IN THE HIGH COURT OF SOUTH AFRICA

(GAUTENG DIVISION, PRETORIA)

Case number: 27477/2022

In the application of:

SAKELIGA NPC	Applicant
and	
MINISTER OF HEATH	First Respondent
DIRECTOR GENERAL: DEPARTMENT OF HEALTH	Second Respondent
MINISTER OF COOPERATIVE AFFAIRS AND GOVERNMENT	Third Respondent
PRESIDENT OF THE REPUBLIC OF SOUTH AFRICA	Fourth Respondent

SUPPLEMENTARY AFFIDAVIT IN TERMS OF RULE 53(4)

I, the undersigned,

PIETER JACOBUS LE ROUX

do hereby state under oath as follows:

1. I am an adult male and Chief Executive Officer of Sakeliga NPC, the Applicant in this matter, which has its offices at Building A, 5th Floor, Loftus Park, 402 Kirkness Street, Arcadia, Pretoria, Gauteng Province.

2. The facts set out herein fall within my personal knowledge, save where the contrary is expressly stated or appears from the context, and such facts are true and correct. To the extent that any facts set out herein do not fall within my personal knowledge, I shall attempt to obtain confirmatory affidavits from persons with such personal knowledge. To the extent that I am unable to confirm such facts by means of confirmatory affidavits, I request the Court to admit such facts as evidence in terms of Section 3 of the Law of Evidence Amendment Act, Act 45 of 1988.

3. Where I make legal submissions herein, I do so based on the advice that I have received from the legal representatives of the Applicant.

4. I am duly authorised to depose to this affidavit.

SUPPLEMENTARY AFFIDAVIT- RULE 53(4)

5. This affidavit is deposed to as a supplementary affidavit to my founding affidavit of 19 May 2022.

FIRST RECORD FILED – 24 May 2022

6. The Minister of Health (also referred to herein as "the Minister") caused a record to be filed on 24 May 2022 in this matter relating to his decision to publish the 2022 surveillance regulations under a cover letter of BCHC Attorneys. A copy of which the aforementioned letter is attached hereto as

ANNEXURE B1. In the letter, BCHC Attorneys noted that they had been appointed by the Minister *"to assist the State Attorney in compiling the Rule 53 record in respect of the above applications…"*. (The Applicant will refer to the record of 24 May 2022 hereinafter as "the first record").

7. In particular BCHC attorneys invited the Applicant to access the record at the link provided and then to *"upload to Caselines whatever portion they wish to have available"*. As confirmation of the first record's contents and scope, BCHC attorneys attached a record index to the letter of 24 May 2022, which confirmed the general record contents. The index correlated with the prepared record folders of the first record found at the download link provided. A copy of the index is attached as **ANNEXURE B2.1**. The Applicant also attaches as **ANNEXURE B2.2**, screenshots showing the structure of the digital file folders that form part of the first record.

8. It was specifically recorded by BCHC attorneys that:

"- *First, the record excludes legally privileged documents;*

- *Second, the nature of the decision making process involved in drafting and enacting regulations such as those presently at issue is significantly different from the nature of a decision-making process in respect of an ordinary decision which might be subject to judicial review. In drafting and enacting the regulations presently at issue, the Minister drew on the Department's own knowledge and expertise, which in turn has regard to ongoing developments and information regarding Covid-19 which is in the public domain,*

including (without limitation) the information that can be accessed on the websites of the World Health Organisation."

9. The Minister's attorney accordingly specifically confirmed that none of the documents discovered and made available to the Respondents by way of the unique discovery process envisaged in Rule 53 was legally privileged.

10. The Minister is alleged to have drawn (and accordingly considered) the knowledge and expertise of the Health Department as a whole, as well as information in the public domain including that on the websites of the World Health Organisation (WHO). Astoundingly no particular details of the "knowledge and expertise", "information in the public domain" or the exact WHO information is referred to or detectable in the Rule 53 record

11. As will be shown in this affidavit, this in itself is highly irregular and irrational.

UNRESTRICTED ACCESS GRANTED TO FIRST RECORD

12. Unrestricted access was granted to the Applicant to the entire record and the Applicant immediately caused the record to be downloaded so that it could be analysed and assessed. The first record comprised hundreds of thousands of pages being close to 20 Gigabytes of data.

13. The Applicant's representatives and data analysts commenced working through the mass of data downloaded and shared such information with numerous persons who were assisting it in data analysis.

14. The first record clearly demonstrates that the relief sought by the Applicant in this matter is justified and that the Minister's decision should be set aside as prayed for in the notice of motion. In particular, the first record demonstrates that the Minister was advised on medical and legal grounds against promulgating the 2022 surveillance regulations. The Minister's decision to persist in promulgating the 2022 surveillance regulations against all medical and legal advice is irrational. I will refer to the first record and the contents thereof in more detail hereinbelow

LETTER OF BCHC OF 26 MAY 2022

15. On 26 May 2022, a further letter from BCHC attorneys (which is attached hereto as **ANNEXURE B3**) was received by the Applicant's attorneys stating that *"due to an IT error the e-mail comments folder in the Rule 53 record that was uploaded in respect of the above applications included privileged correspondence between our client and its counsel as well as irrelevant confidential e-mails that should not form part of the record."*

16. BCHC attorneys indicated in the above letter that they had withdrawn the "e-mails" folder and that it would no longer be available for download. They

further indicated that they would revert and advise on their further assessment and progress by the end of the day on 26 May 2022.

DELETION AND ALLEGED CONFIDENTIALITY

17. Upon reviewing the files in the associated folder of the original download link again, the Applicant's attorneys noted that some of the folders had already been deleted.

18. The first record was lawfully discovered on 24 May 2022. There is no right to rescind parts of the record after its lawful discovery, as the Respondents attempted to do. The Applicant has been advised that it is also trite in law that confidential material must be included in a Rule 53 record and that there is no basis on which to withhold records on the basis of confidentiality.

19. The Minister was not entitled to withdraw material from the properly disclosed and discovered Rule 53 record, as he has now attempted to do. The Minister can also not, *ex post facto* discovery of the record, dictate to the parties what parts of the record they may consider and rely on.

20. The first record was clearly prepared by not only the officials of the Department of Health, the legal advisors of the Department of Health and the State Attorney but also private attorneys specifically appointed to assist with the preparation and delivery of the record.

21. The first record was clearly sourced, considered, sorted and categorised before its discovery.

22. The Applicant has been advised that any privilege that may have extended to any documents in the first record has been expressly waived by virtue of such documents having been discovered and made available to the Applicant.

PREJUDICE

23. Any contention of the Respondents to the effect that the Applicants may not rely on the entirety of the first record would be dismissive of the prejudice the Applicants, and the public, would suffer.

24. The Parties have negotiated timelines for the filing of papers. The Applicants, upon receipt of the first record, made the record available to its staff, associates and various members of the public who are assisting it in analysing the data made available. Critical aspects of the Applicant's case preparation have been mounted on that which was disclosed in the first record.

25. In any event, the first record is in the public domain. The proverbial horse has bolted. Any legal privilege which might have existed in the documents sought to be withdrawn has been waived or has lapsed.

26. The Applicant also questions the lawfulness of the attempt to delete and redact part of the first record, especially considering the relevance of many of the records which the Minister tried to delete after its discovery.

27. In summation, the Applicant rejected the *ex post facto* deletion of alleged confidential records on 26 May. Confidentiality does not preclude Rule 53 disclosure. The Applicant also notes that in respect of records that have been disclosed at the outset, but subsequently deleted on the basis of alleged privilege, any such privilege has been expressly waived by discovery thereof.

LEGAL ADVICE BEFORE PUBLICATION OF REGULATIONS (04 MAY 2022) PART OF THE DECISION-MAKING PROCESS AND NOT PRIVILEGED

28. The Applicant denies that any of the material (save potentially for legal advice sought after the date of publication of the 2022 surveillance regulations and which does not form part of the decision-making process of the Minister) could, in any event, have been privileged (assuming that privilege could survive disclosure of same by means of formal discovery in terms of the Rules – which the Applicant denies).

