



PROVINCE OF THE EASTERN CAPE  
IPHONDO LEMPUMA KOLONI  
PROVINSIE OOS-KAAP

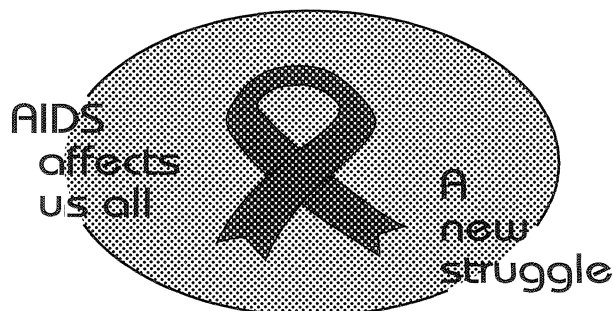
# Provincial Gazette Igazethi Yephondo Provinsiale Koerant

Vol. 20

BISHO/  
KING WILLIAM'S TOWN, 2 SEPTEMBER 2013

**No. 3024**  
(Extraordinary)

**We all have the power to prevent AIDS**



**AIDS  
HELPLINE**

**0800 012 322**

DEPARTMENT OF HEALTH

**Prevention is the cure**

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## PROVINCIAL NOTICE

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**No. 68**

**PROVINCE OF THE EASTERN CAPE**

**DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENTAL AFFAIRS  
AND TOURISM**

**DRAFT REGULATIONS IN TERMS OF THE CONSUMER AFFAIRS (UNFAIR  
BUSINESS PRACTICES) ACT, 1998 (ACT NO. 5 OF 1998) FOR PUBLIC  
COMMENT**

I, **Mcebisi Jonas**, Member of the Executive Council responsible for Economic Development, Environmental Affairs and Tourism in the Province of the Eastern Cape, acting in terms of section 29(2) of the Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998 (Act No. 5 of 1998) hereby publish for public comment, the draft regulations in terms of the Act, as set out in the Schedule hereto.

Any person who wishes to submit written representations or comments in connection with the draft regulations are invited to do so within one month of the date of this notice. All written representations and comments must be submitted in writing to:

**The Head of Department**

**Department of Economic Development, Environmental Affairs & Tourism**

**Private bag X 0054**

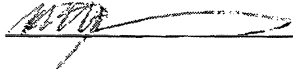
**Bisho**

**5605**

**Or hand delivered at HOD's Office, Old Metro Building, Hockley Close Street,  
Beacon Hill, King William's Town.**

By telefax to: 086 611 4305, and by e-mail to  
[Charnette.ferreira@deaet.ecape.gov.za](mailto:Charnette.ferreira@deaet.ecape.gov.za)

Comments received after the closing date will not be considered.



**M. JONAS**

**MEC FOR ECONOMIC DEVELOPMENT,**

**ENVIRONMENTAL AFFAIRS AND TOURISM**

## **SCHEDULE**

### **CHAPTER 1 INTERPRETATION**

#### **1. Definitions**

In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Consumer Affairs (Unfair Business Practices) Act (Eastern Cape) 1998 (Act No. 5 of 1998), retains that meaning, and in addition-

**"chairperson"** means the chairperson of the tribunal, and includes an alternate chairperson appointed under section 14(3) of the Act;

**"Consumer Protector"** includes:

- (a) an acting Consumer Protector appointed under section 4(1)(b) of the Act;  
and
- (b) a person in the service of the office authorised by the Consumer Protector;

**"the Act"** means the Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998.

### **CHAPTER 2 INVESTIGATIONS BY OFFICE FOR THE INVESTIGATION OF UNFAIR BUSINESS PRACTICES**

#### **2. Office may request complainant to provide further information**

(1) Where a person has lodged a complaint with the office regarding an alleged unfair business practice, as contemplated in section 6(1) of the Act, the office may request the complainant to provide further information in the form of an affidavit or otherwise.

(2) The office must reduce further information provided as contemplated in subregulation (1), to writing.

### **3 Notice of investigation to person allegedly responsible for unfair business practice**

(1) When the office institutes an investigation, whether on receipt of a complaint as contemplated in section 6 of the Act or of its own accord or at the instance of the MEC as contemplated in sections 7(1) and (2), respectively, of the Act, the office must give notice of the investigation and of the alleged unfair business practice to the person alleged or suspected to be responsible for the unfair business practice in question, if the whereabouts of that person are known to the office.

(2) The Consumer Protector must give such notice -

- (a) through personal delivery or by tendering the notice to the person to be notified; or
- (b) by sending the notice to that person by electronic facsimile, electronic mail or prepaid registered post to his or her:
  - (i) business address; or
  - (ii) address last known to the office.

