

316120
Place on Notice
Board

**IN THE HIGH COURT OF SOUTH AFRICA
(WESTERN CAPE DIVISION, CAPE TOWN)**



In the matter between:

**BRITISH AMERICAN TOBACCO SOUTH AFRICA
(PTY) LTD**

JT INTERNATIONAL SOUTH AFRICA (PTY) LTD

MELINDA FERGUSON

KEOAGILE MOLOBI

LIMPOPO TOBACCO PROCESSORS (PTY) LTD

**SOUTH AFRICAN TOBACCO TRANSFORMATION
ALLIANCE NPC**

BLACK TOBACCO FARMERS ASSOCIATION

SUIDER AFRIKA AGRI INISIATIEF NPC

**SOUTH AFRICAN INFORMAL TRADERS
ALLIANCE**

**LA TOSCANA INVESTMENTS CC, t/a J.J. CALE
TOBACCONISTS**

and

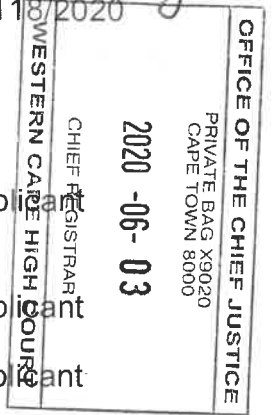
**MINISTER OF CO-OPERATIVE GOVERNANCE
AND TRADITIONAL AFFAIRS**

**PRESIDENT OF THE REPUBLIC OF SOUTH
AFRICA**

**THE NATIONAL CORONAVIRUS COMMAND
COUNCIL**

CASE NO: 6118/2020

Jealley



First Applicant

Second Applicant

Third Applicant

Fourth Applicant

Fifth Applicant

Sixth Applicant

Seventh Applicant

Eighth Applicant

Ninth Applicant

Tenth Applicant

First Respondent

Second Respondent

Third Respondent

NOTICE TO THE REGISTRAR IN TERMS OF RULE 16A

BE PLEASED TO TAKE NOTICE THAT the following constitutional issues are raised in this application.

1. Regulation 45 of the regulations made by the First Respondent in Government Notice No. R. 480 of 29 April 2020, as amended by Government Notice No. 608 of 28 May 2020, in terms of section 27(2) of the Disaster Management Act 57 of 2002 ("**Regulation 45**") prohibits the sale of tobacco, tobacco products, e-cigarettes and related products. In this application, the Court is asked to decide whether Regulation 45 is:
 - a. An unconstitutional infringement of the following rights in the Constitution of the Republic of South Africa, 1996 ("**the Constitution**"):
 - i. the right of, *inter alia*, tobacco farmers, tobacco processors and tobacconists to freedom of trade, occupation or profession under section 22 of the Constitution;
 - ii. the rights of consumers of tobacco and vaping products to dignity, privacy and bodily and psychological integrity under sections 10, 14 and 12 of the Constitution; and
 - b. An arbitrary deprivation of the right to property of participants in the supply chain for tobacco and vaping products under section 25(1) of the Constitution.
2. The Applicants seek an order declaring Regulation 45 unconstitutional and invalid; and reviewing and correcting or setting aside Regulation 45.

TAKE NOTICE FURTHER that the application is brought on an urgent basis and is set down for hearing at 10h00 on **22 June 2020**.

TAKE NOTICE FURTHER that any interested party may, with the written consent of all parties to the proceedings and within 7 days of this notice being published by the Registrar of the above Honourable Court, be admitted herein as *amicus curiae* upon such terms and conditions as may be agreed upon in writing by the parties.

TAKE NOTICE FURTHER that the written consent referred to above shall, within 2 days of its having been obtained, be lodged with the Registrar of the above Honourable Court. The *amicus curiae* shall, in addition to any other provision, comply with the times agreed upon for the lodging of the written argument.

TAKE NOTICE FURTHER that the terms and conditions agreed upon may be amended by the above Honourable Court.

TAKE NOTICE FURTHER that if the interested party is unable to obtain the written consent as contemplated above, he or she may, within 5 days of the expiry of the 7 day period mentioned above, apply to this Honourable Court to be admitted as *amicus curiae* in the proceedings. Such application shall—

- (a) briefly describe the interest of the *amicus curiae* in the proceedings;
- (b) clearly and succinctly set out the submissions which shall be advanced by the *amicus curiae*, the relevance thereof to the proceedings and his or her reasons for believing that the submissions will assist the court and are different from those of other parties; and
- (c) be served upon all parties to the proceedings.

TAKE NOTICE FURTHER that any party wishing to be admitted as *amicus curiae*, and making application to the above Honourable Court to be so admitted, shall serve a copy of that application upon all parties to these proceedings. Any party to these proceedings shall be entitled to oppose such application by filing an answering affidavit within 5 days of the service of the application upon them. The answering affidavit shall clearly and succinctly set out the grounds of such opposition.

DATED AT CAPE TOWN ON THIS 3rd DAY OF JUNE 2020



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To:
THE REGISTRAR
High Court of South Africa
Western Cape Division, Cape Town

And to:

STATE ATTORNEY

Per: Melanie Faure

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