

# Code of Conduct for Enforcement Officers during the State of Disaster



## CODE OF CONDUCT FOR UNIFORMED MEMBERS OF THE SOUTH AFRICAN NATIONAL DEFENCE FORCE



I pledge to serve and defend my country and its people in accordance with the Constitution and the law and with honour, dignity, courage and integrity.

I serve in the SANDF with loyalty and pride, as a citizen and a volunteer.

I respect the democratic political process and civil control of the SANDF.

I will not advance or harm the interests of any political party or organisation.

I accept personal responsibility for my actions.

I will obey all lawful commands and respect all superiors.

I will refuse to obey an obviously illegal order.

I will carry out my mission with courage and assist my comrades-in-arm even at the risk of my own life.

I will treat all people fairly and respect their rights and dignity at all times regardless of race, ethnicity, gender, culture, language or sexual orientation.

I will respect and support subordinates and treat them fairly.

I will not abuse my authority, position or public funds for personal gain political motive or any other reason.

I will report criminal activity, corruption and misconduct to the appropriate authority.

I will strive to improve the capabilities of the SANDF by maintaining discipline, safeguarding property, developing skills and knowledge, and performing my duties diligently and professionally.



## Code of Conduct of the South African Police Service

We, as Police Officials of the South African Police Service commit ourselves to the creation of a safe and secure environment for all people in South Africa by –

- participating in endeavours to address the root causes of crime in the community;
- preventing action which may threaten the safety or security of any community; and
- investigating criminal conduct which has endangered the safety or security of the community and bringing the perpetrators thereof to justice.

In realization of the aforesaid commitment, we shall at all times –

- uphold the Constitution and the law;
- be guided by the needs of the community;
- give full recognition to the needs of the South African Police Service as my employer; and
- cooperate with the community, government at every level and all other related role-players.

In order to achieve a safe and secure environment for all the people of South Africa we undertake to –

- with integrity, render a responsible and effective service of high quality which is accessible to every person and continuously strive towards improving this service;
- utilize all the available resources responsibly, efficiently and cost-effectively to maximize their use;
- develop our own skills and participate in the development of our fellow members to ensure equal opportunities for all;
- contribute to the reconstruction and development of, and reconciliation in our country;
- uphold and protect the fundamental rights of every person;
- act impartially, courteously, honestly, respectfully, transparently and in an accountable manner;
- exercise the powers conferred upon us in a responsible and controlled manner; and
- work actively towards preventing any form of corruption and to bring the perpetrators thereof to justice.

**We as Enforcement Officers mandated under the Disaster Management Act, 2002 and regulations, we commit ourselves to creating a safe and secure environment for all the people in South Africa in accordance with the Constitution of the Republic of South Africa 1996, Disaster Management Act, 2002 (Act No. 57 of 2002), and promulgated regulations in terms of section 27(2) of the Disaster Management Act, 2002, by –**

- Participating in endeavors to enforce the Disaster Management Act, 2002 (Act No. 57 of 2002), and promulgated regulations in terms of section 27(2) of the Disaster Management Act, 2002;
- Preventing all actions that may threaten the health, safety and security of any community; and
- Collaborating in efforts to deal with the destructive and other effects of the disaster;

**In carrying out this commitment we shall at all times—**

- Uphold the Constitution and the law, specifically the spirit and objectives of the Disaster Management Act, 2002;
- Be guided by the needs of the community in determining our response to the disaster;
- Treat all people fairly and respect their constitutional rights and dignity at all times, regardless of race, ethnicity, gender, culture, social standing, language or sexual orientation; and
- Cooperate with all interested parties in government, the community and non-governmental organisations at every level;

**To achieve a safe and secure environment for all the people of South Africa, we undertake to—**

- Act with integrity, render a responsible and effective service of high quality which is accessible to every person and continuously strive towards improving this service;
- Act in a manner that is impartial, courteous, respectful, transparent and accountable;
- Work actively towards preventing any form of lawlessness and corruption and to bring the perpetrators thereof to justice; and
- Exercise the powers conferred upon us in a responsible and controlled manner.

