



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

**Provincial Gazette
Igazethi Yephondo
Provinsiale Koerant**

Vol. 27

BISHO/KING WILLIAM'S TOWN
10 FEBRUARY 2020
10 FEBRUARIE 2020

No. 4382

We all have the power to prevent AIDS



**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

Prevention is the cure

N.B. The Government Printing Works will not be held responsible for the quality of "Hard Copies" or "Electronic Files" submitted for publication purposes

ISSN 1682-4556



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IMPORTANT NOTICE OF OFFICE RELOCATION

government
printing

Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICA

Private Bag X85, PRETORIA, 0001 149 Bosman Street, PRETORIA
Tel: 012 748 6197, Website: www.gpwonline.co.za

URGENT NOTICE TO OUR VALUED CUSTOMERS: PUBLICATIONS OFFICE'S RELOCATION HAS BEEN TEMPORARILY SUSPENDED.

Please be advised that the GPW Publications office will no longer move to 88 Visagie Street as indicated in the previous notices.

The move has been suspended due to the fact that the new building in 88 Visagie Street is not ready for occupation yet.

We will later on issue another notice informing you of the new date of relocation.

We are doing everything possible to ensure that our service to you is not disrupted.

As things stand, we will continue providing you with our normal service from the current location at 196 Paul Kruger Street, Masada building.

Customers who seek further information and or have any questions or concerns are free to contact us through telephone 012 748 6066 or email Ms Maureen Toka at Maureen.Toka@gpw.gov.za or cell phone at 082 859 4910.

Please note that you will still be able to download gazettes free of charge from our website www.gpwonline.co.za.

We apologise for any inconvenience this might have caused.

Issued by GPW Communications

IMPORTANT NOTICE:

THE GOVERNMENT PRINTING WORKS WILL NOT BE HELD RESPONSIBLE FOR ANY ERRORS THAT MIGHT OCCUR DUE TO THE SUBMISSION OF INCOMPLETE / INCORRECT / ILLEGIBLE COPY.

No FUTURE QUERIES WILL BE HANDLED IN CONNECTION WITH THE ABOVE.

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government
printing

Department:
Government Printing Works
REPUBLIC OF SOUTH AFRICA

HIGH ALERT: SCAM WARNING!!!

TO ALL SUPPLIERS AND SERVICE PROVIDERS OF THE GOVERNMENT PRINTING WORKS

It has come to the attention of the *GOVERNMENT PRINTING WORKS* that there are certain unscrupulous companies and individuals who are defrauding unsuspecting businesses disguised as representatives of the *Government Printing Works (GPW)*.

The scam involves the fraudsters using the letterhead of *GPW* to send out fake tender bids to companies and requests to supply equipment and goods.

Although the contact person's name on the letter may be of an existing official, the contact details on the letter are not the same as the *Government Printing Works*. When searching on the Internet for the address of the company that has sent the fake tender document, the address does not exist.

The banking details are in a private name and not company name. Government will never ask you to deposit any funds for any business transaction. *GPW* has alerted the relevant law enforcement authorities to investigate this scam to protect legitimate businesses as well as the name of the organisation.

Example of e-mails these fraudsters are using:

PROCUREMENT@GPW-GOV.ORG

Should you suspect that you are a victim of a scam, you must urgently contact the police and inform the *GPW*.

GPW has an official email with the domain as @gpw.gov.za

Government e-mails DO NOT have org in their e-mail addresses. All of these fraudsters also use the same or very similar telephone numbers. Although such number with an area code 012 looks like a landline, it is not fixed to any property.

GPW will never send you an e-mail asking you to supply equipment and goods without a purchase/order number. *GPW* does not procure goods for another level of Government. The organisation will not be liable for actions that result in companies or individuals being resultant victims of such a scam.

Government Printing Works gives businesses the opportunity to supply goods and services through RFQ / Tendering process. In order to be eligible to bid to provide goods and services, suppliers must be registered on the National Treasury's Central Supplier Database (CSD). To be registered, they must meet all current legislative requirements (e.g. have a valid tax clearance certificate and be in good standing with the South African Revenue Services - SARS).

The tender process is managed through the Supply Chain Management (SCM) system of the department. SCM is highly regulated to minimise the risk of fraud, and to meet objectives which include value for money, open and effective competition, equitability, accountability, fair dealing, transparency and an ethical approach. Relevant legislation, regulations, policies, guidelines and instructions can be found on the tender's website.

Fake Tenders

National Treasury's CSD has launched the Government Order Scam campaign to combat fraudulent requests for quotes (RFQs). Such fraudulent requests have resulted in innocent companies losing money. We work hard at preventing and fighting fraud, but criminal activity is always a risk.

