the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE CHIEF MASTER

PROTOCOL TO BE ADOPTED BY THE BRANCH: MASTER TO ADDRESS THE NATIONAL DISASTER REGARDING THE SPREAD OF THE COVID-19 (CORONA) VIRUS – LEVEL 2

NOTE: *This protocol amends the Level 3 Protocol previously issued. However, any templates (wherever referred to below and applicable) issued with the Level 3 Protocol, is still applicable in the Level 2 Protocol.*

1. INTRODUCTION

1.1. The Master is a creature of statute and therefore has an obligation in terms of legislation to serve the public regarding the different spheres of duties performed by the Masters.

1.2. On 15 March 2020, the Honourable President Ramaphosa declared a National State of Disaster pertaining to the Covid-19 (Corona) virus, in South Africa.

1.3. It has been announced by the President that the full lockdown in which the country currently is, will be incrementally eased in stages, going forward. The Level 3 lockdown we have been in has been eased to a Level 2 lockdown as from 18 August 2020. This allows for more industries to start working again and more services to be available to the public. In this regard R. 891 in Government Notice No. 662 of 17 August 2020 was issued.

1.4. The Department of Public Service and Administration has further issued a State of Disaster Guideline for all Government Departments to manage the impact of the State of Disaster on Government Departments.

2. BACKGROUND

Various members of the public, including our stakeholders, visit the 15 Master's offices on a daily basis. This poses a real risk for the disease to be transmitted, especially by infected individuals that visit the offices. The safety of our own officials is therefore also at risk.

However, the economy is also taking strain in this period and a balance should be found between still assisting the economy and stopping the spread of the virus and protecting

public and officials, whilst complying with the Level 2 regulations.

Inputs have been received from all Master's Offices as well as stakeholders, on how this can be achieved.

3. MEASURES

3.1. GENERAL HYGIENE:

All officials, users and stakeholders are advised to follow and adhere to guidelines that been been issued by the Minister of Health to minimise the spread of the virus. These measures advocate for, amongst others, the following safety precautions

1) Washing of hands (all staff and public)
2) Avoid shaking of hands (everyone in society at this stage)
3) Adopt measures to promote physical distancing, including, amongst others:
   a) restricting face to face meetings
   b) take special measures for employees above the age of 60 as well as employees with known or disclosed health issues or comorbidities or any known condition which may place them at higher risk for complication or death if infected with COVID-19
4) Use of natural ventilation by opening windows and doors
5) Deep cleaning and sanitizing public spaces (DoJ staff in conjunction with the cleaning staff, will address)
6) Monitoring flu-like symptoms and consulting health practitioners (all staff on site)
7) Offices to procure latex/latex free gloves and hand-sanitizers/hand soap urgently if not available officials should be made aware of the DOH guidelines on personal hygiene. Staff that has specific allergies may make use of their own sanitizers.
8) The usage of latex gloves is not encouraged as it does not guarantee safety from contracting the virus. According to scientific evidence and the World Health Organisation (WHO) gloves may increase the risk of infection. Gloves will be made available upon request.
9) Wearing of masks or a homemade item that covers the nose and mouth when in a public place, or another appropriate item to cover the nose and mouth.
10) Awareness to be created in offices on hygiene and protocols through the Employee Health and Wellness Programme within the Department.
11) To strengthen communication and to discourage the spreading of fake news, the National Department of Health (NDoH) has also developed a service via WhatsApp where the latest information on COVID-19 can be obtained and

accessed on **+27 600 123 456**. Offices are encouraged to communicate this service to their employees to ensure they are in receipt of the latest information and combat the spreading of fake news that has the potential to disrupt service delivery, containment measures and lead to panic.

12) An employee or employees refuse to report for duty based on the fear of being infected by COVID-19

- The employment relationship is the legal link between employers and employees and stipulate that a person (employee) will perform work or a service under certain conditions in return for remuneration (employer)
- The onus is on the employee/s to demonstrate that the workplace is a risk and unsafe in relation to the virus.
- Refusal to report for duty, contrary to the instructions of the supervisor or HoD means that such absence is unpaid and should be dealt with in terms of the Disciplinary Code.