(3) A warning to the person allegedly implicated must accompany a notice referred to in subregulation (1), that a statement or explanation, which he or she may give, may be used against him or her in proceedings before the Tribunal.

(4) A notice as referred to in subregulation (1) must be sent regardless of whether the office makes known the investigation in the *Provincial Gazette* as contemplated in section 7(3) of the Act.

### **4 Form of summons**

A summons contemplated in section 8(2)(a) of the Act requiring a person to appear before a person in the service of the office for questioning or to produce a book, document or other object as contemplated in section 8(1)(a) of the Act, must be substantially in the form of Form 1 in Annexure A.

### **5 Manner of service of summons**

As contemplated in section 8(2)(d) of the Act, the Consumer Protector must serve a summons referred to in regulation 4 in one or other of the following manners:

- (a) through personal delivery by the Consumer Protector delivering or tendering a copy of the summons to the person summoned; or
- (b) by sending a copy of the summons to the person summoned by prepaid registered post at his or her-
  - (i) business address; or
  - (ii) address last known to the office.

**6 Oath or affirmation by person summoned**

- (1) A person summoned in terms of section 8(1)(a) of the Act must, before being questioned or required to produce an object, take and sign an oath or solemn affirmation which must be put to him or her in terms set out in Part 1 of Annexure C.
- (2) A person summoned may, when being questioned or required to produce an object, be assisted by a legal representative or another person who has no vested interest in the outcome of the investigation.

**7 Witness fees to which person summoned entitled**

(1) As contemplated in section 8(3)(b) of the Act, a person summoned is entitled to witness fees in accordance with the Tariff of Allowances payable to witnesses in terms of the Magistrate's Court Act, Act 32 of 1944.

**8 Conditions of service and remuneration of certain Investigating Officers**

(1) The conditions contemplated in section 9(3) of the Act governing the appointment of an investigating officer who is not in the full-time service of the State are as follows:

- (a) The appointee holds office as an investigating officer for the hours, days or other period or periods as the Consumer Protector may determine;
  - (b) the investigating officer performs his or her functions subject to the control and directions of the Consumer Protector;
  - (c) the investigating officer performs his or her functions faithfully and diligently; and
  - (d) as determined by the Consumer Protector.
- (2) An investigating officer who is not in the full-time service of the State must be remunerated-
- (a) at the rate at which the Provincial Government pays for services provided by persons possessing the qualifications and experience of the person concerned; or
  - (b) in a particular case, a lesser or, with the concurrence of the responsible MEC, higher rate determined by the Consumer Protector after consultation with the person appointed or to be appointed;

## **9 Certificate of appointment**

An investigating officer must be provided with a certificate of appointment in terms of section 9(4) that complies with Form 2 in Annexure A.

## **10 Search warrant**

A search warrant contemplated in section 10(2) of the Act must comply substantially with Form 3 in Annexure A.

## **11 Receipt to be issued on seizure**

Where an investigating officer seizes anything which has or might have a bearing on an investigation as contemplated in section 10(1)(d) of the Act, the investigating officer must issue a receipt which must comply substantially with Form 4 in Annexure A to the owner or person in charge of the premises or to the person in possession or in charge of the object or thing seized.

# **CHAPTER 3**

## **PROCEEDINGS BEFORE THE CONSUMER AFFAIRS TRIBUNAL**

## **12 Oath or affirmation by member of tribunal**

A member or alternative member of the Tribunal must, before assuming office, make and sign an oath or solemn affirmation before the MEC in the form contained in Part 2 of Annexure C.

## **13 Costs awarded where person responsible acted fraudulently or grossly unreasonably**

(1) Where the tribunal awards costs against a person found to have conducted the unfair business practice concerned and who is found to have acted fraudulently or grossly unreasonably, as contemplated in section 17(1)(b) of the Act, such costs must –

- (a) Be paid to the office by the person against whom they are awarded;
- (b) be on the scale of costs contained in Tariff 1 in Annexure B; and
- (c) include disbursement, as at the tribunal's discretion.

(2) The office must cause the amount of costs paid to the office as contemplated in subregulation (1) to be paid into the Provincial Revenue Fund.



**14 Form of summons initiating proceedings against person allegedly responsible for unfair business practice**

(1) Proceedings before the tribunal against a person alleged to be responsible for an unfair business practice must be initiated, as contemplated in section 18(1) of the Act, by a summons complying substantially with Form 5 in Annexure A.

(2) The summons must:

- (a) Contain the substance of the allegations regarding the unfair business practice in question;
- (b) specify a date on which the person summoned is required to appear before the tribunal which will not be less than 14 working days and place at which the person summoned is required to appear before the tribunal.