29. The legal input in the first record of State law advisors, inhouse legal personnel (such as Mr Lufuno Makhosi) and counsel engaged by the Minister derives from a state-funded process of decision making at the

heart of promulgating the 2022 surveillance regulations. As such, the assessment and input were part of the decision-making process and constitute information before the Minister when making his decision. The Court must consider such material in assessing the decision of the Minister. Since such material served before the Minister when making his decision, it cannot be excluded from the record. Further legal argument on this issue will be presented at the hearing of this matter.

30. BCHC attorneys failed to revert by close of business on 26 May 2022 (as undertaken). Instead, on 30 May 2022, BCHC attorneys sent a further letter (attached hereto as **ANNEXURE B4**) to the Applicant's attorneys in which they prematurely interpreted the failure of the various Applicants' attorneys to respond to their letter of 26 May 2022 as an agreement that the first record could be redacted and material removed. This was a most disingenuous approach since they themselves had indicated that they would advise the parties when they had further assessed their alleged mistake.

31. BCHC Attorneys did not file an updated record. The State Attorney simply caused a document titled, *"Index to privileged documents not included in the record"*, dated 31 May 2022 they describe the documents which they now deemed to be *"not included in the record"*. A copy of the amended record index is attached as **ANNEXURE B5**.

32. No specific documents were identified in the new index filed and the documents that were removed are referred to simply as "e-mails, comments, memorandums, recordings of meetings, transcripts and documents containing legal advice exchanged with":

32.1 The State Law Advisors;

32.2 The State Attorney;

32.3 Adv Steven Budlender SC;

32.4 Adv Hasina Casim.

33. The Applicant's attorneys responded by way of a letter of 1 June 2022 to the State Attorney and BCHC attorneys (a copy of which is attached hereto as **ANNEXURE B6**) and objected to any redaction of the record on, among other things, the grounds set out above. Any alleged privilege had been waived by the express discovery of the first record.

34. As to the date of this affidavit, no response to the Applicant's letter has been received.

35. On 2 June 2022, BCHC Attorneys caused a further amended index to the Rule 53 record to be filed and listed various items on the last page thereof that had been removed. The new index (a copy of which is attached hereto as **ANNEXURE B7**) and documents made available on 2 June 2022 are referred to hereinafter as "the redacted record".

36. The Applicant has lawfully received the first record and is entitled to rely on the contents of the documents discovered in the first record. The relevance of the records deleted by the Respondents after initial discovery speak for themselves where they are referred to in this affidavit. These records form part of the decision-making process of the Minister. In fact, the deleted records will greatly assist the Court in determining the veracity of the Applicants' main contentions in paragraphs 25.3 and 25.5 in the Founding Affidavit.

37. The public has paid for the legal input and advice precured by the Minister from various persons, including the state law advisors, state attorney and counsel engaged to advise and assist the Minister in coming to his decision to publish the regulations. It is in the public interest that such documents not be excluded from the record.

38. The attempted redaction of the record goes against the principle of transparent governance. The documents sought to be excluded cast light on the workings of the Minister and his office and are at the heart of the dispute. The full discovery of records was correct and proper in this matter and supported publicly spirited decision-making.

39. The Applicant accordingly relies on the first record made available and will file an index of all documents it intends to rely on in this matter that have been sourced from the first record.

MINISTER ADVISED AGAINST THE SUBSTANCE OF AND THE PROCEDURES RELATING TO THE 2022 SURVEILLANCE REGULATIONS

40. The Minister is alleged to have drawn (and accordingly considered) the knowledge and expertise of the Health Department as a whole and information in the public domain, including that on the World Health Organisation (WHO) website. Astoundingly, the Minister has disclosed no details of the "knowledge and expertise", "information in the public domain" or the exact WHO information that he allegedly relied upon when considering the 2022 surveillance regulations.

41. Neither the first record nor subsequently redacted record provided to the Applicant include any prepared document which sets out the exact reasons that link and weigh the various reports, advisories, public commentaries and submissions actually discovered in the record against the non-disclosed general "knowledge and expertise" and other information in the "public domain" that the Minister alleges to have considered.

42. The Minister has elected not to explain, weigh or link his decision to adopt the 2022 surveillance regulations. Absent disclosure of the general "knowledge and expertise" and other information in the "public domain", it seems as if the Minister believes that he can keep the door open to introduce any further reasons in response to any case made out at the hand of his formal record. The Applicant cannot consider the Minister's

Department's general "knowledge and expertise" or the general information that falls in the public domain if it is not explicitly discovered as part of the record.

43. Apart from noting that the "general knowledge and expertise" and general information in the "public domain", or any alleged reliance thereon, has not been disclosed, the Applicant records that the only substantive records of advice discovered in the Rule 53 record and specifically the redacted records on which the Minister would prefer to rely, that the Applicant could identify, emanates from the COVID-19 Ministerial Advisory Committee ("MAC").

MAC ADVISORIES HAVE BEEN IGNORED

44. As set out in the founding papers, the panel of experts appointed to the MAC advised the Minister by way of written advisories on 15 and 16 February 2022 and 25 April 2022 that the types of measures that were eventually taken up in the 2022 surveillance regulations were not justified or warranted.

45. The aforesaid MAC advice is expert medical and other related advice presented to the Minister that clearly not only considered worldwide trends and data but local data and information specific to the South African and subcontinent context. For instance, the MAC advisory of 15 February 2022 explicitly refers to both local and international sources, including the WHO.

46. There is no indication in any part of the record discovered by the Minister that the advice set out in the aforesaid MAC advisories was weighed and considered incorrect, unsound or that sufficient other reasons existed to deviate from the advice of those experts.

47. In fact, the record shows that the Minister's legal and other advisors drew his attention to the contents of the MAC advisories and advised him that he would have to produce proper reasons to depart from the MAC experts' advice, failing such proper reasons, that the regulations would most likely be declared invalid. For the Minister to rely on any other sources, same had to be disclosed in his record.

ADVICE ON LEGAL REQUIREMENTS HAS BEEN IGNORED

48. The Minister not only ignored the advice of the MAC on substantive aspects of the proposed 2022 surveillance regulations but also failed to heed warnings within his own Department regarding the procedural lawfulness of the proposed regulations.

49. The Minister was expressly advised by Mr Lufuno Makhosi (of the Department of Health) that Section 90(1) of the Act mandated 3 months' notice for publication for public comment and could only come into operation after that *"unless the provisions of Section 90(4) are invoked"*. He further stated that:

"Unfortunately it will be very difficult to invoke this section. These draft Regulations will attract much public interest and as such the public must be given sufficient opportunity to comment."[1]

50. There is no indication in the 2022 surveillance regulations, the promulgation notice, or in the record that the Minister either invoked Section 90(4) or that he was aware of or was advised of any grounds that would rationally justify the limitation of the public comment process required by the Health Act.

51. None of the disclosed records indicates that the Minister attempted to rationally justify any departure from the medical and legal advice before the Minister when he made his decision and promulgated the regulations.

NATIONAL HEALTH COUNCIL (NHC) NOT PROPERLY CONSULTED

52. The record includes minutes dated 3 May 2022 of the National Health Council (NHC) meeting.

53. The aforesaid minutes reflect that the NHC Chairperson (being the Minister) requested the task team members responsible for the process of amending the regulations *"to take the meeting (NHC) through the key issues relative to the Regulations"*.

[1] Presentation DR SSS Buthelezi on 18 January 2022 to Department of Health

54. The "key issues" referred to above are then listed in paragraph 3 of the minute of the meeting as being the contents of the Regulations. No further material such as background information, studies, expert information or any other considerations or motivations were presented to the NHC.

