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## **Recommended Standard Operating Procedure for Agribusinesses in light of the COVID 19 shutdown**

### **Introduction**

Dear Agbiz member. As you are aware, the President has announced a 21-day national lockdown starting from Midnight on Thursday the 26<sup>th</sup> of March 2020. The Regulations outlining the restrictions will be applicable on the movement of people and goods during this time has been published on the 25<sup>th</sup> of March 2020 and can be accessed [here](#). The Minister has indicated that the food supply system must remain functional and that the agricultural value chain is an essential sector that must remain uncompromised. Communication is paramount in these challenging times and as agribusinesses must be empowered with correct and up to date information. These Standard Operating Procedures have hence been developed so that agribusinesses have certainty as to the correct procedures, protocols and measures that must be followed to remain in operation.

### **Disclaimer**

This document was compiled based on the best information available at the time of drafting. This includes multilateral discussions between the industry and Government, best practice directives issued by the World Health Organisation and Department of Health as well as the prescripts of the law and the best available legal interpretation thereof. We have done our utmost to ensure the accuracy of the information conveyed in this notice, however we caution that this document is merely a guideline developed to assist the dissemination of critical information to businesses. This document does not have any legal standing in its own right, but is merely a summary of the legal situation. The situation remains fluid and the nature of the challenge may necessitate changes or updates at very short notice so please be on the lookout for further communication from Agbiz.

## **Table of contents**

<i>1. Restrictions that have been imposed</i>	<i>Page 3</i>
<i>2. Directives and additional measures</i>	<i>Page 4</i>
<i>3. List of "Essential Services" and "Essential Goods"</i>	<i>Page 8</i>
<i>4. Procedural requirements for exemptions</i>	<i>Page 11</i>
<i>5. Mitigation measures put in place</i>	<i>Page 11</i>
<i>6. Best practice hygiene and sanitation measures to be applied by agribusinesses where still operational</i>	<i>Page 14</i>
<i>7. Prescribed procedure in the event of workplace contamination or contact</i>	<i>Page 16</i>
<i>8. Enforcement</i>	<i>Page 17</i>
<i>9. Monitoring the stability of agricultural supply chains</i>	<i>Page 17</i>
<i>Enquiries</i>	<i>Page 18</i>

## 1. Restrictions that have been imposed

On the 25<sup>th</sup> of March, a notice under the Disaster Management Act was published amending and adding to the restrictions that were put in place on the 18<sup>th</sup> of March. This gives effect to the 'lockdown' announced by the President. The [revised restrictions](#) that enter into operation at 24:00 on the 26<sup>th</sup> of March 2020 include the following:

- All "gatherings" will be prohibited irrespective of the number of people – the 100-person limit therefore falls away. The only exception is made for funerals but this will be limited to 50 people;
- Every person is confined to his or her place of residence, unless strictly for the following purposes:
  - Performing an essential service (detailed in the next section);
  - Obtaining essential goods or services;
  - Collecting a social grant;
  - Seeking emergency, life-saving or chronic medical attention;
- All business entities must cease operations save for businesses or entities involved in the manufacturing, supply, or provision of an essential good or service;
  - Those who can continue to operate by working from home are [permitted](#) to do so; and
  - Care and maintenance that essential to prevent the destruction or significant impairment of working areas, plant or machinery is permitted where necessary.
- Retail stores may only sell essential goods and subject to strict hygiene controls and measures designed to keep persons 1 meter apart;
- The movement between provinces, metropolitan or district boundaries are prohibited save where necessary to perform an essential service.
- All borders are closed save for the transportation of fuel and essential goods;
- All forms of public transport are prohibited save the use of bus, taxi, e-hailing services or private vehicles to render essential services, obtaining essential goods, seeking medical attention or attending a funeral, subject

- To the requirement that no more than 50% of the vehicle's capacity may be utilised and directions in terms of hygiene are adhered to.

