

IN THE CONSTITUTIONAL COURT

Case number: _____

In the matter between:

THE DEMOCRATIC ALLIANCE

Applicant

and

**THE MINISTER OF CO-OPERATIVE
GOVERNANCE AND TRADITIONAL AFFAIRS**

First respondent

THE SPEAKER OF THE NATIONAL ASSEMBLY

Second respondent

**THE CHAIRPERSON OF THE NATIONAL
COUNCIL OF PROVINCES**

Third respondent

**THE PRESIDENT OF THE REPUBLIC OF
SOUTH AFRICA**

Fourth respondent

NOTICE OF MOTION

TAKE NOTICE THAT the applicant intends to make application to this Court for an order in the following terms:

1. The applicant is granted leave to bring this application directly to this Court in terms of section 167(6)(a) of the Constitution and Rule 18 of the Constitutional Court Rules.
2. Section 27 of the Disaster Management Act 57 of 2002 (**'the Act'**) is declared to be unconstitutional and invalid.

MINDE SCHAPIRO AND SMITH INC

Elzanne Jonker

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3. In order to remedy this unconstitutionality, and with effect from the date of the order, section 27 of the Act is ordered to be read as if a new section 27(4A) has been added immediately after section 27(4), reading as follows:

- (a) A copy of any declaration of a national state of disaster and any regulation or direction made or issued under section 27(2) shall be laid upon the Table in Parliament by the Minister as soon as possible after the publication thereof.*
- (b) The National Assembly may at any time -*
- (i) by resolution disapprove of any such declaration, regulation or direction; or*
- (ii) by resolution make any recommendation to the Minister in connection with such declaration, regulation or direction.*
- (c) Any such declaration, regulation or direction shall cease to be of force and effect as from the date on which the National Assembly resolves under subsection (b)(i) to disapprove of such declaration, regulation or direction, to the extent to which it is so disapproved.*
- (d) The provisions of subsection (c) shall not derogate from the validity of anything done in terms of any such declaration, regulation or direction up to the date upon which it so ceased to be of force and effect, or from any right, privilege, obligation or liability acquired, accrued or incurred, as at the said date, under and by virtue of any such declaration, regulation or direction.*
- (e) The provisions of subsections (a) to (d) apply equally to an extension of a national state of disaster in terms of section 27(5)(c).'*

4. The first respondent is directed to table before the National Assembly within three days of this order:

- 4.1. the declaration of the national state of disaster in GN 313 GG 43096 of 15 March 2020;
 - 4.2. the regulations issued in terms of section 27(2) of the Act published in GNR 480 GG 43258 of 29 April 2020 (**the COVID regulations**); and
 - 4.3. all directions and regulations issued under the COVID regulations (including all directions and regulations that remain valid under regulation 2(3) of the COVID regulations).
5. It is declared that none of the declarations, regulations and directions made in terms of section 27 of the Act prior to the date of this order are invalidated only by virtue of the orders in paragraphs 2 to 4 (inclusive) above.
 6. Those respondents opposing any part of the relief sought are directed to pay the applicant's costs, jointly and severally, one paying the other to be absolved, including the costs of two counsel.
 7. Further and/or alternative relief.

and that the accompanying affidavit of **JOHN HENRY STEENHUISEN** will be used in support thereof, which contains all of the information required in terms of Rule 18(2) of the Constitutional Court rules.

TAKE NOTICE FURTHER THAT the applicant has appointed the address of its attorneys of record set out below at which it will accept notice and service of all process in these proceedings.

TAKE NOTICE FURTHER THAT the applicant consents to and requests service by email, and requests that you do the same.

TAKE NOTICE FURTHER THAT if you intend opposing this application you are required to notify the applicant's attorney and the Registrar of this Court in writing **within five days.**

TAKE NOTICE FURTHER THAT the matter will thereafter be disposed of in accordance with directions given by the Chief Justice in terms of Rule 18(4) of the Constitutional Court rules.

Dated at Cape Town this Friday, 15 May 2020.



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TO THE REGISTRAR OF THE ABOVE COURT

AND TO THE MINISTER OF CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS

First respondent

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AND TO THE SPEAKER OF THE NATIONAL ASSEMBLY

Second respondent

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AND TO THE CHAIRPERSON OF THE NATIONAL COUNCIL OF PROVINCES

Third respondent

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AND TO THE PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA

Fourth respondent

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