

## Q & A FOR BUSINESS OPERATIONS DURING THE LOCK DOWN

UPDATED AS AT 30 MARCH 2020

This Q&A constitutes guidelines for business during the lockdown. It is not an official document, but intended to bring some clarity to businesses at the current point in time.

As per our previous communication, we appeal to all businesses to respect the importance of the lockdown. Sacrifices will need to be made in the broader interests of the country and its people.

This information is accurate as at the date of publishing this information, however the regulations may change quite rapidly so it recommended that you check the [South African government website](#) frequently to stay on top of any amendments which may affect your business.

### **IS THERE AN OFFICIAL LIST OF WHICH BUSINESSES THAT SHOULD REMAIN OPEN?**

Yes, the official list was published in a government gazette on [25 March 2020](#) and updated with additional content on [26 March 2020](#).

### **WHICH BUSINESSES MAY CONTINUE TO OPERATE DURING THE LOCKDOWN?**

The government gazette of [25 March 2020](#) and [26 March 2020](#) provide for a list of essential business services that may continue to operate under the lockdown:

- Those listed on Schedule A and B of the regulations
- Those industries that are already officially registered under the Labour Relations Act as an Essential Service. The list of such services is available on [CCMA website](#), under advice and information sheets, and is up to date.

Businesses are encouraged to adopt a responsible and practical approach to identify whether you should remain in operation, either in full or in part. The lockdown cannot be so broad as to render the lockdown effort ineffective. Normal commercial operations do not qualify as essential services unless its employees are able to work remotely from their place of residence. Bottom line - only remain open if you are a part of supplying a product or service that is essential under the current circumstances.

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*A consolidated list of the essential businesses covered in the regulations is attached as Annex A.*

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### **DO I HAVE TO REGISTER MY BUSINESS ON THE [HTTP://WWW.BIZPORTAL.GOV.ZA/](http://www.bizportal.gov.za/) CIPC PORTAL IN ORDER TO CARRY ON BUSINESS AS AN ESSENTIAL BUSINESS?**

This is currently not obligatory in terms of the regulations to register on bizportal. This portal has been put in place as an additional measure to give comfort to business and employees if they get stopped by police officers. It will also help government understand and better manage essential business services during this time.

While it is currently not a legal condition of operation, it is recommended, that all registered companies operating an essential business registers on the CIPC bizportal website, as this may become a requirement in the future.

Note: only registered companies are able and currently required to get certificates from bizportal. All of the following are automatically exempt and do not require a DTIC/CIPC certificate:

- All public sector health departments and facilities including the NHLS, NICD, Provincial Departments and hospitals, local government primary health care and clinics;
- All essential business sole traders - e.g. GPs or informal traders;
- All medical NGO's such as Medicins san Frontiere

## AM I REQUIRED TO GET EXEMPTION?

The lockdown regulations require voluntary compliance and responsible self-identification as an essential business or part thereof. You do not need to get a specific exemption. It is recommended, however, that you register on the CIPC bizportal website if you are a company as it is possible this may become a requirement in the future.

## CAN I RUN SKELETON FUNCTIONS IF I AM NOT AN ESSENTIAL BUSINESS?

Yes, there are basic functions that will be important to maintain or to prevent the destruction or significant impairment of working areas, plant, machinery or inventory, or to permit orderly shutdown arrangements of businesses.

The essential services list also makes provision for the maintenance and security of property and IT infrastructure to enable businesses to operate financial and payroll systems in particular.

<b>These particular essential services are covered in the Annexure B Regulations as follows:</b>	<b>Reference to Regulation</b>
financial services necessary to maintain the functioning of the banking and payments environment including the JSE and similar exchanges, as well as Insurance services	<i>Annexure B, B(3)</i>
telecommunications infrastructure and services	<i>Annexure B, B(13)</i>
private security services	<i>Annexure B, B(20)</i>
critical maintenance and repair in relation to the rendering of essential services including components and equipment	<i>Annexure B, B(24)</i>
implementation of payroll services during the lockdown	<i>Annexure B, B (32)</i>
maintenance related to the supply and production of electricity, water, gas and fuel services	<i>Annexure B, B(6)</i>

## WHAT DO I NEED TO DO FOR STAFF THAT NEED TO GET TO WORK FOR AN ESSENTIAL BUSINESS?

### 1. Identification as an employee of an essential businesses

The employee should have the letter on an official company letterhead, as well as official personal identification (ID document, passport or other official photo ID) with her/him when travelling to and from work. This can be presented to law enforcement officers if need be. Although SAPS have been instructed to accept electronic permit (e.g. employee's phones) this has not been tested and not recommended at this stage.

