

The South African Minister of Trade and Industry issues regulations to curb the spread of panic buying and price hikes amidst COVID-19 fears

20 March 2020

South African President, Cyril Ramaphosa declared a National State of Disaster on 15 March 2020 in a proactive attempt to curb the spread of COVID-19.

In line with this proactive response to the global pandemic, on Thursday 19 March 2020 the Minister of Trade and Industry (the "Minister"), Mr Ebrahim Patel, published Regulations in the healthcare sector (addressed in another note) and the Consumer and Customer Protection and National Disaster Management Regulations and Directions (the "Regulations"). These Regulations are intended to prevent adverse effects related to COVID-19 further spreading to consumers by way of a cap on the price of certain goods, as well as a directive to supermarkets to prohibit the stockpiling of these goods by consumers.

To this end, the Regulations also attach substantial penalties for breach of the Regulations to ensure compliance. The regulated goods include, but are not limited to, toilet paper; hand sanitiser; facial masks; disinfectants cleaners; surgical gloves; surgical masks; disinfectant wipes; antiseptic liquids; all-purpose cleaners; baby formula; disposable nappies; bleach; cooking oils; wheat flour; rice; pasta; sugar; long-life milk; canned fruit and vegetables; canned, frozen and fresh meat, chicken or fish; bottled water. Services regulated are private medical services relating to the testing, prevention and treatment of COVID-19 and its associated diseases.

Stockpiling

The global onslaught of COVID-19 from the first infection, recorded in late 2019, in China, has resulted in widespread knock-on effects. One of these has been the resultant global consumer panic related to scarcity of supply; that supermarket stock will dry up as a result of factories or transport and trade routes being closed. One only need to jump onto social media to experience this panic first-hand; of people around the world. as pictures and videos of empty toilet paper, meat and pasta shelves are shared. South Africa too, though so far managing to contain the spread of COVID-19, has not been immune to the panic of consumers who have stock-piled supermarkets dry of certain products on more than one occasion.

The government has responded to South Africans' panic by emphasising the robustness of the supply chains of supermarkets and warning consumers that rationing may be introduced if

stock-piling does not stop, and now the Minister has formally intervened, by introducing these Regulations.

The Regulations aim to ensure the security of supply of goods to consumers by obliging retailers to implement reasonable measures, and clearly display notice of measures implemented, to ensure equitable distribution and maintenance of stock of goods to consumers and customers, including small businesses. Retailers are permitted to limit the quantity of a certain product that may be bought by an individual customer within a defined period of time. Furthermore, retailers are obliged to ensure that no customer is circumventing the object of this provision through their purchases.

Price hikes

The world has also seen retailers taking advantage of panicked consumers by dramatically increasing prices of items that are in great demand.

The Regulations address this risk by limiting the amount by which prices may be increased. The Abuse of Dominance provisions in the Competition Act are emphasised, in particular with regard to the provisions of Section 8(3)(f), which deals with excessive pricing during a national disaster.

The Regulations also emphasise provisions of the Consumer Protection Act, which prohibits a supplier from engaging in unconscionable conduct such as through the employment of unfair tactics in the marketing and supply of goods or services, and from offering to supply a good or service at an unfair, unreasonable or unjust price.

In addition, the Regulations allow the Minister to set maximum prices on private medical goods and services relating to the testing, prevention and treatment of COVID-19, and its associated diseases during the national disaster.

Penalties

Any person or firm found to be in contravention of the Regulations faces the possibility of a fine of up to ZAR 1 million; 10 per cent of annual turnover; and imprisonment for a period of up to 12 months, subject to the requirements of the Competition Act, the Consumer Protection Act and the regulations published in terms of the Disaster Management Act. In addition, dominant firms found to be in contravention of the excessive pricing provisions are subject to investigation by the Commission and liable for the penalties imposed under the Competition Act.

Next steps

The Minister is to be commended for taking quick action to curtail negative conduct in the face of the COVID-19 pandemic, and it is to be hoped that people will heed these provisions in these unprecedented times.

Parties seeking to comment on these Regulations have a period of 14 days from the date of

publication to do so.

Contacts



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