55. Paragraph 4 of the aforesaid minute then records that:

> *"The meeting welcomed the contents of the amendments to the regulations and was further advised that they will be referred to the regulations relating to the surveillance and the control of notifiable medical conditions and that they will come into operation on publication in the Gazette."*

56. The NHC was apparently not advised of or was not made aware of the following critical facts and information of which the Minister and his advisors were aware and had a public duty to place before the NHC:

56.1 that Section 90(1) of the Act requires 3 months' notice to the public for comment before regulations could become operational;

56.2 that the Minister had to provide reasons or motivation to depart from the normal 3 months' notice period for the publication of regulations in terms of Section 90(1) of the Act;

56.3 that the aforesaid MAC advisories clearly advised that the restrictions and contents of the regulations were not necessary or advisable in any way;

56.4 that the Minister had been given legal advice by both the internal and external legal advisors of the Department of Health against the regulations;

56.5 that the public participation process had not been completed and that public comments had not been processed and assessed at the time of consultation.

57. The Minister had a duty to fully disclose all material facts motivating his decision, including the above information and facts, and has clearly breached such duty by not making full and proper disclosure to the NHC.

58. The alleged consultation process with the NHC merely paid lip service to the requirements and provisions of the Act. The Minister has used the NHC as a rubber stamp, and the members have clearly not engaged meaningfully with the regulations, their motivations and /or any challenges that the regulations face.

59. In particular, the NHC has not had the opportunity to consider the plethora of public commentaries that were not even considered by the Minister or Department of Health at the date of the meeting.

60. The contents of the minute of the aforesaid meeting of the NHC demonstrate that the NHC was not properly consulted as required in the provisions of the Act.

REGULATIONS PUBLISHED FOR ULTERIOR MOTIVE

REPLACING THE DMA REGULATIONS

61. As set out in the founding papers in this matter, the 2022 surveillance regulations were published to keep the National State of Disaster alive and extend it. The record refers to the 2022 surveillance regulations being implemented to prevent any gap between the DMA regulations and new regulations, which in effect replace the DMA regulations.

62. An extension of the DMA regulations and restrictions was clearly planned and provided for, and the Minister forced the 2022 surveillance regulations into operation on an exceptionally urgent basis.

63. No specific grounds or reasons have been provided in the record by the Minister as to why the regulations were published on such an extremely urgent basis or why he in fact believed that the restrictions of the DMA regulations could lawfully and legally be extended by way of regulations under the National Health Act.

ENFORCING A COVERT VACCINE MANDATE

64. The Applicant notes that in a Department of Health "COVID-19 Vaccine Demand Acceleration and Community Mobilisation" Strategy Presentation of May 2022 (disclosed in the Rule 53 record) demonstrates that the

results of two surveys conducted in February – March 2022, are that "Most do not plan to get vaccinated."

65. It is submitted that the fact, that a majority among the population has to date elected not to have one of the existing vaccines against Covid-19 administered, also lies at the root of the Minister's decision to promulgate the 2022 surveillance regulations.

66. Concluding remarks in minutes of a National Health Council Consultative meeting of 21 February 2022 (where the alleged need for health regulations was discussed) indicate:

"The NHC will have to ensure that what has been achieved is not lost and scale up the vaccination, especially of the young people in order to be able to reach the 70% quota of vaccinated people."

67. In discussions of possible new regulations where the Minister was involved, concerns regarding vaccine hesitancy emerged and were addressed in the context of regulation-making.

68. The Applicant submits that the Minister has promulgated the 2022 surveillance regulations for the ulterior purpose of replacing the DMA regulations and to enforce an indirect/covert vaccine mandate designed to ensure that members of the public, who have decided against having one of the existing Covid-19 vaccines administered, become vaccinated

regardless of the reasons for and contrary to their decisions not to. This is unlawful.

MINISTER ACTED ON THE DICTATES OF THE PRESIDENT AND NCCC

69. The Minutes of the National Health Council Consultative Meeting held on 21 February 2022, reveal that the Minister had received "instructions" from both the President of the Republic of South Africa and the National Coronavirus Command Council ("NCCC") with regards to the making of new health regulations. The minutes state that:

"2.11 The President, for example, has stated unequivocally that the health department, in collaboration with other departments, must find other ways to assist the country in taking the necessary precautions while also allowing more activity and exiting the state of disaster as there is a view that it is not good for economic and social activities."

"2.12 The last NCCC instructions were that the health fraternity should find means in terms of the national health regulations, within the National Health Act, as well as all other departments that are relevant to their respective department's legislation in order to help to exit the Disaster Management Act and also to use other means to help with any mitigating interventions."

70. Neither the President, nor Cabinet, nor sub-committees of Cabinet are authorised under the Health Act to instruct the Minister to make health regulations.

71. In the light of the instructions from the President and NCCC, however, the Minister improperly persisted in crafting new surveillance regulations. The aforesaid minutes state further that:

"2.13 In light of the foregoing, the health department has been working on the legal framework for the Health Regulations, and when it was examined in 2020, it was discovered that the national health regulations would fall far short of what was still required at the time."

72. The instructions of the President regarding "exiting the state of disaster" and the NCCC regarding "...legislation in order to help to exit the Disaster Management Act..." are an unwarranted interference with and negation of the Minister's functions.

73. The President and NCCC have attempted to override the medical and legal advice that the Minister and Department should have properly taken into account when promulgating the 2022 surveillance regulations.

74. In publishing the 2022 surveillance regulations, the Minister merely carried out instructions and did not apply his mind thereto. This is unconstitutional, irrational, irregular, and unlawful.

NATIONAL HEALTH ACT IS NOT FIT FOR THE PURPOSES OF 2022 SURVEILLANCE REGULATIONS

75. The Minister was patently aware that the Health Act did not empower him to make and was not fit for the purpose of the 2022 surveillance regulations. It seems as if the Cabinet was under immense pressure from the public and several legal challenges to lift the extended "National State of Disaster", during March 2022 – May 2022, and the Minister clearly felt compelled to attempt to craft something out of the Act to fulfil Cabinet's express dictate to find measures in the Act to extend the restrictions imposed under the "National State of Disaster".

76. Furthermore, Section 27(1) of the DMA states that the provisions of such Act can only be invoked and relied on if there is no other remedy in law available to the State to address a "disaster". The "National State of Disaster" was declared and kept in place for almost two years. The Applicant can only assume that government, by their conduct during the "National State of Disaster", also concluded that the Health Act did not allow for regulations to be issued similar to those issued under the DMA. Had it been so, the Minister could have issued regulations under the Health Act instead. If the Health Act had the same reach as the DMA, as is apparently now the position of the Minister, then why did he not overtake the primary role of regulating Covid-19 instead of allowing same to be done under the DMA by another member of Cabinet?

77. There is no scope or provision in the Health Act that gives the Minister the authority to create the far-reaching and draconian powers that he has purported to do for himself. The Minister is attempting do to far more than issuing regulations in terms of the empowering provisions and scope of the Health Act. He is augmenting the Act itself and adding to its scope and provisions. This is the role of the Legislature, and the Minister is acting outside of his powers.

FATALLY FLAWED PUBLIC PARTICIPATION PROCESS

78. Apart from the fact that the 2022 surveillance regulations do not meet the provisions and requirements of the Act for proper public participation and comment, the limited public participation process as disclosed in the record has been analysed and assessed by the Applicant and is entirely flawed.

79. At the outset, it is clear that the Minister and the Department of Health consider it within their power to publish regulations and that the public's views and opinions are not relevant to the process under scrutiny in this matter.

80. The record demonstrates that the Department of Health received more than 300 000 comments from the public in respect of the draft regulations published.

81. As already discussed in the founding affidavit, the Minister had assured the South African public that the comments would be processed and that the public participation process would play a vital role in the process of any regulations that might be published, or at least that the public's views on the draft regulations will be considered. As will be shown below, the public comment and participation process has been a farce.

82. The Applicant attaches as **ANNEXURE B8** a report prepared by Russell Lamberti, the Applicant's executive director of research and strategy. The report is based on the Applicant's investigation into and assessment of the first record discovered by the Respondent. Lamberti's findings will be discussed below. A supporting affidavit by Lamberti will also be attached.

COMMENTS FILTERED AND EXCLUDED

83. As part of the record, the Minister provided various Excel sheets and other files relating to the public participation process and the consideration afforded to it by the Department.