How tender scams work

There are many types of tender scams. Here are some of the more frequent scenarios:

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to a company to invite it to urgently supply goods. Shortly after the company has submitted its quote, it receives notification that it has won the tender. The company delivers the goods to someone who poses as an official or at a fake site. The Department has no idea of this transaction made in its name. The company is then never paid and suffers a loss.

OR

Fraudsters use what appears to be government department stationery with fictitious logos and contact details to send a fake RFQ to Company A to invite it to urgently supply goods. Typically, the tender specification is so unique that only Company B (a fictitious company created by the fraudster) can supply the goods in question.

Shortly after Company A has submitted its quote it receives notification that it has won the tender. Company A orders the goods and pays a deposit to the fictitious Company B. Once Company B receives the money, it disappears. Company A's money is stolen in the process.

Protect yourself from being scammed

- If you are registered on the supplier databases and you receive a request to tender or quote that seems to be from a government department, contact the department to confirm that the request is legitimate. Do not use the contact details on the tender document as these might be fraudulent.
- Compare tender details with those that appear in the Tender Bulletin, available online at www.gpwonline.co.za
- Make sure you familiarise yourself with how government procures goods and services. Visit the tender website for more information on how to tender.
- If you are uncomfortable about the request received, consider visiting the government department and/or the place of delivery and/or the service provider from whom you will be sourcing the goods.
- In the unlikely event that you are asked for a deposit to make a bid, contact the SCM unit of the department in question to ask whether this is in fact correct.

Any incidents of corruption, fraud, theft and misuse of government property in the *Government Printing Works* can be reported to:

Supply Chain Management: Ms. Anna Marie Du Toit, Tel. (012) 748 6292.
Email: Annamarie.DuToit@gpw.gov.za

Marketing and Stakeholder Relations: Ms Bonakele Mbhele, at Tel. (012) 748 6193.
Email: Bonakele.Mbhele@gpw.gov.za

Security Services: Mr Daniel Legoabe, at tel. (012) 748 6176.
Email: Daniel.Legoabe@gpw.gov.za

Closing times for **ORDINARY WEEKLY** **2020** **EASTERN CAPE PROVINCIAL GAZETTE**

The closing time is 15:00 sharp on the following days:

- **19 December 2019**, Thursday for the issue of Monday **30 December 2019**
- **27 December 2019**, Friday for the issue of Monday **06 January 2020**
- **06 January**, Monday for the issue of Monday **13 January 2020**
- **13 January**, Monday for the issue of Monday **20 January 2020**
- **20 January**, Monday for the issue of Monday **27 January 2020**
- **27 January**, Monday for the issue of Monday **03 February 2020**
- **03 February**, Monday for the issue of Monday **10 February 2020**
- **10 February**, Monday for the issue of Monday **17 February 2020**
- **17 February**, Monday for the issue of Monday **24 February 2020**
- **24 February**, Monday for the issue of Monday **02 March 2020**
- **02 March**, Monday for the issue of Monday **09 March 2020**
- **09 March**, Monday for the issue of Monday **16 March 2020**
- **16 March**, Friday for the issue of Monday **23 March 2020**
- **23 March**, Monday for the issue of Monday **30 March 2020**
- **30 March**, Monday for the issue of Monday **06 April 2020**
- **03 April**, Monday for the issue of Monday **13 April 2020**
- **09 April**, Thursday for the issue of Monday **20 April 2020**
- **20 April**, Monday for the issue of Monday **27 April 2020**
- **24 April**, Friday for the issue of Monday **04 May 2020**
- **04 May**, Monday for the issue of Monday **11 May 2020**
- **11 May**, Monday for the issue of Monday **18 May 2020**
- **18 May**, Monday for the issue of Monday **25 May 2020**
- **25 May**, Monday for the issue of Monday **01 June 2020**
- **01 June**, Monday for the issue of Monday **08 June 2020**
- **08 June**, Monday for the issue of Monday **15 June 2020**
- **12 June**, Friday for the issue of Monday **22 June 2020**
- **22 June**, Monday for the issue of Monday **29 June 2020**
- **29 June**, Monday for the issue of Monday **06 July 2020**
- **06 July**, Monday for the issue of Monday **13 July 2020**
- **13 July**, Monday for the issue of Monday **20 July 2020**
- **20 July**, Monday for the issue of Monday **27 July 2020**
- **27 July**, Monday for the issue of Monday **03 August 2020**
- **03 August**, Monday for the issue of Monday **10 August 2020**
- **07 August**, Friday for the issue of Monday **17 August 2020**
- **17 August**, Monday for the issue of Monday **24 August 2020**
- **24 August**, Monday for the issue of Monday **31 August 2020**
- **31 August**, Monday for the issue of Monday **07 September 2020**
- **07 September**, Monday for the issue of Monday **14 September 2020**
- **14 September**, Monday for the issue of Monday **21 September 2020**
- **18 September**, Friday for the issue of Monday **28 September 2020**
- **28 September**, Monday for the issue of Monday **05 October 2020**
- **05 October**, Monday for the issue of Monday **12 October 2020**
- **12 October**, Monday for the issue of Monday **19 October 2020**
- **19 October**, Monday for the issue of Monday **26 October 2020**
- **26 October**, Monday for the issue of Monday **02 November 2020**
- **02 November**, Monday for the issue of Monday **09 November 2020**
- **09 November**, Monday for the issue of Monday **16 November 2020**
- **16 November**, Monday for the issue of Monday **23 November 2020**
- **23 November**, Monday for the issue of Monday **30 November 2020**
- **30 November**, Monday for the issue of Monday **07 December 2020**
- **07 December**, Monday for the issue of Monday **14 December 2020**
- **11 December**, Friday for the issue of Monday **21 December 2020**
- **18 December**, Friday for the issue of Monday **28 December 2020**