## 2. Directives and additional measures

Regulation 10 permits line Ministers to issue additional 'directions' to supplement or clarify the Regulations. To date, the following were directions identified as important to agribusinesses:

### 2.1 SAPS enforcement guidelines

The Deputy National Police Commissioner has issued an instruction to all provincial commissioners, deputies, provincial coordination and command centres of SAPS to provide for uniform enforcement guidelines for the COVID 19 Regulations. The instructions are intended to provide for uniformity throughout the country as all SAPS members, SANDF and peace officers are required to follow these instructions when enforcing the lockdown regulations. The instruction largely summarises the COVID 19 Regulations as amended and does not introduce any new restrictions nor provide clarity as to the interpretation of any restrictions. It is merely an order to all SAPS to comply strictly with the Regulations. Its value for agribusinesses is thus limited.

### 2.2 Transport

The Minister of Transport issued 3 directions relating to public transport, air transport, railway operations, sea ports and cross-border road transport respectively.

#### ***Public transport***

- Operators must ensure that the inside of vehicles are sanitised before and after picking up any passengers;
- Drivers must wear masks;
- All long-distance and cross-provincial public transport is prohibited except when transporting employees to essential services between 5am and 9am, and again between 4pm and 8om only.
- Only 50% of the carrying capacity may be used at any time;

#### ***Railway operations***

- All operators must develop and submit a safety plan to operate during the lock-down;
- Train crews involved in cross-border rail operations may undergo compulsory screening;

- Advanced cleaning and hygiene protocols must be followed at all terminals where goods are on-loaded or offloaded.
- All commuter and long-distance passenger rail transport is prohibited.

#### ***Sea ports***

- Licenced port operators must adhere to the hygiene, sterilization control on ships, sea ports and in licenced port operators as provided for in the directions;
- All port users must be screened for COVID 19;
- A user-pay principle is applicable to the sterilization of all ships entering or leaving a sea port;
- A national tracing and monitoring system will be implemented at sea ports.

#### ***Cross-border transport***

- No cross-border passenger services may be permitted; but
- Cross-border freight movement will continue to and from our neighbouring countries.

#### ***Air transport***

- All international and domestic passenger flights prohibited;
- The following international airports may still continue to operate for the purpose of air cargo:
  - OR Tambo;
  - King Shaka;
  - Upington;
  - Polokwane;
  - Bram Fischer;
  - Kruger Mpumalanga;
  - Pilanesberg;
  - Cape Town; and
  - Port Elizabeth.

Cargo from medium to high-risk countries will be sanitised;

Improved hygiene and sanitation requirements prescribed.

### **2.3 Home affairs**

- The Minister has issued directions relating to the closure of borders as well as the revoking of several visas.

### **2.4 Communication**

- The Minister has issued directions to prevent the spread of fake news and ensure the smooth operations of digital media and electronic communication.

### **2.5 Trade and Industry**

The Minister of Trade and Industry has issued the following directives and notices under the International Trade Administration Act

#### ***a. Block exemption for hotels***

The Minister issued a direction under Regulation 10 (10) read with the Competition Act which permits hotels and other tourism accommodation providers to enter into agreements that will assist with the COVID 19 mitigation measures. Ordinarily, agreements of this nature would be in violation of the Competition Act however the exemption will temporarily allow the industry to:

- Jointly identify facilities that can act as quarantine sites;
- Reach agreements as to the costs associated with providing quarantine facilities; and
- Keep record and designate the accommodation facilities available in various areas of the country.

#### ***b. Export control regulation***

On Friday the 27<sup>th</sup> of March, the Minister enacted Regulations under the International Trade Administration Act to restrict the export of vital health products. As per the Regulations, the following items can only be exported with a special permit from the Department:

- Alcohol based hand sanitizers;
- Face masks;
- Hydroxychloroquine compounds;

- Multiple vaccines.

A permit is deemed to have been issued if no response is received within 10 working days of an application.

