**BILL WATCH 45/2021**

**[30th June 2021]**

**Public Health Lock-down Order : Re-imposition of Lock-down**

Since our last bulletin on the subject there have been two developments on the COVID-19 front:

1. On the 26th June further amendments to the Covid Lock-down Order were published. They are contained in SI 187/2021 – or the Public Health (COVID-19 Prevention, Containment and Treatment) (National Lock-down) (No. 2) (Amendment) Order, 2021 (No. 28), to give it its full (very full) title – which can be accessed on the Veritas website [*[link]*.](http://www.veritaszim.net/node/5111)
2. Yesterday the President announced what he called “additional enhanced Level 4 lockdown measures” which he said were to take immediate effect and were to last for two weeks. In fact they cannot become operational until they have been legally enacted, as we shall point out later, but we shall outline them in this bulletin because the Police and law enforcement agents will already be applying them.

**Travellers**

**Amendments made by SI 187/2021**

Under section 26C of the Lock-down Order before SI 187/2021 was published, persons entering Zimbabwe from India or after passing through India were subjected to particularly stringent restrictions: even if they could produce a PCR certificate showing they were not infected with COVID-19, they would be quarantined at their own expense in a hotel or other designated place and would have to submit to re-testing after arrival. Now SI 187/2021 has amended section 26C to apply these restrictions to people arriving from all “COVID-19 infection hotspots”. The intention seems to have been to permit the Vice-President to declare foreign countries hotspots after being notified by the WHO that a COVID-19 variant is prevalent there. Unfortunately the amendment allows the Vice-President to declare only SADC countries to be hotspots. If that is so, travellers from non-SADC countries, including India, will not be subject to extra restrictions however serious the epidemic may be in those countries. Presumably this is an error which will be corrected in the near future.

**Measures announced by the President**

Travellers from countries with Alpha and Delta Covid-19 variants will be quarantined and tested, at their own expense, on the first, third, fifth and tenth day after their arrival in Zimbabwe.

Those who are deported back to Zimbabwe – and the President was probably thinking of those deported from South Africa – will be subject to self-quarantine or will be quarantined in identified places *[What this entails will presumably be made clear in a future amendment to the Lock-down Order]*

**Level IV Lock-down Extended**

**Amendments made by SI 187/2021**

The partial Level IV lock-down that is in force throughout the country in terms of section 26E of the Order is extended until the 11th June.

The restrictions imposed by this lock-down are outlined in Bill Watch 39/2021 of the 18th June 2021 [*[link]*.](http://www.veritaszim.net/node/5102)

**Measures announced by the President**

* There is a nightly curfew from 6.30 p.m. in the evening to 6.a.m. the next morning.
* Commercial and industrial concerns may not open earlier than 8 a.m. on any day and must be closed by 3.30 p.m.
* Industrial workplaces must be de-congested to 40 per cent of their manning levels, the remaining 60 per cent of staff working from home *[This does not apparently apply to commercial concerns, but the omission may be remedied.*
* All commercial and industrial enterprises are to observe COVID-19 WHO protocols *[The President did not explain what these are, but presumably they include wearing face masks, social distancing and frequent sanitising of hands]*.
* Commercial transport can continue operating so long as everyone observes COVID-19 WHO protocols.

**But** inter-city movement is prohibited except for the production and transport of food and medicine.

The President also announced that the vaccination programme would be accelerated and that Ministers and parliamentarians would be sent to their constituencies in order to disseminate information about the epidemic and particularly about the vaccination programme. *[This may mean that Parliament will adjourn shortly.]*

**Localised Lock-downs Extended**

The stringent lock-downs in Hurungwe, Kariba, Kwekwe and Makonde districts are extended both in time and, potentially, in area.

**In time**: The lock-downs will remain in force until the 11th July. They had been due to expire on the 27th June.

**In area**: The Vice-President is given power under section 27E of the Order to declare areas in Zimbabwe to be “COVID-19 infection hotspots”. These hotspots will be under the same restrictions as currently apply to Hurungwe, Kariba, Kwekwe and Makonde Districts. The Vice-President’s declarations will take effect immediately they are made and will not have to be published in the *Gazette*; they will remain in force for 14 days.

We outlined the restrictions imposed under these localised lock-downs in Bill Watch 39/2021, to which a link is given above.

**Comments**

**Validity of the measures announced by the President**

The President cannot impose restrictions on people’s movements and conduct except to the extent that he is authorised to do so by law, so the measures he announced yesterday will not have legal effect until they are incorporated into the Lock-down Order. Nonetheless people should comply with the measures in their own interests and to safeguard the health of everyone else – and also to avoid unwelcome harassment by the police and other enforcement officers.

**New declarations of Covid hotspots**

These declarations made by way of orders issued by the Vice-President, as we have pointed out, will not have to be published in the *Gazette*. For that reason they will beinvalid

The Lock-down Order is made in terms of section 8 of the Public Health (COVID-19 Prevention, Containment and Treatment) Regulations, 2020 (SI 77/2020), which authorises the Vice-President to take a wide range of measures to combat COVID-19 – but the measures must be taken “by orders published in the *Gazette*”. If they are not, they are *ultra vires* and invalid.

This is important because people who contravene the anti-Covid measures in an area that that is declared a “hotspot” without being gazetted will be liable to be prosecuted and subjected to heavy penalties – a fine of up to Z$800 000 or a year in prison. If it turns out that the declaration was invalid and the measures were never legally imposed in the area, those people will have been subjected to inconvenience at best and to grave injustice at worst.

**Need for complete revision of the Lock-down Order**

We have said a great many times before – *ad nauseam* it seems – that the Lock-down Order needs to be revised completely. It has been amended 28 times and no one can really understand it any more. The public must know what they can and cannot do under the Order and that is virtually impossible at present. The sooner the Order is replaced with a new and simpler piece of legislation the better.

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