

Action 4 Freedom (NPC)

Reg. 2021/160883/08

1 April 2022

Minister Dlamini Zuma
COGTA
PRIVATE BAG, X1000
CAPE TOWN, 8000

Dear Minister Dlamini Zuma

URGENT: CONCERN FOR PROCESS OF PUBLIC CONSULTATION / AMENDMENT OF THE COVID-19 REGULATIONS

We note that the Ministry, on 30th March 2022, published on the Government's website the Government Notice Number 1941 dated 29th March 2022 and issued an Invitation for Public Comment on the above referred subject matter.

Given the date of when the Notice became publicly available and the Minister's offering of invitation for submissions to be made no later than 1st April 2022, the public is effectively given a period of 48 (forty-eight) hours in which to engage in respect of the Notice.

We would like to indicate to the Minister that our comment, which is endorsed by many South Africans, many of whom for various reasons, some of which are noted here, have not been able to access the Minister, to register their concerns and/or submissions.

We also note that the Minister, for reasons that are not clear to Action 4 Freedom, has chosen to limit the period of consultation to a period of 48 hours. In regard to the Minister's decision to impose a 48-hour restriction on a constitutionally guaranteed right of public participation, we wish to inquire from the Minister into the following:

1. Whether the invitation for consultation is extended to all of the around 60 million people eligible to participate? If yes,
2. How the Minister ensured her message and invitation had or would reach all people eligible to participate in the consultation process; and

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3. Whether the Minister had catered for the needs of People with Disabilities such as visual and or hearing impairment amongst other; and
4. Given the Minister's Notice bearing links for electronic submissions only, what provision the Minister had made in respect of persons who may not have the relevant electronic devices or access thereto or thereby for lack of connectivity or being unable to afford data charges to engage the exercise for the submission of their comment?; and
5. What provision the Minister has made for persons in rural areas to register their comment if they have no working electronic network access; and
6. What provision the Minister has made to ensure her Notice is delivered to all people in a language and format that they understand; and
7. What provision the Minister has made in respect of the needs of persons who by reason of a Learning Disability may take longer to process information and be living in a remote location without access to electronic means; and
8. Whether the Minister shares the concern that public participation is a section 59(1) Constitutional Right afforded every South African and that exclusion or deprivation of anyone of that right by reason of, for example, their disability or a barrier beyond the control of the person who has right of participation, is likely to amount to an unfair, inequitable and disproportionate application of the consultation process; and
9. If such regulations as is contemplated come into force, it could amount to an unlawful breach in the Minister's Duty to have engage the public fairly and lawfully;
10. Whether the Minister intends to include, in the consultation, input from indigenous groups such as the Khoi-San who's language(s) are not provisioned for as a means of communicating the contemplated regulations, unless the minister's contemplated regulations are intended to have no binding effect on them.
11. Whether the Minister is minded to **review the Notice, issue a correction Notice or to withdraw the Notice in its entirety and dispose of the regulations contemplated therein.**

3.

In light of the current and foreseeable further societal divisions and unnecessary hardship suffered by a perceivable large majority due to the same rules the Minister in this Notice has in contemplation, and the Minister's statement that she intends to bring to an end the declaration of the National State of Disaster, we contend that there is no need for same regulations to be in place any longer beyond the anticipated cancellation of the State of Disaster.

Should the Minister wish to have any regulations in place beyond that of the State of Disaster, it would make sense for **such regulations to reflect that there is not a state of disaster** as a rational, necessary and proportionate response.

Further to the Minister's invitation for comment, **we respectfully propose that the Minister dispose of all the regulations contemplated in the Notice No. 46127 and invite the Minister to consider seeking wide, full and inclusive public consultation for the adopting of the Proposed Draft Regulations attached as a People's Democratic Notice.**

We look forward to the Minister's urgent reply and assistance in getting the People's Democratic Notice to the people, so that the people may begin to exercise, and for some, experience for the first time what truly participating in democratic processes really means.

Yours sincerely,

Action 4 Freedom

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