Herewith links to all the notices:

[Amended lockdown regulations](#)

[Visas and port of entry and exit](#)

[Electronic communications, postal and broadcasting](#)

[Directive on COVID from Minister of Labour](#)

[UIF temporary relief scheme](#)

[Disaster Management Act – air transport](#)

[Disaster Management Act – cross-border transport](#)

[Disaster Management Act – cruise ships](#)

[Disaster Management – public transport](#)

[Disaster Management – railways](#)

[SAPS enforcement Guidelines](#)

[Media statement – COVID-19 Tax Measures](#)

[Explanatory Notes on COVID 19 Tax Measures](#)

[Disaster Management Act 57-2002 – Measures to prevent and combat the Spread of COVID 19 air transport updated](#)

[Block exemption for hotels](#)

[Export control health products](#)

### 3. List of "Essential Services" and "Essential Goods"

Regulation 11B (1) (b) requires all businesses to cease operations save for "**any business or entity involved in the manufacturing, supply, or provision of an essential good or service**". All essential services already designated as such under the Labour Relations Act continue to be regarded as such with the addition of the goods and services specified in Annexure B to the regulations. The following are highlighted as it may relate to companies involved in the agro-food value chain:

#### a. Essential Goods

*"Food*

*(i) Any food product, including non-alcoholic beverages;*

*(ii) Animal food; and*

*(iii) Chemicals, packaging and ancillary products used in the production of any food product.*

*Cleaning and Hygiene Products*

*(i) Toilet paper, sanitary pads, sanitary tampons, condoms;*

*Hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment; and*

*(iii) Chemicals, packaging and ancillary products used in the production of any of the above.*

*Medical...*

*Fuel, including coal and gas;*

*Basic goods, including airtime and electricity."*

#### b. Essential services

Only those deemed directly relevant to the agro-food system is listed. The full list is contained in annexure B to the regulations.

Description	Possible interpretation
Harvesting and storage activities essential to prevent the wastage of primary agricultural goods	This provides for the continued operation of primary agricultural activities where non-food crops are ready to be harvested. Limited



	secondary operations such as storage should also be covered. This will, for example, permit the wine industry to continue harvesting their current crop although it cannot be sold domestically at this time.
Implementation of payroll systems to the extent that such arrangement has not been made for the lockdown, to ensure timeous payments to workers	Self-explanatory
Disaster Management, Fire Prevention, Fire Fighting and Emergency services;	Fire prevention could include Fire Protection Associations
Financial services necessary to maintain the functioning of the banking and payments environment, including the JSE and similar exchanges, as well as insurance services	Self-explanatory
Production and sale of goods listed in category A, above	This should cover those secondary industries involved in the production of essential food items
Grocery stores, including spaza shops	Self-explanatory
Electricity, water, gas and fuel production, supply and maintenance	Fuel supply could include fuel retailers and wholesalers

Critical jobs for essential government services as determined by Head of National or Provincial Departments in accordance with the guidance by the DPSA, including Social Grant Payments;	Critical government services such as the inspection of consignments and the issue of import/export permits required for agricultural trade can be included provided that they are determined by the Minister
Wildlife management, anti-poaching, animal care and veterinary services	This could be applicable to the wildlife ranching industry
Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector	It is unclear whether this applies to agro-chemicals, although they should be covered as chemicals required for food production are essential goods and the production of essential goods is an essential service
Private security services	Self-explanatory
Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment	Self-explanatory
Transport services for persons rendering essential services and goods, and transportation of patients	Self-explanatory

Transport and logistics in respect of essential goods set out in A above to neighbouring countries	Self-explanatory
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#### 4. Procedural requirements for exemptions