**15 Manner of service of summons on person allegedly responsible for unfair business practice**

(1) A summons referred to in regulation 14 initiating proceedings against a person alleged to be responsible for an unfair business practice must be served in one of the following manners:

- (a) Delivery of a copy of the summons on the person to be served;
- (b) by delivering a copy thereof at the place of employment of the person to be served to a person who appears to be in authority over the said premises and seems to be older than 16 years of age;
- (c) by delivering a copy thereof at the place of residence of the person to be served to a person who appears to be in authority over the said premises and seems to be older than 16 years of age;
- (d) if the person to be served has chosen an address at which the summons may be served, by delivering or leaving a copy thereof at the address so chosen;
- (e) in the case of a company or close corporation, by delivering a copy to a responsible employee thereof at its registered office or its principal place of business within the jurisdiction of the court or, if none of the employees are willing to accept service, by affixing a copy to the main door of such office or place of business;
- (f) by delivering a copy thereof to an agent who is duly authorised in writing to accept service on behalf of the person to be served;
- (g) where a partnership, firm or voluntary association is to be served:
  - (i) By leaving a copy thereof at the place of business of the partnership, firm or voluntary association with a person who appears to be in charge of the premises at the time of delivery and who seems to be older than 16 years of age; or
  - (ii) if such partnership, firm or voluntary association has no place of business at the time of service, by effecting service on a partner, the proprietor or the chairman or secretary of the committee; or

(h) in a manner determined by the tribunal in a particular case.

(2) Where the person to be served is a person without legal capacity, the summons must be served in a manner mentioned in subregulation (1) on that person's guardian, tutor, curator or caregiver instead of being served on that person.

- (3) For the purposes of subregulation (1)(b), when a block of flats or other building (other than a hotel, boarding-house, hostel or similar residential building) is occupied by more than one person or family, the summons must be served as provided in the said subregulation at that part of the building which the person to be served occupies as his or her residence or place of business.
- (4) The office must cause summons to be served, unless the tribunal orders otherwise in a particular case.
- (5) The tribunal may postpone a matter to a future unspecified date or strike the matter off the roll, where it is satisfied that service has not been properly effected.

#### **16 Summoning by tribunal of witness and producing documents to ascertain a matter relating to proceedings**

(1) Where the tribunal issues an order requiring a person to appear before it to give evidence or to produce an object for the purpose of ascertaining a matter relating to proceedings before the tribunal as contemplated in section 19(1)(a), the tribunal must issue a summons addressed to that person complying with Form 6 in Annexure A.

(2) A summons referred to in subregulation (1) must be served in a manner outlined by regulation 15.

#### **17 Oath or affirmation by person giving evidence or producing objects**

Before giving evidence or producing an object, a person summoned in terms of section 16 of the Act must make an oath or solemn affirmation in the terms set out in Part 3 of Schedule C.

#### **18 Witness fees for persons who attended proceedings of tribunal**

- (1) A person who has attended proceeding of the tribunal as a witness is entitled to witness fees in accordance with the Tariff of Allowances payable

to witnesses in terms of the Magistrate's Court Act, Act 32 of 1944 as contemplated in section 19(5).

- (2) The Secretary of the Tribunal must pay fees in accordance with the tariff referred to in subregulation (1) at his or her request.

**19 Proceedings against persons allegedly responsible for unfair business practice**

(1) Proceedings before the tribunal against a person allegedly responsible for an unfair business practice must be conducted in accordance with this regulation, with a view to ascertaining whether an unfair business practice exists or may come into existence and whether that person is or was implicated in that practice or future practice.

(2) The office must state the alleged unfair business practice and the nature of the involvement of the person who is, allegedly, implicated.

(3) The tribunal must ensure that the person allegedly implicated is sufficiently informed of the allegations regarding the unfair business practice in question to enable him or her to make representations.

(4) The chairperson must ask the person who is, allegedly, implicated, whether he or she admits to any or all of the allegations, and an admission must be recorded.

(5) Where that person does not admit all the allegations, the office has the opportunity to produce evidence in support of the allegations that are denied.

(6) The person, who is allegedly implicated, then has the opportunity of stating his or her case against the allegations and of producing evidence in support thereof.

(7) The tribunal may in its discretion allow further evidence to be produced or witnesses to be recalled by the office or the person allegedly implicated.

(8) After the office and the person who is allegedly implicated, have produced their evidence and stated their cases, the tribunal may recall a witness or call further witnesses to submit to questioning by the tribunal and thereafter by the office and the person allegedly implicated.

(9) After all the evidence has been produced; the office may address the tribunal on the evidence and the conclusions which it has drawn therefrom.

(10) The person allegedly implicated may then address the tribunal.

(11) The office may thereafter address the tribunal to reply only to matters raised by the person allegedly implicated, which the office has not yet dealt with.