84. In an attempt to understand and evaluate the Department's process and conclusions from the public participation process, the Applicant endeavoured to find evidence in the record of inter alia:

84.1 final documentation on the method used by the Department to process, evaluate, accept/reject/incorporate public comments;

84.2 final document indicating the outcome of the application of the method to each comment submitted;

84.3 final report on the findings or conclusions stemming from consideration of public participation;

85. The record is mostly devoid of any such records or reports. The absence of records in support of the above, indicates a flawed consideration process with regard to the public submissions.

86. The Applicant nevertheless undertook its own analysis of the data in order to understand the general trends in the submissions. The Applicant's review and analysis reveal severe shortcomings in the Department's analysis and handling of public comments. The Applicant's investigation found:

86.1 Processing of the comments was at best 67% complete by 4 May 2022 (as evidenced from the 4 May 2022 daily report);

86.2 Serious shortcomings are evident in the Excel files that appear to be the core of the analysis process, including incompleteness, columns/data-mismatch, inconsistencies, and substantive errors such as mischaracterisations of submissions;

86.3 Only 132 unique comments by unique senders were included in the Microsoft Excel file for consideration as substantive comments, from more than 300 000 submissions;

86.4 The Department failed to include many substantial submissions from significant organisations, legal scholars, or persons with less common concerns in their Microsoft Excel list of comments considered "substantive". For purposes of demonstrating this, the report identifies a non-exhaustive list of 21 such substantive submissions which were not considered by the Department in its document listing substantive comments.

86.5 A sample analysis reveals almost universal opposition to the proposed regulations. Out of 500 random records sampled, 97% argued against the regulations, and 3% expressed partial or full support;

86.6 The majority of submissions submitted through the public participation platform, Dear South Africa, included unique and personal comments by the person who submitted it, relating to their specific concerns and reasons for (almost always, but with rare exception) opposing the proposed regulations. Most of the individual submissions generated on the Dear South Africa public participation platform fall within this category of submissions.

SUMMARY OF WORKINGS OF TECHNICAL TASK TEAM

87. By 4 May 2022, the Department's technical team tasked with the public comments' so-called daily report indicated that only 2/3 of the comments had been processed for analysis by the persons who were capturing and

sorting the data. The technical team indicated that they hoped to finish processing the data by 20 May 2022.

88. By 4 May 2022, only approximately 132 comments out of more than 300 000 had been included in the Microsoft Excel sheet for substantive comments considered by the Department to be substantive. It should be noted that, in the daily report by the processing task team, also dated 4 May 2022, a higher number of submissions are said to have been considered substantive. However, no record listing these "substantive" submissions could be found, and accordingly, no information could be gleaned as to what these submissions were, what conclusions were drawn from them, why some were rejected and others not and whether this was in whole or in part, why some were "deferred for consideration by technical team" and others were not, etc. A screenshot from the 4 May 2022 daily report is included as **Figure P1.**

11. Substantive Comments Report (Cumulative Stats)

- No comments were processed for environmental health hence there was a zero report.

Criteria	Notifiable Med Conditions	Points of Entry	Management of Human Remains	Environmental Health
Comments Received	439	184	362	55
Comments Accepted and Incorporated	17	25	198	15
Comments Rejected	300	132	117	22
Deferred for Consideration by Technical Team	121	27	49	18

Figure P1

89. It is not clear what "accepted" means, in the Department's Excel files analysed in Sakeliga's analysis, but a process that found only between 132 and 255 comments out of more than 300 000 to be acceptable, and

at most 1040 to be substantive (of which there is no further record than this table in the daily report by the task team), is a fatally defective one that makes a mockery of a vital democratic and public participatory process.

90. This constitutes public participation tokenism. Nothing in such a process reflects the values of accountability, responsiveness, and publicly orientated governance.

91. Notably, in the Microsoft Excel file summarising the submissions, reasons for rejecting the comments and not including them include:

> *"Wearing of masks has been proven to be effective against the spread of the virus and while in the restaurant, social distancing has to be also maintained to curb the spread. Vaccination has been proven to prevent severity of the disease and death. Night vygils and after tears are uncontrollable superspreader events.' (sic)*[2]
>
> And
>
> *"Vaccination is encouraged as it has been proven to be a measure that can prevent death and the severity of the Covid-19, however it maybe/**must be enforced** for travellers and for indoor*

[2] See file 4.1 Responses prepared to the comments received. Xlsx Rows 151119 to 151129 and row 151235

and outdoor gatherings based on scientific evidence of the risk of transmission" (sic)(emphasis added)[3]

And further

"Vaccine has resulted in 80 % SA population developing protection against severe disease" (sic)[4]

92. It appears that the technical staff sorting the public comments either developed their own reasons to "reject" comments or were instructed to ignore comments that ran counter to the provisions envisaged for the regulations.

93. In some cases, the grounds for rejection of comments contradict the MAC advisories. For instance, the reasoning behind rejecting some comments was that "masks are scientifically proven". This is contrary to where the MAC indicates that "...more research and guidance on wearing of masks indoors is needed".

94. The rejection of comments on this basis is irrational and irregular.

95. Comments inimical to the motive of ensuring more vaccinations were simply rejected out of hand.

[3] See footnote 3 above
[4] See footnote 4 above

96. A public consultation process where comments are rejected simply for being inimical to the motive for making regulations can never be a proper and lawful consultation process.

97. A public participation process in which certain comments, opinions, thoughts and beliefs are ignored and not considered is fatally flawed. The government and in particular the Minister *in casu* are obliged to respect the rights of all people to freedom of thought, belief and opinion and must substantially consider a large majority of, if not each and every, comment received.

NON-SPECIFIC COMMENTS REJECTED

98. In processing the public's submissions, the Department applied a decision tree. This decision tree was a simplifying tool by which the Department divided the submissions into, on the one hand, submissions that did not specify which sections of a proposed regulation it was commenting on and, on the other hand, submissions that did specify. This flawed methodology is described in a flow diagram of the Department found in the record, referenced below as **Figure P2**.

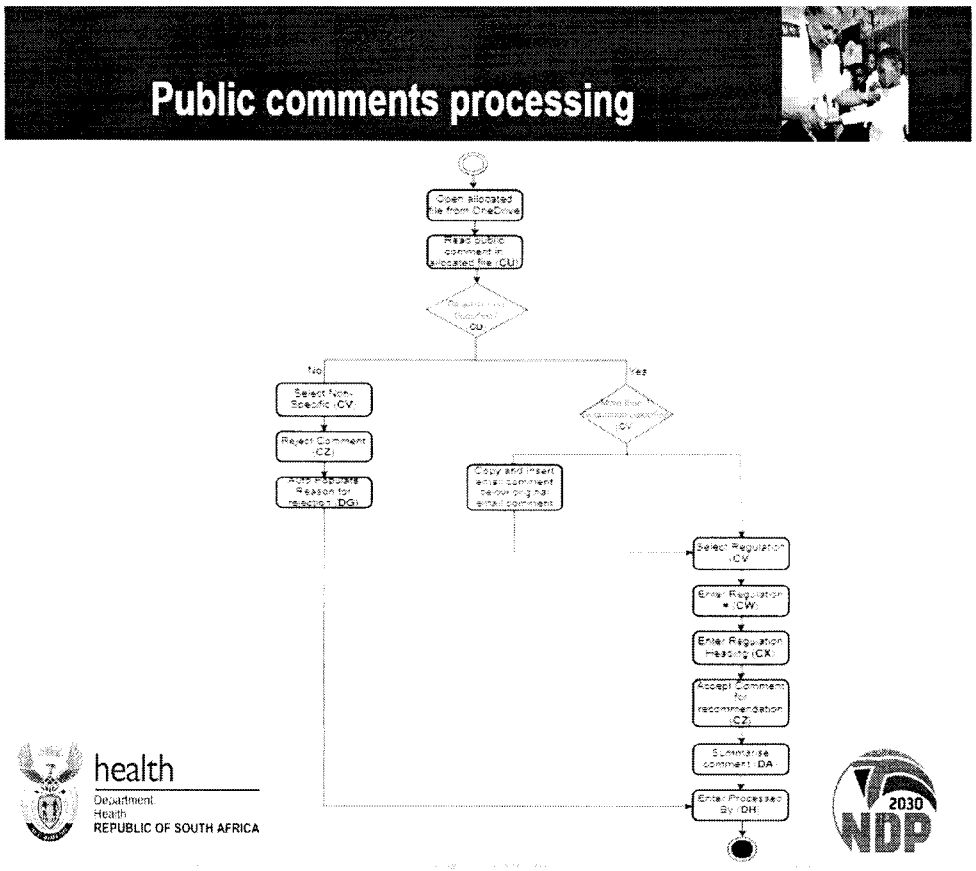


Figure P2

99. Submissions that did not specify sections of the regulations were then rejected, while submissions that did specify sections were considered.

