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An Employer's Guide

ADJUSTED ALERT LEVEL 2 REGULATIONS



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Effective 13 September 2021, South Africa was moved to Adjusted Alert Level 2 (AAL2) owing to a decrease in infection rates. This guideline provides an overview of the main provisions in terms of ALL2 as they pertain to the workplace.

1. REMOTE WORK AND A RETURN TO OFFICE

1.1 General obligations pertaining to the recommencement of work

- The President has called on all employees, who are able to work remotely, to continue to do so. However, those employees permitted to work outside of the home, may do so, subject to strict compliance with health protocols and social distancing.
- Where employees return to the workplace, employers are encouraged to implement a phased-in approach, to ensure that the workplace is COVID-19 ready and the requisite social distancing measures are maintained.
- Employers are also required to ensure that the return to work is in a manner that reduces and avoids the risk of infection and that the work being performed is not listed in the specific exclusions mentioned in the prohibited activity section of this guide.



2. EMPLOYER AND BUSINESS OWNER OBLIGATIONS

2.1 In terms of the AAL2 Regulations, every business premises has the following obligations and responsibilities:



to adhere to all sector specific or other health and safety protocols issued to date;



ensure all persons queuing either inside or outside their premises maintain a physical distance of 1.5m;



to appoint a compliance officer to enforce compliance with the AAL2 Regulations and all other health and safety protocols issued to date;



take measures to enforce physical distancing of 1.5m in its workplace, including implementing measures such as remote work, restrictions on face-to-face meetings and taking special measures in relation to employees who are considered vulnerable due to their age or co-morbidities; and



prohibit employees from entering the workplace or performing their duties unless an employee is wearing a face mask;



provide hand sanitisers for use by the public and employees at the entrance of its premises.



determine the floor space in square metres of the workplace and the number of persons who may enter the workplace based on the floor plan area, while still maintaining a physical distance of 1.5m;

2. EMPLOYER AND BUSINESS OWNER OBLIGATIONS...continued

2.2 Business owners



All business owners or operators of indoor and outdoor facilities must display a certificate of occupancy detailing the capacity of the venue.

2.3 Extension of Business Licenses and Permits



Business licenses and permits that have expired between March 2020 and June 2021 will remain valid until 31 December 2022. New business licenses or permits issued from the 1st of July will also be valid until 31 December 2022. Furthermore, no license fee will be payable.

2.4 Expansion of the tax incentives



Government is extending the Employment Tax Incentive (Incentive) for a period of four months to include employees earning below R6,500 and to increase the Incentive amount by up to R750 per month to encourage employers to hire and retain employees, particularly those in the retail and hospitality sectors.

Payment of PAYE taxes, will be deferred, for a period of three months to provide businesses with additional cash flow, with an automatic deferral of 35% of PAYE liabilities for employers with revenue below R100 million.

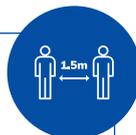
3. WORKPLACE GATHERINGS AND SOCIAL DISTANCING

3.1 Remote Working



All employers are directed to allow employees to work from home, wherever possible. In addition, employers are to postpone all non-essential travel and workplace gatherings.

3.2 Workplace gatherings



Workplace gatherings are permitted provided persons maintain the relevant health and safety measures and maintain social distancing.

3.3 Business Premises



All business premises are limited to those number of persons who can be present on their premises while still maintaining social distancing of 1.5m.

4. PERMITTED ACTIVITIES, PROHIBITED ACTIVITIES AND PLACES CLOSED TO THE PUBLIC

4.2 The following places will remain closed to the public:



Night clubs will remain closed to the public.

4.2 The following activities are permitted in terms of AAL2 regulations:



Traditional community meetings (imibizo).



Initiation practices are permitted subject to the submission of a risk adjusted plan for conducting initiation practices to the relevant Cabinet members by the provincial executive responsible for traditional affairs and subject to strict social distancing protocols.



Post initiation practices (imigidi) (subject to a limitation of 100 people or less for indoor venues and 250 people or less for outdoor venues).

4.3 The following activities are prohibited in terms of AAL2 regulations:



Night vigils.



Post funeral gatherings, including "after tears" events.



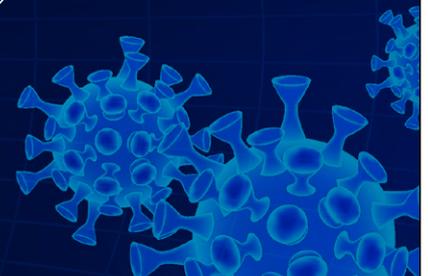
Attendance at sporting events by spectators.



