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TRUSTS & ESTATES ALERT

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Update: Services of the Master during lockdown Level 4

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EXPERTISE AND SERVICES

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CLIFFE DEKKER HOFMEYR

Update: Services of the Master during lockdown Level 4

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The Master of the High Court (Master) has updated its service offering under the reduced Level 4 lockdown currently implemented in South Africa.

On 22 April 2020, we published an [alert](#) that set out the Master's purported service offering during the Level 5 lockdown which was implemented from 27 March 2020 to 30 April 2020.

On 23 April 2020, President Ramaphosa announced the implementation of a phased approach to restoring economic activity in South Africa. Accordingly, a Level 4 lockdown was implemented on 1 May 2020.

On 4 May 2020, the Minister of Justice and Correctional Services (Minister) issued further directions (Level 4 Directions) in terms of the regulations under the Disaster Management Act 57 of 2002. The Level 4 Directions repeal the Level 5 lockdown directions issued by the Minister on 31 March 2020.

The Level 4 Directions appear to broaden the Master's service offering.

Further to the Level 4 Directions, the office of the Chief Master has issued a proposed protocol (Protocol) of interim measures to be adopted by each of the Master's offices. The Protocol should be read as a supplement to the Level 4 Directions and will be revised from time to time as the circumstances require.

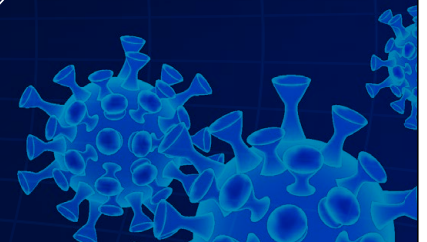
Level 4 Directions

Certain services are outlined in annexure 1D to the Level 4 Directions (Permitted Services). The Permitted Services are set out below.

- Reporting and issuing letters of appointment in respect of:
 - all deceased estate applications (letters of executorship/authority);
 - all insolvency applications;
 - urgent trust applications pertaining to COVID-19 relief measures only (as expanded per the Protocol as detailed later in this alert); and
 - urgent curatorship applications
- Receipt and processing of requisition applications

CDH'S COVID-19 RESOURCE HUB

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Update: Services of the Master during lockdown Level 4...continued

Entry into the Master's offices will be restricted. Only individuals with a material interest in the Permitted Services (either performing or accessing them) will be allowed access, subject to the conditions contained in the Level 4 Directions like, *inter alia*, social distancing measures.

- Receipt and examination of liquidation and distribution accounts in all deceased estate and insolvency matters
- Receipt of applications for the payment of money from the Guardian's Fund
- Receipt and endorsement of powers of attorney to pass transfer of immovable properties in deceased estates (as expanded per the Protocol as detailed later in this alert)

Entry into the Master's offices will be restricted. Only individuals with a material interest in the Permitted Services (either performing or accessing them) will be allowed access, subject to the conditions contained in the Level 4 Directions like, *inter alia*, social distancing measures.

Legal practitioners (including candidate legal practitioners) are required to carry a permit (as well as a form of identification) to render the Permitted Services. Such permit will authorise their travel between their place of residence, offices and the Master in order to render such Permitted Services.

Protocol

General

The Protocol sets out general hygiene measures. All stakeholders are required to wash their hands regularly and maintain social distancing.

Master's office officials are required to ensure that good ventilation is maintained and limit social gatherings within the offices to under 50 people.

The donning of facial masks is also non-negotiable, and all individuals will be refused entrance to the Master's offices without one.

At a high level, the Protocol provides that the Permitted Services will be rendered by way of email. Applicants, when lodging documents electronically, are also required to submit an affidavit stating that the originals thereof are within their care and that hard copies will be duly lodged at the Master's offices once permitted. A template affidavit in this regard is attached as an annexure to the Protocol.

Responses and official documents will be sent to an applicant by way of email and original, hard copy documentation will be available for collection, should you arrange such, or sent via post.

Queries from the public and stakeholders are encouraged and should be addressed via email and followed up telephonically if necessary, after 14 working days.

While there will be a return of officials to the Master's offices, same will be at a reduced capacity and output will remain to be seen.

CDH is a Level 1 BEE contributor – our clients will benefit by virtue of the recognition of 135% of their legal services spend with our firm for purposes of their own BEE scorecards.

Update: Services of the Master during lockdown Level 4...continued

It is imperative to keep abreast of all updates to the Master's service-offering, as well as its internal procedure as regards, for example, office access and processing of documents.

Deceased Estates

Original documents, such as wills and all documents on which the Master has to perform a function (for example, endorsement of a power of attorney to pass transfer of immovable property) must be lodged by way of post or courier and will need to be collected, alternatively posted, as detailed above.

Bonds of security may be lodged electronically if they are accompanied by an affidavit confirming the correctness thereof. (This applies to trust and curatorship applications too).

Trusts

Only urgent new trust registration applications and trustee appointments will be processed.

Urgent matters include where:

- beneficiaries are dependent on income from a trust;
- trust assets are at risk (and proof thereof is provided); and
- the trust is for COVID-19 relief measures (and an affidavit to this effect is provided).

At all times it remains in the Master's discretion whether to proceed with an application.

Going forward

As indicated above, the proposed Protocol is subject to change and adaptation as required. Thus, it is imperative to keep abreast of all updates to the Master's service-offering, as well as its internal procedure as regards, for example, office access and processing of documents.

Amidst a global pandemic, it is difficult to say when, if ever, we will return to "business as usual". It is going to be a journey filled with incremental steps towards operating at full capacity once more. These steps will be taken, keeping in mind the health and safety of those working at the Master, the public and the need to have access to legal services and ultimately, justice.

Emily West and Paige Winfield

CDH's Real Estate practice is ranked as a Top-Tier firm in THE LEGAL 500 EMEA 2020.

Lucia Erasmus is ranked as a Leading Individual in Real Estate in THE LEGAL 500 EMEA 2020.

William Midgley is ranked as a Leading Individual in Real Estate in THE LEGAL 500 EMEA 2020.

John Webber is recommended in Real Estate in THE LEGAL 500 EMEA 2020.

The
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500**
EMEA

OUR TEAM

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

Cliffe Dekker Hofmeyr is very pleased to have achieved a Level 1 BBBEE verification under the new BBBEE Codes of Good Practice. Our BBBEE verification is one of several components of our transformation strategy and we continue to seek ways of improving it in a meaningful manner.

This information is published for general information purposes and is not intended to constitute legal advice. Specialist legal advice should always be sought in relation to any particular situation. Cliffe Dekker Hofmeyr will accept no responsibility for any actions taken or not taken on the basis of this publication.

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