3.2. ACCESS TO MASTER'S OFFICES

The Covid-19 (Corona) virus has created conditions that have compelled the Masters in the country to adopt steps which are exceptional, but that are necessary in the best interest of public safety and health, to minimize the spread of the virus in the offices and to limit the public's rights to have access to the offices. These powers are derived from the Disaster Management Act, Act 57 of 2002 and the Regulations issued in this regard. Given the dangers posed by exposure to the virus, these measures are temporary and for a limited period and will be reviewed by the Masters on an ongoing basis, and do not purport to create a blanket denial of access to the offices.

The offices will still remain open for all matters listed hereunder, subject to precautionary measures and standards.

4. MEASURES TO LIMIT CONTACT WITH THE OFFICES

4.1. GENERAL ACCESS TO MASTER'S OFFICES

4.1.1. In terms of the DMA and regulations, no gatherings of more than 50 people shall be allowed. For this reason, each office, depending on their capacity, will determine the number of public granted access to the office/building but shall not exceed 50. This is to ensure the well-being and safety of both the officials and the public. Every office shall determine their area of floor space in square metres and, based on this, determine the number of customers and employees that may be inside the premises at any time with adequate space available.

4.1.2. Offices shall also take steps to ensure that persons queuing inside or outside the premises are able to maintain a distance of one and a half metres from each other and provide hand sanitizers for use by public and employees at the entrance of the premises.

4.1.3. No person will be allowed to enter any building, place or premises, if they do not wear the prescribed face mask

4.1.4. Each Head of Office shall ensure that a register is available at the entry point to the office, which will be required to be filled in daily by all officials and visitors to indicate whether they have been in contact with a person who has/had the virus. If any person indicates that he/she has been in contact with a person who has or had the virus, steps must be taken to ensure that that person shows no signs of the illness and should be assisted in a secluded office, which must be sanitized thereafter. Any person having a fever can be denied entry and must be certified as being healthy before entry is given.

All officials will return to work normal office hours, but will be working in staggered hours and /or on rotation to ensure that social distancing requirements and Par 46 (2) of the Regulation no 608, can be complied with.

This is however subject to further Departmental directions which might be issued.

It must be kept in mind that this will influence the turnaround time of responses and services by the office.

4.2. DEALING WITH DECEASED ESTATES

4.2.1. APPOINTMENTS

4.2.1.1. For all matters where there are any disputes, family meetings may be convened upon appointment with the relevant Master'.

A. Attendees will be limited to a number indicated by the relevant Master's official, depending on the space available, in order to ensure the safety of all and adhere to social distancing regulations..

4.2.1.2. In all matters where there are no disputes, appointments will be dealt with as follows:

A. Originally signed reporting documents should be posted, couriered or hand delivered (as per paragraph 4.7(a) below) to the Master. This includes all documents on which the Master has to perform some function such as acceptance or endorsement thereof (e.g. renunciations, adiations, redistribution agreements, 42(2) applications etc.).

i. This excludes however the lodgement of bonds of security, which may

be lodged electronically. However, it must be accompanied by an affidavit confirming the correctness thereof, it is authenticated and that originals will be lodged when called so by the Master

B. Letters of appointment will be placed in the respective pigeonholes/ MK boxes in the offices for collection, or alternatively posted to appointees who do not have collection boxes, unless otherwise requested.

C. The Master will print all electronically received and sent documents and place it on the relevant file.

4.2.2. ACCOUNTS

4.2.2.1. The Master's officials will deal with all accounts lodged and any accounts already examined prior to the lockdown.

A. Originally signed accounts and supporting vouchers should be posted, couriered or hand delivered (as per paragraph 4.7(a) below) to the Master.

B. Query sheets may be sent electronically to the executor, upon request, and any compliance thereto has to be lodged as per usual.

C. Accounts advertised during level 2:

i. Advertisement may only take place if the Master provided the relevant permission to do so, as normal.

ii. As the Magistrate Courts will now allow inspection of accounts, the advertising procedure and requirements will return to normal, as prior to lockdown.

iii. However, as interested parties might not be able / allowed to by relevant Magistrate Court or Master to timeously inspect an account during level 2, all accounts advertised in terms of section 35, should **also** be forwarded by the executor to all the interested parties of which he/she is aware. (This includes, but is not limited to, known beneficiaries, debtors, creditors and maintenance dependants.)

iv. Parties who want to object against the account must lodge the objection as usual (via post, courier or delivery at the office as per paragraph 4.7(a) below).

v. The Master will also electronically forward any objections lodged during the advertisement period to the executor for comments.

vi. After expiry of the advertisement period, it is the duty of the executor to provide the Master with an affidavit stating that the account was sent to

all interested parties, of which he/she was aware, (attach proof) and that no objections was received by him/her during the advert period.

vii. Magistrate's offices may e-mail the relevant certificate to the Master / executor, upon expiration of the inspection period.

viii. Upon receipt of the Magistrate's certificate (if applicable), the affidavit by the executor and if the Master did not receive any objections as well, the Master may proceed to confirm the account and inform the executor accordingly.