(12) The chairperson may determine that proceedings before the tribunal may be conducted otherwise than in accordance with this regulation if justified in the interests of a speedy resolution or of establishing that an unfair business practice exists or may come into existence or that the person against whom the proceedings have been instituted is involved in that practice or future practice.

(13) The tribunal may adjourn the proceedings where necessary to give the person allegedly implicated a reasonable time to prepare representations, or upon good cause shown.

(14) Whenever the chairperson is satisfied on evidence or information presented to the tribunal that the proceedings of the tribunal may adversely affect existing, instituted or pending legal proceedings or an investigation instituted in terms of another law, the tribunal must deal with evidence which is relevant to the legal proceedings or investigation in a manner that will not adversely affect the legal proceedings or investigation.

## **20 Examination of witnesses**

(1) A witness called by the office may be cross-examined by the person against whom the proceedings were instituted and the other way around, and a witness called by the tribunal may be cross-examined by the office and that person.

(2) Without prejudice to the right of the office or a person allegedly implicated, a person allegedly implicated may be represented or assisted as contemplated in sections 18(4) and (6) of the Act, a witness appearing before the tribunal may, in the discretion of the chairperson and in the manner as the chairperson may determine, be assisted by an advocate, attorney or another person who has no vested interest in the outcome of the proceedings and approved by the chairperson.

(3) The tribunal may direct that no person will be allowed to disclose in any manner whatsoever the name or address of a person who testified or testifies or who has been summoned and so requests the tribunal not to reveal his or her identity.

(4) Where evidence is given in a language with which the tribunal or the office or the person alleged to be responsible for the unfair business practice in question or

their representatives are not sufficiently conversant, a competent interpreter or accredited language practitioner must interpret the evidence.

(5) If, in the opinion of the tribunal, it is expedient to appoint a competent interpreter or an accredited language practitioner, or if the office or the person allegedly implicated so desires, the tribunal may satisfy itself as to the competence and integrity of a proposed interpreter or accredited language practitioner, before he or she is employed as such.

## **21 Urgent temporary orders**

(1) Where the office seeks an urgent temporary order contemplated in section 20(1) of the Act, it must, before the temporary order is issued but subject to subregulation (4), give notice thereof to each person against whom the order will be sought or who will be named in or affected by the order.

(2) A notice contemplated in subregulation (1) must:

- (a) state that the office intends to place information before the tribunal that circumstances relating to the particular matter concerned, which is the subject of an investigation by the office that render that the matter is urgent and that irreparable prejudice would be caused to a consumer or a group or class of consumers if the matter were to be dealt with only by the court at proceedings in due course and that the office will accordingly request the court to issue a temporary order;
- (b) give particulars of the investigation, sufficient to identify the matter;
- (c) state the terms of the temporary order sought by the office;
- (d) state the date and time when and place where the office will request the court to issue the order;
- (e) state the person notified may appear on that date, time and place and that he or she may object on any ground that he or she may deem necessary;
- (f) comply with Form 6 in Annexure A.

(3) A notice contemplated in subregulation (1) must be served in a manner outlined by regulation 15.

(4) On request by the office, the court may in a particular case dispense with the notice requirement under subregulation (1) to any or all persons concerned if the giving of such notice would defeat the object of the temporary order, or for other good cause shown.

**22 Procedure for confirming arrangements and for incidental requests and applications**

(1) The office shall cause the matter to be set down on motion, before the tribunal, for confirmation of an arrangement as contemplated in section 21 of the Act, on a form complying with Form 7 in Annexure A.

(2) The notice of motion referred to in subregulation (1) must be served in the manner outlined in regulation 15.

(3) Applications and requests contemplated in subregulation (1) may be disposed of in such manner and in accordance with such procedure as the chairperson may determine.

**23 Rate of interest on money repayable to affected consumers**

Where the tribunal orders that interest must be paid on money to be repaid to affected consumers as contemplated in section 22(2)(a) of the Act:

- (a) The interest must be calculated at the prevailing rate prescribed from time to time under section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act 55 of 1975), unless the court on the grounds of special circumstances orders otherwise;
- (b) the court must specify in its order the date from which and the amount on which interest is payable.

**24 Remuneration of certain curators**

The remuneration contemplated in section 23(4) of the Act, which is payable to a curator who is not in the full-time service of the State must be in accordance with Tariff 2 in Annexure B.

**25 Oath by transcribers, recorders and interpreters**

(1) A person appointed or designated to take down or record the proceedings, which have been so taken down or recorded, must before commencing with his/her duties make and sign an oath or solemn affirmation before the secretary of the tribunal in the form of Part 4 of Annexure C.

(2) A person appointed or designated to perform the functions of an interpreter before the tribunal must before commencing with his/her duties make and sign an oath or solemn affirmation before the secretary of the tribunal in the form of Part 5 of Annexure C.