In addition, employees are advised to also carry:

- a copy of the proof of registration on the <http://www.bizportal.gov.za/> CIPC website
- a company identity card, if applicable.

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*Note: A suggested letter for essential services employees has been included in Annex C*

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## 2. Transport for employees of essential businesses

Employers are required to ensure that staff are travelling to work safely under the lockdown. Where possible, employers should arrange and ensure transport for essential workers. Transport provided by the employer (i.e. private vehicles) may operate outside of the fixed public transport hours and must be regularly sanitised, with vehicle capacity of not more than 60% of the licensed capacity according to the regulations. Note, there is, however, some confusion about the maximum capacity allowed. We will update this once clarity is in place.

In the meantime, please refer directly to the provisions of the regulations for more details and the directives issued by the Minister of Transport on [26 March](#) and [31 March](#).

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*Note the restrictions on public transport hours, including buses and taxis below.*

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### ARE THERE RESTRICTIONS REGARDING THE HOURS FOR TRANSPORTING EMPLOYEES?

Yes, the operating times for public transport and private transport arrangers by essential services businesses is regulated by the directives issued by the Minister of Transport [26 March](#) and [31 March](#) as follows:

<b>Public Transport</b>	<b>Private transport by essential services businesses</b>
<p>Public transport services may ferry essential services employees from 05h00 to 10h00 and from 16h00 to 20h00.</p> <p>Minibuses and Midibuses Public Transport are provided with the following grace periods for picking up and dropping-off of passengers and are permitted:</p> <ul style="list-style-type: none"><li>a) to proceed to a pickup point an hour before the operating times; and</li><li>b) to proceed to drop off points an hour after the drop off times</li><li>c) to proceed to a pick-up point without loading passengers at 15h00 in order to start picking up at 16h00 to 20h00 to finish dropping off passengers at 21h00.</li></ul>	<p>Private institutions or companies may make arrangements for the transportation of their employees who are rendering essentials services in line with the operating shifts, work time schedules as determined by:</p> <ul style="list-style-type: none"><li>a) the responsible head of operations, Manager;</li><li>b) Head of the Department; or</li><li>c) a person with responsible authority within such Institution.</li></ul> <p>The operating shifts or work schedules or timetable should be stamped and signed by such person with authority.</p>

## WHAT DO I DO IF STOPPED AT A CHECKPOINT AND I AM NOT ALLOWED TO PROCEED?

1. Stay calm and be respectful
2. Understand the complaint and respond
3. Produce relevant documentation (as per above) and ask the law enforcement officer to verify this with your company representative, if applicable
4. Only if you can't resolve the problem, reach out to a Provincial SAPS Commissioner or an attorney, as appropriate

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*Note: Details of Provincial SAPS Commissioner and a limited list of attorneys is contained in **Annex B***

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## I AM PROVIDING ESSENTIAL SERVICES TO OTHER COUNTRIES, IS MY BUSINESS COVERED?

Yes, in terms of amended regulations 11B(4A)(b) services in relation to international markets and which provide or maintain essential services as it relates to health, social support, government and financial services may be authorised by the cabinet members for health and trade and industry.

## HOW WILL TRANSPORTATION OF GOODS BE MANAGED DURING THIS PERIOD?

An essential business will be required to demonstrate that it is transporting an essential product or part of an essential service for the local or international market. A letter on a company letterhead should explain why the transportation is part of an essential service, referring to the relevant provision in the regulations. It is advisable to also carry the CIPC certificate.

## WILL I BE ABLE TO TRANSPORT GOODS ACROSS THE BORDER OR THROUGH THE PORTS?

Yes, this will continue. Ports, including inland ports are required to remain open for transportation of essential products and services across the border.

## IF I CAN WORK FROM HOME, CAN I CONTINUE TO RUN MY BUSINESS?

We encourage people to continue to remain productive and work from home if this is feasible provided that this does not require physical contact with non-residents, or impair the Covid19 response. This is specifically provided for in the amended regulations under 11B(1)(b) (as amended).