LIST OF TARIFF RATES FOR PUBLICATION OF NOTICES

COMMENCEMENT: 1 APRIL 2018

NATIONAL AND PROVINCIAL

Notice sizes for National, Provincial & Tender gazettes 1/4, 2/4, 3/4, 4/4 per page. Notices submitted will be charged at R1008.80 per full page, pro-rated based on the above categories.

Pricing for National, Provincial - Variable Priced Notices		
Notice Type	Page Space	New Price (R)
Ordinary National, Provincial	1/4 - Quarter Page	252.20
Ordinary National, Provincial	2/4 - Half Page	504.40
Ordinary National, Provincial	3/4 - Three Quarter Page	756.60
Ordinary National, Provincial	4/4 - Full Page	1008.80

EXTRA-ORDINARY

All Extra-ordinary National and Provincial gazette notices are non-standard notices and attract a variable price based on the number of pages submitted.

The pricing structure for National and Provincial notices which are submitted as **Extra ordinary submissions** will be charged at **R3026.32** per page.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

The **Government Printing Works (GPW)** has established rules for submitting notices in line with its electronic notice processing system, which requires the use of electronic *Adobe Forms*. Please ensure that you adhere to these guidelines when completing and submitting your notice submission.

CLOSING TIMES FOR ACCEPTANCE OF NOTICES

1. The *Government Gazette* and *Government Tender Bulletin* are weekly publications that are published on Fridays and the closing time for the acceptance of notices is strictly applied according to the scheduled time for each gazette.

2. Please refer to the Submission Notice Deadline schedule in the table below. This schedule is also published online on the Government Printing works website www.gpwonline.co.za

All re-submissions will be subject to the standard cut-off times.

All notices received after the closing time will be rejected.

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
National Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Regulation Gazette	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Petrol Price Gazette	Monthly	Tuesday before 1st Wednesday of the month	One day before publication	1 working day prior to publication
Road Carrier Permits	Weekly	Friday	Thursday 15h00 for next Friday	3 working days prior to publication
Unclaimed Monies (Justice, Labour or Lawyers)	January / September 2 per year	Last Friday	One week before publication	3 working days prior to publication
Parliament (Acts, White Paper, Green Paper)	As required	Any day of the week	None	3 working days prior to publication
Manuals	Bi- Monthly	2nd and last Thursday of the month	One week before publication	3 working days prior to publication
State of Budget (National Treasury)	Monthly	30th or last Friday of the month	One week before publication	3 working days prior to publication
<i>Extraordinary Gazettes</i>	As required	Any day of the week	<i>Before 10h00 on publication date</i>	<i>Before 10h00 on publication date</i>
Legal Gazettes A, B and C	Weekly	Friday	One week before publication	Tuesday, 15h00 - 3 working days prior to publication
Tender Bulletin	Weekly	Friday	Friday 15h00 for next Friday	Tuesday, 15h00 - 3 working days prior to publication
Gauteng	Weekly	Wednesday	Two weeks before publication	3 days after submission deadline
Eastern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
Northern Cape	Weekly	Monday	One week before publication	3 working days prior to publication
North West	Weekly	Tuesday	One week before publication	3 working days prior to publication
KwaZulu-Natal	Weekly	Thursday	One week before publication	3 working days prior to publication
Limpopo	Weekly	Friday	One week before publication	3 working days prior to publication
Mpumalanga	Weekly	Friday	One week before publication	3 working days prior to publication

GOVERNMENT PRINTING WORKS - BUSINESS RULES

Government Gazette Type	Publication Frequency	Publication Date	Submission Deadline	Cancellations Deadline
Gauteng Liquor License Gazette	Monthly	Wednesday before the First Friday of the month	Two weeks before publication	3 working days after submission deadline
Northern Cape Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
National Liquor License Gazette	Monthly	First Friday of the month	Two weeks before publication	3 working days after submission deadline
Mpumalanga Liquor License Gazette	Bi-Monthly	Second & Fourth Friday	One week before publication	3 working days prior to publication

EXTRAORDINARY GAZETTES

3. *Extraordinary Gazettes* can have only one publication date. If multiple publications of an *Extraordinary Gazette* are required, a separate Z95/Z95Prov *Adobe* Forms for each publication date must be submitted.