100. By design, the Department's process for dealing with public participation therefore pre-emptively excluded all objections to the regulations in their entirety. The Department's point of departure was that the regulations should be passed and that objections to the regulations in whole were not acceptable public input.

101. It should be pointed out that the Applicant's own submission of 21 April 2022 did not include specific references to various sections of the various proposed regulations. Despite being substantial and reasoned, as in the

extracts below, it would therefore have been dismissed without consideration.

102. The conclusion to be drawn is that the rejection of comments, deemed to be "non-specific" by the various members of the task team, was undertaken in an arbitrary, irrational and procedurally unfair manner.

103. The Applicant rejects a formalistic approach whereby specific sections of a regulation had to be "specified" to escape rejection of a comment. The Department has not prior to or when inviting public commentary issued guidelines for "acceptable" comments.

104. The rejection of comments on the basis of consequential criteria not made known to the public beforehand renders the comment processing process fatally flawed.

PAIA REQUEST RELATING TO BASIS OF MASK-WEARING

105. The rejection of any comments objecting to mask-wearing is of particular interest and importance and merits special attention in this matter.

106. Sakeliga directed a request for information in terms of the Promotion of Access to Information Act (PAIA) on 12 April 2022 to the Minster in order to obtain information, documentation and / or reasons that the Minister relied on when mandating facial mask-wearing. A copy of the said PAIA request is attached hereto as **ANNEXURE B9**.

107. The response to the aforesaid PAIA request given on behalf of the Minister is dated 10 May 2022 and is attached hereto as **ANNEXURE B10**. The response merely states that the Minister is unable to provide the information *"as it is publicly available."*

108. The Applicant can only assume from the response that the Minister is of the position that the reason for mask-wearing is "public knowledge". Despite being requested to provide the records on which the Minister's position in respect of mask-wearing is based, no specific "scientific" basis could be provided.

109. This notwithstanding, members of the technical task team (who are not medical experts) took the position to rejects comments sceptical of arguments against mask wearing on the basis that "masks are *scientifically proven"* (emphasis added).

110. The Minister's response in the PAIA request, that he relied on publicly available information concerning mask-wearing, contradicts where the technical task team in the Department of Health takes recourse to masks being "scientifically proven". The alleged scientific knowledge has not been included in the response to the PAIA request.

111. The Minister has not made available to the public the alleged scientific facts on which he and the Department have allegedly relied. Even a non-confrontational PAIA request by the Applicant could not get him to disclose

the specific scientific fact and/or sources on which he based his position on the issue.

112. Recourse to claims of "scientific knowledge" has been used in the regulation-making process to sustain certain foregone conclusions – such as that mask-wearing must feature in the eventual regulations. The claim of "scientific knowledge" in the current context is, it seems, a bare claim in the absence of supporting documentary evidence. The response to the Applicant's PAIA explains the lack of supporting evidence, facts, and reasons in the Rule 53 record discovered.

113. A bald appeal to "science" in the absence of facts, sources, and records of scientific findings cannot be used as a broad brush to reject comments.

114. In any event, the rejection of comments by persons opposed to masking wearing simply on the basis that they oppose mask-wearing is arbitrary, irrational, and procedurally unfair

115. The record demonstrates that the Minister and the Department of Health have made a mockery of the rights of the public to comment on and be involved in the process of developing regulations in terms of the Act.

TERRORISM ALLEGATION

116. An alarming allegation that groups opposed to the regulations are engaging in "terrorism" and "sabotage" has surfaced in the record.

117. On 18 May 2022, Mr Daniel Nkuna, who works with the Department team analysing the public submissions, wrote a telling letter to Ms Aneliswa Cele, chief director for environmental health and port health services in the Department. His letter included an attachment called "Letter to Health.docx", accompanied by the following note in the text of the e-mail: "Kindly find attached the response from the team."

118. On 19 May 2022, Cele forwarded this letter to Adv Lufuno Makhoshi, with the note "FYA, The content might assist for the Counsel" (sic). It is worth quoting extensively from the "Letter to Health.docx":

> *4. General comments*
>
> The task team responsible for processing the comments submits the following for consideration as part of the response to the challenges raised by organized groups.
>
> **4.1.** The challenge to the health regulations is premature and misinformed. The process is ongoing and not finalised. The request for an ongoing process will just make matters worst especially for the four organized groups that do not understand the purpose of making inputs or how inputs should be made.
>
> The team views the approach by all four groups as an attack to government and also as a lack of understanding on how comments should be submitted. The four groups seem to be viewing the comment process as a referendum where people must indicate whether they support the amendment or not. The submissions coming from these groups are at the most indicating that they object the amendment of the **Health Act or regulations in its entirety**. The Minister published the regulations for public comments not to check whether the public support the amendment or not. The team is of the view that these people have not read the regulations but have an overall view that they do not want the regulations. It looks like the four groups expect government to go through all the comments even if these comments are not substantive, they are just organized coordinated responses in the various websites of these groups. The actions of these groups can be viewed as sabotage, instigating chaos or terrorism against the state. These groups are anti progressive and are just forcing government to waste resources going through the same responses or submissions.
>
> **4.2** The team is of the view that sharing of comments with the four groups should be limited to what each group has submitted.
>
> **4.3** ***Government has a Responsibility and Mandate to regulate on all four issues published for public comments. Three of the four regulations are currently existing and are just being amended to cater for lessons learned during COVID-19 response to ensure that the country can be in a position to respond to similar instances or outbreaks that pose a public health emergency should they arise in future without resorting to the national disaster route. The fourth regulation has been published to align it to the current health Act.***

5. **Recommendations**

5.1 Government representative should communicate clearly to these groups that the comment process is not about the number of comments submitted as if the decision is based on a survey to check how many people support the amendment but to rather make substantive inputs to inform changes and correction of any provision made in the regulation.

5.2 Only one submission from each group should be inclusive enough for all their members' views or comments, the department will accept it even if there is a million comments but let each group consolidate their inputs into one document and submit as one. This process is not about the numbers of comments submitted but it's about the content based on provisions in the regulation. The repetition of the same input from various people as if numbers will count or make a difference is lack of understanding from these groups. **(This is not a partition/ survey or referendum)**

5.3 Sharing of documents should not take place now while the department is still working on the comments. This will make the four groups to change their strategy and submit similar comments with substance but still repeating themselves in the process and wasting governments resources through the time spent going through each comment similar to the other.

5.4 The four groups should wait for the comment period to close and for the department to finalise the processing before they can continue with the court case or requesting for information that is still being processed.

119. Astonishingly, officials of the Department of Health consider the "organised groups" (apparently four such groups) to be such a danger that their conduct in opposing the regulations is sabotage or instigating chaos or terrorism against the state. This is not the language of a government respecting the citizens or the laws of its country.

120. The Applicant invites the Minister and the Department to confirm to the Court who the alleged four groups are and on which exact grounds it is alleged that they are terrorists against the state.

121. The antagonism against the public expressed in the aforesaid correspondence of the officials of the Department explains in part the irrational rejection of the public comments as set out above and the failure of the Minister to engage meaningfully with the Applicant to attempt to find a solution to the public and legal controversy created by the 2022 surveillance regulations.

122. The approach and attitude of the officials of the Department towards the public and institutions that seek to promote the interest of various sections of society is unconstitutional – or perhaps one should say, anti-constitutional – conduct.