D. The Master will print all electronically received and sent documents and place it on the relevant file.

4.3. **DEALING WITH TRUSTS**

4.3.1. The Master's officials will deal with all new and amendment applications lodged and any applications already lodged prior to the lockdown.

A. Originally signed documents should be posted, couriered or hand delivered (as per paragraph 4.7(a) below) to the Master.

i. This excludes however the lodgement of bonds of security, which may be lodged electronically. However, it must be accompanied by an affidavit confirming the correctness thereof, it is authenticated and that originals will be lodged when called so by the Master

B. Letters of appointment will be placed in the respective pigeonholes/ MK boxes in the offices for collection, or alternatively posted to applicants who do not have collection boxes, unless otherwise requested.

C. The Master will print all electronically received and sent documents and place it on the relevant file.

4.4. **DEALING WITH INSOLVENT ESTATES**

4.4.1. <u>APPOINTMENTS</u>

4.4.1.1. The Master's officials will deal with all applications lodged and any applications already lodged prior to the lockdown

4.4.1.2. New / amended appointments will be attended to as follows:

A. Each office must liaise with the Registrar of the High Court in their area to ensure that orders are received via email once it is issued.

B. All documents should be posted, couriered or hand delivered (as per paragraph 4.7(a) below) to the Master.

i. This excludes however the lodgement of bonds of security, Affidavits of Non-interest, undertakings and requisitions, which may be lodged electronically.

C. However the following must be adhered when lodging documents electronically.

i. An affidavit listing the lodged documents and confirming that all originals have been seen and is being kept by the applicant, must accompany such lodgement and

ii. Original documents must be scanned, accompanied by an affidavit confirming the correctness thereof, it is authenticated and that originals will be lodged when called so by the Master

D. Letters of appointment will be placed in the respective pigeonholes/ MK boxes in the offices for collection, or alternatively posted to applicants who do not have collection boxes, unless otherwise requested.

E. The Master will print all electronically received and sent documents and place it on the relevant file.

4.4.2. ACCOUNTS

4.4.2.1. The Master's officials will deal with all accounts lodged and as well as accounts already examined prior to the lockdown.

A. All documents should be posted, couriered or hand delivered (as per paragraph 4.7(a) below) to the Master.

B. Query sheets may be sent electronically to the liquidator/trustee, upon request, and any compliance thereto has to be lodged as usual.

C. Accounts advertised during level 2:

i. Advertisement may only take place if the Master provided the relevant permission to do so, as normal.

ii. As the Magistrate Courts will now allow inspection of accounts, the advertising procedure and requirements will return to normal, as prior to lockdown.

iii. However, as interested parties might not be able / allowed by the Magistrate Court or Master to timeously inspect an account during level 2, all accounts advertised, should **also** be forwarded by the liquidator / trustee to all the interested parties of which he/she is aware.

iv. Parties who want to object against the account must lodge it as usual (via

post, courier or delivery at the office as per paragraph 4.7(a) below).

v. The Master will also electronically forward any objections lodged during the advertisement period to the liquidator / trustee for comments.

vi. After expiry of the advertisement period, it is the duty of the liquidator / trustee to provide the Master with an affidavit stating that the account was sent to all interested parties, of which he/she was aware, (attach proof) and that no objections was received by him/her during the advert period.

vii. Magistrate's offices may e-mail the relevant certificate to the Master / Liquidator / Trustee, upon expiration of the inspection period.

viii. Upon receipt of the Magistrate's certificate (if applicable), the affidavit by the Liquidator / Trustee and if the Master did not receive any objections as well, the Master may proceed to confirm the account and inform the liquidator / trustee accordingly.

D. The Master will, as far as possible, prioritise the confirmation of accounts and the release of Bonds and dispatch such confirmation and/or release by email to the appointee.

