 of 1998](#)) and in the Regulations made by the Minister of Cooperative Government and Traditional Affairs in terms section 27(2) of the Disaster Management Act, 2002 ([Act No. 57 of 2002](#)), and published under Government Notice No. R. 480, in *Government Gazette* No. 43258 of 29 April 2020, as amended, and unless the context otherwise indicates—

"**amenities**" means goods such as, but not limited to, food, toiletries, reading material or any other goods permitted in terms of the Correctional Services Act, 1998 ([Act No. 111 of 1998](#)), its regulations and applicable policies or directives;

"**correctional facility**" means any correctional centre, remand detention facility, office or any other facility under the control and management of the Department;

"**CSA**" means the Correctional Services Act, 1998 ([Act No. 111 of 1998](#));

"**movement**" means entering or leaving a correctional centre or remand detention facility by sentenced offenders and remand detainees;

"**parolee**" means a sentenced offender placed on parole under community corrections to serve the remainder of his or her sentence in terms of Chapter VI of the CSA;

"**probationer**" means a sentenced offender serving a sentence of correctional supervision under community corrections in terms of Chapter VI of the CSA;

"**quarantine**" means the restriction of activities or separation of a person, who was or may potentially have been exposed to COVID-19, and who could potentially spread the disease to other non-exposed persons, to prevent the possible spread of infection or contamination to healthy individuals, and includes quarantine of inmates admitted to correctional centres or remand detention facilities; and

"**the Regulations**" means the Regulations made under section 27(2) of the Disaster Management Act, 2002 ([Act No. 57 of 2002](#)), and published under Government Notice No. R. 480 in *Government Gazette* No. 43258 of 29 April 2020, as amended by Government Notices Nos. R. 608 of 28 May 2020, R. 714 of 25 June 2020, R. 763 of 12 July 2020, R. 846 of 31 July 2020, R. 891 of 17 August 2020, 999 of 18 September 2020, 1011 of 20 September 2020, 1053 of 1 October 2020, 1104 of 21 October 2020, 1199 of 11 November 2020, 1290 of 3 December 2020, 1346 of 15 December 2020, 1370 of 17 December 2020, 1421 of 24 December 2020, 1423 of 29 December 2020, 1424 of 29 December 2020, 1435 of 29 December 2020, R. 11 of 11 January 2021, R. 69 of 1 February 2021, R. 92 of 13 February 2021, R. 93 of 13 February 2021, R. 152 of 28 February 2021, R. 284 of 30 March 2021, R. 376 of 22 April 2021, R. 477 of 30 May 2021, R. 530 of 15 June 2021, R. 565 of 27 June 2021 and R. 610 of 11 July 2021.

2. Application of directions

- (1) Unless circumstances otherwise dictate, these Directions apply during the period of the national state of disaster and may be varied as circumstances require.
- (2) The detail of permissions and prohibitions for each Alert Level, as well as for declared hotspots, will be set out in these directions, under different headings for each Alert Level, and must be applied with reference to the corresponding Alert Level and hotspot, as declared on the recommendation of the Cabinet member responsible for health, in consultation with Cabinet, from time to time.

3. Safety and general measures for duration of period of national state of disaster

Notwithstanding the pronounced Alert Level, the following measures apply during the period of the national state of disaster:

- (1) All inmates, upon admission to correctional facilities, must be screened in terms of established protocols, quarantined in terms of national health COVID-19 guidelines and subjected to regulatory assessments before they are detained with the general inmate population;
- (2) all inmates must be screened in terms of established protocols during incarceration, consultation with health care professionals and upon their release, placement or movement;
- (3) all correctional officials must be screened on a daily basis at all entrances.
- (4) all other persons entering correctional services premises must be screened before entering any correctional facility;
- (5) social distancing measures must be implemented and maintained in terms of the standard operating procedures developed to deal with COVID-19;
- (6) no person is permitted to enter or be in a correctional facility, use any form of state transport, or enter a public building, place or premises, if that person is not wearing a face mask; and
- (7) no person is permitted to visit any correctional facility without scheduling an appointment with the relevant Correctional Services authorities prior to such visit.

Alert Level 1

4. Restrictions regarding placement, movement and release of inmates, parolees and probationers

- (1) Sentenced offenders who are verified as illegal foreign nationals and whose sentences will expire during the period of the national state of disaster will be released, where practicable, into permanent designated facilities or temporary deportation or repatriation facilities, as designated

by the Department of Home Affairs, whilst deportation processes are facilitated by the Department of Home Affairs.