**26 Signing of tribunal order**

An order by the tribunal intended to be made known by notice in the *Provincial Gazette* must be signed by the chairperson or by a member of the tribunal designated by the chairperson or by the secretary of the tribunal, as determined by the chairperson in general or in a particular case.

**27 Transcriptions**

In the event of an affected person requiring a transcription of tribunal proceedings, the person requiring such transcription shall bear the costs thereof.

## **ANNEXURES INDEX TO ANNEXURES**

### **A Forms**

- 1 Summons to appear before the Consumer Protector or a person in the service of the Office for the Investigation of Unfair Business Practices.
- 2 Certificate of appointment of Investigating Officer.
- 3 Search warrant.
- 4 Receipt for articles seized.
- 5 Summons initiating proceedings before the Consumer Affairs Tribunal.
- 6 Summons to appear before the Consumer Affairs Tribunal.
- 7 Notice of Motion to confirm an Arrangement.

### **B Tariffs**

- 1 Scale of costs.
- 2 Remuneration payable to a curator who is not in the full-time service of the State.

### **C Oaths and solemn affirmations**

- 1 Oath or affirmation by person summoned to appear before the Consumer Protector or person in service of Office.
- 2 Oath or affirmation by member of alternate member of Tribunal.
- 3 Oath or affirmation by transcriber.
- 4 Oath or affirmation by transcriber.
- 5 Oath or affirmation by interpreter.



**ANNEXURE A****FORMS****Form 1****SUMMONS TO APPEAR BEFORE THE CONSUMER PROTECTOR OR A  
PERSON IN THE SERVICE OF THE OFFICE FOR THE INVESTIGATION OF  
UNFAIR BUSINESS PRACTICES**

[Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998  
(Act No. 5 of 1998)]  
[Section 8(2)(a) and regulation 4]

**EASTERN CAPE DEPARTMENT OF ECONOMIC DEVELOPMENT,  
ENVIRONMENTAL AFFAIRS AND TOURISM**

1<sup>st</sup> Floor, Beacon Hill, Hockley Close, King William's Town, 5600  
Tel: (043) 605 7171

To: \_\_\_\_\_ Office Ref: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In the matter of the alleged or suspected

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(particulars of matter in connection with which person summoned is required to appear)*

You are hereby summoned to appear before the Consumer Protector or a person designated by the Consumer Protector and in the service of the Office for the Investigation of Unfair Business Practices at

\_\_\_\_\_ (place) at \_\_\_\_\_ H \_\_\_\_\_ (time) on  
\_\_\_\_\_ (date).

- \* (a) to be questioned in connection with the matter particularised above; and/or
- \* (b) to produce

Section 8(4) of the Act states that a person shall be guilty of an offence if he or she, having been summoned –

- (a) fails without sufficient cause to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the proceedings or until he or she has been excused from further attendance;
- (b) refused to take the oath or make an affirmation;
- (c) refuses to answer, or to answer fully and satisfactorily to the best of his or her knowledge and belief, a question lawfully put to him or her;
- (d) fails to produce a book, document or object in his or her possession or custody or under his or her control, which he or she was required to produce; or
- (e) makes a false statement to the Consumer Protector or other person in the service of the Office designated by the Consumer Protector, knowing such statement to be false or not knowing or believing it to be true.

**TAKE NOTICE THAT** Section 31 of the Act in regard to penalties is applicable and that any person who is convicted of an offence in terms of Section 8(4) of the Act shall be liable, to a fine not exceeding R20 000 or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

Consumer Protector / Person designated by the Consumer Protector and  
in service of Office for the Investigation of Unfair Business Practices

Date \_\_\_\_\_

**Form 2**  
**CERTIFICATE OF APPOINTMENT AS INVESTIGATING OFFICER**

[Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998  
(Act No. 5 of 1998)]  
[Section 9(4) and regulation 9]

**EASTERN CAPE DEPARTMENT OF ECONOMIC DEVELOPMENT,  
ENVIRONMENTAL AFFAIRS AND TOURISM**

1<sup>st</sup> Floor, Beacon Hill, Hockley Close, King William's Town, 5600  
Tel: (043) 605 7171

It is certified that

\_\_\_\_\_  
(Full names)

\_\_\_\_\_  
(Identity Number)

is an investigating officer appointed in terms of Section 9 of the Act.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Consumer Protector

**Form 3**  
**SEARCH WARRANT**

[Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998  
(Act No. 5 of 1998)]  
[Section 10(2) and regulation 10]

**EASTERN CAPE DEPARTMENT OF ECONOMIC DEVELOPMENT,  
ENVIRONMENTAL AFFAIRS AND TOURISM**

1<sup>st</sup> Floor, Beacon Hill, Hockley Close, King William's Town, 5600  
Tel: (043) 605 7171

To \_\_\_\_\_ (full names), and  
investigating officer appointed in terms of the above-mentioned Act.

