the doj & cd

Department:
Justice and Constitutional Development
REPUBLIC OF SOUTH AFRICA

OFFICE OF THE CHIEF MASTER

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

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 5 full lockdown we are currently in will be eased to a Level 4 lockdown as from 1 May 2020. This allows for more industries to start working again and more services to be available to the public. In this regard R. 480 was issued on 29 April in Government Gazette no. 43258.

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 4 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 normal and urgent matters to be brought before them 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. During level 4 only one third of the workforce is allowed back at work and it must be kept in mind that this will influence the turnaround time of response by the office.

4.2. **Dealing with Deceased Estates**

4.2.1. APPOINTMENTS

4.2.1.1. For all new matters where there are any disputes, family meetings will not be convened until 31 May 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 31 May 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 new matters where there are no disputes, appointments will be dealt with as follows:

A. Reporting documents may be lodged electronically at the relevant e-mail address for the specific office, which will be published from time-to-time on the Master's website. 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. This excludes however the lodgement of:

i) Original wills/ or documents purporting to be a will;

ii) 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.).

The originals of the documents mentioned in (i) and (ii) above, are required to

be lodged with the Master, as set out in par 4.7(a) below, or by way of post / courier before any appointment or the relevant acceptance/endorsement will be considered, whichever is applicable.

B. Bonds of security 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

C. Letters of appointment will be e-mailed to Agents and originals to be placed in the respective pigeonholes/ MK boxes in the offices for collection

D. Where appointees do not have access to e-mail, such letters shall be made available at the offices for collection, if so arranged, otherwise it will be posted as usual.

4.2.2. ACCOUNTS

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

4.2.2.2. New and amended accounts may be lodged electronically at the relevant e-mail address for the specific office, which will be published from time-to-time on the Master's website. However:

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

B. The original documents must be lodged with the Master after lockdown or as set out in paragraphs 4.7(a) below.

C. Query sheets will be sent electronically to the executor and any compliance thereto has to be lodged electronically with the original thereof lodged as explained in par 4.7(a) below

D. As interested parties will not be allowed to inspect any account at the Office of the Master or Magistrate, all accounts to be advertised in terms of section 35, must be forwarded to the interested parties by the executor.

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

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

iii. 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 (attach proof) and that no objections was received by him/her during the advert period.

iv. 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.

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 rotate in order to deal with urgent new applications lodged and any trustee appointments already lodged prior to the lockdown.

4.3.2. Urgent Trust registrations may be lodged electronically at the relevant e-mail address for the specific office, which will be published from time-to-time on the Master's website. However:

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

4.3.2.2. New / amended appointments will only be issued in the following instances:

A. Where beneficiaries are dependent on income from the trust; or

B. Upon proof that the trust assets are at risk or

C. For the benefit of COVID-19 relief measures.

D. The applicant/ practitioner must submit a Sworn Affidavit to this effect when lodged, but it is within the discretion of the relevant Master to proceed with the appointment as urgent or not.

4.3.2.3. The original documents must be lodged with the Master after lockdown or as set out in paragraphs 4.7(a) below.

4.3.2.4. Bonds of security 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

4.3.3. Letters of appointment will be e-mailed to applicants/practitioners and originals to be placed in the respective pigeonholes/ MK boxes in the offices for collection, if so arranged, otherwise it will be posted as usual.

4.4. **Dealing with Insolvent estates**

4.4.1. <u>APPOINTMENTS</u>

4.4.1.1. The Master's officials will rotate in order to deal with new 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. Documents may be lodged electronically at the relevant e-mail address for the specific office, which will be published from time-to-time on the Master's website. 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. Requisitions – 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

iii. Bonds of security - if it is accompanied by an affidavit confirming the correctness thereof, it is authenticated and that originals will be lodged when called so by the Master.

iv. Original documents to be kept with the liquidator and lodged with the Master after lockdown, or upon request of the Master, or as set out in paragraphs 4.7(a) below.

