

Covid-19 in South Africa: A summary

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The Supreme Court of Appeal of South Africa provided a useful summary of the development of the Coronavirus in South Africa, and the government's immediate responses thereto, in the judgment *Duwayne Esau and Others v Minister of Co-Operative Governance and Traditional Affairs and Others* (611/2020) [2021] ZASCA 9 (28 January 2021). We quote extensively from this judgment:

'The Republic of South Africa has been under a state of national disaster, declared in terms of the Disaster Management Act 57 of 2002 (the DMA), since 15 March 2020. The purpose of the declaration and the subsequently promulgated regulations and directions was and is to prevent and contain the spread of the SARS-CoV-2 or Coronavirus Disease 2019 (Covid-19) and to regulate the State's response to the pandemic that has caused such widespread health and economic devastation in the country' (at para [1]).

'The DMA's principal purpose is to provide "an integrated and co-ordinated disaster management policy that focuses on preventing or reducing the risk of disasters, mitigating the severity of disasters, emergency preparedness, rapid and effective response to disasters and post-disaster recovery and rehabilitation"' (at para [9]).

'The DMA applies when a disaster is not serious enough to justify the declaration of a state of emergency, but serious enough that the ordinary law cannot deal with it. It is administered by the Minister of Co-Operative Governance and Traditional Affairs' (at para [10]).

'The first Covid-19 ... case in South Africa was confirmed on 5 March 2020' (at para [18]). 'By 15 March 2020, the number of cases in South Africa had risen to about 40' (at para [19]). 'On the same day, and as a result of the classification of the pandemic as a national disaster, the ... Minister ... declared a national state of disaster in terms of s 27(1) of the DMA. The state of national disaster has been extended from time to time, and is still in operation' (at para [20]).

In terms of the first set of regulations issued by the Minister (dated 18 March 2020), the Minister of Justice and Correctional Services was tasked with (a) issuing 'directions to address, prevent and combat the spread of COVID-19 in all Correctional Centres and Remand Detention Facilities in the Republic of South Africa' and (b) 'after consultation with the Chief Justice', to do the same in 'all courts and court precincts in the Republic of South Africa' (reg. 10(2)). The Minister of Justice and Correctional Services published his first directions on 31 March 2020. They have been updated several times subsequently.

In the meantime, the Chief Justice and Heads of Courts have issued Directives in terms of which court proceedings have to be managed.

The judgment in *Duwayne Esau* continues:

‘On 23 March 2020, the President addressed the nation. He announced that a lockdown of the entire population was to be implemented with effect from 26 March 2020. By this time, the number of infections had risen dramatically, from 40 cases when the state of disaster was proclaimed on 15 March 2020 to 402 cases by 23 March 2020’ (at para [23]).

Currently, the pandemic is dealt with in South Africa according to five different ‘alert levels’ depending on the current threat. Level 5 is the most stringent. The following figure shows the number of new infections since March 2020. It shows that South Africa has at times been on all the way up to Alert Level 1. At present we are dealing with the third wave of infections, at Alert Level 4.