In line with the discussions taking place between industry and government prior to the promulgation of these Regulations. Companies (via the CEO or delegate) are required to self-regulate and determine which of its business operations fall within the listed goods or services as per Regulation 11B (2). This duty is placed on the head of an institution which is defined for private entities as the CEO or equivalent and this function may be delegated by the CEO if required by the complexity of the business operation. The head of public entities is the accounting officer. **We encourage agribusinesses to be self-critical in this regard so as not to place employees in unnecessary risk.**

In addition to self-determining whether an entity is an essential service or good provider, the head must also strictly determine which employees are essential for performing that service. **Staff that have been identified by the CEO or delegate must be designated in writing on a form that corresponds with the template provided for in the regulations. Agbiz has compiled a template for agribusinesses that is attached to this document.**

The DTI has also created an on-line portal (<http://www.bizportal.gov.za>) where companies who have followed the above procedure can register. **This is not a legal requirement**, however companies are encouraged to register as it will assist the DTI to keep track of those essential services that are still in operation during this time.

#### 5. Mitigation measures put in place

To assist businesses with cashflow and employees with an income, the following mechanisms have been put in place to assist businesses and employees to mitigate the effects of the lockdown:

##### 4.1 Temporary Employee / Employer Relief Scheme

The minister of Labour has instituted a temporary employee / employer relief scheme to access funding from the UIF for employees who cannot work during this time.

The scheme contains the following essential elements:

- If an employer must close its doors for 3 months or less due to the COVID restrictions, it will qualify for a Temporary Relief Benefit;
- The benefit permits the payment (from the UIF) of 38%-60% of employee's salaries based on the income replacement rate sliding scale for those employees who cannot work during the lockdown;
- The benefits will only pay for the cost of salaries where the employees cannot work from home or are not performing essential services;
- Salary benefits are capped at a maximum of R17 712.00 per month, per employee;
- Companies must be registered with the UIF to qualify;
- Employees that are working (essential services) but are required to self-quarantine for 14 days will also qualify.
- Procedure: Employers must apply by reporting their closure to [Covid19ters@labour.gov.za](mailto:Covid19ters@labour.gov.za) . An automatic email response will set out the procedure.

"In as much as employers are within their rights to insist that employees take annual leave during the lockdown, as the Department, we encourage employers not to request employees to utilise their annual leave credits for the lockdown, but to rather utilise the financial assistance that the department has placed at their disposal through the COVID-19 Temporary Employer/Employee Relief Scheme (TERS) in cases where companies cannot afford to pay employees," said Department of Employment and Labour, Chief Director of Labour Relations Thembinkosi Mkalipi.

#### **4.2 Tax measures to combat the COVID 19 Pandemic**

In line with international trends, the Minister of Finance has formally announced a number of tax measures designed to relieve pressure on businesses.

***Please take note:** to prevent confusion, Agbiz undertakes to only communicate developments once they have been enacted into law via a formal notice or publication. However, the nature of tax law differs in that tax adjustments have to be enacted as a Money Bill by Parliament. Since Parliament is not in sitting, the Minister of Finance has undertaken to implement these tax adjustments as of 1 April 2020 and Parliament will enact the necessary laws with retrospective effect once it is allowed to reconvene.*

##### **c. Extend the Employment Tax Incentive (ETI) for a period of 4 months**

The ETI is a tax rebate which can currently be claimed for qualifying employees between the ages of 18 and 29. The Minister has announced the following adjustments to cushion businesses:

- Between the period of 1 April 2020 and 31 July 2020:
  - The maximum amount of ETI claimable is increased from:
    - R1000 per employee in the first 12 months to R1500;
    - R500 for the second 12 months to R1000;
  - A monthly amount of R500 can be claimed for:
    - Employees for whom ETI was already claimed over a 24 month period – i.e. they qualify again but only for R500 pm;
    - Employees aged between 30 and 65.
  - Reimbursements from SARS will be made monthly opposed to twice yearly to ease business' cashflow.

Please note that all other requirements are still applicable (i.e. the employee must earn between the minimum wage and R6500 pm to qualify).

