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GOVERNMENT NOTICES • GOEWERMENTSKENNISGEWINGS

DEPARTMENT OF TRADE, INDUSTRY AND COMPETITION

NO. R. 667

11 JUNE 2020

**AMENDMENT OF REGULATIONS AND WITHDRAWAL OF DIRECTIONS
RELATING TO THE COVID-19 NATIONAL STATE OF DISASTER**

I, Ebrahim Patel, Minister of Trade, Industry and Competition do hereby in respect of the following Regulations and Directions relating to the COVID-19 National Statement of Disaster:

- (a) following consultation with the Minister of Health, withdraw the Directions regarding Call Centres providing Essential Services published in Government Gazette No. 43224; Government Notice No. R. 459 on 9 April 2020;
- (b) withdraw the Directions regarding the Sale of Cars and Emergency Automobile Repairs during Alert Level 4 of the COVID-19 National State of Disaster published in Government Gazette No. 43308; Government Notice No. R. 524 on 12 May 2020;
- (c) advise that the Directions regarding the Sale of Clothing, Footwear and Bedding during Alert Level 4 of the COVID-19 National State of Disaster, published in Government Gazette No. 43307; Government Notice No. R. 523 on 12 May 2020, expired on 31 May 2020 and are no longer of any force and effect;
- (d) acting under section 6 of the International Trade Administration Act, 2002 (Act No. 71 of 2002), amend the Regulations promulgated in Government Gazette No. 35007, Notice R.92 dated 10 February 2012 (as amended by the COVID-19 Export Control Regulations, published in Government Gazette No. 43177; Notice R.424 on 27 March 2020), as set out in the Schedule in Annexure "B" below; and
- (e) after consultation with the Competition Commission, amend the Regulations pertaining to the COVID-19 Block Exemption for the Retail Property Sector,

2020, published in Government Gazette No. 43134; Government Notice No. R. 358 on 24 March 2020, as set out in the Schedule Annexure "C" below.

The withdrawal and amendments listed in (a), (b), (d) and (e) above will commence with effect from the date of publication of this notice.



EBRAHIM PATEL
MINISTER OF TRADE, INDUSTRY AND COMPETITION

ANNEXURE A

Explanation of amendment of regulations and withdrawal of directions relating to the COVID-19 national state of disaster

Since the declaration of the State of Disaster to address the Covid-19 pandemic, the Minister of Trade, Industry and Competition (“the Minister”) has issued directions in terms of the Regulations issued by the Minister of Co-operative Governance and Traditional Affairs in terms of section 27(2) of the Disaster Management Act, 2002 (Act No. 57 of 2002), on measures to address, prevent and combat the spread of COVID-19. The Minister has further made regulations in terms of other legislation under the mandate of the department, including the Competition Act, 1998 (Act No. 89 of 1998) and the International Trade Administration Act, 2002 (Act No. 71 of 2002).

The five (5) notices contained herein seek to update certain regulations, withdraw two directions and provide information on others.

Call Centre Directions

On 9 April 2020, the Minister, together with the Minister of Health, issued directions in respect of Call Centres. These directions served the purpose of enabling the reopening of critical call-centre activities, taking health protocols into account; and provided certainty to both industry firms and law-enforcement officers.

On 4 June 2020, the Minister of Employment and Labour issued directions (“DEL directions”) addressing health protocols applicable across sectors, including the need for sector guidelines. The representatives of the industry have subsequently agreed to continue with active screening and reporting processes provided for in the current call-centre directions.

In light of the DEL directions and the agreement of the industry, the Minister, following consultation with the Minister of Health, now formally withdraws the directions regarding Call Centres providing Essential Services published in Government Notice No. R. 459 of 9 April 2020 of Government Gazette No. 43224.

Directions regarding the Sale of Cars and Emergency Automobile Repairs

On 12 May 2020, the Minister published Directions regarding the Sale of Cars and Emergency Automobile Repairs to provide for the gradual and phased re-opening of car dealerships during Alert Level 4.

The directions proposed three phases, over which gradual economic activity could begin based on the number of employees. The final phase, Phase 3, commenced with

effect from 8 June 2020, where up to 100% of employees are allowed back at dealerships, in addition to other protocols to ensure a safe operating environment for employees and customers.

On 4 June 2020, the Minister of Employment and Labour issued directions (DEL directions) addressing health protocols applicable across sectors, including the need for sector guidelines. The representatives of the industry have subsequently agreed to maintain the health and safety measures contained in directions.