E. The Master will print all electronically received and sent documents and place it on the relevant file.

4.4.3. MEETING OF CREDITORS

Uncontested meetings of creditors and/or urgent interrogations will be allowed to take place. These will take place, as far as possible, via Zoom, Skype and/or Microsoft Teams (or any other acceptable video conference mechanism that can be accessed by the relevant Master's Office) that avoids personal contact with representatives of the Master.

4.4.3.1 First meetings of creditors:

The Master will proceed to convene First meetings of creditors **at the Master's Offices,** which are **uncontested**.

A. The appointed Provisional liquidators/trustees in a matter must provide the Master with an affidavit confirming that the meeting will be uncontested prior to the Master convening such meeting.

B. Claims must be submitted to the Master 48 hours prior to the meeting, as documents will have to be stored for decontamination for 24 hours

C. After closure of the meeting held in the Master's Office, the liquidator must arrange with the Master to uplift the claims.

D. At this stage, all uncontested meetings will be convened at the Master's Office where a file is opened, irrespective of where the business address of the company or residential address of the insolvent is.

E. All **contested meetings** will stand over until end of September, when the Master will re-evaluate the position.

4.4.3.2 Second meetings:

Liquidators may proceed to convene these meetings at Magistrates Courts where applicable. It is, however, advised that liquidators ensure that a relevant Magistrate is open to hold meetings and agree on a date for it to take place, prior to placing such advertisement.

A. Second meetings require a proven creditor to vote for the acceptance of the liquidator's report and resolutions. As the Master's Office is not in a position to allow access to creditors, these meetings can only be convened at a Magistrate's Court, or same will stand over until end of September when the position will be re-evaluated.

4.4.3.3 Special meetings:

Special meetings may be convened at the Master's Office if same is only for the proving of claims, without attendance.

A. It is suggested that all special meetings be held at the Master's office until further notice.

B. Claims will be lodged in a similar manner as indicated under 'First meetings' and claims will be uplifted similarly. (paragraphs 4.4.3.1 B & C above)

4.4.3.2. Meetings which are prescribed to be convened by the Master will continue to be convened by the Master, likewise those that the Act prescribe to be convened by liquidators/trustees, will be convened by the liquidators/trustees.

4.4.3.3. All mentioned meetings should continue in consultation with the specific Commissioner, Magistrate or Master presiding over such meeting. In cases where the presiding officer feels uncomfortable to entertain such meeting, it ought to be postponed to a mutually agreed future date.

4.4.4 REHABILITATION REPORTS AND OTHER COURT REPORTS

If a report by the Master is needed in any matter which has been placed on the court roll to be heard during Level 2 lockdown, the Master must prepare and lodge the relevant report accordingly.

4.5. **GUARDIAN'S FUND**

4.5.1. Heads of Office shall ensure that the work continues and stays up to date.

4.5.2. All the applicants for first J341 applications, J251 applications and applications where the change of bank details are involved should visit the office to be verified on MOVIT.

4.5.3. All the J341 applications (from 2nd applications onward) for maintenance may be submitted via e-mail to a designated official's e-mail address to be provided by each office.

4.5.4. Designated officials must print the applications and deal with it in the same way as if it had been received via post.

4.6. **CURATORSHIPS**

4.6.1. All appointments of curators or Administrators will be considered and attended to.

A. As the postal and courier services will be operating in Level 3, all documents should be posted, couriered or hand delivered (as per paragraph 4.7(a) below) to the Master.

i. This excludes however the lodgement of bonds of security, which may be lodged electronically. However, it must be accompanied by an affidavit confirming the correctness thereof, it is authenticated and that originals will be lodged when called so by the Master.

B. Letters of appointment will be placed in the respective pigeonholes/ MK boxes in the offices for collection, or alternatively posted to applicants who do not have collection boxes, unless otherwise requested.

C. The Master will print all electronically received and sent documents and place it on the relevant file.

4.6.2. <u>ACCOUNTS</u>

The Master's officials will deal with all accounts lodged and any accounts already examined prior to the lockdown.

A. As the postal and courier services will be operating in Level 2, originally signed accounts and supporting vouchers should be posted, couriered or hand delivered (as per paragraph 4.7(a) below)to the Master.

B. Query sheets may be sent electronically to the curator, upon request, and any compliance thereto has to be lodged as usual.