- (2) Day parole granted to sentenced offenders is suspended.
- (3) The transfer of inmates is permitted as approved by the relevant delegated authority.
- (4) The referral of inmates to external health facilities is permitted in accordance with Departmental guidelines.
- (5) Community services rendered by parolees and probationers are permitted, subject to compliance with the general measures to contain the spread of COVID-19, as set out in regulation 5 of the Regulations.
- (6) The release of probationers and parolees at community corrections offices is permitted.

5. Amenities, consultations and visits

- (1) The provision of amenities to inmates from external sources is permitted, subject to compliance with the security and general measures imposed at correctional facilities to contain the spread of COVID-19.
- (2) Contact consultation visits between legal practitioners and inmates are permitted, subject to compliance with the security and general measures imposed at correctional facilities to contain the spread of COVID-19. Telephonic contact is allowed where circumstances and resources permit.
- (3) Non-contact visits by members of the public to inmates in correctional facilities are permitted, limited to two visitors per inmate per month, in separate scheduled visits, and in terms of Departmental policies and guidelines.
- (4) Visits by essential and permitted service providers, as provided for in the Regulations, are permitted.
- (5) Office visitations by parolees and probationers are permitted.
- (6) Visits by external non-essential health care providers, including but not limited to, specialists, dentists, psychiatrists, and physiotherapists, are permitted.
- (7) Visits by the Judicial Inspectorate for Correctional Services and Independent Correctional Centre Visitors are permitted for performing statutory oversight at correctional facilities.

6. Remand detainees

- (1) The referral of remand detainees to court for consideration of their length of detention in terms of section 49G of the CSA will continue.
- (2) Bail review applications must be submitted to court from the third month after a remand detainee has been admitted to a remand detention facility.
- (3) Bail payments will be accepted at correctional facilities or at the courts.

Alert Level 2

7. Restrictions regarding placement, movement and release of inmates, parolees and probationers

- (1) Sentenced offenders who are verified as illegal foreign nationals and whose sentences will expire during the period of the national state of disaster will be released, where practicable, into

permanent designated facilities or temporary deportation or repatriation facilities, as designated by the Department of Home Affairs, whilst deportation processes are facilitated by the Department of Home Affairs.

- (2) Day parole granted to sentenced offenders is suspended.
- (3) The transfer of inmates is permitted as approved by the relevant Regional Commissioner.
- (4) The referral of inmates to external health facilities is permitted in accordance with Department of Health guidelines.
- (5) Community services rendered by parolees and probationers are permitted, subject to compliance with the security measures and with the general measures imposed at correctional facilities to contain the spread of COVID-19.
- (6) The release of probationers and parolees at community corrections offices is permitted.

8. Amenities, consultations and visits

- (1) The provision of amenities to inmates from external sources is permitted, subject to compliance with the security measures and general imposed at correctional facilities to contain the spread of COVID-19.
- (2) Contact consultation visits between legal practitioners and inmates are permitted, subject to compliance with the security and general measures imposed at correctional facilities to contain the spread of COVID-19. Telephonic contact is allowed where circumstances and resources permit.
- (3) Non-contact visits by members of the public to inmates in correctional facilities are permitted, limited to one visitor per inmate per month in terms of Departmental policies and guidelines.
- (4) Visits by essential and permitted service providers, as provided for in the Regulations, are permitted.
- (5) Office visitations by parolees and probationers are permitted.
- (6) Visits by external non-essential health care providers, including but not limited to specialists, dentists, psychiatrists, and physiotherapists, are permitted.
- (7) Visits by the Judicial Inspectorate for Correctional Services and Independent Correctional Centre Visitors are permitted for performing statutory oversight at correctional facilities.

9. Remand detainees

- (1) The referral of remand detainees to court for consideration of their length of detention in terms of section 49G of the CSA will continue.
- (2) The submission of bail review applications to court for existing remand detainees, as well as for new remand detainees within one week from admission to correctional facilities, who are unable to raise bail, must be prioritised and disposed of expeditiously, to alleviate overcrowding in remand detention facilities.
- (3) Bail payments will be accepted at correctional facilities or at the courts.

Adjusted Alert Level 3, Adjusted Alert Level 4 and Alert Level 5

10. Restrictions regarding placement, movement and release of inmates, parolees and probationers

- (1) Sentenced offenders who are verified as illegal foreign nationals and whose sentences will expire during the period of the national state of disaster will be released, where practicable, into permanent designated facilities or temporary deportation- or repatriation facilities, as designated by the Department of Home Affairs, whilst deportation or repatriation processes are facilitated by the Department of Home Affairs.
- (2) Day parole granted to sentenced offenders is suspended.
- (3) The transfer of inmates is prohibited, except under exceptional circumstances, as approved by—
 - (a) the Chief Operations Commissioner, after consultation with the relevant Regional Commissioners for inter-provincial transfers; or
 - (b) the relevant Regional Commissioners for transfers within a province.
- (4) The referral of inmates to external health facilities is limited to medical emergencies.
- (5) Community services rendered by parolees and probationers are suspended.
- (6) Probationers and parolees will be informed remotely of their release dates, and any administrative processes which cannot be finalised remotely, will be finalised when office visitation becomes permitted.