123. In the light of the fatally flawed and arbitrary, irregular, irrational and unconstitutional public participation process followed by the Minister and his Department, the Applicant seeks an order in this matter, declaring the specific conduct of the Department in respect of public participation and the methodologies employed by them in the process, to be constitutionally invalid.

124. The exercise of power by the Minister and his Department in relation to both the public participation process employed and the subsequent decision itself and the purpose sought to be achieved through the exercise of that power, is so affected by the irrationalities in the public participation process alone, that they need to be reviewed and set aside.

125. The process employed is also procedurally unfair and deprives the public of their right and reasonable opportunity to be heard.

126. An amendment to the notice of motion to this effect will be affected in terms of Rule 53(4).

2022 SURVEILLANCE REGULATIONS ARE ULTRA VIRES

127. The 2022 surveillance regulations cannot limit constitutional rights and freedoms in the manner employed by the Minister. "Surveillance" does not entail the actual physical control of the movement of persons, the control over their bodies, or the restrictions and infringement of constitutional rights and freedoms. Yet, such physical control and restrictions of rights form an integral part of the 2022 surveillance regulations.

128. There is no indication in the Act that the Minister is empowered to limit the constitutional rights and freedoms in such a wide-ranging manner as set out in the regulations.

129. The Minister has furthermore failed to identify which of the empowering provisions he has relied on to make the regulations. There is no indication in the record which empowering provision is relied on.

130. The Minister has clearly misunderstood the scope and ambit of the regulatory content permitted by the empowering provisions.

131. Sections 90(1)(j), (k) and / or (w) of the Act do not permit the Minister to make broad and far-reaching regulations on issues such as gatherings, mask-wearing and/or travel. The Act refers to *"communicable diseases"* and *"notifiable medical conditions"* which are used in a limited context and in a specific, narrowly tailored manner. As set out in the founding papers

the purpose, context and wording of the Health Act clearly indicate a limited scope of the Act. The Act does not have as its purpose the objective of responding to or regulating a health emergency or national disaster. The Act does not allow the Minister to make broad regulations unrelated to healthcare services because of a communicable disease or notifiable medical condition. Sections 90(1)(j), (k) and (w) only allow the Minster to make regulations that equip and capacitate healthcare facilities so that they are able to respond to communicable diseases.

132. Furthermore, if the empowering provisions relied on by the Minister do permit broad regulation-making (which the Applicant denies) then the empowering provisions are unconstitutional and invalid because they fail to satisfy the requirement that there must be discernible standards in the original legislation where a discretion exists in the making of subordinate legislation

133. If the Minister's interpretation of Section 90 of the Act is correct, it means that Parliament has been permitted to delegate extraordinary powers to the Minister (without any clear or discernible standards for the exercise of that power) that affect, limit, and invade the rights and lives of members of the public on a daily basis. The impact of this discretion is immense and unjustifiably infringes and breaches the rights of all people in South Africa as is set out in the founding papers.

134. An overly expansive and extraordinary delegation of powers as contended for by the Minister is impermissible in South Africa and in comparative jurisdictions.

135. The Constitutional Court has held that Parliament may not delegate law-making powers in terms which are so vague that they do not in any meaningful sense fetter the body or person exercising the delegated powers. Parliament must furnish adequate guidelines in order to indicate how a discretionary power is to be exercised. Clear and discernible standards must be set by Parliament and safeguards must be provided against the abuse of delegated power.

136. There are no safeguards in the Health Act to restrain or prevent the abuse of the powers that the Minister has appropriated for himself in the 2022 surveillance regulations.

137. In particular, the Minister has appropriated for himself the power to seamlessly switch "on" and "off" far-reaching dictates on matters that interfere with the rights and freedoms of the public.

138. To make matters worse, failure to abide by such rules, which may be switched on and off from one day to the next, attracts criminal sanctions.

139. The 2022 surveillance regulations are constitutionally invalid, alternatively Section 90(1) of the Health Act is unconstitutional and must be set aside with the effect that all regulations made in terms thereof will be set aside.

An amendment to the notice of motion seeking to set aside Section 90(1) of the National Health Act as unconstitutional will be affixed as alternative relief in terms of Rule 53 (4).

LIMITATION OF RIGHTS NOT JUSTIFIED

140. The Applicant submits that the limitation of the rights of individuals as envisaged in the 2022 surveillance regulations is not justifiable. Rights may not be limited by an arbitrary and limitless executive fiat or discretion. They may only be limited by a law of general application under section 36 of the Constitution and then only in so far as this may be reasonable and justifiable in an open and democratic society based on dignity, freedom and equality.

141. The limitation of rights as set out in the 2022 surveillance regulations makes a mockery of the dignity, freedom and equality of people in South Africa and is neither reasonable nor justifiable.

142. There is nothing in the record in this matter that indicates that the Minister applied his mind specifically to the limitation of rights and /or considered the drastic rights infringements that the 2022 surveillance regulations would result in. The record does not indicate that any less drastic measures or alternatives were considered and in particular, does not display any sensitivity to approach the limitation of rights with great caution.

143. The 2022 surveillance regulations and how they were considered display a high-handed paternalistic and autocratic attitude toward people in this country.

DWINDLING OF INFECTIONS

144. The Applicant submits that the subject matter that the 2022 surveillance regulations attempt to address, namely Covid-19, is a constantly changing subject matter and that as such the Court can and should be informed of new developments and changes that have taken place.

145. As predicted by the experts who advised the Minister by way of the MAC reports of 15 February 2022, 16 February 2022 and 25 April 2022, the 5th Wave of Covid-19 in South Africa is proving to be of little consequence. I set out hereinbelow the Covid-19 statistics from the National Institute of Communicable Diseases of South Africa ("NICD") website for 3, 4 and 5 June 2022 (being the latest data available) (**Figures P3**, **P4,** and **P5** below).