Whereas it appears to me from information given on oath/solemn  
affirmation that there are reasonable grounds to suspect that an unfair  
business practice as contemplated in the said Act exists or may come into  
existence, namely:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(*describe practice*) and that the following books, documents or other  
objects which may afford evidence of unfair business practice, being

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(*describe books, documents or objects*) are in or on the premises situated  
at \_\_\_\_\_ (Address).

This warrant is therefore to authorise you to enter the said premises in the  
day time, \* and also in the time as hereby authorised in terms of section  
10(3)(d) of the said Act (*delete if applicable*), and there –

- (a) inspect or search those premises, and there make such inquiries as  
may be necessary for the purpose of obtaining information in relation to  
the said unfair business practice;

- (b) examine an object found on or in the premises which has or might have a bearing on the investigation into the said unfair business practice and request from the owner [in whose possession or charge] that object is, information regarding that object;
- (c) make copies of or extracts from a book or document found on or in the premises which has or might have a bearing on the investigation, and request from a person who is suspected of having the necessary information, an explanation of an entry therein; and
- (d) seize, against the issue of a receipt, anything on or in the premises which has or might have a bearing on the investigation, if the investigating officer needs to retain it for further examination or for safe custody.

Given under my hand this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
JUDGE/MAGISTRATE

**Form 4**  
**RECEIPT FOR ARTICLES SEIZED**

[Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998  
(Act No. 5 of 1998)]  
[Section 10(1)(d) and regulation 11]

**EASTERN CAPE DEPARTMENT OF ECONOMIC DEVELOPMENT,  
ENVIRONMENTAL AFFAIRS AND TOURISM**

1<sup>st</sup> Floor, Beacon Hill, Hockley Close, King William's Town, 5600  
Tel: (043) 605 7171

To \_\_\_\_\_  
(name of owner or person in charge of premises)

I, \_\_\_\_\_ (full names), investigating  
officer, have seized on or in the premises situated at

\_\_\_\_\_  
\_\_\_\_\_  
(address of premises) and retained for further examination or for safe  
custody, the following articles:

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_
7. \_\_\_\_\_
8. \_\_\_\_\_
9. \_\_\_\_\_
10. \_\_\_\_\_

\_\_\_\_\_  
Date

\_\_\_\_\_  
Investigating Officer

**Form 5**  
**SUMMONS INITIATING PROCEEDINGS BEFORE THE**  
**CONSUMER AFFAIRS TRIBUNAL**

[Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998  
(Act No. 5 of 1998)]

[Section 18(1) and regulation 14(1)]

**EASTERN CAPE DEPARTMENT OF ECONOMIC DEVELOPMENT,**  
**ENVIRONMENTAL AFFAIRS AND TOURISM**

To: \_\_\_\_\_ Court Ref: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

TAKE NOTICE THAT you are alleged to be responsible for the unfair  
business practice of

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(particulars of unfair business practice practice).*

THAT proceedings are hereby instituted in the Consumer Affairs Tribunal  
for the Province of the Eastern Cape/ the area of \_\_\_\_\_  
(insert area) against you as the person allegedly responsible for the  
above-mentioned business practice;

THAT the proceedings against you will commence before the Consumer  
Affairs Tribunal at \_\_\_\_\_ (place) at \_\_\_\_  
\_\_\_\_ h \_\_\_\_\_ (time) on \_\_\_\_\_ (date).;

THAT proceedings before the Consumer Affairs Tribunal will be  
prosecuted by the Office for the Investigation of Unfair Business Practices,  
who may be represented or assisted by an advocate, attorney, or another  
person approved by the Member of the Executive Council of the Province  
responsible for economic development.

AND THAT you are entitled to participate in the proceedings and may appear in person or be represented or assisted by an advocate, attorney or another person.

Section 19(3) of the Act stated that a person shall be guilty of an offence if he or she, having been summoned -

- (a) fails without sufficient cause to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the proceedings or until he or she has been excused by the tribunal from further attendance;
- (b) refuses to take the oath or make an affirmation;
- (c) refuses to answer, or to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her;
- (d) fails to produce any book, document or object in his or her possession or custody or under his or her control, which he or she was required to produce;
- (e) makes a false statement before the tribunal knowing such statement to be false or not knowing or believing it to be true.

