
SALGA PRELIMINARY COMMENTS ON POST COVID 19 REGULATIONS

The South African Local Government Association welcomes the opportunity to comment on the following draft health regulations:

1. 1822 National Health Act (61/2003): Regulations relating to the surveillance and the control of notifiable medical conditions
2. 1883 International Health Regulations Act (28/1974): Regulations relating to public health measures in points of entry
3. 1884 National Health Act (61/2003): Regulations relating to the management of human remains
4. 1885 National Health Act (61/2003): Regulations relating to environmental health

These public health regulations fall within the key performance areas of Municipal Health Services as defined by the National Health Act 61 of 2003.

The table below summarises the relationship between the health regulations and Municipal Health Services Key Performance Areas as defined by the National Health Act of 2003.

Relationship between draft health regulations and Municipal Health Services KPAs

Item number	Health regulations	Municipal Health Services Key Performance Areas
1.	Environmental Pollution Control	Environmental pollution control
2.	Premises	Health surveillance of premises
3.	Regulations relating to the	Disposal of the Dead



	management of human remains	
4.	Chapter 5 vector control-regulations relating to public health measures in points of entry	Vector Control
5.	Enforcement	Environmental Health Practitioners also conduct law enforcement in collaboration with other stakeholders such as SAPS and NPA

It is therefore important for local government to make comments into these draft health regulations as they involve functions rendered by Municipal Health Services.

It is also necessary to establish if these regulations will necessitate municipalities to amend their current MHS By-laws and other relevant By-laws to give effect to the regulations.

It is therefore requested that the Departments provides guidance regarding whether the amendments will necessitate the amendment of municipal bylaws.



1. ENVIRONMENTAL REGULATIONS RELATING TO ENVIRONMENTAL HEALTH

General comments

a) The Regulations address themselves to matters that are also regulated under other legislations including the National Environmental Management Act and its related Sector Specific legislations, the Water Act and the Water Services Act.

Examples:

- Regulation 10 (waste management)
- Regulation 11 (waste management)
- Regulation 12 (environmental conservation)
- Regulation 13 (Air Quality Management)
- Regulation 14 (water quality)
- Regulation 18 (waste water treatment)
- Regulation 19 (sanitation)
- Regulation (20) (sanitation)
- Regulation (21) (sanitation)
- Regulation 22 (sanitation)

The effect of this is that a health authority applying these regulations may conflict with another authority applying other regulations in terms of other relevant legislations.

It is recommended that these draft regulations must be amended to exclude matters that are regulated in terms of other sector specific legislations.

Specific comments

(a) **Environmental Health Practitioner** “means a person registered in terms of section 34 of the Health Professions Act, 1974 (Act No. 56 of 1974) who performs the functions contemplated in Annexure A to the Regulations defining the scope of the profession of environmental health practitioners (Government Notice No. R. 888 of 26 April 1991)



SALGA comment

The Medical Dental and Supplementary Health Professions Act, 1974 (Act No. 56 of 1974) has also made reference to Environmental Health Practitioner and should be included in the definition. The definition should therefore be amended to read as “means a person registered in terms of section 34 of the Health Professions Act, 1974 (Act No. 56 of 1974) who performs the functions contemplated in Annexure A to the Regulations defining the scope of the profession of environmental health practitioners (Government Notice No. R. 888 of 26 April 1991) and who is duly registered as a practitioner with the Health Professions Council of South Africa in terms of section 33 (1) of the Medical Dental and Supplementary Health Professions Act, 1974 (Act No. 56 of 1974)” ;

Chapter 2: Powers of environmental health practitioner

(b) **Regulation 4** states that “An Environmental Health Practitioner may be accompanied by any person reasonably required to assist him or her in conducting the investigation and inspection”.

SALGA Comment

The following should be added to prevent different stakeholders doing environmental health functions during joint operations/inspections.

An Environmental Health Practitioner may be accompanied by any person reasonably required to assist him or her in conducting the investigation and inspection. Such person may not encroach on the duties of the Environmental Health Practitioner, nor may the person pass comment or make any recommendations which fall within the Scope of Practice of Environmental Health practitioners if such a person is not registered as an Environmental Health Practitioner in terms of the Health Professions Act 56 of 1974.



Confiscation of items

SALGA comments

Regulation is quiet on the discretion of EHPs on the confiscation of expired foodstuffs and fake foods. This must be added.

(c) **Regulation 17 (3)** refers to Schedule 1

SALGA comment

Schedule is not attached on these draft regulations. The schedule must be included in the regulations.