**d. *Deferral of PAYE payments for small and medium***

Businesses that deduct PAYE from employee's pay must ordinarily make the payments to SARS within 7 days after month end. As of 1 April 2020, the following will apply:

- Small and medium enterprises (less than R50m annual turnover) who are tax compliant:
  - Can defer 20% of the PAYE liability without any penalties, provided;
  - This 20% must be repaid to SARS in equal instalments over a 6 month period starting on 1 August 2020.

**e. *Deferral of the payment of provisional tax liability for small & medium enterprises***

The details will be communicated as soon as they are finalised but it envisions a deferred payment of Tax for small & medium enterprises.

## 6. Best practice hygiene and sanitation measures to be applied by agribusinesses where still operational

All employers in South Africa have a duty to maintain a working environment that is not harmful to the health and wellbeing of employees under s24 of the Constitution and this is given practical expression through the requirement to do a risk assessment under the Occupational Health and Safety Act. Those agribusinesses that are self-evaluated as essential service providers have an added responsibility to take all possible measures to protect the health and safety of their employees during this time. There are a number of best practice recommendations available that we wish to share with members:

### **c. Any person performing an essential service may be screened**

Regulation 11B (5) allows an enforcement officer to screen any person performing an essential service for the COVID 19 virus as well as anyone travelling to obtain essential goods or seeking medical attention.

### **d. Hygiene Practice for Agricultural and Food Processing Operations During Covid 19**

The Department of Agriculture, Land Reform and Rural Development has advised that the existing best practice codes for hygiene be implemented with additional measures to combat COVID 19, examples of which are included in the following sections. These existing codes include the [DAFF codes for Hygiene Practices for Fresh Fruits and Vegetables](#) as well as the [4<sup>th</sup> edition of the WHO and FAO's food hygiene guidelines](#). Members will be informed immediately is a dedicated hygiene practice guideline is released for agriculture and food processing in light of COVID 19.

### **e. Transportation of employees**

Some agribusinesses performing essential services may need to transport their employees to and from the workplace. Regulation 11C (3) specifically places an obligation on employers to make the necessary transport arrangements for employees rendering essential services provided that no vehicle may exceed 50% of its licenced capacity.

It is furthermore required that any directions related to hygiene is adhered to as may be determined by the Department of Health.

In other words, employees may make use of transport if they are designated to perform essential services but it is not business as usual:

- All employees and drivers should be in possession of the documentation designating them to perform an essential service;
- You cannot carry more than 50% of the vehicles' licenced capacity at any time; and
- Employees should be required to follow hygiene procedures such as hand sanitizers and/or washing hands before entering a vehicle.

In the discussions held with the Minister, agribusinesses were encouraged to make use of labour who can be accommodated on site or isolated from other communities as far as possible. This is not a legal requirement and should not be interpreted as an absolute requirement but rather encouraged wherever possible.

#### **f. World Health Organisation guidelines for workplace readiness**

The World Health Organisation has recommended a number of steps be taken to ready essential workplaces. These are briefly summarised below:

- Check the temperature of all employees before they enter the workplace:
  - Employees with an elevated (37.7 - 39.4°C) or high (above 39.4°C) temperature should be asked to go home and self-quarantine for 14 days;
  - Employees who administer the temperature tests should wear gloves, use a new disposable lens filter in the case of ear thermometers or a forehead thermometer;
- Ensure that the workplace is set-up to allow for social distancing between employees (2 meters apart);
- All surfaces and objects need to be disinfected regularly;
- Put sanitizing hand rub dispensers in prominent places around the workplace. Make sure these dispensers are regularly refilled;
- Display posters promoting hand-washing;
- Ensure that face masks<sup>1</sup> and / or paper tissues are available at your workplaces, for those who develop a runny nose or cough at work, along with closed bins for hygienically disposing of them;
- Encourage all meetings to take place telephonically or via video link.

The full document can be accessed [here](#).