NOTICE SUBMISSION PROCESS

4. Download the latest *Adobe* form, for the relevant notice to be placed, from the **Government Printing Works** website www.gpwonline.co.za.
5. The *Adobe* form needs to be completed electronically using *Adobe Acrobat / Acrobat Reader*. Only electronically completed *Adobe* forms will be accepted. No printed, handwritten and/or scanned *Adobe* forms will be accepted.
6. The completed electronic *Adobe* form has to be submitted via email to submit.egazette@gpw.gov.za. The form needs to be submitted in its original electronic *Adobe* format to enable the system to extract the completed information from the form for placement in the publication.
7. Every notice submitted **must** be accompanied by an official **GPW** quotation. This must be obtained from the *eGazette* Contact Centre.
8. Each notice submission should be sent as a single email. The email **must** contain **all documentation relating to a particular notice submission**.
 - 8.1. Each of the following documents must be attached to the email as a separate attachment:
 - 8.1.1. An electronically completed *Adobe* form, specific to the type of notice that is to be placed.
 - 8.1.1.1. For National *Government Gazette* or *Provincial Gazette* notices, the notices must be accompanied by an electronic Z95 or Z95Prov *Adobe* form
 - 8.1.1.2. The notice content (body copy) **MUST** be a separate attachment.
 - 8.1.2. A copy of the official **Government Printing Works** quotation you received for your notice. (*Please see Quotation section below for further details*)
 - 8.1.3. A valid and legible Proof of Payment / Purchase Order: **Government Printing Works** account customer must include a copy of their Purchase Order. **Non-Government Printing Works** account customer needs to submit the proof of payment for the notice
 - 8.1.4. Where separate notice content is applicable (Z95, Z95 Prov and TForm 3, it should **also** be attached as a separate attachment. (*Please see the Copy Section below, for the specifications*).
 - 8.1.5. Any additional notice information if applicable.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

9. The electronic *Adobe* form will be taken as the primary source for the notice information to be published. Instructions that are on the email body or covering letter that contradicts the notice form content will not be considered. The information submitted on the electronic *Adobe* form will be published as-is.
10. To avoid duplicated publication of the same notice and double billing, Please submit your notice **ONLY ONCE**.
11. Notices brought to **GPW** by “walk-in” customers on electronic media can only be submitted in *Adobe* electronic form format. All “walk-in” customers with notices that are not on electronic *Adobe* forms will be routed to the Contact Centre where they will be assisted to complete the forms in the required format.
12. Should a customer submit a bulk submission of hard copy notices delivered by a messenger on behalf of any organisation e.g. newspaper publisher, the messenger will be referred back to the sender as the submission does not adhere to the submission rules.

QUOTATIONS

13. Quotations are valid until the next tariff change.
 - 13.1. **Take note:** **GPW's** annual tariff increase takes place on **1 April** therefore any quotations issued, accepted and submitted for publication up to **31 March** will keep the old tariff. For notices to be published from 1 April, a quotation must be obtained from **GPW** with the new tariffs. Where a tariff increase is implemented during the year, **GPW** endeavours to provide customers with 30 days' notice of such changes.
14. Each quotation has a unique number.
15. Form Content notices must be emailed to the *eGazette* Contact Centre for a quotation.
 - 15.1. The *Adobe* form supplied is uploaded by the Contact Centre Agent and the system automatically calculates the cost of your notice based on the layout/format of the content supplied.
 - 15.2. It is critical that these *Adobe* Forms are completed correctly and adhere to the guidelines as stipulated by **GPW**.
16. **APPLICABLE ONLY TO GPW ACCOUNT HOLDERS:**
 - 16.1. **GPW** Account Customers must provide a valid **GPW** account number to obtain a quotation.
 - 16.2. Accounts for **GPW** account customers **must** be active with sufficient credit to transact with **GPW** to submit notices.
 - 16.2.1. If you are unsure about or need to resolve the status of your account, please contact the **GPW** Finance Department prior to submitting your notices. (If the account status is not resolved prior to submission of your notice, the notice will be failed during the process).
17. **APPLICABLE ONLY TO CASH CUSTOMERS:**
 - 17.1. Cash customers doing **bulk payments** must use a **single email address** in order to use the **same proof of payment** for submitting multiple notices.
18. The responsibility lies with you, the customer, to ensure that the payment made for your notice(s) to be published is sufficient to cover the cost of the notice(s).
19. Each quotation will be associated with one proof of payment / purchase order / cash receipt.
 - 19.1. This means that **the quotation number can only be used once to make a payment.**

