

5 May 2020,

Notice No: 2020/042

Dear Members,

**DIRECTIONS ISSUED BY THE MINISTER OF JUSTICE**

- 1 I refer to the Directions issued by the Minister of Justice on 3 May 2020 in terms of Regulation 4(2) of the Regulations Under the Disaster Management Act, 2002 (“**the Directions**”). For purposes of this notice, please have regard to the Regulations promulgated by the Minister of Cooperative Governance and Traditional Affairs dated 29 April 2020 (“**the Regulations**”).
- 2 Paragraph 40 of the Directions says that they shall “*come into operation on the date of publication in the Government Gazette.*” The Directions were published in Government Gazette No. 43268 of 4 May 2020 and a copy thereof is on the JSA website.
- 3 In terms of the Directions, a permit to render permitted services must be issued by the head of an institution.
- 4 The head of an institution is defined in paragraph 1 of the Directions to mean, amongst others, the following:
  - 4.1 the Director of a Provincial Legal Council, in this case, the Director of the Gauteng Provincial Legal Council;
  - 4.2 in the case of a practising attorney who is a sole practitioner, such attorney; “*and in the case of a practising advocate, such advocate.*”
- 5 Paragraph 30 of the Directions deals with travelling from one’s place of residence to places of work. It provides that legal practitioners may commute between their “*place of residence, office and court within their provincial area of jurisdiction for purposes of performing permitted services upon presenting proof of appointment to such office together with any form of identification if required to do so by enforcement officers.*”
- 6 Paragraph 31 of the Directions deals with the issuing of permits. It provides that the head of an institution, which includes an advocate in private practice, “*must issue a permit to a person within his or her institution for the performance of permitted services.*” If the power to issue a permit is derived



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from this paragraph, as it is, it expressly excludes the issuing of a permit to oneself. The permit is to be issued by the head of an institution “*to a person within his or her institution*” and not to oneself.

7 In the light of the above, the JSA is of the view that “*in the case of a practising advocate, such advocate*” is the head of an institution as far his or her practice is concerned and is authorised to issue a permit to perform permitted services “*to a person within his or her institution for the performance of permitted services*” and certainly not to himself or herself.

Advocates, as legal practitioners, must rely on “*proof of appointment to such office together with any form of identification*” contemplated in paragraph 30 of the Directions in order to commute from their places of residence to court and their offices.

8 Paragraph 32 of the Directions provides that persons who are required to perform permitted services are permitted to commute between their places of residence, offices and courts for purposes of performing such services, provided that every such person must have in his or her possession “*a form of identification and a permit authorising him or her to perform such services issued by the head of institution.*” This must relate to persons who have been issued with a permit to perform permitted services, in the context of advocates, by “*such advocate*” because a legal practitioner is only required, in terms of paragraph 30 of the Directions, to present “*proof of appointment to such office together with any form of identification*” in order to commute “*between their places of residence, offices, and courts.*”

9 Insofar as “*permitted service*” is defined in paragraph 1 of the Directions to also mean the permitted service as determined in the Regulations, members and groups must consider whether their administrative support staff members fall under Part H paragraph 9 of Table 1 of the Regulations.

10 I trust that the above provides sufficient guidance to enable you to manage your respective positions.

Yours faithfully,

  
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Chairperson: Johannesburg Society of Advocates



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