11. Amenities, consultations and visits

- (1) The provision of amenities to inmates from external sources is suspended.
- (2) Contact consultation visits between legal practitioners and inmates are suspended, except during Adjusted Alert Level 3 when contact consultation visits between legal practitioners and inmates are permitted, subject to compliance with the security and general measures imposed at correctional facilities to contain the spread of COVID-19. Telephonic contact is allowed where circumstances and resources permit.
- (3) Visits by members of the public to correctional centres and remand detention facilities are suspended, except for essential and permitted service providers, as provided for in the Regulations.
- (4) Office visitations by parolees and probationers are suspended.
- (5) Visits by external non-essential health care providers, including but not limited to specialists, dentists, psychiatrists, and physiotherapists, are suspended, except for medical emergencies.
- (6) Visits by the Judicial Inspectorate for Correctional Services and Independent Correctional Centre Visitors are permitted for performing statutory oversight at correctional centres and remand detention facilities.

12. Remand detainees

- (1) The referral of remand detainees to court for consideration of their length of detention in terms of section 49G of the CSA will continue.
- (2) The submission of bail review applications to court for existing remand detainees, as well as for new remand detainees within one week from admission to correctional facilities, who are unable to

raise bail, must be prioritised and disposed of expeditiously, to alleviate overcrowding in remand detention facilities.

- (3) Bail payments will be accepted at the courts.

Restrictions for areas declared as hotspots, regardless of Alert Level

13. Restrictions regarding placement, movement and release of inmates, parolees and probationers

- (1) Sentenced offenders who are verified as illegal foreign nationals and whose sentences will expire during the period of the national state of disaster will be released, where practicable, into permanent designated facilities or temporary deportation- or repatriation facilities as designated by the Department of Home Affairs, whilst deportation or repatriation processes are facilitated by the Department of Home Affairs.
- (2) Day parole granted to sentenced offenders is suspended.
- (3) The transfer of inmates to and from hotspots is prohibited, except under exceptional circumstances, as approved by the Chief Operations Commissioner.
- (4) The referral of inmates to external health facilities is limited to medical emergencies.
- (5) Community services rendered by parolees and probationers are suspended.
- (6) Probationers and parolees will be informed remotely of their release dates, and any administrative processes which cannot be finalised remotely, will be finalised when office visitation becomes permitted.

14. Amenities, consultations and visits

- (1) The provision of amenities to inmates from external sources is suspended.
- (2) Contact consultation visits between legal practitioners and inmates are suspended, but telephonic contact is allowed, where circumstances and resources permit.
- (3) Visits by members of the public to correctional centres and remand detention facilities are suspended, except for essential and permitted service providers, as provided for in the Regulations.
- (4) Office visitations by parolees and probationers are suspended.
- (5) Visits by external non-essential health care providers, including, but not limited to, specialists, dentists, psychiatrists, and physiotherapists, are suspended, except for medical emergencies.
- (6) Visits by the Judicial Inspectorate for Correctional Services and Independent Correctional Centre Visitors are permitted for performing statutory oversight at correctional centres and remand detention facilities.

15. Remand detainees

- (1) The referral of remand detainees to court for consideration of their length of detention in terms of section 49G of the CSA will continue.
- (2) The submission of bail review applications to court for existing remand detainees, as well as for new remand detainees within one week from admission to correctional facilities, who are unable to raise bail, must be prioritised and disposed of expeditiously, to alleviate overcrowding in remand detention facilities.

- (3) Bail payments will be accepted at the courts.

16. Withdrawal and transitional provisions

- (1) The Directions published under Government Notice No. 54, in *Government Gazette* No. 44111 of 28 January 2021 are hereby withdrawn.
- (2) Despite the withdrawal of the Directions referred to in subdirection (1), any conduct authorised by any such withdrawn Directions and any investigation, prosecution or any criminal or legal proceedings in pursuance of such withdrawn Directions, remains valid as if such Directions have not been withdrawn.

17. Short title and commencement

These directions are called the Directions to address, prevent and combat the spread of COVID-19 in all correctional centres and remand detention facilities in the Republic of South Africa and come into operation on the date of publication in the *Government Gazette*.