



COVID-19 AND LOCK DOWN IMPLICATIONS FOR PROPERTY.

Introduction Covid-19 recovery strategy

Covid-19 has ushered in a new reality, business will not be the same again. There are certain disadvantages but there are some real benefits. It is how we handle the changes, how we engage with our teams, how we rally and mobilise. Communities are stronger. They are united in the small things that provide meaning to our daily lives, we have definitely dialled that up. Now is not the time to bitch and moan. It is about thinking of new ways to achieve better results and more revenue through doing business differently. There is laser focus on entrepreneurs. This is the group of small and agile businesses that will build value and lift up the economy. Big corporates are too clumsy and decisions take too long to convert. Innovation happens when you do something new, when you fix a problem or fill a gap. Technology brings a wealth of instruments and tools to support innovation. You must embrace these.

This article is aimed at reporting Covid-19 issues around the property sector, what you can do and what you cannot do in terms of the regulations, 29th April 2020. Regulations are subject to change so please watch this space. We will endeavour to keep you updated with the changes as they are published.

PARTICULARLY FOR THE PROPERTY SECTOR

Property transactions

The property market is seriously compromised by Covid-19. Under Level 4 property may not be viewed except digitally. That doesn't mean that property cannot be bought and sold. The recommendation is that prospective buyers view properties through virtual platforms. This is the opportunity to become your own agent, to master the camera on your cell phone to create your own digital tour of your property. Make sure there is a caveat in the purchase agreement that the whole agreement is subject to and conditional upon the physical viewing of the property by the purchaser.

Bond approval and repayments

Bond approvals are reliant upon independent valuations of the property being conducted. The underwriters of the bonds are informed by independent reports by professional valuers. Under lockdown a bond approval may be issued on the credentials of a desktop valuation report. It is also noted that a bond application may be reviewed following the lock down if the financier perceives that the business may be adversely affected by the downturn in the economic conditions.

Most of the financial institutions have extended deferred period for bond repayments. We have also seen the review of bond conditions where the financier perceives that there has been a downward adjustment in the bond holder's ability to repay the amounts due.

Document signatures

Level 4 prohibits the physical engagement of buyer/seller and agents. You are ok if you have a printer. Documents may be sent, printed signed and scanned by return. If you don't have access to a printer cell phone photos will work as an alternative means to achieving the completed signed documents. Just make sure that your conveyancer checks that the different versions of the documents are exactly the same. Obviously with this approach no Commissioner of Oaths is required to witness the originality of the documents. The regulations impose heavy penalties for circumvention, however a conveyancer may be appointed and instructed, under exceptional circumstances, to acquire the signatures for documents. The regulations impose heavy penalties for circumvention, however a conveyancer may be appointed and instructed, under exceptional circumstances, to acquire the signatures for documents.

Property rentals

A lease agreement is a negotiated agreement between the tenant/lessee and the lessor, the landowner. Most landowners have extended rental relief to tenants, especially where the business is unable to trade during this period. Residential leases are especially affected where the tenant is self employed and whose business is adversely affected or where the tenant has received a salary reduction. SA Property Owners Association, SAPOA, issued guidelines to landowners, see attached. There are no regulatory requirements for rental relief. Any rental relief arrangements should be approached through open communication and engagement. Tenants should avoid defaulting on their rental payments without communicating with the landowner. A common approach is for the landowner to offer a deferment of rental payments and then the repayment of the deferred rental amount over a period to be agreed. There are no provisions for 'writing off' rentals that are due. Interest is another part of this conversation, the parties may agree to an interest or an interest-free repayment of the deferred rentals.

Prohibition on evictions

A court may grant an eviction order but this order will be stayed and suspended until the final day of level 4 period.

Rates clearance certificates

Rates clearance certificates are mandatory for property transactions and transfers/registrations cannot go ahead without these. Municipalities are, for the most part, still not back at their offices. If they are back at work their focus is on the provision of essential services to their communities with a skeleton staff. A rates clearance certificate is valid for 60 days. The question is whether lodgements prior to lock down will still be valid? Will extensions to rates clearance certificates be considered? This remains unclear and will be a decision taken by the various municipalities individually.

Meter readings

In order for the rates clearance certificate to be processed meter readings need to be provided from the subject property. How are these details acquired with the skeleton staff components? How will the municipality modify its processes to avoid prejudicing the ratepayer? This is also unclear.

Deeds Offices

Although Level 4 identified the Deeds Offices as essential services there has been no formal directive as to when these offices will be open to the public. A circular outlining the workplace recovery plan is expected during the week, 11th-15th May 2020. It is not clear whether the Deeds Offices will consider condonation for expired rates clearance certificates. Leniency is doubtful but surprises are always welcome.

Relocation, moving house

Initially Level 4 prohibited moving house or relocating. The amended regulations allow those who would need to move home permission to do so up to 7th June 2020. This is subject to the relevant permit being obtained, refer to 3(b) in the updated regulations. Relocation authorisation is limited to residential properties.

Legal services, general

Covid-19 has seen legal services being delivered and accepted electronically. Although actual legal proceedings are limited to matters related to the regulations. Most civil matters are being referred to arbitration and mediation. The lock down period was a period 'sine dei' or in layman's terms if there was a matter pending the clock stopped turning for the duration of the lock down period. With the lifting of lock down to Level 4 the legal clock has been re-activated.

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