GOVERNMENT PRINTING WORKS - BUSINESS RULES**COPY (SEPARATE NOTICE CONTENT DOCUMENT)**

20. Where the copy is part of a separate attachment document for Z95, Z95Prov and TForm03
- 20.1. Copy of notices must be supplied in a separate document and may not constitute part of any covering letter, purchase order, proof of payment or other attached documents.
- The content document should contain only one notice. (You may include the different translations of the same notice in the same document).
- 20.2. The notice should be set on an A4 page, with margins and fonts set as follows:
- Page size = A4 Portrait with page margins: Top = 40mm, LH/RH = 16mm, Bottom = 40mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;
- Page size = A4 Landscape with page margins: Top = 16mm, LH/RH = 40mm, Bottom = 16mm;
Use font size: Arial or Helvetica 10pt with 11pt line spacing;

CANCELLATIONS

21. Cancellation of notice submissions are accepted by **GPW** according to the deadlines stated in the table above in point 2. Non-compliance to these deadlines will result in your request being failed. Please pay special attention to the different deadlines for each gazette. Please note that any notices cancelled after the cancellation deadline will be published and charged at full cost.
22. Requests for cancellation must be sent by the original sender of the notice and must accompanied by the relevant notice reference number (N-) in the email body.

AMENDMENTS TO NOTICES

23. With effect from 01 October 2015, **GPW** will not longer accept amendments to notices. The cancellation process will need to be followed according to the deadline and a new notice submitted thereafter for the next available publication date.

REJECTIONS

24. All notices not meeting the submission rules will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za). Reasons for rejections include the following:
- 24.1. Incorrectly completed forms and notices submitted in the wrong format, will be rejected.
- 24.2. Any notice submissions not on the correct *Adobe* electronic form, will be rejected.
- 24.3. Any notice submissions not accompanied by the proof of payment / purchase order will be rejected and the notice will not be processed.
- 24.4. Any submissions or re-submissions that miss the submission cut-off times will be rejected to the customer. The Notice needs to be re-submitted with a new publication date.

GOVERNMENT PRINTING WORKS - BUSINESS RULES**APPROVAL OF NOTICES**

25. Any notices other than legal notices are subject to the approval of the Government Printer, who may refuse acceptance or further publication of any notice.
26. No amendments will be accepted in respect to separate notice content that was sent with a Z95 or Z95Prov notice submissions. The copy of notice in layout format (previously known as proof-out) is only provided where requested, for Advertiser to see the notice in final Gazette layout. Should they find that the information submitted was incorrect, they should request for a notice cancellation and resubmit the corrected notice, subject to standard submission deadlines. The cancellation is also subject to the stages in the publishing process, i.e. If cancellation is received when production (printing process) has commenced, then the notice cannot be cancelled.

GOVERNMENT PRINTER INDEMNIFIED AGAINST LIABILITY

27. The Government Printer will assume no liability in respect of—
 - 27.1. any delay in the publication of a notice or publication of such notice on any date other than that stipulated by the advertiser;
 - 27.2. erroneous classification of a notice, or the placement of such notice in any section or under any heading other than the section or heading stipulated by the advertiser;
 - 27.3. any editing, revision, omission, typographical errors or errors resulting from faint or indistinct copy.

LIABILITY OF ADVERTISER

28. Advertisers will be held liable for any compensation and costs arising from any action which may be instituted against the Government Printer in consequence of the publication of any notice.

CUSTOMER INQUIRIES

Many of our customers request immediate feedback/confirmation of notice placement in the gazette from our Contact Centre once they have submitted their notice – While **GPW** deems it one of their highest priorities and responsibilities to provide customers with this requested feedback and the best service at all times, we are only able to do so once we have started processing your notice submission.

GPW has a 2-working day turnaround time for processing notices received according to the business rules and deadline submissions.

Please keep this in mind when making inquiries about your notice submission at the Contact Centre.

29. Requests for information, quotations and inquiries must be sent to the Contact Centre **ONLY**.
30. Requests for Quotations (RFQs) should be received by the Contact Centre at least **2 working days** before the submission deadline for that specific publication.

