

SUID-AFRIKAANSE POLISIEDIENS



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OFFICE OF THE PROVINCIAL  
COMMISSIONER  
S A POLICE SERVICES: LEGAL SERVICES:  
UMGUNGUNDLOVU DISTRICT  
KWAZULU-NATAL


The District Commissioner  
Umgungundlovu District  
PIETERMARITZBURG  
3200

### RE: LEGAL OPINION: OPENING OF PLACES OF WORSHIP DURING AMENDED ALERT LEVEL 3 LOCKDOWN

1. This office was requested by the District Commissioner, Maj General Makoba, to provide a legal opinion regarding the opening of places of worship during the current amended Alert Level 3 lockdown with particular reference to DMA Regulation 36(3) (GG No 4405 dated 29<sup>th</sup> December 2020).
2. Reg. 36 (3) states "all social gatherings, including faith-based gatherings are prohibited for two weeks , after which this provision will be reviewed"
  - 2.1. It may be deduced that social gatherings refers to eg. large family get-togethers, year-end functions, etc.
  - 2.2. It can also be deduced that faith-based gatherings refers to eg. prayer meetings, talks, discussions, healing crusades etc. where the public is invited and there is a reasonably large concentration of people.
3. Reg 39 is headed (titled)"Places and premises closed to the public and Reg 39(1) mentions the following places as being closed to the public.
  - (i) Night Clubs,
  - (ii) swimming pools (with exceptions),
  - (iii) bars, taverns and shebeens and
  - (iv) public parks.... Where there is no access control measures.
4. Places of worship has not been closed by the Government in terms of the amended Alert Level 3 lockdown DMA Regulations.
  - 4.1. Worshippers are entitled and not prohibited from praying at places of worship as they would on a daily basis do.
5. Had the government intended to close places of worship during this current amended Alert Level 3 lockdown, it would have said so by stipulating in Reg. 36(3) that all social gatherings, including faith-based gatherings at places of worship and faith-based institutions are prohibited, but government has not said so.

- 5.1. government would have specifically mentioned the closure of places of worship in Reg. 39(1), but has not done so.
6. Hence, it can therefore be deduced that government did not have the intention to close places of worship but rather left that discretion to the relevant faith-based bodies/organisations. The purpose is to prevent the spreading of COVID-19 by prohibiting large faith-based gatherings.
7. It must be mentioned that the Minister of COGTA has not repealed directions issued in GG No 43762 dated 1 October 2020 with regards to places of worship. Those attending places of worship must wear face masks, adhere to social distancing and observe all Covid-19 health protocols.
8. It must also be mentioned that persons attending/visiting places of worship are subjected to the curfew period (21:00 – 06:00) as stipulated in Reg. 33(1).
9. It should be noted that in terms of the provision of Reg.39(2), government has left the door open for the closure of places of worship through the issuing of directions by the Minister of COGTA if there is a risk of any members of the public being exposed to Covid-19 at such a place or premises. It is re-iterated that there is no directions issued on the closure of places of worship.

Kind Regards



**COLONEL**  
**f/PROVINCIAL COMMISSIONER KZN**  
**UMGUNGUNDLOVU DISTRICT: LEGAL SERVICES**  
**SENIOR LEGAL OFFICER**  
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DATE: 2020-12-31