

Action 4 Freedom (NPC)

REG. 2021/160883/08

4 May 2022

PRESS RELEASE



ACTION 4 FREEDOM v MINISTER OF HEALTH WCHC No. 8515/22

On 14 April 2022, we took the Minister of Health to Court on an urgent basis over the period of public consultation regarding new Health Regulations being contemplated.

The matter came before the Honourable Judge Slingers who postponed the hearing to be heard on an urgent basis on 26 April 2022.

We told the Court that **the Minister of Health's use of section 90(4)(c) giving the public 30 days to comment** on the Regulations he intends to make law, **is unlawful and *ultra vires***.

We argued that if **the Minister of Health** published any regulations for public consultation, he **must abide by section 90(4)(a) and allow at least three months for public comment**.

The government's lawyers sought to convince the Court that the law gave the Minister of Health power to limit the minimum of 3 months for consultation to 30 days.

The **government could not show any proof** of where in the National Health Act it states so.

Judge Slingers reserved judgement to be handed down electronically to parties no later than 3rd May 2022.

On 29 April 2022, the Court sent us an email with a document attachment handing down the judgement.

The email came from the chambers of a Judge who had not presided over the case. The registrar who sent the email was also not the registrar from the chambers of the judge who heard the case.



The Judge who heard the case, her Registrar and the Judge from who's chambers the email was sent, was not copied in on the email sent to us. The email containing the judgement was **not dated, not Court stamped** and had **no names of the legal representatives** of the parties.

The judgement, at paragraph 26, **categorically dismissed the Minister of Health's interpretation of s.90(4)(c)** of the National Health Act.

“[26] “...In any event, the **criticism levelled by the respondent on the applicant's interpretation of section 90(4)(c)** of the National Health Act **does not hold water** and **the respondent fails to provide substance for the interpretation it wants to afford to section 90(4)(c).**” *[emphasis added]*

Strangely, the judgement then goes on to use the exact same interpretation advanced by the government as substantiation to dismiss our case.

The irony couldn't be more obvious.

The same day, we wrote and sent an urgent letter by email to the Judge, her Registrar and copied in the person who sent us the email as well as the state attorneys too.

One of the objectives were to obtain the dated and Court stamped version of judgement directly from the chambers of the judge who presided over the case.

We received **no reply**.

We wrote again on the 30th April 2022. Again, we received **no response**.

On Tuesday 3rd May 2022, we sent another copy of the letter to the Judge and her Registrar and followed up with a phone call.

The Registrar of the Judge who heard the case sent an email stating that judgement had been handed down on 29 April. We wrote back to acknowledge the email and asked for the dated and court stamped version of the judgement.



The Registrar did not respond to our request for a copy of the original court stamped and dated version of the judgement.

The Registrar, in a telephone call, stated that she could not send the court stamped dated version of judgement because she had problems with her email.

Soon after the call, the Registrar sent us another email — but still without the version of judgement we several times asked for.

The Registrar referred us to the other Registrar who sent the email and also the typists for a copy.

All this time, despite having been copied in, we have not had any response from the Registrar who sent the first email.

We wrote another letter to the Judge, her Registrar and all persons relevant to the matter.

We intend to Appeal as soon as we receive the dated, court stamped version of the same judgment .

The urgency and importance of this matter is demonstrated by the huge public interest and concerns about people's right to lawful participation in the law making process for the protection of their human and constitutional rights.

Organisations such as IFNASA, the ACDP, MiRiC, The RED LIST, Freedom Alliance SA, The Lioness Pride Movement and others representing millions of South Africans expressed their deep disappointment in the actions of government and pledged unwavering coordinated support towards the overall objectives Action 4 Freedom (NPC) is fighting for.

For more information, send an email to info@action4freedom.com