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FREQUENTLY ASKED QUESTIONS:

PART B:

THE IMPLICATIONS OF 'LEVEL 3' FOR CHURCHES AND RELIGIOUS ORGANISATIONS AS PLACES OF WORSHIP / RELIGIOUS GATHERINGS

By *Freedom of Religion South Africa (FOR SA)*

(in consultation with a broader team of advocates and attorneys)

From 1 June 2020, churches and other religious organisations are allowed (subject to certain strict conditions) to re-open both for work, and for worship. The right and opportunity to “self-regulate”, clearly comes with a responsibility to proceed with great diligence and caution. ***Every effort has to be made to comply with the necessary legal obligations and protocols, to prevent unnecessary exposure and risk of members and the public at large.***

It is important that members and congregants understand that each one of us has a responsibility to adhere the legal obligations and protocols, to prevent unnecessary spreading of the virus. Ultimately however, the responsibility rests on religious leaders and/or persons in charge of religious organisations, to ensure full compliance. Failure to comply, exposes the religious organisation and its leaders to legal risk in the form of criminal charges and/or civil claims.

The purpose of this document (comprising of a separate PART A, and PART B) is to assist churches and other religious organisations in their understanding and implementation of the Level 3 Regulations and Labour Directives issued in respect of the workplace (see **PART A**), and the Directions issued in respect of religious gatherings (**PART B**). When the Regulations for tertiary education are published, we will also prepare a guideline for bible schools.

Note that this document does not in any way replace, or address all the legal requirements arising from, the Level 3 Regulations, Labour Directives and Directions in respect of religious gatherings. ***It thus remains imperative for every church and religious organisation to familiarise themselves with the Level 3 Regulations, Labour Directives and Directions in respect of religious gatherings (and any other similar notices that Government may issue), and to ensure legal compliance with every aspect thereof.***

Background:

On 28 May 2020, the Minister of Cooperative Governance and Traditional Affairs issued Regulations for Alert Level 3, applying nationally from 1 June 2020 ("[the Level 3 Regulations](#)"). The effect of the Regulations is that all businesses and institutions, except those specifically mentioned in Table 2 of the Level 3 Regulations, may commence operations (although all persons who are able to work from home, must still do so).

This means that at Level 3, churches and other religious organisations are able to start operating, and that employees are permitted to - in phases, and subject to strict compliance with health protocols and social distancing measures - return to the office. Employees are also allowed, in the course of carrying out their work responsibilities, to travel between provinces, metropolitan areas, districts and hotspots – provided however they are in possession of a Form 2 permit issued by their employer. ***For some Frequently Asked Questions with regards to what this means for churches and other religious organisations as places of work, see PART A hereof.***

In addition to the above regulations in respect of the workplace (i.e. to the extent that the church or religious organisation has an office, and/or persons in its employ), the COGTA Minister on 28 May 2020 also issued [Directions](#) in respect of places of worship (i.e. to the extent that religious gatherings take place at the church or religious organisation). These Directions, likewise, apply nationally from 1 June 2020. ***For some Frequently Asked Questions with regards to what the Directions mean for churches and other religious organisations as places of worship, see PART B hereof.***

PART B: PLACE OF WORSHIP / RELIGIOUS GATHERINGS

Q: Can my church, synagogue, mosque, temple etc. resume services?

A: In terms of the Directions, *“any place or premises usually used for religious purposes; including churches, synagogues, mosques, temples and other recognised places of worship”* may conduct gatherings for religious purposes, as long as there are maximum 50 people and the other conditions in the Directions are adhered to. (Clause 1 read with clause 3(1)).

Note that the Directions do state however that *“religious organisations should, where possible, convene services through virtual platforms (online and social media)”* (Clause 3(2)).

Q: Does it mean that my church, synagogue, mosque, temple etc “must” resume services?

A: Although the Directions legally allow places of worship to re-open, it does not mean that they “must” do so. Some may see gathering together as an essential tenet of their faith; others may not. Every denomination or organisation must decide for themselves, subject to being able to practically comply with all the legal protocols.