## WHAT DO I DO IF I NEED FURTHER INFORMATION ON THESE ISSUES?

Please contact your industry association / contact person and ask them to consolidate and then feed through queries and comments to a central coordinating point as quickly as possible.

We appreciate that these are uncertain times and you may have many questions. We need to take responsibility for applying cool heads as to what is required of us under the current circumstances. Government will need to rely on us to self-comply, using our best judgement in the circumstances.

We ask all businesses and people to take this lockdown seriously and to help us respond as effectively as possible to the country's efforts to contain and minimise the impact of Covid19.

The meaning of “essential goods” is important for understanding the scope of some of the essential services referred to below.

Essential Goods per the Regulations	
1	<b>Food:</b> i. Any food product, including non-alcoholic beverages; ii. Animal food; and iii. Chemicals, packaging and ancillary products used in the production of any food product.
2	<b>Cleaning and Hygiene Products:</b> i. Toilet Paper, sanitary pads, sanitary tampons, condoms; ii. Hand sanitiser, disinfectants, soap, alcohol for industrial use, household cleaning products, and personal protective equipment; iii. Chemicals, packaging and ancillary products used in the production of any of the above. iv. Products for the care of babies and toddlers. v. Personal toiletries, including haircare, body and face washes, roll-ons, deodorants, toothpaste.
3	<b>Medical:</b> i. Medical and Hospital Supplies, equipment and personal protective equipment; and ii. Chemicals, packaging and ancillary products used in the production of any of the above.
4	<b>Fuel</b> , including coal and gas
5	<b>Basic goods</b> , including airtime and electricity.

This is a broad category including any food product. Accordingly, this includes pre-prepared cold and hot foods to be consumed off-premises. Bakeries, food delivery services, butcheries, deli's, service stations and informal food producers etc.

This is a broad category including all input and raw materials required to produce cleaning and hygiene products including timber, pulp, chemicals, equipment etc. It also includes the **transport** of all raw and finished products.

This is a broad category including all input and raw materials required to produce medical products. This category includes chemicals, pharmaceutical products, medical devices, equipment. It also includes the **transport** of all raw and finished products.

Essential Services per the Regulations	
1	Medical, Health (including Mental Health), Laboratory and Medical services and the National Institute for Communicable Diseases
2	Disaster Management, Fire Prevention, Fire Fighting and Emergency services
3	Financial services necessary to maintain the functioning of the banking and payments environment, including the JSE and similar exchanges, as well as insurance services and medical scheme administration
4	Production and sale of the goods listed as essential goods in the Regulations (see table below)
5	Grocery stores, including spaza shops
6	Electricity (including vital demand management services), water gas and fuel production, supply and maintenance
7	Critical jobs for essential government services as determined by Head of National or Provincial Departments in accordance with the guidance by the DPSA, including Social Grant Payments
8	Birth and death certificates, and replacement identification documents
9	Essential municipal services

This includes services to international markets as it relates to health and social support.

This includes all businesses within the manufacturing and supply chain **for any essential goods**. Suppliers of raw materials required to make essential goods would also be considered an essential service. For example, timber and pulp is required to make toilet paper, food and health product packaging.

This includes street vendors, hawkers, so called “bakkie brigade” and existing all food outlets including fuel service stores

This includes financial and payroll services to pay goods and service providers as well as municipal employees.