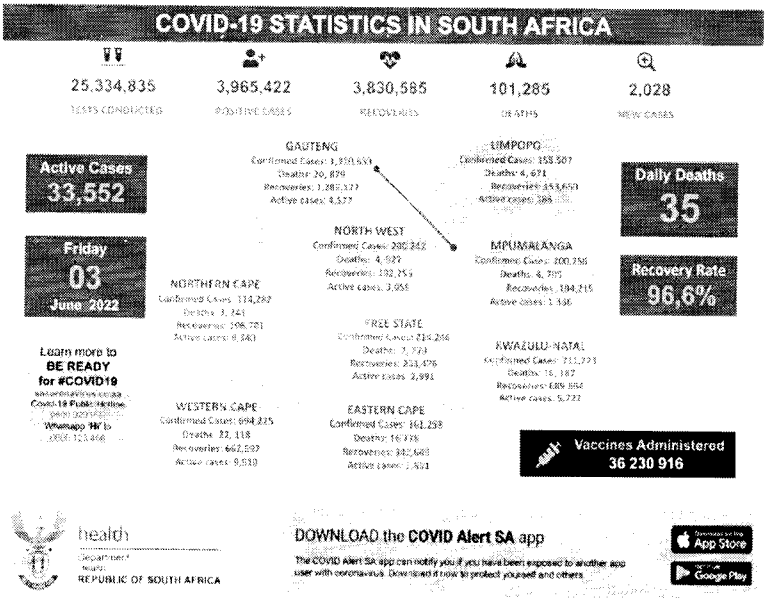


Figure P3

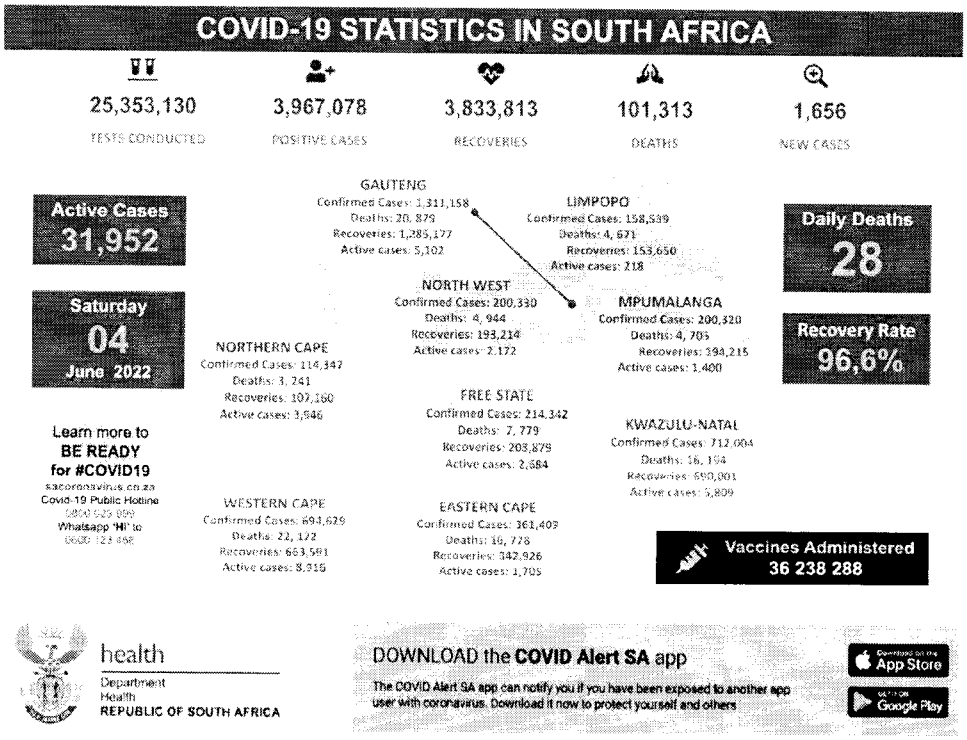


Figure P4

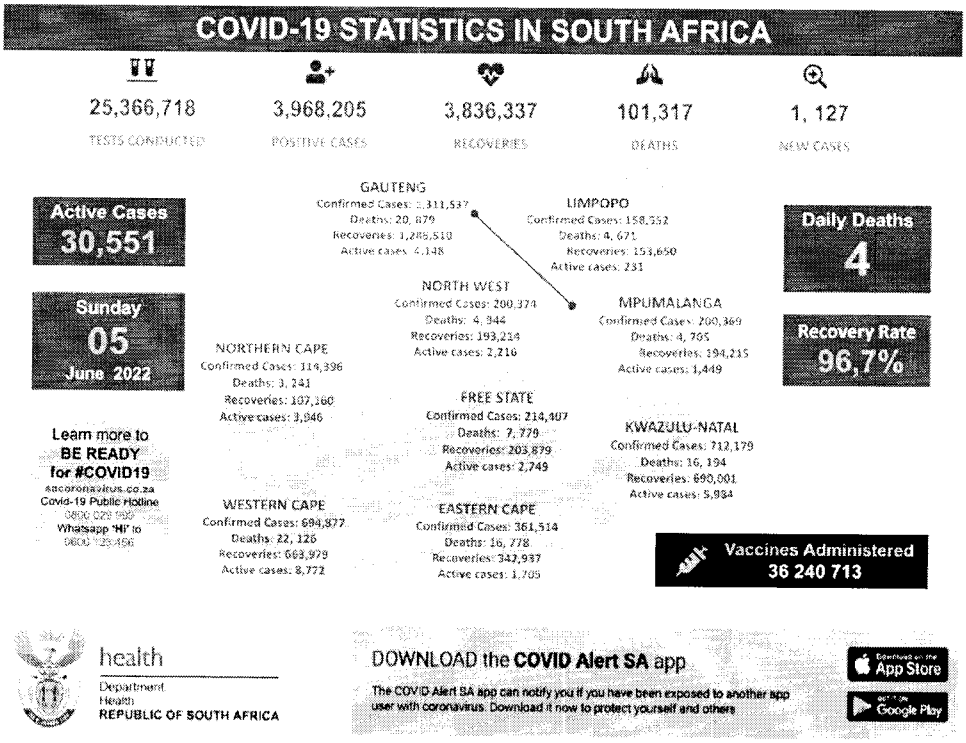
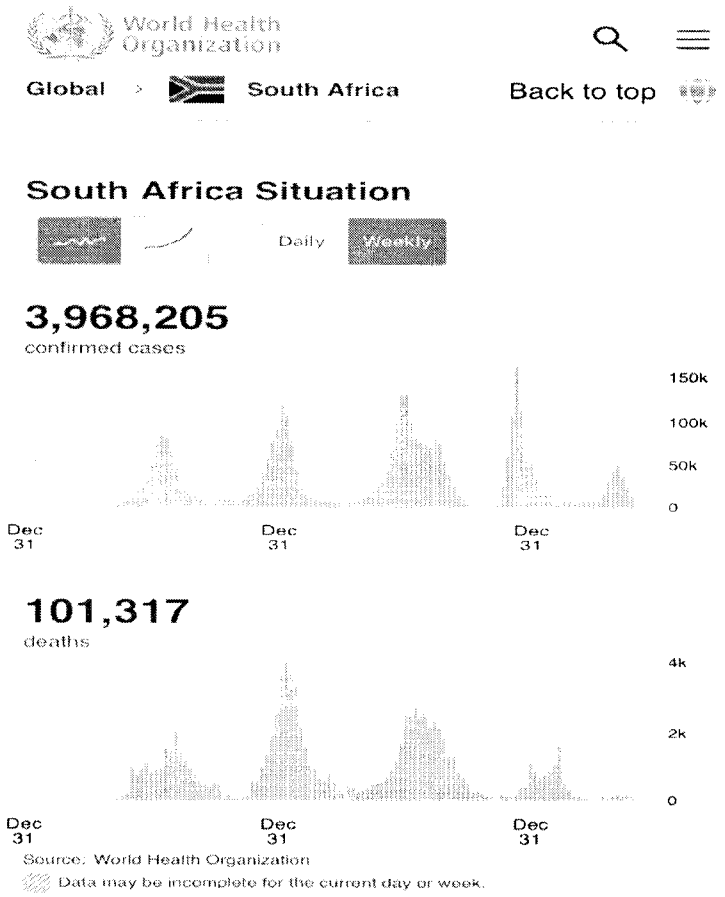


Figure P5

146. The Applicant's representatives have not been able to trace a graph showing the overall status of Covid-19 in South Africa on the NICD website for the period March 2020 to date hereof and I refer to the data and graph below from the World Health Organisation reflecting the decline and infections and the almost negligible impact that Covid-19 is currently having in South Africa (**Figure P6**).



Figures P6

147. The situation in South Africa mirrors the general global decline in infections, serious illness and deaths as is evident from the following

graphs of global statistics from the World Health Organisation of 07 June 2022 (**Figure P7** below)

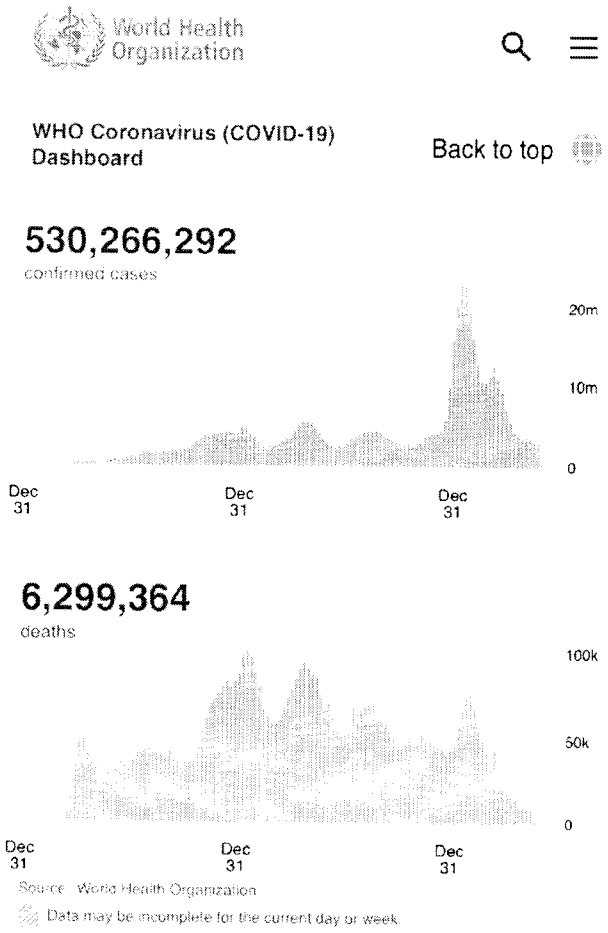


Figure P7

148. In as far as the record goes, the Minster has clearly relied upon the day to dayCovid-19 statistics. The Court should therefore consider whether the statistics as they stand today, provide a rational basis for the most urgent regulations published by the Minster in haste.