In light of the completion of the phasing in of levels of employment, the DEL directions, and the agreement of the industry, the Minister now formally withdraws the Directions regarding the Sale of Cars and Emergency Automobile Repairs during Alert Level 4 of the Covid-19 National State of Disaster published in GNR. 524 of 12 May 2020 in GG No. 43308.

Directions regarding the Sale of Clothing, Footwear and Bedding during Alert Level 4

On 12 May 2020, the Minister published Directions regarding the Sale of Clothing, Footwear and Bedding, to be applicable during Alert Level 4. In view of the shift of the country to Level 3 with effect from 1 June 2020, the directions expired on 31 May 2020 and has not been in effect since 1 June 2020.

Covid-19 Export Control Regulations

On 27 March 2020, the Minister published regulations on licensing requirements for the export of certain medications, Personal Protective Equipment (PPE) and hand sanitisers. With a variety of lockdowns in place around the world, a need was identified to ensure sufficient supply in South Africa of critical goods such as PPEs, hand sanitizers, vaccines and medicine.

It is the intention of the Minister to progressively remove the licensing requirement on medication and related health products.

In the first phase, 40 categories of medication (set out at 8-digit level), will no longer require export permits under the COVID-19 Export Control regime. The medicines that will no longer be subject to export control include, inter alia, the following:

- Penicillin, antibiotics, hormones and vitamins for veterinary use;
- Tetracyclines;
- Chloramphenicol;
- Trimethoprim;
- Macrolides;
- Fluoroquinolones;
- Aminoglycosides;
- Other medicaments containing ephedrine or its salts;

- Other medicaments containing pseudoephedrine (INN) or its salts; and
- Other medicaments containing norephedrine or its salts.

In addition, export permits will not be required for individual prescriptions, or for clinical trials.

This reduces the categories of medication to 8 from the original 48 categories of medicines (at 8-digit level) included under HS30.04, which will remain subject to export control during COVID-19. These medicines include those that contain:

- narrow and broad spectrum penicillin for human use;
- cephalosporins for human use;
- antibiotics for human use;
- hormones for human use; and
- vitamins for human use.

Notwithstanding the above, in view of the priority assigned to ensuring security of supply to neighbouring countries, there will no longer be a requirement for exports to other SACU member states to obtain permits for medication during COVID-19. The Ministry is advised that exports of such medicines accounts for 76% of export permit requests for SACU during the period from 27 March to 9 June 2020 by volume. This change will therefore remove a significant administrative requirement on exporters of medication.

The World Customs Organisation recently changed the tariff classification of plastic face shields (that covers more than just the eyes) to HS3926.90 which at a national level translate to HS3926.90.43. Therefore, face shields classified under tariff code 3926.90.43 is now included in Schedule 4A. Medical ventilators classified under tariff code 9019.20 have also been included in Schedule 4A. In addition, food preparations not elsewhere specified or included, classified under HS2106.90.90 and herapin classified under HS3001.90 were previously classified under HS30.04 and hence remain under Schedule 4B.

In addition, Lyophilised Plasma, classified under HS3002.90.90 has been requested for inclusion by the National Department of Health.

Further consideration is being given to additional ways of reducing administrative requirements on the export of medication or of speeding up processing of applications.

COVID-19 Block Exemption for the Retail Property Sector, 2020

On 24 March 2020, the Minister published regulations to exempt certain conduct between designated retail tenants and the retail property sector to promote concerted conduct to prevent an escalation of the national disaster and to alleviate, contain and minimise the economic and social effects of the national disaster. Such designated

retailers included clothing, footwear and home textile retailers, personal care services and restaurants.

In terms of the Disaster Management Regulations, theatres and cinemas must remained closed to the public and all gatherings at these places or premises are prohibited during Alert Level 3.

The Department has received representation from stakeholders in the cinema exhibition industry on the safe re-opening of the sector, and is engaging in a process with stakeholders and the National Department of Health to determine the appropriate protocols for re-opening of the sector.

The sector has experienced hardships and requested that consideration be given to its inclusion in the above-named exemption. The COVID-19 Block Exemption for the Retail Property Sector, 2020 is therefore extended to the Cinema exhibition industry during this period.