**RESPONSIBILITIES OF THE PUBLIC**

- Members of the public must accept that the national state of disaster has created an unprecedented situation which requires the co-operation of everyone to prevent, limit, contain, combat and manage the spreading of COVID-19.
- Steps taken by government to address the COVID-19 pandemic are aimed at the protection of the health and wellbeing of everyone. The efforts of government to address the pandemic require the commitment of all inhabitants of the country.
- Members of the public must familiarise themselves with the legislative provisions (the Regulations and Directions is available at <http://www.saps.gov.za/newsroom/regulations/regulations.php> or <https://www.gov.za/coronavirus/guidelines>) to ensure that their conduct is lawful. It is the responsibility of everyone to comply with the provisions to ensure that we contain the spreading of COVID-19 and protect the health and wellbeing of everyone in South Africa.

**WHAT A MEMBER OF THE PUBLIC SHOULD EXPECT WHEN IT IS ALLEGED THAT HE OR SHE COMMITTED AN OFFENCE**

- A person may be arrested or requested to accompany an enforcement officer to a police station.
- If the offence is of a serious nature, the person may be detained, subject hereto that he or she must be brought before a court as soon as reasonably possible, but not later than 48 hours after the arrest. The person may apply for bail at his or her appearance in court.
- If the offence is less serious, the community service centre commander or the senior member of the SAPS in charge must consider the release of a person (in consultation with the investigating officer) –
  - (a) on written warning to appear in court (section 72 of the Criminal Procedure Act, 1977) [A form SAPS 496 will be issued with a court date];
  - (b) on written notice (section 56 of the Criminal Procedure Act, 1977) (A form J 534 will be issued with an option to pay a fine or appear in court on the date indicated on the form. This option enables a person to pay an admission of guilt fine and to be released thereafter. This means that the person will not have to appear in court, but by paying the admission of guilt fine, it is regarded as if the person has been conviction in court on the charge and the person will have criminal record);
  - (c) on bail (sections 59 and 59A of the Criminal Procedure Act, 1977) [J398 or J399] (This means that an amount for the bail will be determined by the relevant police official or the prosecutor. The person will have to appear on a date indicated on the receipt);
  - (d) after a charge has been withdrawn through an arrangement with the Public Prosecutor; or
  - (e) if he or she was detained as a suspect, but is released from detention before the expiry of the 48-hour period because no charge is brought against him or her (section 50(1)(c) of the Criminal Procedure Act, 1977) [SAPS 328].

- Please note that an enforcement officer may forcibly confine the body of the arrested person if the person does not submit to custody (in accordance with section 39 of the Criminal Procedure Act, 1977). Furthermore, if the suspect resists the arrest or attempts to flee, section 49(2) of the Criminal Procedure Act, 1977, authorises an enforcement officer to use force that is reasonably necessary and proportional to overcome such resistance or attempt. However, under no circumstances may a person be tortured, assaulted or mistreated in any manner by an enforcement officer.
- Complaints of torture, excessive use of force, inhumane treatment and punishment of the community by enforcement officers during the national state of disaster may be lodged with the –

### **SAPS**

- Community Service Centre at any police station
- Provincial Complaints Coordinators: Inspectorate (<http://www.saps.gov.za> or [http://www.saps.gov.za/services/service\\_complaints\\_centre.php](http://www.saps.gov.za/services/service_complaints_centre.php).)
- The Independent Police Investigative Directorate (<http://www.ipid.gov.za> or (012) 399 0000)
- SAPS National Service Complaints Centre (0800 333 177 or [complaintsnodalpoint@saps.gov.za](mailto:complaintsnodalpoint@saps.gov.za) or [service@saps.gov.za](mailto:service@saps.gov.za))

### **SANDF**

- Military Police Station
- Community Service Centre at any police station
- Military Ombud ([www.milombud.org](http://www.milombud.org) or 012 6763800)
- Hotline 080 726 6283

## **GUIDELINES ON THE ENFORCEMENT OF THE DISASTER MANAGEMENT REGULATIONS AND ANY OTHER REGULATIONS ISSUED DURING THE STATE OF DISASTER**

The State of Disaster is aimed at containing and managing the spread of the COVID-19 virus and enforcement officers must support this aim, provide a service, help, give advice, guide and lead the community, in order to ensure that lives are saved.

### **How to enforce:**

- Compliance to inter-provincial/districts travel is enforced through roadblocks and Vehicle Check Points.
- Checking and verification of permits issued under the regulations.
- Enforcing closure of borders and monitoring movement of cargo.
- Issuing of fines and arresting of offenders for non-compliance.
- Compliance check during routine patrols.
- High visibility patrols and visits to identified areas.