10	Care services and social relief of distress provided to older persons, mentally ill, persons with disabilities, the sick, and children
11	Funeral services, including mortuaries
12	Wildlife Management, Anti-poaching, Animal Care and Veterinary services
13	Newspaper, broadcasting and telecommunication infrastructure and services
14	Production and sale of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector
15	Cleaning, sanitation, sewerage, waste and refuse removal services
16	Services related to the essential functioning of courts, judicial officers, the Master of the High Court, Sheriffs and legal practitioners required for those services
17	Essential SARS services defined by the Commissioner of SARS
18	Police, peace officers, traffic officers, military medical personnel and soldiers, correctional services officials and traffic management services
19	Postal services and courier services related to transport of medical products
20	Private security services
21	Air-traffic Navigation, Civil Aviation Authority, Cargo Shipping and dockyard services
22	Gold, gold refinery, coal and essential mining
23	Accommodation used for persons rendering essential services, quarantine, isolation and the lockdown
24	Production, manufacturing, supply, logistics, transport, delivery, critical maintenance and repair in relation to the rendering of essential services including components and equipment
25	Transport services for persons rendering essential services and goods, and transportation of patients
26	Services rendered by the Executive, members of Parliament, Members of the Provincial Legislature, Members of Local Councils, the Judiciary, traditional leaders and National Office Bearers. of Political Parties represented in Parliament
27	Commissioners of the South African Human Rights Commission, Gender Commission, and the Commission for the Promotion and Protection of the Rights of Cultural, Religious and Linguistic Communities, and the Public Protector and Deputy Public Protector
28	Transport and logistics in respect of essential goods to neighbouring countries.
29	Tow trucks and vehicle recovery services
30	Call centres necessary to provide health, safety, social support, government and financial services
31	Harvesting and storage activities essential to prevent the wastage of primary agricultural goods
32	Implementation of payroll systems to the extent that such arrangement has not been made for the lockdown, to ensure timeous payments to workers
33	Critical maintenance services which cannot be delayed for more than 21 days and are essential to resume operations after the lockdown.

This includes businesses which establish, maintain and repair telephone wires, cell phone network infrastructure, cables (including undersea cables), satellites and mobile technology networks. This also includes the manufacture and supply of goods like laptops, cell phones, SIM cards, hard drives etc.

This includes **all businesses** within the manufacturing and supply chain of any chemicals, hygiene products, pharmaceuticals for the medical or retail sector (including suppliers of raw materials such as timber and pulp required to make toilet paper, food and health product packaging).

For examples guesthouses & hotels

This includes logistics and transport across provincial boundaries in South Africa

This includes call centres providing essential services to foreign countries when read with paragraph 11B (4A)(b) of the regulation

Annex B - List of Provincial SAPS Commissioners and limited list of attorneys

Provincial SAPS Commissioners			
<b>Gauteng</b>	<b>Elias Mawela, Lt. Gen.</b> (Provincial Commissioner) T: 011 274 7875 T: 011 274 7860	<b>North West</b>	<b>Baile Brenda Motswenyane, Lt. Gen.</b> (Provincial Commissioner) T: 018 285 8073 T: 018 285 8069
<b>Western Cape</b>	<b>Sindile Christopher Mfazi, Lt. Gen.</b> (Acting Provincial Commissioner) T: 021 417 7148	<b>Mpumalanga</b>	<b>Bethuel Mondli Zuma, Lt Gen</b> (Provincial Commissioner) T: 013 762 4537 T: 013 762 4838
<b>Northern Cape</b>	<b>Risimata Peter Shivuri, Lt. Gen.</b> (Provincial Commissioner) T: 053 839 2845 T: 053 839 2877	<b>Free State</b>	<b>Moeketsi David Sempe, Lt. Gen.</b> (Provincial Commissioner) T: 051 507 6561 T: 051 507 6562
<b>Eastern Cape</b>	<b>Liziwe Ntshinga, Lt. Gen.</b> (Provincial Commissioner) T: 040 608 8413 T: 040 608 8415	<b>Limpopo</b>	<b>Nneke Jim Ledwaba, Lt. Gen.</b> (Provincial Commissioner) T: 015 290 6227
<b>Kwazulu Natal</b>	<b>Khombinkos Elvis Jula, Lt. Gen.</b> (Provincial Commissioner) T: 031 325 6580	<b>Head: Marketing &amp; Liaison Services</b>	<b>Oniccah Seemise, Gen. Major</b> T: 012 393 2916 M: 072 307 3079

**Corruption should be reported to Corruption Watch**

T: 0800 023 456

<https://www.corruptionwatch.org.za>

**Attorneys – Gauteng\***

<b>Ulrich Roux</b> (Criminal Law Specialist) T: 011 838 1214 M: 083 469 1619	<b>Richard Shein</b> (Bowmans) M: 083 256 1350	<b>Tim Fletcher</b> (Cliff Decker Hofmeyr) M: 083 325 0731
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<b>Willem van der Colff</b> (ENS Africa) M: 0827880368	<b>Jeremy Gobetz</b> (Werksmans) M: 072 220 1147	<b>Priyesh Daya</b> (Webber Wentzel) M: 082 800 4585
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**Mandisi Rusa**  
(Bowmans)  
M: 072 246 1058

\*If have a relationship with a criminal lawyer / law firm, please try to contact them to assist you. Alternatively, if you are unable to reach your preferred lawyer you may direct urgent queries mentioned in this document to the attorneys listed in this document. Please note that this is not a comprehensive list of attorneys who may be able to assist you and is not intended to endorse any attorney or firm of attorneys. You are responsible for assessing which legal representative will be appropriate for your requirements.