C. The Master will print all electronically received and sent documents and place it on the relevant file.

4.7 **GENERAL**

a) All hand delivered post to be placed in the postal boxes of each office this will include requests for applications for copies.

i. Postal boxes to be placed at the main entrances of the buildings so as to limit the access to the building, wherein original documents can be deposited. Offices can, for ease of administration and minimise the handling of documents, allocate a separate box for each section in the office, but must ensure that it is clearly marked accordingly.

ii. These boxes to be opened every 12 hours, as the virus only survive on paper for 5 – 11 hours. The decision on the number of boxes to be placed will reside with each HOO.

iii. A Master's officials/security official should be designated to man these delivery boxes and to date stamp documents before they are placed in the relevant box and confirm receipt with a Master's date stamp on the duplicate copy of the person lodging it, should it be requested.

i. Note that the official will only stamp the document and not physically handle it or place it in the box – this should be done by the person lodging it, to limit contamination.

iv. When documents are delivered by courier, the recipient will sanitise the bag containing the documents prior to opening it. This should not damage the documents contained inside the bag.

b) Only one person per matter will be allowed into the office to report, lodge or collect matter/documents, unless otherwise agreed upon (in exceptional circumstances and with good reason) by the relevant Master's Official or Security Officials monitoring entry.

c) In all other matters only clients will be seen who have made an appointment and in the discretion of the respective official.

All officials will return to work normal working hours, but will be working in staggered hours and /or on rotation to ensure that social distancing requirements and Par 62 (2) of the Regulation no 891 can be complied with. (This is however subject to further Departmental directions which might be issued.)

It is the responsibility of every Head of Office to ensure that his/her office minimises congestion, complies to social distancing prescripts and to implement staggered hours or a rotational roster to ensure that all staff perform equal duties, taking into regard any special measures for employees above the age of 60 as well as employees with known or disclosed health issues or comorbidities or any known condition which may place them at higher risk for complication or death if infected with COVID-19. It is the prerogative of the Head of Office to request any such employee to provide proof of his/her condition, if necessary.

d) Queries by the public or stakeholders encouraged to communicate by e-mail and followed up telephonically if necessary, within 14 working days. (To ensure this is a viable option, the Acting Chief Master directs that officials should as far as possible be office bound. Any complaint regarding non-responsiveness to e-mails or calls without valid reason, may result in disciplinary steps.)

e) Offices should note that all auxiliary services and duties with regards to the services which will be provided, as indicated in this document, is included in this protocol.(e.g. dealing with correspondence, drawing and management of files, keeping of statistics, answering of telephones, completing of relevant registers, procurement, writing of court reports etc.)

f) Limit access to the building on an urgency basis in line with current guidelines issues by the President, referred to in par 1.2 and 1.3 above.

5. IMPLEMENTATION

The above interim measures will be revised from time to time as and when needed. The Branch: Masters is committed to safeguard members of the public visiting the Master's offices as well as employees against this outbreak.

Adv. P Kambula
Acting Chief Master
Date:

AFFIDAVIT

I, _____, on behalf of the insurer being _____ hereby verify the authenticity of the attached copy of the surety with policy number: _____.

In the estate of: _____

_____

_____

I confirm that the copy of the surety as submitted to the Master of the High Court under this affidavit will be legally binding to the same extend as the original document.

The attached document have not been tampered with in any way and I will ensure that the original surety be submitted at the relevant Master's Office as soon as I am advised to do so by notice from the Office of the Chief Master.

_____

Deponent: Name and Surname

I certify that the deponent has acknowledged that he is aware of the contents of this Affidavit, and that it has been signed and sworn to in my presence.

Signed and sworn to before me at _____ on this the_____ day of _____.

COMMISSIONER OF OATHS

AFFIDAVIT

I, _____, hereby verify the authenticity of the attached requisition/s from the following creditors, in the said amounts:

1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

In the estate of: _____

_____

_____

The attached document/s has/have not been tampered with in any way and I will ensure that the original requisitions be submitted at the relevant Master's Office as soon as I am advised to do so by notice from the Office of the Chief Master.

_____

Deponent: Name and Surname

I certify that the deponent has acknowledged that he is aware of the contents of this Affidavit, and that it has been signed and sworn to in my presence.

Signed and sworn to before me at _____ on this the_____ day of _____.

COMMISSIONER OF OATHS