**GUIDELINES ON ARREST OF A PERSON MAY BE ARRESTED AND ALTERNATIVE MEANS OF SECURING AN ARRESTED PERSON'S ATTENDANCE AT TRIAL****Arrest**

- As a general rule, the object of an arrest is to secure the attendance of a person at his or her trial.
- Section 39(1) of the Criminal Procedure Act provides that an arrest shall be effected with or without a warrant and unless the person to be arrested submits to custody, by actually touching his or her body or, if the circumstances so require, by forcibly confining his or her body.
- Section 39(2) of the CPA provides that the person effecting an arrest shall at the time of effecting arrest or immediately after effecting the arrest, inform the arrested person of the course of the arrest. In the case of arrest effected by virtue of a warrant, upon demand of the person arrested hand him a copy thereof.
- Section 39(3) of the CPA provides that the person arrested shall be in lawful custody and shall be detained in custody until he is lawfully discharged or released from custody.
- It is not possible to lay down hard and fast rules regarding the manner in which the attendance of an accused at a trial should be secured. Each case must be dealt with according to its own merits.
- Factors that should be considered when an arrested person should be released;
  - (a) there is a likelihood that the arrested person, if released, will endanger the safety of the public or any particular person or commit another Schedule 1 offence (such as treason, sedition, public violence, murder, culpable homicide, rape, sexual assault, sexual offence against a child or a person who is mentally disabled as contemplated, trafficking in persons, bestiality, robbery, kidnapping, child stealing, assault, when a dangerous wound is inflicted, arson, malicious injury to property, etc.);
  - (b) there is a likelihood that the arrested person, if released, will attempt to evade his or her trial;
  - (c) there is a likelihood that the arrested person, if released, will attempt to influence or intimidate witnesses or conceal or destroy evidence;
  - (d) there is a likelihood that the arrested person, if released, will undermine or jeopardize the objectives or the proper functioning of the criminal justice system;  
or
  - (e) in exceptional circumstances, there is a likelihood that the release will disturb public order or undermine the public peace and security.

- If an arrested person complies with the relevant requirements, he or she may, after consultation with the investigating officer, be released –
  - (a) on written warning (section 72 of the Act) [SAPS 496];
  - (b) on written notice (section 56 of the Act) [J 534];
  - (c) on bail (sections 59 and 59A of the Act) [J398 or J399];
  - (d) after a charge has been withdrawn through an arrangement with the Public Prosecutor; or
  - (e) if he or she was detained as a suspect, but is released from detention before the expiry of the 48-hour period because no charge is brought against him or her (section 50(1)(c) of *the Act*) [SAPS 328].

## **GUIDELINES ABOUT ENFORCING SOCIAL DISTANCING AND THE RESTRICTION OF MOVEMENT AND OTHER ACTIVITIES, AT EACH OF THE DIFFERENT STAGES OF ALERT DURING THE STATE OF DISASTER**

### **SOCIAL DISTANCING**

Social distancing is currently not an offence, therefore, it cannot be enforced. However, Enforcement Officers may encourage and sensitize members of the public to adhere to social distancing.

#### **How to enforce:**

- High visibility to be maintained around malls, shopping centres etc.;
- Public is informed about compliance with the promulgated regulations in terms of section 27(2) of the Disaster Management Act, 2002;
- Liaise with private security to assist enforcement within their mandate.; and
- Social distancing (2 meter away from other persons) to be applied in public when shopping and visiting health facilities.

### **RESTRICTION OF MOVEMENT**

The restriction of movement of persons is a main component of efforts to confine and manage the spreading of COVID-19.

Confinement of a person to his or her residence entails that such a person may not leave the premises of his or her residence to prevent or minimise social interaction, thereby limiting the spreading of COVID-19. A curfew enforced from 20H00 to 05H00 also supports efforts to limit movement especially at night in order to confine the spreading of the virus.

A person performing an essential or permitted service may leave the confines of his or her residence for work. Only the essential and permitted services listed in the Regulations are regarded as essential and permitted services for purposes of this exemption. Such a person must be in possession of a permit issued by his or her employer in the form as set out in the Regulations in order to leave the confines of his or her residence. The permit is issued strictly to enable the person to perform his or her duties, and may not, under any circumstances be used as is a justification for any other activity.

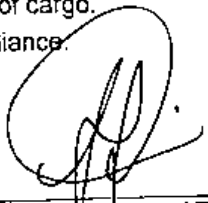
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 NN MAPISA-NQAKULA, MP

MINISTER OF DEFENCE AND MILITARY VETERANS

Date: 22 MAY, 2020

  
 GENERAL BH CELE, MP  
 MINISTER OF POLICE

Date:

22/05/2020