Equally, members of each faith community must decide for themselves whether or not to attend, based upon their personal health risk assessment and taking into account the possible knock-on effect on the most vulnerable members of our society and those with whom they will typically be in close contact or proximity. Religious leaders are encouraged to assist their members to make good, and wise, decisions in this regard.

In particular, the Directions encourage (but do not legally force) all persons over the age of 60, and persons with co-morbidities, to continue worshipping at home (Clause 8(7)).

Q: What must we do to get our church or place of worship ready, before we are able to resume services?

A: Your church or religious organisation must develop a (written) plan for gatherings incorporating the measures set out in the Regulations and Directions, and develop and maintain (written) protocols on how you will ensure that there are no more than 50 people

within the place of worship at a time. (Clause 4(1)). We strongly advise, once the plan and protocols have been developed, that all religious leaders and persons in charge of services be familiarised with the plan and protocols so as to ensure fully compliance with the law at all times.

Although, legally therefore, it is possible to resume services, the question is whether practically your church or organisation is ready and is able to comply with all the legal requirements set out in the Regulations and Directions.

Q: Can we have religious gatherings on Sundays only, or also on other days of the week?

A: The Directions do not limit religious gatherings to Sundays, or one day a week, only – as long as the gathering is “*for religious purposes*” (Clause 1), no more than 50 people and all other conditions in the Directions are adhered to (Clause 3(1)).

The Directions also do not limit religious gatherings to one per day. The only condition is that “*all religious services may not exceed 2 hours*” and that there must be “*a 30-minute intermission between services*” (Clause 3(3)).

Q: Can we meet in homes?

A: Some religious leaders and organisations are interpreting the Directions to mean that people can also meet in individual homes (for home church / cell group). It is FOR SA’s view (shared by the team of advocates and attorneys we have worked with in this matter) that this is probably not the intention of the Directions, but we have written to the COGTA Minister for clarity. In the meanwhile, and so as to avoid any (unintentional, or perceived) non-compliance with the law, ***we strongly advise churches and religious organisations to err on the side of caution and to adopt a narrow interpretation of the Directions (i.e. no meetings in homes) until such time as clarity is obtained.***

Q: What if our services normally take place at a school hall or other premises not owned / operated by the church or religious organisation itself?

A: The Directions allow religious gatherings at “*any place or premises usually used for religious purposes*” (Clause 1), and are therefore arguably broad enough to include school halls and

other premises where the church or religious organisation “usually” meets for religious purposes. It appears that, given the risk involved, the majority of schools are not comfortable at this stage to allow the resumption of church services at their premises. This is a matter of consultation however between the church (as lessee) and the school (as landlord). In other instances, for example where a church meets at a privately owned property, it may be easier to obtain the landlord’s agreement.

In this regard, note that in terms of the Level 3 Regulations, hotels, lodges, resorts, conference facilities, theatres and cinemas, remain closed (Clause 39(2)). It is clear however that the intention is that these places remain closed in so far as they are used for leisure, entertainment or similar (but excluding religious) activities. To the extent therefore that churches or religious organisations “usually” meet in, for example, a conference facility or theatre, they should be able to get permission from the landlord to continue meeting there during this time.

Q: Can we have ‘drive-in’ religious gatherings in the car park?

A: As the Directions are not clear in this regard, FOR SA has written to the COGTA Minister for clarity and recommended that the Directions be amended to allow for ‘drive-in’ religious gatherings. ‘Drive-in’ gatherings clearly present a much lower risk of infection than physically meeting together in a confined space because (except for the use of ablution facilities, which can be sanitized) people remain in their cars. In the meanwhile, and so as to avoid any (unintentional, or perceived) non-compliance with the law, ***we strongly advise churches and religious organisations to err on the side of caution and to adopt a narrow interpretation of the Directions (i.e. no ‘drive-in’ gatherings) until such time as clarity is obtained.***

Q: What is a “religious gathering” – does it only refer to Sunday services, or does it allow for other types of meetings as well?