Exclusions relating to public transport and education as set by the relevant Cabinet member.

CDH'S COVID-19 RESOURCE HUB

Click here for more information 



5. CURFEW



5.1 THE CURFEW HAS BEEN EXTENDED. ALL PERSONS ARE NOW CONFINED TO THEIR PLACES OF RESIDENCE FROM 23H00 – 04H00 UNLESS THEY ARE PERMITTED OTHERWISE, OR IN THE CASE OF A SECURITY OR MEDICAL EMERGENCY OR WHERE ARRIVING FROM A FLIGHT OR ARE TRAVELLING TO AND FROM THE AIRPORT FOR A FLIGHT WHICH NECESSITATES TRAVELLING DURING RESTRICTED HOURS OF MOVEMENT.

5.2 THE FOLLOWING ESTABLISHMENTS ARE REQUIRED TO CLOSE OPERATIONS AT 22H00 WHETHER INDOOR OR OUTDOOR:



PUBLIC SWIMMING POOLS

(limited to 50 people for indoor facilities and 100 people for outdoor facilities. Where the venue is too small for the number of aforementioned persons, capacity should not exceed 50 percent of the venue size)



BEACHES AND PUBLIC PARKS



GAME PARKS, BOTANICAL GARDENS, AQUARIUMS AND ZOO'S



RESTAURANTS, TAVERNS AND BARS

(limited to 50 patrons or less. Where the venue is too small than no more than 50% of the capacity of the venue may be used)



VENUES HOSTING PROFESSIONAL SPORT

(subject to directions from sports matches being issued by the cabinet member. Journalists, radio and television crew, security personnel, emergency medical services and the necessary employees employed by the venue may attend. The required number of players, match officials, support staff and medical crew may also attend)



VENUES HOSTING AUCTIONS



GYMS AND FITNESS CENTRES

(limited to 50 persons or less. Where the venue is too small than not more than 50% of the capacity of the space may be used subject to strict health and social distancing protocols)



VENUES HOSTING FAITH-BASED OR RELIGIOUS GATHERINGS



THEATRES



CINEMAS



CASINOS



SOCIAL, POLITICAL AND CULTURAL GATHERINGS

6. GATHERINGS

Gatherings are permitted provided those attending gatherings wear a mask, adhere to health protocols, maintain social distancing and adhere to the curfew.

An owner or operator of any indoor or outdoor facility where gatherings are held must display a certificate of occupancy which sets out the number of persons the facility may hold. A failure to do so constitutes a punishable offence.

6.1 Faith-based or religious gatherings, social, political and cultural gatherings

Gatherings will be allowed limited to a maximum of 250 people for indoors events and 500 people for outdoor events. Where the venue is too small to accommodate these numbers, with appropriate social distancing, then no more than 50% of the capacity of the venue may be used.



6.2 Gatherings at Funerals

Attendance at funerals and cremations may not exceed 50 people and all social distancing and health protocols must be observed

Funerals services are further restricted to 2 hours.



7. EXTENSION OF THE SPECIAL COVID-19 GRANT AND TEMPORARY EMPLOYER-EMPLOYEE RELIEF SCHEME (TERS) RELIEF

Applications to the COVID-19 TERS Relief Fund, for this period are open, and the Unemployment Insurance Fund (UIF) will facilitate payments as expeditiously as possible to support employees who have not received an income.

On 11 August 2021, the Minister of Employment and Labour Gazetted the Temporary Financial Relief Scheme known as the: *"Destroyed, Affected or Looted Workplaces: Temporary Financial Relief Scheme, 2021"*. The Scheme is created under the Unemployment Insurance Act, 2001 and will be reviewed bi-weekly by the Minister on the advice of the Unemployment Insurance Commissioner in respect of its continued operation. The Scheme is not linked to the normal Unemployment Insurance benefits.

Building upon the lessons of 2020, the Scheme applies not only to employees but to workers. Where a worker who is receiving part or no remuneration because of the civil unrest (experienced between 9 to 18 July 2021), such worker is entitled to an income replacement, calculated on a sliding scale of 38% to 60% based on remuneration.

The remuneration that would be taken into account in calculating the relief cannot exceed R17,712.00 per month. However, if the income replacement is below R3,500.00 then the worker must be paid a replacement income equal to such amount. Accordingly, the payment will not exceed R6,700.00 and shall not be less than R3,500.00 per month. A flat rate may also be determined by the Minister if financial considerations dictate.