**TAKE NOTICE THAT** Section 31 of the Act in regard to penalties is applicable and that any person who is convicted of an offence in terms of Section 19(3) of the Act shall be liable, to a fine not exceeding R20 000 or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Consumer Protector / Person authorised by Consumer Protector

\_\_\_\_\_  
Secretary of the Consumer Affairs Tribunal



**Form 6**  
**SUMMONS TO APPEAR BEFORE THE**  
**CONSUMER AFFAIRS TRIBUNAL**  
[Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998  
(Act No. 5 of 1998)]  
[Section 19(1)(a) and regulation 16(1)]

**EASTERN CAPE DEPARTMENT OF ECONOMIC DEVELOPMENT,  
ENVIRONMENTAL AFFAIRS AND TOURISM**

To: \_\_\_\_\_ Court Ref: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

In the matter of the alleged

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_ (particulars of matter in  
connection with which person summoned is required to appear)

You are hereby summoned to appear before the Consumer Affairs  
Tribunal at \_\_\_\_\_ (place) at \_\_\_\_\_ h  
\_\_\_\_\_ (time) on \_\_\_\_\_ (date).;

- \*(a) to give evidence in connection with the matter particularised above;  
and  
\*(b) to produce

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
(describe books, documents or objects) and be questioned in connection  
therewith. (\* Delete what is not applicable).

Section 19(3) of the Act stated that a person shall be guilty of an offence if he  
or she, having been summoned -

- (f) fails without sufficient cause to attend at the time and place specified in the summons, or to remain in attendance until the conclusion of the proceedings or until he or she has been excused by the tribunal from further attendance;
- (g) refuses to take the oath or make an affirmation;
- (h) refuses to answer, or to answer fully and satisfactorily to the best of his or her knowledge and belief any question lawfully put to him or her;
- (i) fails to produce any book, document or object in his or her possession or custody or under his or her control, which he or she was required to produce;
- (j) makes a false statement before the tribunal knowing such statement to be false or not knowing or believing it to be true.

**TAKE NOTICE THAT** Section 31 of the Act in regard to penalties is applicable and that any person who is convicted of an offence in terms of Section 19(3) of the Act shall be liable, to a fine not exceeding R20 000 or to imprisonment for a period not exceeding 12 months or to both such fine and imprisonment.

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Date

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Secretary of the Consumer Affairs Tribunal

**Form 7**  
**CONSUMER AFFAIRS TRIBUNAL**

**NOTICE OF MOTION TO CONFIRM AN ARRANGEMENT IN TERMS OF  
SECTION 21**

[Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998  
(Act No. 5 of 1998)]

**EASTERN CAPE DEPARTMENT OF ECONOMIC DEVELOPMENT,  
ENVIRONMENTAL AFFAIRS AND TOURISM**

In the matter between

Court ref.

Applicant

And

Respondent

KINDLY TAKE NOTE THAT the office intends to apply to the Consumer Affairs Tribunal to confirm an arrangement between the parties in terms of Section 21 of the Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998.

TAKE NOTICE FURTHER THAT the above matter has been placed on Roll for hearing on the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_ at 09h00 or so soon thereafter as the matter may be heard by the Tribunal and at the Consumer Affairs Tribunal, \_\_\_\_\_  
(address of Tribunal)

Dated at King William's Town on this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
CONSUMER PROTECTOR

To: The Secretary of the Consumer Affairs Tribunal  
Eastern Cape Province

AND TO: Respondent

Received copy hereof on \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

Time: \_\_\_\_\_

\_\_\_\_\_  
Respondent

**ANNEXURE A  
TARRIFFS**

**TARIFF 1  
SCALE OF COSTS  
SECTION 17(1)(b) and Regulation 13**

1. For the investigation by the office, an amount of R5000.
2. In addition to the amount mentioned in item 1, an amount of R3000 for each day or part of a day on which the tribunal sat for the hearing of a proceeding relating to the person allegedly implicated.

## TARIFF 3

## Remuneration Payable to a Curator who is not in the Full-time Service of the State

(Section 23(4) and Regulation 24)

1.	On the gross proceeds of movable property (other than shares or similar securities) realised or disposed of as contemplated in section 23(1)(a) or (j) of the Act, or on the gross amount collected under promissory notes or book debts, or as rent, interest or other income.	10 percent
2.	On the gross proceeds of immovable property, shares or similar securities realised or disposed of as contemplated in section 23(1)(a) or (j) of the Act, life insurance policies and mortgage bonds recovered and the balance recovered in respect of immovable property sold prior to a tribunal order under section 22(1) of the Act.	3 percent
3.	On	1 percent
	(i) Money of the person for whom the curator is appointed;	
	(ii) The gross proceeds of cheques and postal orders payable to that person; and	
	(iii) The gross proceeds amounts standing to credit of that person, in current, savings and other accounts and of fixed deposits and other deposits at banking insitutions, building societies or other financial institutions.	
4.	On sales by the curator in carrying on the business of the person, or part thereof, as contemplated in section 23(1)(d) of the Act.	6 percent
5.	On amounts and assets distributed as contemplated in section 23(1)(b) of the Act, excluding an amount on which remuneration is payable under another item of this tariff.	2 percent

Provided that the total remuneration of a curator in terms of this tariff must not be less than R2000.