A: A “religious gathering” is defined as “a gathering at a place of worship for religious purposes” (Clause 1). As long as the meeting is therefore “for religious purposes”, no more than 50 people are gathered, and all the protocols in the Directions are observed, the meeting can take place.

Q: What about weddings – can people get married, and where?

A: The definition of “religious gathering” is broad enough to include wedding ceremonies (i.e. the official / legal part of getting married, in front of a religious marriage officer) at the church or place of worship. The same limitation of 50 people, and all other health and social distancing protocols in the Directions apply. What is not allowed however, is the reception (or “party” as the COGTA Minister put it).

In addition, religious marriage officers may marry couples at the church office (i.e. outside of a “religious gathering” at the church). If the church or religious organisation does not have an official office, the marriage officer may marry the couple at the office at his/her house, with only the couple and the two witnesses present. (In this regard, see a [recent announcement](#) by the Minister of Home Affairs).

Note that, because social gatherings remain prohibited in terms of the Level 3 Regulations, weddings other than set out above (for e.g. at a wedding venue, or a small gathering of family and friends at someone’s house) also remain prohibited at this stage. The only other option is for the couple to get married in front of a marriage officer at the Department of Home Affairs, in the presence of their two witnesses also.

Q: What about funerals?

A: In terms of the Directions, funeral / memorial services can take place at churches or other places of worship, but are limited also to 50 people in line with the Regulations (Clause 8(8)).

Q: Which type of meetings specifically do the Directions apply to?

A: The Directions apply to any, and all, meetings of whatever kind (including therefore services, prayer meetings, counselling meetings, leaders’ meetings, training meetings, etc.) taking place at places of worship. In terms of Clause 8(5), “*where places of worship remain open to the public for visits, prayer or counselling, the provisions of these Directions apply*”.

Q: How should the limitation of 50 people be applied – does it mean 50 people per site, or per building / auditorium?

A: As the Directions are not clear in this regard, FOR SA has written to the COGTA Minister for clarity. In the meanwhile, and so as to avoid any (unintentional, or perceived) non-compliance with the law, ***we strongly advise churches and religious organisations to err on the side of caution and to adopt a narrow interpretation of the Directions (i.e. 50 people per site) until such time as clarity is obtained.***

Q: Does the 50 people limitation include the pastor, the ushers, the worship / sound team? Does it include children?

A: The limitation of 50 people includes everyone. Note also that 50 is the maximum number of people allowed with the required social distancing of 1.5 metres between persons attending (Clause 5(1)(b)). In other words, the number of people allowed at a religious gathering is proportional to the number of people that the building can accommodate taking into account the required social distancing.

Q: Can ‘children’s church’, or similar activities for children of other faith groups, be resumed?

A: In terms of an announcement by the Department of Social Development (DSD), all early childhood development centres (ECDs) and partial-care facilities must remain closed until further notice. Since the definition of “partial care” in the Children’s Act is broad enough to include ‘children’s church’, this means that ‘children’s church’ is not allowed to resume at this stage. As the Directions are not clear in this regard, FOR SA has written to the COGTA Minister for clarity. In the meanwhile, and so as to avoid any (unintentional, or perceived) non-compliance with the law, ***we strongly advise churches and religious organisations to err on the side of caution and to adopt a narrow interpretation of the Directions (i.e. no ‘children’s church’) until such time as clarity is obtained.*** This does not of course mean that children cannot come to church with their parents – only that other persons may not supervise / take care of children while their parents are in the normal service.

Q: How do we get the building ready for a religious gathering?

A: In terms of the Directions, every place of worship must:

- Have sufficient hand sanitiser (of at least 70% alcohol, or a generic alternative) available at the entrance of, and in, the place of worship which all attendees are required to use (Clauses 7(1) and 7(2)(a));
- Ensure that there are facilities for the washing of hands with water and soap (Clause 7(2)(b)). (Please ensure that paper towels, rather than cloth towels, are used).
- Implement measures to ensure that all surfaces and equipment are cleaned / sanitised before and after religious activities, and before the next one commences (Clause 7(3)(a));
- Ensure that all areas such as toilets, common areas, door handles, electronic equipment and objects are sanitised as regularly as possible as required in the circumstances to prevent spread of the virus (Clause 7(3)(c)).