ANNEXURE B

Amendment to Regulations promulgated in Government Gazette No. 35007, Notice R.92 dated 10 February 2012 (as amended by the COVID-19 Export Control Regulations, published in Government Gazette No. 43177; Notice R.424 dated 27 March 2020)

SCHEDULE

1. Definition

In this Schedule, "**Regulations**" means the Regulations promulgated in Government Gazette No. 35007, Notice No. R. 92 dated 10 February 2012.

2. Amendment of Paragraph (I)(a) of the Regulations:

Paragraph (I)(a) of the Regulations is hereby amended by the substitution of the following:

"(a) goods described in Schedules 1, 2, 3, 4A and 4B shall not be exported from the Republic of South Africa except by virtue of an export permit issued in terms of Section 6 of the said International Trade Administration Act, 2002, and in which export permit such goods are specifically described;"

3. Insertion of Paragraph (II)(g) of the Regulations:

The following paragraph (II)(g) is hereby inserted into the Regulations after paragraph (II)(f):

"(g) Goods in Schedule 4B:

- (i) exported to a private individual under a medical prescription;
- (ii) exported for clinical trials; or
- (iii) exported to SACU member countries."

4. Deletion of Schedule 4 of the Regulations:

Schedule 4 of the Regulations is hereby deleted.

5. Insertion of Schedules 4A and 4B of the Regulations:

The following schedules is hereby inserted into the Regulations after Schedule 3.

SCHEDULE 4A

| DESCRIPTION OF GOODS COLUMN (1) | CODE LETTER COLUMN (2) | TARIFF HEADING COLUMN (3) |
|--|---------------------------------|---------------------------------|
| <p>Disinfectants</p> <p>Only the following goods, in any quantity, under tariff heading 3808.94 are subject to export control in terms of this Schedule 4A:</p> <p>Hand sanitizers, alcohol-based</p> | DTIC | 3808.94. |
| <p>Face shields under tariff heading 3926.90.43</p> | DTIC | 3926.90.43 |
| <p>Other made up articles</p> <p>Only the following goods, in any quantity, under tariff heading 6307.90 are subject to export control in terms of this Schedule 4A:</p> <p>Face-masks, including 3 and 4 ply surgical masks, FFP1, FFP2, FFP3 masks and N95 masks but excluding cloth face masks</p> | DTIC | 6307.90 |
| <p>Ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus</p> <p>Only the following goods, in any quantity, under tariff heading 9019.20 are subject to export control in terms of this Schedule 4A:</p> <p>Medical ventilators (artificial respiration apparatus)</p> | DTIC | 9019.20 |
| <p>Other breathing appliances and gas masks (excluding protective masks having neither mechanical parts nor replaceable filters)</p> | | |

Only the following goods, in any quantity, under tariff heading 9020.00 are subject to export control in terms of this Schedule 4A:

DTIC

9020.00.

Face-masks, including gas masks with mechanical parts or replaceable filters for protection against biological agents

SCHEDULE 4B

| DESCRIPTION OF GOODS COLUMN (1) | CODE LETTER COLUMN (2) | TARIFF HEADING COLUMN (3) |
|--|---------------------------------|---------------------------------|
| <p>Food preparations not elsewhere specified or included: Other, Other</p> <p>Only the following goods, in any quantity, under tariff heading 2106.90.90 are subject to export control in terms of this Schedule 4B:</p> <p>Half Darrow with Glucose, Infusion (parenteral)</p> | DTIC | 2106.90.90 |
| <p>Compounds containing an unfused pyridine ring (whether or not hydrogenated) in the structure: Other</p> <p>Only the following goods, in any quantity, under tariff heading 2933.39 are subject to export control in terms of this Schedule 4B:</p> <p>Hydroxychloroquine</p> | DTIC | 2933.39 |
| <p>Compounds containing in the structure a quinolone or isoguinoline ring-system (whether or not hydrogenated), not further fused: Other</p> <p>Only the following goods, in any quantity, under tariff heading 2933.49 are subject to export control in terms of this Schedule 4B:</p> <p>Hydroxychloroquine</p> | DTIC | 2933.49 |
| <p>Heterocyclic compounds with nitrogen hetero-atom(s) only: Other</p> <p>Only the following goods, in any quantity, under tariff heading 2933.99 are subject to export control in terms of this Schedule 4B:</p> <p>Hydroxychloroquine Organic N-Chloro Comp, powder</p> | DTIC | 2933.99 |
| <p>Glands and other organs for organo-therapeutic uses, dried, whether or not powdered; extracts of glands or other organs or of their secretions for organo-therapeutic uses; heparin and its salts; other human or</p> | DTIC | 3001.90 |

animal substances prepared for therapeutic or prophylactic uses, not elsewhere specified or included: Other

