

Date: 30 April 2020

Dear Valued Client,

“ALAN LEVY ATTORNEYS INC., THEIR DIRECTORS AND STAFF DO NOT ACCEPT ANY LIABILITY WHATSOEVER IN RESPECT OF ANY DAMAGES WHATSOEVER THAT MAY BE SUFFERED BY ANY PERSON AS A RESULT OF THE OPINIONS EXPRESSED IN THIS LETTER.”

EDITION 2 (APPLICABLE TO ALERT LEVEL 4) – NEW INSERTIONS APPEAR IN RED

RE: WHAT CAN AND CAN'T BE DONE IN COMMUNITY SCHEMES FROM FRIDAY 1 MAY 2020 (EDITION 1 WAS BASED SOLELY ON THE DRAFT FRAMEWORK FOR SECTORS. EDITION 2 INCLUDES MORE DETAILS AS PUBLISHED IN THE REGULATIONS BY THE MINISTER YESTERDAY EVENING.)

This past Saturday, 25 April 2020, Government released for comment a 5 Level, DRAFT Framework for Sectors, which details permitted business operations/personal movement.

The Framework will be gazetted and will become operational this Friday, 1 May 2020. The Framework is attached.

The below contents and opinions are based upon the DRAFT Framework, and may be adjusted by us, once the Framework is made final by Government. We are informing you of the contents/our opinions now, because of the need for information by schemes and requests by multiple managing agents. **The Framework has now been replaced by way of Regulations published yesterday evening attached hereto.**

Relevant to community schemes, as from **Friday, 1 May 2020**, as the Country enters a level 4 classification are the following excerpts of the Level 4 Framework, classified below under common questions/headings:

BELOW IN RED APPEAR ADDITIONAL DETAILS PER THE REGULATIONS PUBLISHED YESTERDAY EVENING.

CAN OCCUPIERS MOVE PREMISES FROM 1 MAY 2020

Under 'Personal Movement' in the Framework, no mention is made of moving premises. Moving is therefore NOT allowed. A Scheme may prohibit new occupiers from moving in.

The regulations have reiterated that moving premises is not allowed. A Scheme may prohibit new occupiers from moving in.

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The one exception is that, occupiers who were not at their residence when the lockdown commenced, are permitted to return to their place of residence, where they will have to stay until the end of level 4. This may ONLY be done once. [Regulation 16(5)]. The Scheme must comply and let these occupiers leave and enter.

CAN OCCUPIERS JOG/WALK A DOG IN COMMON PROPERTY/ON THE STREET

Under 'Personal Movement' in the Framework, the following is stated '*People can exercise under strict public health conditions subject to directions, which will exclude organised activities, recreational facilities and gyms*' [page 9, para R.4]. We await these directions.

The regulations have been published, and permit occupiers to walk, run or cycle, ONLY between the hours of 06h00am to 09h00am, and within a 5km radius of their place of residence. This may not be done in organised groups and each person **MUST** wear a cloth face mask. Dogs may accompany the occupiers. [Regulation 16(2)(f)].

Occupiers can use the common property to walk, run or cycle, but only in the above timeframe and with a cloth face mask, subject to their Schemes conduct rules. Dogs may accompany them.

CAN OCCUPIERS HAVE TAKE AWAYS DELIVERED TO THEIR UNIT/THE SCHEME

Under 'Retail Trade' in the Framework, the following is stated '*The sale of hot cooked food only for home delivery*' [page 7 para E.2]. Take-aways may be delivered to the unit.

The regulations have been published and allow the sale of hot cooked food only for home delivery. [Table 1, Part E/2 and I/2].

Such food may be delivered to the unit in the Scheme.

CAN MY HELPER/CLEANER COME TO WORK

Under 'Private Households Employment' in the Framework, the following is stated '*Permitted to support all Level 4 personnel and live-in staff*' [page 8 para N.1]. Helpers/Cleaners may come from their residence in/outside the Scheme to help an occupier who is performing a level 4 service.

The regulations have been published:

Schemes Staff, residing in the Scheme – Such staff may work. [Table 1, Part N/1].

Schemes Staff, NOT residing in the Scheme – *If employed by the Scheme*: such staff may work. A permit must be issued by the Scheme to such staff member. *If NOT employed by the Scheme* (employed by a cleaning company): such staff member may work. A permit must be issued by the cleaning company to the staff member. [Table 1, Part P/2].

Occupiers Staff, residing in the Scheme – Such staff may work. [Table 1, Part N/1].

Occupiers Staff, NOT residing in the Scheme - *If employed by the Occupier*. This is not clear and is still being investigated by us. *If NOT employed by the Occupier* (employed by a cleaning company): such staff member may work. A permit must be issued by the cleaning company to the staff member. [Table 1, Part P/2].

CAN CONSTRUCTION CONTINUE AT THE SCHEME

Under 'Construction and related services' in the Framework, the following is stated '*Critical maintenance and repairs*' [page 6 para D.5]. Construction cannot take place.

The regulations have been published and only critical maintenance and repairs may be carried out at units or on the common property. [Table 1, Part D/4].

Maintenance may also be carried out to the common property. i.e. the garden service who maintains the common property lawns may attend at the Scheme to maintain the common property. [Regulation 24(2) and (3)].

CAN OCCUPIERS HAVE VISITORS TO THEIR UNITS

Under 'Personal movement' in the Framework, the following is stated '*No recreational travel or to meet friends or family*' [page 9 para R.3]. Occupiers may NOT have visitors to the scheme.

The regulations have been published occupiers may not have visitors. Thus, no visitors are allowed into the Scheme. [Regulation 16(1), (2) and 23(1)].

MEETINGS

Under 'Personal movement' in the Framework, the following is stated '*All public gatherings are prohibited*' [page 10 para R.12]. Trustees/owners meetings may NOT take place in person.

The regulations have been published trustees/owner's meetings may not take place in person. [Regulation 23(1)].

CAN CHILDREN BE MOVED BETWEEN CO-HOLDERS OF PARENTAL RESPONSIBILITIES AND RIGHTS

Children can move between co-holders of parental responsibilities and rights [Regulation 17]:

1. **If the parents and/or caregiver are in the same metropolitan area or district municipality**, ONLY if such parents and/or caregiver is in possession of a court order, a parental responsibilities and rights agreement, registered with the family advocate or a permit issued by a Magistrate;
2. **If the parents and/or caregiver are in different metropolitan areas or district municipalities or provinces**, ONLY if such parents or caregiver is in possession of a permit issued by a Magistrate.

For further information on the Regulation pertaining to this question, please contact our offices.

COMMUNITY SCHEME AMENITIES

The Schemes pool, playground, clubhouse, gym and other common property amenities may not be used in any manner and should be locked, and signage placed thereon prohibiting access. This must be enforced by the trustees. [Regulation 24(2)].

For ALL your Community Scheme Matters, please contact Alan and Trisha on 010 001 8209/enquiries@alattorneys.co.za.