In order to ensure proper social distancing of at least 1.5 metres between persons (Clauses 5(1)(b) and 8(1)), we further strongly advise marking out where people should sit / stand for worship.

It is also a good idea to make sure that the building is well-ventilated before, after and to the extent possible, during religious gatherings.

Q: What is expected of us as a church or religious organisation as people arrive for the service?

A: Full compliance with all the legal requirements in the Regulations and Directions. In particular, all religious leaders or persons in charge of worship must ensure that every person who enters:

- Wears a face mask covering his nose and mouth at all times (Clause 2 4(1)(a) and 6(1)). No mask, no entry. (Churches and religious organisations may want to keep some spare masks for visitors that may arrive on the day).
- Sprays / is sprayed with hand sanitizer (containing at least 70% alcohol content, or a generic alternative with a similar sanitizing effect – Clause 7(1)).
- Completes an attendance register with the following details: full names; residential address; cell number, telephone number or e-mail address; as well as the contact details of persons living in the same residence as the person attending the religious activity (Clause 8(2)). (Note that there may be no sharing of pens, alternatively pens need to be properly sanitized before/after every use – Clause 7(2)(b)).

- Is physically screened for symptoms (Clause 2(a)). **Any one or more symptoms, no entry.** (Clause 4(4)). (This will require the purchasing of temperature check devices. Note that anyone with a temperature above 38 degrees Celsius, must be sent home).
- In addition, reports whether they suffer from any of the additional symptoms stipulated in Clause 4(2)(b)). (This will require drawing up an attendance register, and symptoms assessment form, to be completed and signed by every person upon entering). **Any one or more symptoms, no entry** (Clause 4(4)).
- If he/she starts experiencing any of the symptoms, immediately informs the religious leader or person in charge (Clause 4(2)(c)). (It would be good to include this as a standard announcement at the beginning of every service). If this happens, there are certain duties on the religious leader or person in charge (see Clause 4(3)).

In addition, all attendees should be informed about the dangers of COVID-19 and how to prevent it (Clause 8(3)).

*Note that the above protocols apply to any “*religious gathering*” (i.e. meeting for religious purposes) or “*religious activity*” that takes place at the place of worship - not just Sunday services. (Clause 8(5)).

Q: Can any of the above be done online / before the time?

A: In terms of the Directions, every person entering the place of worship must be physically screened for symptoms, and report whether – at the time of entering – they suffer from additional symptoms. As such, this cannot be done before the time.

Q: What are the social distancing requirements?

A: Every religious leader or person in charge, must ensure (in terms of Clause 5) that:

- There is no physical contact between persons (including hugging, kissing, hand-shaking at the door, etc);
- There is a minimum of one and a half metres between persons at all times. (This could be done by putting down markers where people should sit / stand. Note that the same distancing is required as people queue up outside / inside the building, to sign attendance registers and complete symptom assessment forms).

Q: What about any rituals that require personal contact, e.g. laying on of hands?

The Directions prohibit “*any religious ritual that requires personal contact*” (Clause 6(2)). This means that touching people (on any part of their body) while praying for them, or washing feet, is prohibited.

From a common-sense point of view, this clearly does not apply between family members who live in the same household (e.g. husband and wife, parents and children). It would also not apply to a couple getting married (and having to exchange rings, etc) during a religious gathering.

Q: Is it possible to baptise people during this time?

A: Because of the prohibition on physical touch (Clause 6(2)), there may be limitations on the way in which baptisms are performed during this time. In particular, it should be done without the religious leader or person who is doing the baptising, physically touching the person who is being baptised (goes under the water).

Note that at Level 3, beaches are still closed. Baptisms are thus restricted to baptism pools at places of worship, private swimming pools or the person’s bath at home, etc. While it may be possible for the religious leader to (in the course of his/her work responsibilities as a pastor, and with a Form 2 permit) attend at the person’s house for purposes of baptising him/her, social gatherings remain prohibited and other friends / family will thus not be allowed to witness the baptism in person (but can of course do so via video).