Only the following goods, in any quantity, under tariff heading 3001.90 are subject to export control in terms of this Schedule 4B:

Heparin, all strengths

Antisera and other blood fractions

Only the following goods, in any quantity, under tariff heading 3002.12 are subject to export control in terms of this Schedule 4B:

Albumin, Human, Normal; Infusion (parenteral)

Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera, other blood fractions and immunological products, whether or not modified or obtained by means of biotechnological processes; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products: Other, Other

Only the following goods, under tariff heading 3002.90.90 are subject to export control in terms of this Schedule 4B:

Lyophilised Plasma, Infusion (parenteral)

Vaccines for human medicine

Only the following goods, in any quantity, under tariff heading 3002.20 are subject to export control in terms of this Schedule 4B:

Vaccine: Diphtheria, Pertussis, Tetanus, Polio, Haemophilus; Syringe, Prefilled
Vaccine: Polio; Drop, Oral
Vaccine: Rotavirus; Syringe, Prefilled
Vaccine: Tetanus Toxoid; injection

Other broad spectrum penicillins under tariff heading 3004.10.21

Other narrow spectrum penicillins under tariff heading 3004.10.31

Cephalosporins under tariff heading 3004.20.41:

| | |
|------|------------|
| DTIC | 3002.12 |
| DTIC | 3002.90.90 |
| DTIC | 3002.20 |
| DTIC | 3004.10.21 |
| DTIC | 3004.10.31 |
| DTIC | 3004.20.41 |

| | | |
|---|------|------------|
| Other medicament, containing antibiotics under tariff heading 3004.20.90: | DTIC | 3004.20.90 |
| Other medicament, containing antibiotics under tariff heading 3004.20.99 | DTIC | 3004.20.99 |
| Other medicament, containing hormones or other products of heading 29.37 under tariff heading 3004.39.90: | DTIC | 3004.39.90 |
| Other medicament, containing vitamins or other products of heading 29.36 under tariff heading 3004.50.90: | DTIC | 3004.50.90 |
| Medicaments (excluding goods of heading 30.02, 30.05 or 30.06) consisting of mixed or unmixed products for therapeutic or prophylactic uses, put up in measured doses (including those in the form of transdermal administration systems) or in forms or packings for retail sale under tariff heading 3004.90.90: | DTIC | 3004.90.90 |

ANNEXURE C

Amendment to the Regulations pertaining to the COVID-19 Block Exemption for the Retail Property Sector, 2020, published in Government Gazette No. 43134; Government Notice No. R. 358 on 24 March 2020

SCHEDULE

Definitions

1. In these regulations, "the Regulations" means the Regulations published in Government Notice No. R. 358 of Government Gazette No. 43134 on 24 March 2020.

Substitution of Annexure A of the Regulations

2. The Regulations are hereby amended by the substitution for Annexure A of the following Annexure:

“ANNEXURE A

1. The designated trading lines for the purpose of the identification of designated retail tenants are —
 - 1.1. Cinema exhibition industry;
 - 1.2. Clothing, footwear and home textile retailers;
 - 1.3. Personal care services; or
 - 1.4. Restaurants.
2. For purposes of this Annexure –
 - 2.1. “**Cinema exhibition industry**” means establishments specialising in motion picture or videotape projection in cinemas, in the open air or in other projection facilities.

- 2.2. **“Clothing, footwear and home textile retailers”** means retailers of wearable garments and products including menswear; ladieswear; children’s clothing; clothing for infants; sleepwear; underwear; intimate apparel, including lingerie; hosiery and socks; millinery (hats and caps); ties; school uniforms; sportswear; swimwear; protective clothing; workwear; hospital apparel; branded corporate wear; bespoke tailoring; footwear; and home textile products including sheets; pillows; towels; table cloths; carpets; terry towels; and blankets.
- 2.3. **“Personal care services”** means retail outlets providing personal grooming services such as hairdressers, health and beauty salons.
- 2.4. **“Restaurants”** means a business that prepares and serves food and drinks to customers.”.

Commencement

3. These amendments shall commence on the date of publication thereof in the Government Gazette.

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