GOVERNMENT PRINTING WORKS - BUSINESS RULES

PAYMENT OF COST

31. The Request for Quotation for placement of the notice should be sent to the Gazette Contact Centre as indicated above, prior to submission of notice for advertising.
32. Payment should then be made, or Purchase Order prepared based on the received quotation, prior to the submission of the notice for advertising as these documents i.e. proof of payment or Purchase order will be required as part of the notice submission, as indicated earlier.
33. Every proof of payment must have a valid **GPW** quotation number as a reference on the proof of payment document.
34. Where there is any doubt about the cost of publication of a notice, and in the case of copy, an enquiry, accompanied by the relevant copy, should be addressed to the Gazette Contact Centre, **Government Printing Works**, Private Bag X85, Pretoria, 0001 email: info.egazette@gpw.gov.za before publication.
35. Overpayment resulting from miscalculation on the part of the advertiser of the cost of publication of a notice will not be refunded, unless the advertiser furnishes adequate reasons why such miscalculation occurred. In the event of underpayments, the difference will be recovered from the advertiser, and future notice(s) will not be published until such time as the full cost of such publication has been duly paid in cash or electronic funds transfer into the **Government Printing Works** banking account.
36. In the event of a notice being cancelled, a refund will be made only if no cost regarding the placing of the notice has been incurred by the **Government Printing Works**.
37. The **Government Printing Works** reserves the right to levy an additional charge in cases where notices, the cost of which has been calculated in accordance with the List of Fixed Tariff Rates, are subsequently found to be excessively lengthy or to contain overmuch or complicated tabulation.

PROOF OF PUBLICATION

38. Copies of any of the *Government Gazette* or *Provincial Gazette* can be downloaded from the **Government Printing Works** website www.gpwonline.co.za free of charge, should a proof of publication be required.
39. Printed copies may be ordered from the Publications department at the ruling price. The **Government Printing Works** will assume no liability for any failure to post or for any delay in despatching of such *Government Gazette*(s)

GOVERNMENT PRINTING WORKS CONTACT INFORMATION

Physical Address:
Government Printing Works

149 Bosman Street

Pretoria

Postal Address:

Private Bag X85

Pretoria

0001

GPW Banking Details:
Bank: ABSA Bosman Street

Account No.: 405 7114 016

Branch Code: 632-005

For Gazette and Notice submissions: Gazette Submissions:

For queries and quotations, contact: Gazette Contact Centre:

E-mail: submit.egazette@gpw.gov.za
E-mail: info.egazette@gpw.gov.za
Tel: 012-748 6200

Contact person for subscribers: Mrs M. Toka:

E-mail: subscriptions@gpw.gov.za
Tel: 012-748-6066 / 6060 / 6058

Fax: 012-323-9574

PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 21 OF 2020

Nelson Mandela Bay Municipality (EASTERN CAPE)

Removal of Restrictions in terms of the Spatial Planning and Land Use Management Act, 2013 (Act 16 of 2013)

ERF 141, SUNRIDGE PARK, PORT ELIZABETH, EASTERN CAPE

Under Section 47 of the Spatial Planning and Land Use Management Act, (Act 16 of 2013) and upon instructions by the Local Authority, a notice is hereby given that condition/s B.3.(a), (b), (c), (d) and C.(i) in Deed of Transfer No. T4774/1967 applicable to Erf 141, Sunridge Park, Port Elizabeth are hereby removed.

PROVINCIAL NOTICE 22 OF 2020

BUFFALO CITY FRESH PRODUCT MARKET BY-LAW

Buffalo City Metropolitan Municipality
East London | Bhisho | King William's Town
Province of the Eastern Cape
South Africa

Website: www.buffalocity.gov.za



**BUFFALO CITY
METROPOLITAN MUNICIPALITY**

Office of the City Manger
Legal Services Department
PO BOX 134, East London,5200
9th Floor, Trust Centre, East London,5201

Tel: 043 705 1006 | **Fax:** 043 722 3448
Email: SiphathoH@buffalocity.gov.za

**DRAFT BY- LAW ON
BUFFALO CITY FRESH PRODUCE
MARKET**

ARRANGEMENT OF BY-LAW

1. Preamble
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3. Interpretation
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- 7. Enforcement of the by-law
- 8. Offences
- 9. Sanctions
- 10. Appeals and appeals procedure
- 11. Review
- 12. Repeal
- 13. Short Title

The Buffalo City Metropolitan Municipality enacts a By-Law on Fresh Produce Market in terms of Section 156 (2) of the Constitution of the Republic of South Africa, 1996 which provides that a Municipality may make and administer by-laws for the effective administration of the matters which it has the right to administer. This section of the Constitution must be read together with Section 11 (3) (m) of the Local Government: Municipal Systems Act 32 of 2000 which states that a Municipality exercise its Legislative and its Executive Authority by passing by-laws and taking decisions on any matter falling within its competence and within its area of jurisdiction.