Payments under the Scheme will be made directly into the workers bank account unless the Commissioner allows payment directly to the employer. However, an employer is required to apply for the temporary financial relief on behalf of the affected employees and must satisfy the following conditions (an application cannot be made by the employee):

1. It must register and be registered with the Unemployment Insurance Fund;
2. The closure of the employer's business must be directly linked to the destruction, damage or looting of its workplace;
3. The employer must confirm in writing or electronically that the terms of the Scheme and/or the procedure document issued by the UIF is accepted;
4. Details of the destruction or damage or looting or closure of the workplace must be provided. Additionally, documentary proof of a report to the SAPS (case number issued) and if the business is insured proof of submission and acknowledgement of receipt of the insurance claim must be submitted; and
5. Any other information the Commissioner may require.



8. OFFENCES AND PENALTIES

7.1 Employers who commit, *inter alia*, the following offences will be liable for a fine or imprisonment not exceeding six months, or to both such fine and imprisonment:



Operating a nightclub;



The sale, dispensing and distribution of alcohol in contravention of the regulations;



Where applicable, failure to adhere to the curfew of 22h00; and



Adherence to restrictions in relation to limitations pertaining to gatherings.

9. SALE OF ALCOHOL

The sale of alcohol by a licenced premises for off-site consumption is permitted between the hours of 10h00 and 18h00 from Mondays to Friday (excluding Saturdays - Sundays).



Alcohol sales for on-site consumption is permitted as per license conditions up to 22h00. These provisions do not apply to duty free shops at airports who are permitted to trade in accordance with their licenses.

Registered wineries, wine farms, micro -breweries and micro-distilleries may continue to operate and offer wine-tastings and other brew-tastings. The selling of wine and other brews to the public for off-site and on-site consumption is permitted until 22h00 subject to social distancing and health protocols.

Transportation of liquor is permitted.

10. INTER PROVINCIAL TRAVEL



Inter provincial travel is permitted for any reason.

11. RANGE OF MEASURES TO SUPPORT THE RECOVERY OF THE ECONOMY FOLLOWING THE CIVIL UNREST



To support those who have no means of supporting themselves, government is reinstating the Social Relief of Distress Grant (Grant) to provide a monthly payment of R350 until the end of March 2022.



The number of eligible people for this Grant is extended to allow for unemployed caregivers who currently receive a Child Support Grant (CSG) to apply. Full Details on the reinstatement of the Grant, will be announced shortly.



The food relief being provided by the Department of Social Development, government is contributing R400 million to the Humanitarian Crisis Relief Fund (HCRF) established by the Solidarity Fund to assist with the immediate needs of affected communities.



Government is also implementing measures to assist businesses to rebuild so that they may re- open expeditiously.



Businesses that are insured will be covered by SASRIA (the state-owned insurance company which provides cover against incidents of civil unrest). SASRIA has committed to expedite the payment of all valid claims, and is working together with private insurers to ensure that assessments are completed without delay.



Government is working to extend support to uninsured businesses that were also affected by the civil unrest. Government will set aside dedicated funds for this purpose and will announce a mechanism for these businesses to apply for support, in due course.



Funding for SMMEs affected by the pandemic, will be prioritised through a once-off business survival funding mechanisms.

12. RE-OPENING OF AIRPORTS, LAND BORDERS AND INTERNATIONAL TRAVEL

International travel is restricted to the following five airports will remain open for international travel with standard infection control measures: OR Tambo, Cape Town, King Shaka, Kruger Mpumalanga and Lanseria airports. The land borders which are fully operational will remain as such.



DISCLAIMER:

AN EMPLOYERS GUIDE TO THE AAL2 REGULATIONS

is an informative guide covering a number of topics, which is being published purely for information purposes and is not intended to provide our readers with legal advice. Our specialist legal guidance should always be sought in relation to any situation. This version of the employers guide reflects our experts' views as of 4 October 2021. It is important to note that this is a developing issue and that our team of specialists will endeavour to provide updated information as and when it becomes effective. Please contact our employment team should you require legal advice amidst the COVID-19 pandemic. This guide is not intended to serve as medical advice nor does this guide intend to make any evaluations in relation to the efficacy of COVID-19 vaccines or the correctness of the decision to implement a mandatory vaccination policy in all instances.

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BBBEE STATUS: LEVEL ONE CONTRIBUTOR

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.

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