**ANNEXURE C**  
**OATHS AND AFFIRMATIONS**

If a person objects to taking an oath or affirmation in a form set out in this Annexure or it appears that a person would not regard an oath or affirmation in such a form as binding on his or her conscience, such person may take an oath or affirmation to the same effect as set out in the applicable part of this Annexure in another form that the person considers binding on his or her conscience.

**Part 1**

**Oath or Affirmation by Persons Summoned to Appear before the Consumer Protector or Person authorised by the Consumer Protector and in the Service of the Office**

(Regulation 6)

"I, AB, swear / solemnly affirm that the answers that I give are the truth, the whole truth and nothing but the truth. (In the case of an oath): So help me God."

\_\_\_\_\_  
DEPONENT

I certify that the deponent acknowledges that he/she \* knows and understands the contents of this oath/affirmation \* and has no objection to taking the prescribed oath/affirmation\* which was signed and sworn before me at \_\_\_\_\_  
On this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ .

\_\_\_\_\_  
Consumer Protector/  
Person authorised by Consumer Protector  
Ex Officio: Commissioner of Oaths

**Part 2****Oath or Affirmation by Member or Alternate Member of the Tribunal  
(Regulation 12)**

"I, AB, swear/solemnly affirm \* that, as a member/alternate member\* of the Consumer Affairs Tribunal for the Province of the Eastern Cape / the area of \_\_\_\_\_ (insert area), I will truly and faithfully uphold and apply the Consumer Affairs (Unfair Business Practices) Act (Eastern Cape), 1998 (Act No. 5 of 1998). (In the case of an oath:) So help me God."

\_\_\_\_\_  
DEPONENT

I certify that the deponent acknowledges that he/she \* knows and understands the contents of this oath/affirmation \* and has no objection to taking the prescribed oath/affirmation\* which was signed and sworn before me at \_\_\_\_\_  
On this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
MEC: Economic Development,  
Environmental Affairs and Tourism

**Part 3****Oath or Affirmation by Person Summoned  
(Regulation 17 )**

"I, AB, swear / solemnly affirm that the evidence which I shall give is the truth, the whole truth and nothing but the truth. (In the case of an oath): So help me God."

\_\_\_\_\_  
DEPONENT

I certify that the deponent acknowledges that he/she \* knows and understands the contents of this oath/affirmation \* and has no objection to taking the prescribed oath/affirmation\* which was signed and sworn before me at \_\_\_\_\_  
On this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_.

\_\_\_\_\_  
Member of the Consumer Affairs Tribunal

**Part 4****Oath or Affirmation by Transcriber  
(Regulation 25(1))**

"I, AB, swear/solemnly affirm –

- (a) That I shall faithfully and to the best of my ability take down/record the proceedings of the Consumer Affairs Tribunal for the Eastern Cape/ the area of \_\_\_\_\_ (insert area), in short hand/by mechanical means as ordered by the chairperson of the tribunal or other person presiding;
- (b) That I shall transcribe fully and to the best of my ability shorthand notes / mechanical record of the proceedings of the Consumer Affairs Tribunal for the Eastern Cape / the area of \_\_\_\_\_ (insert area), made by me or by another person. (in the case of an oath:) So help me God."

\_\_\_\_\_  
DEPONENT

I certify that the deponent acknowledges that he/she \* knows and understands the contents of this oath/affirmation \* and has no objection to taking the prescribed oath/affirmation\* which was signed and sworn before me at \_\_\_\_\_  
On this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_\_ .

\_\_\_\_\_  
Secretary of the Consumer Affairs Tribunal

**Part 5****Oath or Affirmation by Interpreter or Accredited Language Practitioner  
(Regulation 25(2))**

"I, AB, swear/solemnly affirm \* that, whenever I am called upon to perform the functions of an interpreter in the proceedings in the Consumer Affairs Tribunal for the Province of the Eastern Cape / the area of \_\_\_\_\_ (insert area), I will truly and correctly to the best of my ability interpret from the language which I may be called upon to interpret into another language as required by the Tribunal, and the other way around. (In the case of an oath:) So help me God."

\_\_\_\_\_  
DEPONENT



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I certify that the deponent acknowledges that he/she \* knows and understands the contents of this oath/affirmation \* and has no objection to taking the prescribed oath/affirmation\* which was signed and sworn before me at \_\_\_\_\_  
On this the \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_  
Secretary of the Consumer Affairs Tribunal

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