1. PREAMBLE

WHEREAS the *Constitution of the Republic of South Africa, 1996*, read together with the *Local Government: Municipal Systems Act, 2000 (Act 32 of 2000)*, the *Local Government: Municipal Structures Act, 1998 (Act 117 of 1998)*, the *Local Government: Municipal Finance Management Act, 2003 (Act 56 of 2003)* as well as various other pieces of legislation, empowers the Buffalo City Municipality to administer and render the services of a fresh-produce market;

AND WHEREAS the Constitution enjoins local government to be developmental and address the service delivery priorities of the Republic of South Africa and promote the economic and financial viability of the broader community;

AND WHEREAS there is a need to provide local government with access to a sufficient and buoyant source of revenue to fulfil its developmental responsibilities;

AND WHEREAS it is critical for municipalities to achieve their constitutional objectives and eradicate discriminatory laws of the past;

AND WHEREAS it is essential that municipalities exercise their powers in an open and democratic society with due regard for good corporate governance, the principles of accountability and transparency and the Batho Pele principles;

THEREFORE, Buffalo City Municipality enacts a By-Law on Fresh Produce Market in terms of Section 156 (2) of the Constitution of the Republic of South Africa, 1996, read together with Section 11 (3) (m) of the Local Government: Municipal Systems 32 of 2000, as follows:

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2. Definitions

In this by-law, unless the context otherwise indicates, the following words shall have the meanings as indicated below:

"Act" means the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992) as amended by the *Agricultural Produce Agents Amendment Act, 2003* (Act No. 47 of 2003) and the Rules in Respect of Fresh Produce Agents published in Government Gazette 27892 on 19 August 2005;

"agricultural product" means an article specified in Part A or B of Schedule 1 or any article added thereto in terms of section 12 of the Act, or any article which in general appearance, presentation and intended use corresponds to an article referred to in Part A or B of Schedule 1 to the Act;

"appeal" means an appeal in terms of section 62 of the Municipal Systems Act;

"bank" means a public company registered as a bank in terms of the *Banks Act, 1990* (Act No. 94 of 1990);

"municipality" means the Buffalo City Metropolitan Municipality, a Category A municipality in terms of Section 155 (1) (a) of the Constitution of the Republic of South Africa, 1996, read together with Section 12 of the Local Government: Municipal Structures Act, 117 of 1998; and includes an official authorised by the municipality to exercise any one or more of the powers provided for under this By-law;

"buyer" means any person who purchases an agricultural product at the market;

"Buyers card" means any official device issued to a buyer for which a fee may be determined, that enables the holder thereof to transact on the market floor on a daily basis;

“by-laws” means this by-law, as amended from time to time;

“code of conduct” means the policy document as published from time to time by the General Manager containing the norms and values regulating to the conduct of sales at the market;

"consigner" means the person who, at the time of its delivery to the market agent, carried the risk of profit or loss of an agricultural product;

"consignment" means any quantity of produce consisting of distinct units of the same kind of produce simultaneously entrusted to the General Manager or a market agent for sale on behalf of any person;

"Constitution" means the *Constitution of the Republic of South Africa, 1996*;

"container" means any box, tray, crate, bag, package; or other receptacle;

"Council" means the highest decision-making body of Buffalo City Metropolitan Municipality in terms of Section 151 (2) of the Constitution of the Republic of South Africa, 1996, or any officer or employee to whom the Council has delegated any of its powers;

"designated area" means the control point as determined by the General Manager from time to time where the consigner will declare an agricultural product for delivery at the Buffalo City Fresh Produce Market;

"direct sale" means a sale of an agricultural product taking place on the market premises without the intervention of a market agent and not in accordance with the official sales system employed at the market;

"fee" means a fee, charge or tariff levied annually by the Buffalo City Municipality in terms of the Municipal Systems Act in respect of a city function or service;

"fidelity fund certificate" means a fidelity fund certificate issued in terms of section 16 of the Agricultural Produce Agents Act (Act 12 of 1992);

"floor sale" means a sale concluded on the market floor between a market agent and any third party through the official market sales system;

"General Manager" means the person appointed as such by the Buffalo City Metropolitan Municipality, or his duly authorised representative;

"informal trader/retailer" means a person other than a market agent in respect of whom a service level agreement or any other agreement exists with the Buffalo City Municipality for such person to conduct a business on the market premises whereby a market product is sold to consumers;

"market administration" means the duly appointed management team responsible for the management of the market on behalf of the Buffalo City Municipality;

"market agent" means a fresh produce agent (as defined in Section 1 of the Agricultural Produce Agents Act (Act 12 of 1992) who, for the acquisition of gain on his or her own account or in a partnership, in any manner holds himself or herself out as a person who either directly or indirectly advertises that he or she, on the instructions of or on behalf of any other person, purchases or sells agricultural produce or negotiates in connection therewith or canvasses or undertakes or offers to canvass a purchaser or seller therefor and who is permitted by the Council to operate at the market on the market floor;