COERCION AND VACCINE MANDATE

149. As set out in the founding papers the contents of the regulations amount to an indirect or covert vaccine mandate. This contradicts and undermines the clear public undertakings of the President and Deputy President of South Africa that South Africans will not be subjected to vaccine mandates.

150. The undertaking by the President, as repeated by his Deputy President, was seriously made with the intention to be bound by such undertaking to the South African public. The Minister, as a member of the President's cabinet, is also bound by the undertakings of the Executive.

151. The provisions of the 2022 surveillance regulations relating to vaccination breach the public undertaking referred to above.

152. This, notwithstanding the recommendations of the MAC in a "Background Document: Mandatory Covid-19 Vaccinations in Certain Workplaces", included in the Rule 53 Record. A portion of the recommendations read as follows:

> "*The arguments in favor of compelling certain people to be vaccinated, however, would have to be justified by scientific evidence approved by SAHPRA, and shown to be 'reasonable and justifiable' and the least restrictive means of halting the spread of COVID-19 or reduce onward transmission and contribute to wider protection of the community for the*

country".

153. There is no evidence in the Rule 53 record to show that the Minister or Department is in possession or aware of any scientific evidence to justify compelling vaccination by derogation of the rights of some members of the public to move freely in public places or travel, relative to the freedom of other members of the public. There is also no evidence of any analyses having been undertaken on the reasonability or justifiability of a vaccination mandate, or that the least restrictive means have been considered and employed.

154. The Minister has proceeded to compel vaccinations, by penalisation of unvaccinated persons, without regard for the MAC recommendation above.

155. The Applicant refers in particular to an e-mail in the record of Dr Crisp (the Deputy Director-General of the Department) of 24 March 2022 in response to queries relating to the vaccination status of children in which he wrote:

> *"The VMAC and COVID MAC have been of the view that the entire risk has changed and listening to these discussions I am also of the opinion that until vaccines are freely available to children under 12 they should all be exempt from proof of vaccination and a negative PCR."*

156. Dr Crisp is seeming of the view that once vaccinations are freely available to children they too must suffer under the burden of having to provide proof of vaccination or a negative PCR test if they are unvaccinated.

157. A vaccine mandate, by way of penalisation of unvaccinated persons, is the driving force behind the measures to subject unvaccinated persons to unfair, unjust, unequal, unlawful and illegal treatment, measures and limitations on their general rights and freedoms.

158. The Applicant further refers to an e-mail from a certain Pam Masilela of the National Department of Health, Directorate: Port Health of 25 March 2022 to other Department of Health Officials in which she states (with reference to the draft regulations and vaccination status proof) that:

> *"The other comment was that crew (airline, medical and cross border freight operators) and daily commuting teachers should not be exempted because now there is an option of vaccination which is provided for free by the country and that it will encourage the vaccination of those categories."*

159. The Minister and his Department deem themselves to be entitled to use the vaccination status of unvaccinated persons to place restrictions on them that are not applicable to vaccinated persons so as to "encourage", that is, coerce them into being vaccinated. The use of vaccination status as a measure to control the movement of and gathering of people in the 2022 surveillance regulations is not based on any scientific reasoning in

the rule 53 record, but on the apparent need of the Minister to put pressure on members of the public to vaccinate.

LETTER OF SAKELIGA TO MINISTER OF 13 MAY 2022

160. As mentioned in the founding papers the Applicant sought an audience of the Minster and/or the President to attempt to find a solution to the public outcry against the 2022 surveillance regulations.

161. The first record however indicates why no engaging response was received. In an e-mail, Dr Crisp wrote to various senior management members of the Department and other persons in response to the Applicant's letter as follows:

"Dear All,

It is fascinating to me how everyone is now a scientific expert that understand (sic) immunity and virus RNA structure. I'm sure this should be bundled with the others.

Nicholas"

162. The Department did not consider the Applicant's request worthy of response and apparently only "bundled" it with other matters apparently considered with similar disdain. The sarcastic, high-handed and dismissive approach of Dr Crisp is most regrettable and has blocked any reasonable attempts by members of the public and public interest

organisations from engaging with the government to find solutions to the public and legal controversy that the 2022 surveillance regulations have brought about.

PUNITIVE COSTS ORDER TO BE SOUGHT

163. The Applicant submits that the conduct in this matter of the Minister and his officials warrants a punitive costs order on an attorney and client scale.

164. In an interview by Hanlie Retief in Rapport of 5 June 2022, annexed hereto as **ANNEXURE B11,** Dr Crisp makes the claim, referring to this case, that by the time this matter is heard in court, the 2022 surveillance regulations will not be necessary (and would presumably have been "turned off") but that the Minister could "turn them on" when required. Dr Crisp candidly handles questions about the risk of litigation reviewing the Minister's 2022 surveillance regulations with reference to the Minister's alleged ability to "turning" the regulations "off", only to switch them "on" again as soon as litigation has been staved off.

165. The further comments of Dr Crisp in the Rapport interview demonstrate the attitude of the Department that unless South Africa becomes a vaccinated country, restrictions on the freedoms and rights of unvaccinated persons, will remain in place. He has replaced the objective of public health with the objective of vaccination, raising vaccination to an end instead of a means (a means would at least warrant medical, legal, and otherwise legitimate debate and disagreement).

166. On the grounds set forth of this affidavit, read with the founding affidavit, the Applicant submits that the record and papers support the relief sought by the Applicant.

WHEREFORE the Applicant prays for relief on the terms as set out in the notice of motion.

P J LE ROUX

Signed and sworn/affirmed to before me at Stellenbosch on this 9th day of June 2022, the deponent having acknowledged that he knows and understands the contents of this affidavit; which is deposed to in accordance with the regulations governing the administration of an oath as more fully set out in Government Notice R1258 of 21 July 1972, as amended by Government Notice 1648 dated 19 August 1977 and Government Notice 903 dated 10 July 1998.

Commissioner of Oaths:

CHRISTOPHER THOMAS FALCK
Kommissaris van Ede / Commissioner of Oaths
Prokureur / Attorney
41 Herte Street, Stellenbosch
Republic of South Africa

Full names: _____

Status: _____

Street address: _____

BCHC
bradley conradie • halton cheadle

G04 The Gatehouse, Century Way, Century City, Cape Town, 7441
Office: +27 21 418 2196
Fax: +27 21 418 2197
Email: liezl@bchc.co.za
Web: www.bchc.co.za

Your ref: DJ ELOFF/MAT4730

P.J. WASSENAAR/QB09052

MR SWART/MR CLAASSEN/fb/CWS0611

Our ref: WRTC0001

24 May 2022

TO: **HURTER SPIES INCORPORATED**
Attorneys for the Applicants (Case no.25226/22)
Email: eloff@hurterspies.co.za;
johann@hurterspies.co.za;
ck@hurterspies.co.za;

AND TO: **LIBERTY FIGHTERS NETWORK**
REYNO DAWID DE BEER
First & Second Applicants (Case no. 24917/22)
Email: reyno@libertyfighters.co.za
debeerreyno@gmail.co.za;

AND TO: **KRIEK WASSENAAR & VENTER INC**
Attorneys for the Applicant (Case no. 27477/22)
Email: peter@kriekprok.co.za

AND TO: **SERFONTEIN VILJOEN & SWART**
Attorneys for the Applicant (Case no.25363/22)
Email: jd@svslaw.co.za
niekie@svslaw.co.za
franlie@svslaw.co.za