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 3

NOTE: *This protocol amends the Level 4 Protocol previously issued. However, any templates (wherever referred to below and applicable) issued with the Level 4 Protocol, is still applicable in the Level 3 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 4 lockdown we are currently in will be eased to a Level 3 lockdown as from 1 June 2020. This allows for more industries to start working again and more services to be available to the public. In this regard R. 680 was issued on 28 May 2020 in Government Gazette no. 43364.

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.
http://www.dpsa.gov.za/dpsa2g/17_6_r_16_03_2020.pdf

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 3 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 cloth masks or 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 as listed in Annexure A attached hereto, 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.

4.1.5. As per instruction by the Acting Director General, during level 3, all officials who have been allocated their own offices will return to work normal office hours.

All other officials will also return to work, 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.

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 will not be convened until 30 June 2020. Thereafter new protocols will be issued on how, by whom and where such meetings are to be convened.

4.2.1.2. In matters where an appointment has already been made and a dispute arises between family members, such meetings will be postponed up until 30 June 2020. Thereafter new protocols will be issued on how, by whom and where such meetings are to be convened.

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

A. As the postal and courier services will be operating in Level 3, 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, Bonds of security etc.).

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.

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. As the postal and courier services will be operating in Level 3, 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 will be sent electronically to the executor and any compliance thereto has to be lodged as per usual.

C. Accounts advertised during level 4:

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

ii. As interested parties were not allowed to inspect any account at the Office of the Master or Magistrate during level 4, all accounts advertised in terms of section 35, should have been forwarded to the interested parties, of which he/she is aware, by the executor.

iii. The normal advertisement procedures, as prescribed in the Act, should however still be complied with as well. This includes sending the account to the relevant Magistrate's Office to lie open for inspection, if applicable.

iv. Parties who want to object against the account may lodge the objection electronically with the Master, as was set out in the level 4 protocol, or if they do not have access to e-mail, may lodge it as usual (via post or delivery at the office).

v. The Master will 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. Upon receipt of this affidavit 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. Accounts advertised during level 3:

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 travel to the relevant Magistrate Court or Master to inspect an account during level 3, 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 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 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.

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

4.4. **DEALING WITH INSOLVENT ESTATES**

4.4.1. APPOINTMENTS

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. 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 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

ii. Original requisitions 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 and

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.

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. 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.

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

C. Accounts advertised during level 4:

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

ii. As interested parties were not be allowed to inspect any account at the Office of the Master or Magistrate, all accounts advertised for inspection, must have been forwarded to the interested parties, of which he/she is aware, by the liquidator/trustee.

iii. The normal advertisement procedures, as prescribed in the Act, should however still be complied with as well. This includes sending the account to the relevant Magistrate's Office to lie open for inspection, if applicable.

iv. Parties who want to object against the account may lodge the objection electronically with the Master, as was set out the Level 4 protocol, or if they do not have access to e-mail, may lodge it as usual (via post or delivery at the office)

v. The Master will 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 is aware, (attach proof) and that no objections was received by him/her during the advert period.

vii. Upon receipt of this affidavit 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. Accounts advertised during level 3:

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 travel to the relevant Magistrate Court or Master to inspect an account during level 3, 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.

E. 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.

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

4.4.3. <u>MEETING OF CREDITORS</u>

In light of the fact that High Courts (including the Supreme Court of Appeal) are now allowing hearings to take place by video conference, only urgent meetings of creditors and/or urgent interrogations will be allowed to take place. These will take place 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. The appointed liquidator must prove to the Master, by way of affidavit, lodged electronically, the urgency of the meeting to take place. It is within the discretion of the Master to then, after consideration of reasons provided, provide permission for the meeting to proceed,

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 3 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

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. ACCOUNTS

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 3, 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 will be sent electronically to the liquidator/trustee 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. A register shall be placed next to each box where lodgement of documents shall be recorded. 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. 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 a 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.

d) As per instruction by the Acting Director General, during level 3, all officials who have been allocated their own offices will return to work normal office hours.
All other officials will also return to work, 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.

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.

e) 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.)

f) 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.)

g) 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.

Mrs T Bezuidenhout
Chief Director: Operations Inland
Date: 2/6/2020

ANNEXURE A

A.	SERVICES OF THE OFFICES OF THE MASTER OF THE HIGH COURT
1.	Reporting and issuing of appointments in all deceased estates matters
2.	Reporting and issuing of appointments in all Insolvency matters
3.	Lodgment of requisitions by way of e-mail
4.	Examination of L&D accounts in all deceased estates matters
5.	Examination of L&D accounts in all Insolvency matters lodged
6.	Reporting and issuing of appointments in all Trust matters lodged
7.	Reporting and issuing of appointments all curatorship matters
8.	Receiving of applications and payments of funds from the Guardian's Fund
9.	Examination of accounts in Curatorship matters lodged
10.	Dealing with all correspondence received by e-mail.