(d) Compost not included in **Schedule 2** of these regulations

Inclusion of compost on the list of offensive trade referred to in regulation 26

General comments

It is proposed that that a clause be included that it is an offence to hinder or obstruct an Environmental Health Officer in the execution of duties as indicated in Section 89 of the national Health Act as amended:



2. REGULATIONS RELATING FOR THE MANAGEMENT OF HUMAN REMAINS

1. General Comments:

- a) The regulations assign responsibilities that are municipal functions to traditional leaders. And in some cases, the regulations refer to unspecified authorities on matters that are within the powers, functions and legislated delegations of municipalities

Examples:

- References to an unspecified authority on matters that are otherwise municipal responsibilities
 - Regulation(2)(2)(a and b)
 - Regulation(2)(3)
 - Regulation 5(a)
 - Regulation 6 (1)(a)
 - Regulations 6 (2 to 5)
 - Regulation 7(1)(a)
 - Regulation 7(1)(c)
 - Regulation 7(2)
 - Regulation 7(3)
 - Regulation 8(1)
 - Regulation 8(2)
 - Regulation 9 (3 and 4)
 - Regulation 10 (1)

- References to traditional authorities on matters that are otherwise municipal responsibilities
 - Regulation 6 (1)(a) (i and ii)
 - Regulation 13 (j)
 - Regulation 32 (5) (a)

These regulations undermine the powers, functions, and legislated responsibilities of municipalities. In addition, when the regulations assign responsibilities of municipalities to traditional authorities, they do not consider that traditional authorities do not have the technical expertise that should inform the decisions being assigned to them.



The draft regulations must be amended to rectify this by assigning responsibilities to municipalities where such responsibilities are within the powers and powers, functions and legislated responsibilities of municipalities.

2. Specific comments

2.1 **Pauper Burials** - There is no provision is made for pauper burials. It proposed that this be added.

2.2 **Regulation 4:** A cremation facility must-

- (a) be located at least 10 meters from any habitable dwelling.
- (b) have a chimney fitted with anti-ash scrappers and of a height of not less than three metres above the roof;
- (c) be kept clean, sanitary and good repair; and
- (d) be adequately ventilated and illuminated. Crematoriums need to comply with the relevant Air Quality Legislation.

SALGA comments

These regulations do not refer to environmental authorisation as per the National Environmental Management Act (NEMA) Regulations in respect of cremation facility. This must be rectified.

The following should be inserted in the regulations:

Disposal of human remains by cremations

1. Human remains shall only be cremated in an authorised crematorium
2. A crematorium shall be authorised in terms of NEMA and EIA Regulations with regard to environmental authorisations

2.3 **Regulation 4(a)** - states that a cremation facility must be located at least 10 meters from any habitable dwelling.

SALGA comment



The distance of 10 meters from any habitable dwelling may create health hazards depending e.g. on the size, units to be cremated at a given period, etc.

Regulation 4(a) should be amended to read as “A cremation facility must be located within the distance determined by the competent authority and prescribed in the environmental authorisation”

2.4 **Regulation 6(1)(a)(vi)** states that “copies of identity document, passport or permit of the person in charge or owner or particulars of any person other than the applicant or any of his or her employees who is or are responsible for preparing human remains on the premises”.

SALGA comment.

The regulation should be amended to read as “copies of identity document, passport or permit of the person in charge or owner in who’s name the COC must be issued.”

2.5 **Regulation 32 (1)** states that A burial site must be -

- (a) subjected to the processes of an Environmental Impact Assessment referred to in the National Environmental Management Act and a Land Use application;
- (b) located outside the 100-year floodplain;
- (c) located at least 50 metres from ground water sources used for drinking purposes.
- (d) located at least 10 metres from the nearest habitable building:

SALGA comment

The provision of 10 metres from the nearest habitable building could have potential social and health impacts to the communities.

Regulation 32(1) should therefore be amended to read as “A burial site of 2500 square metres or more in size must be—



- a. subjected to the processes of an Environmental Impact Assessment referred to in the National Environmental Management Act and a Land Use application;
- b. (b) located as per the conditions of the authorisation issued by a competent authority in terms of Sections 24(2) and 240 of the National Environmental Management Act, 1998.

2.6 To cater for burial sites not exceeding 2500 square metres in size the following paragraph is proposed

A burial site not exceeding 2500 square metres in size must be—

- (a) located outside the 100-year floodplain.
- (b) located at least 350 metres from ground water sources used for drinking purposes.
- (c) located at least 500 metres from the nearest habitable building:

RECOMMENDATIONS

- 1. It is recommended that the above comments be considered, and the draft regulations be accordingly amended.

Yours sincerely,

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CHIEF EXECUTIVE OFFICER

SALGA

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