Q: What about taking communion at a religious gathering?

In terms of the Directions, “*no substance or liquid may be shared between persons*” (Clause 8(6)). This would include the sharing of elements during communion.

To the extent possible therefore, congregants should be encouraged to bring their own communion emblems. Alternatively, the emblems could be placed on chairs prior to the meeting already, or pre-packed disposable communion packs could be ordered, or communion could be distributed by a person wearing sterile gloves.

Q: What about taking up tithes and offerings?

A: The Directions require that *“any person counting offerings or gifts must sanitise their hands before, during and after the counting of offerings or gifts and must ensure that he/she does not touch his/her face during the process”* (Clause 6(3)). (Where possible, the church or religious organisation should be encouraged to do EFTs rather than bringing physical money to church. If money has to be collected physically, it would be wise, for example, to leave boxes in front of the church where people can drop their tithes and offerings without physically passing containers around).

Q: What are the requirements for congregational singing and worship?

A: In terms of the Directions, *“singing of hymns is limited to solo performances, or pre-recorded performances during the religious service or activity”* (Clause 5(d)). Practically, this means that congregational singing (even behind masks which must be worn at all times) is - because of the higher risk of spreading that comes with singing and shouting - not allowed. (It would be wise, at the start of the service / worship, to advise or remind congregants accordingly. This does not of course prevent people from, for example, raising their hands as a means of participating in worship.)

Q: What does it mean for the worship leader / band?

A: In terms of Clause 5(1)(d), worship could take the form either of a *“solo performance”* (i.e. one person only singing during the service), or a *“pre-recorded performance”* (for example, a worship CD or video playing. It could also include a pre-recorded performance – on CD, or video – by the church’s worship band. As such, the band would, for this purpose, be allowed to meet at the church building during the week, subject to all health and social distancing protocols being observed).

The Directions do not exclude the possibility of a “worship band” on stage. The only requirements are that there must be one person only singing (with the rest of the band playing on instruments only); if the person who sings cannot do so without a face mask, he/she must stand 2.5 metres away from everyone else (Clause 5(2)). If he/she is not singing, and at all other times, he/she must wear his/her face mask (Clause 6(1)).

The rest of the band must all wear face masks, and stand 1.5 metres away from each other (Clause 5(1)(b)).

Q: What does it mean for preaching?

A: If the preacher cannot preach without a face mask, he must ensure that he stands 2.5 metres away from anyone else (Clause 5(2)). If the preacher is not preaching, and at all other times, he/she must wear his/her face mask (Clause 6(1)).

In terms of the Directions further, there may be no *“sharing of equipment, objects, or religious scriptures”* (Clause 7(2)(b)). This means that the worship leader and preacher may not share the same microphone. Alternatively, the microphone cap needs to be replaced and the microphone itself properly sanitised before and after use by different users.

Q: What about serving coffee / tea before or after the service?

A: The Directions specifically state that *“social activities before and after the religious activity is not allowed”* (Clause 8(4)). So, no coffee / tea (or fellowshiping) before or after the service. People must arrive for, and leave immediately after, the service. (It would be good to, at the start and close of the service, advise or remind congregants accordingly).

Q: What is expected of a church or religious organisation once the religious gathering is over?

A: In terms of the Directions:

- ensure that there is at least a 30-minute intermission between services (Clause 3(3));
- fill up the hand sanitiser units, so as to ensure that there is sufficient hand sanitiser available at the entrance of, and in, the place of worship for the next gathering (Clauses 7(1) and 7(2)(a));
- ensure that there is still sufficient soap at the washing facilities for the next gathering (Clause 7(2)(b));
- ensure that all surfaces and equipment are cleaned / sanitised (Clause 7(3)(a)). (This means wiping down all the chairs / benches / pews, etc).
- ensure that all areas such as toilets, common areas, door handles, electronic equipment and objects are sanitised (Clause 7(3)(c)).

- ensure that the attendance register, and symptoms assessment forms, completed by attendees are kept for a period of not less than 6 months (Clause 8(2)).

END.

2 June 2020