



SCHÜLER HEERSCHOP PIENAAR

Attorneys | Conveyancers | Notaries

DATE: 15 MAY 2020

RE: AN UPDATE ON “MOVING-HOUSE” DURING THE AMENDED LEVEL 4 LOCKDOWN RESTRICTIONS

1. President Cyril Ramaphosa, in his address to the nation on 13 May 2020, remarked:

“We [presumably referring to the Government as a whole] must acknowledge that... there may have been times when we have fallen short of your expectations. Some of the actions we have taken have been unclear, some have been contradictory, and some have been poorly explained...”

2. It is submitted that this was an accurate concession by the President as many of the proclamations in recent regulations and directives have been bemoaned as being unduly burdensome, irrational and contradictory.
3. One such regulation, relevant to the property industry, was that incoming and outgoing occupiers of immovable property (tenants, sellers and purchasers) were prohibited from “moving house” during the period of lockdown (at the least, during level 5 and level 4), regardless of the provisions of any lease or sale agreement regulating occupation.
4. Recognising that this prohibition was untenable and without a rational basis, on 7 May 2020, Minister Dlamini Zuma published a direction which relaxed the blanket prohibition by permitting tenants, purchasers and sellers to “move-

Directors: Karl Christian Schüler (B Proc) | Rudi Jack Heerschop (LLB) | Mark Henri Pienaar (LLB) (LLM) (Adv. Dip. Insolvency law)
Associates: Quentin Van Huyssteen (LLB) | Hein Gouws (LLB)
Professional Assistants: Janine Visagie (LLB) | JP Spangenberg (BA)(LLB)
Candidate Attorneys: S Coetzee | D Williams | M van Rooy | L van Niekerk | T Goussard | DG Heerschop
Roodepoort Office: Block 3, First Floor, Clearwater Office Park, Millennium Boulevard, Strubens Valley, 1735 | Tel: 011 763 3050
Centurion Office: Unit E, 2nd Floor Cambridge Office Park, 5 Bauhinia Street, Highveld Techno Park, Centurion | Tel: 012 880 3050
Cape Town Office: 8th Floor, 2 On Long, Long Street, Cape Town, 8001 | Tel: 021 879 1071
Postal Address: Postnet Suite 162, Private Bag X1, Florida Hills, 1716
General: Email: office@shplaw.co.za | Web: www.shplaw.co.za | Fax: 011 760 4767



house” during a specified window period (7 May 2020 to 7 June 2020), subject thereto that:

4.1. the lease agreement prompting the move was concluded either before or during the lockdown period; alternatively

4.2. the transfer of immovable property occurred before the commencement of the lockdown period.

5. As any property practitioner will know, in practice, there are many variables which could impact the determination of the date of occupation. Whilst the directions relaxing the blanket prohibition were welcomed by a desperate property industry, there were at least two significant flaws / shortcomings in that:

5.1. a one-month time window was imposed, which period seemed to be irrational and arbitrary; and

5.2. relocation of businesses was omitted entirely.

6. In his address, the President further recognised that:

“Where we [the Government] have disappointed, we will continue to make amends. Where we have made mistakes...we will always seek to correct those mistakes.”

[...]

“In the coming days, we will also be announcing certain changes to level 4 regulations...”



7. On 14 May 2020, mere hours after the address by the President, amended directions relating to the movement of persons were published. The directions, in their current form, permit:
 - 7.1. the movement of persons and goods across provincial, metropolitan or district boundaries during the period of Alert level 4, in circumstances where:
 - 7.1.1. a person is relocating to a new place of residence;
 - 7.1.2. the movement is necessitated due to domestic violence; or
 - 7.1.3. a business is relocating to a new premises,
 - 7.2. the transport of related goods, which are limited to household or office furniture and effects, to a new place of residence or business, within the Republic.
8. A person moving during this period, will have to:
 - 8.1. obtain a permit to travel across provincial, metropolitan or district boundaries from;
 - 8.1.1. the head of Court or a person designated by him or her; or,
 - 8.1.2. the station commander of a police station or a person designated by him or her

(we are of the view that the permit should be obtained at a Court or police station within the district from which you are moving);
 - 8.2. indicate the persons who are part of the household who will be required to move;



- 8.3. have in his or her possession;
 - 8.3.1. the relevant lease agreements indicating the date of expiry of the old lease or the date of commencement of the new lease;
 - 8.3.2. the proof of purchase of residence and occupation date, or the transfer documents attesting to the change of ownership of property;
 - 8.3.3. a domestic violence order; or
 - 8.3.4. proof of change or new occupation of business premises,
- 8.4. the permit as aforesaid must correspond with Form 1 attached to the Directive. For your ease of reference, a copy of the mentioned permit is attached hereto.

9. Whilst the directives are yet again silent on the participation of property practitioners in this process, we remain of the view that, due to the integral role they play in this process and their expertise, their participation is vital, and consequently should be permitted.
10. The President further intimated that the country could move to level 3 from the end of May 2020. A shift in the risk-adjusted category will hopefully result in the further relaxation of restrictions apposite to the property industry and the business of property practitioners in general.
11. We will continue to keep you updated on all the latest legal developments.

**R HEERSCHOP
SCHÜLER HEERSCHOP PIENAAR ATTORNEYS**

FORM 1
PERMIT TO TRAVEL TO ANOTHER PROVINCE, METROPOLITAN AREA OR DISTRICT FOR
PURPOSES OF RELOCATION

Direction 3(b)

- Note:
- This permit must be issued to the persons or businesses relocating
 - This permit and any form of identification must be in the possession of the person to whom this permit is issued

I,

Full names	
Surname	
Identity number	
Court/Station	

*Station Commander/Head of court/designated person

hereby issue a permit for *relocation/transportation of persons, household furniture and effects/business furniture, equipment, and inventory related to the business to: Full names						
Surname						
Identity number						
Names of additional people travelling and requiring authority to return(Limited to number of people per vehicle, as per directions of Minister of Transport)						
Address of residence/ business relocating from						
Province relocating from						
Registration number/s of vehicle/s for movement and return						
Contact details	Cell nr		Tel No (h)		e-mail address	
Address of residence/ business relocating to						
Province relocating to (if different from current province)						
Date/s of travel						

I have verified that the person requesting the permit *produced the relevant lease agreements, indicating the date of expiry of the old lease or the commencement date of the new lease/produced proof of purchase of residence and occupation date/produced the transfer documents attesting to the change of ownership of property/domestic violence order/produced proof of change or new occupation of business premises.

Signed at _____ this _____ day of _____ 20__.

 *Station Commander/Head of Court/designated person

*Delete which is not applicable.