**Attorneys - Western Province\***

<b>William Booth</b> (Criminal Law Specialist) M: 076 144 9332 M: 072 976 1331	<b>Leon van der Merwe</b> (Criminal Law Specialist) M: 083 270 6182	<b>Gavin Fitzmaurice</b> (Webber Wentzel) M: 082 787 3920
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<b>Mendel Sass</b> (Bowmans) M:082 805 8691	<b>Rael Gootkin</b> (Werksmans) M: 082 774 5781
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ANNEX C – DRAFT LETTER FOR ESSENTIAL SERVICES EMPLOYEES

**DRAFT TO BE INSERTED ONTO OFFICIAL COMPANY LETTERHEAD**

**CONFIRMATION OF EMPLOYMENT IN ESSENTIAL BUSINESS**

[STAMP WITH OFFICIAL STAMP OF COMPANY, IF YOU HAVE THIS]

THE PERSON IN POSSESSION OF THIS LETTER SHALL HAVE HER/HIS IDENTITY DOCUMENT / PASSPORT / DRIVER'S LICENSE IN HER/HIS POSSESSION AND SHALL PRESENT IT TO ANY LAW ENFORCEMENT OFFICER ON REQUEST.

**[INSERT NAME OF EMPLOYER] CONDUCTS BUSINESS IN THE [INSERT NATURE OF INDUSTRY]. THE COMPANY IS AN ESSENTIAL BUSINESS AS DESIGNATED BY THE GOVERNMENT AND IS REQUIRED TO CONTINUE OPERATIONS DURING THE NATIONAL LOCKDOWN PERIOD, I.E. BETWEEN MIDNIGHT ON 26 MARCH 2020 AND MIDNIGHT ON 16 APRIL 2020 IN TERMS OF THE REGULATIONS IN THAT THE BUSINESS OPERATES AS AN ESSENTIAL SERVICE CATEGORISED AS:**

**[AN ESSENTIAL SERVICE UNDER THE LABOUR RELATIONS ACT in THAT THE [INSERT INDUSTRY AS PER THE ESSENTIAL SERVICES LIST], AND / OR AN ESSENTIAL SERVICE IN TERMS OF THE REGULATIONS TO THE DISASTER ACT [INSERT RELEVANT SECTION / SECTIONS FROM THE SCHEDULE]**

**THE EMPLOYEE, WHOSE DETAILS ARE SET OUT BELOW, IS EMPLOYED BY THE COMPANY, FULFILLS AN ESSENTIAL FUNCTION, AND IS REQUIRED TO TRAVEL TO AND FROM WORK DURING THE LOCK-DOWN PERIOD.**

**EMPLOYEE'S DETAILS:**

<b>SURNAME:</b>			
<b>FULL NAMES</b>			
<b>ID/PASSPORT NUMBER</b>			
<b>EMPLOYEE NUMBER:</b>			
<b>WORK ADDRESS:</b>			
<b>POSITION:</b>			
<b>CONTACT DETAILS:</b>	<b>WORK NO.:</b>	<b>HOME NO.:</b>	<b>EMAIL ADDRESS:</b>

**COMPANY'S DETAILS:**

<b>COMPANY</b>				
<b>REGISTRATION NUMBER</b>				
<b>PHYSICAL ADDRESS</b>				
<b>CONTACT PERSON</b>	<b>SURNAME:</b> <b>NAME:</b> <b>ID NO.:</b>			
<b>CONTACT DETAILS</b>	<b>WORK NO.:</b>	<b>HOME NO.:</b>	<b>CELL NO:</b>	<b>EMAIL ADDRESS:</b>

**THE COMPANY CERTIFIES THAT THE INFORMATION SET OUT ABOVE IS TRUE AND CORRECT.**

FOR: **[NAME OF COMPANY]**

DATE

NAME:

POSITION: HEAD OF THE INSTITUTION