4.4.1.3. Letters of appointment will be e-mailed to applicants/practitioners and originals to be placed in the respective pigeonholes/ MK boxes in the offices for collection, if so arranged, otherwise it will be posted as usual.

4.4.2. <u>ACCOUNTS</u>

4.4.2.1. The Master's officials will rotate in order to deal with new accounts lodged and any accounts already examined prior to the lockdown.

4.4.2.2. Accounts may be lodged electronically at the relevant e-mail address for the specific office, which will be published from time-to-time on the Master's website. However:

A. 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

B. The original documents must be lodged with the Master after lockdown or as set out in paragraphs 4.7(a) below, or as and when requested by the Master.

C. Query sheets will be sent electronically to the liquidator/trustee and any compliance thereto has to be lodged electronically with the original thereof

lodged as explained in par 4.7(a) below.

D. As interested parties will not be allowed to inspect any account at the Office of the Master or Magistrate, all accounts to be advertised for inspection, must be forwarded to the interested parties by the liquidator/trustee.

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

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

iii. 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 (attach proof) and that no objections was received by him/her during the advert period.

iv. 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.

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

4.4.3. MEETING OF CREDITORS

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. Any urgent meeting will be advertised by the appointed liquidator or trustee and not by the Master.

4.4.3.3. All other meetings of creditors and/or interrogations will all be cancelled up until 31 May 2020. Thereafter new protocols will be issued on how, by whom and where such meetings are to be convened. In respect of all other meetings that have already been convened and postponed those meetings should be further postponed by way

of e-mail communication until such time as further protocols have been put in place, unless urgency can be proven to the Master.

4.5. **Guardian's Fund**

4.5.1. Heads of Office shall ensure that the Guardians Fund officials are working on a rotational basis in order to ensure that the work still continues and stays up to date

4.5.2. Only urgent walk-in applicants who needs to be physically confirmed by way of MOVIT will be attended to.

4.6. **Curatorships**

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

4.6.2. Urgent applications may be lodged electronically at the relevant e-mail address for the specific office, which will be published from time-to-time on the Master's website. However:

A. Applicants must submit Sworn Affidavits to confirm the urgency of the matter when lodged, but it is within the discretion of the relevant Master to proceed with the appointment as urgent or not.

B. 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

C. Bonds of security 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

D. The original documents must be lodged with the Master after lockdown or as set out in paragraphs 4.7(a) below.

4.6.3. Letters of appointment will be e-mailed to Agents and originals to be placed in the respective pigeonholes/ MK boxes in the offices for collection, if so arranged, otherwise it will be posted as usual.

4.6.4. Where appointees do not have access to e-mail, such letters shall be made available at the offices for collection

4.6.5. 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. 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. 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.

b) In all other matters only clients to be seen that have made an appointment and in the discretion of the respective official.

c) During Level 4, only one third of the workforce should return to work. It is the responsibility of every Head of Office to ensure that his/her office complies and to implement 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, will 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 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.

Mrs T Bezuidenhout
Acting Chief Master
Date: 2/5/2020

DEPARTMENT OF JUSTICE AND CONSTITUTIONAL DEVELOPMENT
PRIVATE BAG X81
2020 -05- 02
PRETORIA 0001
OFFICE OF THE CHIEF MASTER (24)

AFFIDAVIT

I, _____, Identity Number: _____

(***attach copy of ID document***) hereby verify the authenticity of the following attached documentation, lodged electronically in the following (Estate / Insolvency / Curator / Trust / Guardian's Fund): _____

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

I confirm that the originals have been seen by me, and are in my safe keep. I further confirm that the copies of said documentation, as submitted to the Master of the High Court under this affidavit, will be legally binding to the same extent as the original document(s).

The attached documentation have not been tampered with in any way and I will ensure that the originals will 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 Signature:

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 _____ 2020.

_____

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

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