### **g. Prevention is better than reaction**

The preventative measures outlined above may be costly but the costs of containment or a shutdown during a suspected infection will almost certainly outweigh these costs. Finally, the health and wellbeing of all staff is paramount and we urge agribusinesses to do everything possible to safeguard agriculture's most valuable asset, its people.

## 7. Prescribed procedure in the event of workplace contamination or contact

### **h. Notification**

In the event that an employee is suspected of being infected with the Corona virus or comes into contact with someone suspected or confirmed to be infected by the corona virus, the agribusiness must immediately contact the **24-hour hotline: 0800 029 999**. It is advised that the person be isolated immediately and the business should not attempt to transport any affected employee to seek medical attention but rather adhere strictly to the instructions given via the hotline.

### **i. Instructions of the enforcement officer**

Once notification has been given, the instructions of an enforcement officer must be followed. In terms of the [Regulations](#) published under the Disaster Management Act,<sup>1</sup> no person who is suspected of being in contact may refuse:

- a medical examination;
- admission to a health establishment;
- Quarantine or isolation;

If a person does not comply with these instructions, they may be placed in quarantine for 48 hours whilst a warrant is obtained from a magistrate that will force the person to comply with the prescribed procedures.

### **j. Workplace-specific response recommendations for agribusiness based on best practice**

Although not specifically prescribed, there are a number of steps that have been recommended by other agribusinesses that can be considered as best practice. These include the following:

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<sup>1</sup> Government Notice 318 of 2020 published in Government Gazette 43107 on the 18<sup>th</sup> of March 2020.



- Where contact is made with a person who is suspected of being infected, the entire business unit that was exposed should be quarantined immediately;
- All employees should be quarantined and the instructions of an enforcement officer should be followed after reporting the incident;
- The physical location should be thoroughly sterilised;
- When work is to continue, a new team or staff compliment should be brought in until such time as all employees who were potentially exposed can be tested and verified.

**k. Compensation for occupationally-acquired novel Corona Virus Disease (COVID 19) under COIDA**

The Compensation Commissioner published a [notice](#)<sup>2</sup> on Monday setting out the procedures that must be followed to claim compensation from the Compensation Fund, prescribed template as well as the benefits payable. The Department of Labour has set up a desk with a dedicated email address to receive compensation claims of this nature.

## 8. Enforcement

According to the Regulations published under the Disaster Management Act, the contravention of the restrictions imposed during the lockdown will constitute a criminal offence. The SAPS is therefore authorised to enforce the restrictions and may arrest a person and charge them under the Disaster Management Act in the event that they refused to comply. It is also worth taking note that an enforcement officer may subject any person performing an essential service or travelling to obtain essential goods or services to an examination to determine whether they are carrying the virus and order such person to be quarantined for 48 hours pending results.

Roadblocks are expected to be set up across the country and hence employees working in essential services should carry the prescribed identification document signed by the entity/company referred to above at all times and should be ready to produce same whenever questioned or confronted by members of SAPS, the SANDF or private security.

## 9. Monitoring the stability of agricultural supply chains

It is critically important that we can rapidly identify blockages and breakdowns in any of the multitude of supply chains in our agro-food system, and then respond with speed and appropriate measures to remedy any dysfunctionality, also with the food distribution networks to the

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<sup>2</sup> Government Notice 193 of 2020 published in Government Gazette 43126 on the 23<sup>rd</sup> of March 2020.

vulnerable, which has been identified as one of the major risk areas. To this end BFAP has assisted greatly in developing a web-based monitoring and reporting mechanism as we have committed to provide both Minister Didiza and Minister Patel with reports every 48 hours on the food security situation and efficiency of supply chains. Approximately 100 leaders (many CEO's from Agbiz members) will form part of this reporting system. Please do cooperate! We hope to test run on Thursday and become operational by Friday. You can already go onto the BFAP website and access the [COVID-19 Food system Impact portal](#).

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