"market agent's licence" means a market agent's licence issued in terms of section 13(3) of this by-law;

"market floor" means the floor area of a market hall situated on the market premises and reserved exclusively for trading by market agents;

"market hall" means an area on the market premises allocated for the purpose of displaying and selling an agricultural product;

"market premises" means the immovable property situated on portion of Erf 467 and portion of Erf 1010, Wilsonia, East London and includes any other property or premises designated by the Buffalo City Municipality for the purpose of conducting the business of a fresh-produce market or any other business or businesses incidental thereto;

"market product" means –

- (a) with regard to market agents, an agricultural product; and
- (b) with regard to wholesalers, retailers and informal traders, an agricultural product and any article or item approved in writing by the General Manager, which article or item is to be offered for sale on the market premises;

"market sale" means any sale which takes place on a market or which is otherwise authorised by the General Manager;

"Municipal Structures Act" means the *Local Government: Municipal Structures Act*, 1998 (Act No. 117 of 1998), as amended;

"Municipal Systems Act" means the *Local Government: Municipal Systems Act*, 2000 (Act No. 32 of 2000), as amended;

"Municipal Finance Management Act; means the *Local Government: Municipal Finance Management Act*, 2003 (Act No. 56 of 2003)

“official market sales system” means the sales system provided by market administration to facilitate sales transactions between market agents and buyers, and includes any reference to a virtual trading system;

“offloading area” means any area that is designated for the offloading of an agricultural product as determined by the General Manager from time to time;

"operational unit" means a mechanical vehicle or device powered by electricity, battery, gas or fuel, and includes –

- (a) a forklift;
- (b) a cleaning or washer unit or device;
- (c) a maintenance unit or device;
- (d) a self-propelled specialized unit;
- (e) visitors trolleys;
- (f) or any other unit in use for operational purposes at the market and approved in writing by the General Manager;

"person" means a natural person, a trust and includes any legal entity recognised by law;

"porter" means a self-employed person who is hired to convey an agricultural product at the market;

"porter's permit" means a permit issued by the General Manager in terms of section 28 (2) of this by-law;

"sales docket" means documentary proof of a sale issued in terms of section 22(4);

"sales permit" means a permit issued in terms of section 16(3);

"salesperson" means an individual employed by a market agent who is the holder of a sales permit issued by the General Manager and who is the holder of a fidelity fund certificate (sales licence) issued by the Agricultural Produce Agent's Council in terms of the Act, and who trades on the market floor;

"sell" means sell as defined in section 1 of the Marketing Act, 1937 (Act 26 of 1937), as amended;

"selling price" means the amount for which any article or produce has been sold to a buyer;

"service level agreement" means an agreement or contract between two or more parties, where a service is provided according to a set standard;

"unit" means the quantity of any produce which forms the basis, upon which the prices of such produce are calculated,

"vehicle" means any mechanical drivable unit or device, including but not limited to a pedal cycle, developed for the transportation of people and/or goods, and includes any other unit or device in use for operational purposes at the market and approved in writing by the General Manager but excludes an operational unit;

"Virtual trading system" means any sales transaction concluded by a market agent and which is captured on the electronic sales system where the agricultural produce which forms part of the subject matter of such sales transaction have not been brought onto the market floor;

"wholesaler" means a person other than a market agent in respect of whom a service level agreement or any other agreement exists with the Buffalo City Municipality which agreement allows the person to conduct a wholesale business on the market premises,

provided that he does not conduct over-the-counter sales with the general public.

3. Interpretation

- (1) Clause sub-headings shall not be used in the interpretation of this by-law;
- (2) Unless specifically otherwise provided, all listed amounts of fine in this by-law are inclusive of Value Added Tax (VAT);
- (3) Any reference to any legislation is to such legislation (as amended or re-enacted from time to time) as at the promulgation of this by-law.

4. Objective

- (1) The objective of this by-law is to regulate the commercial activities of the Buffalo City Fresh Produce Market, and to give effect to the implementation of any policy that may be developed in line with this By-law.

5. Scope and Application

- (1) This by-law shall apply to the entire area under the jurisdiction of the Buffalo City Metropolitan Municipality

6. Contents of the by-law

The contents of this by-law shall cover the following areas:

6.1 Conduct and control

The conduct of the market shall be under the control of the General Manager in accordance with all relevant laws and resolutions of the Council, and persons at the market shall obey his lawful instructions and all such relevant laws and resolutions, including the provisions of this by-law.

6.2 Commencement and closing of sales

6.2.1 Sales shall commence and close at such times as may be determined by the General Manager, and no sales shall be held at any other time.

6.2.2 The General Manager shall cause a bell to be rung or some other sound to be made as a signal for the commencement and for the closing of sales.

6.2.3 The ringing of such bell or the making of such other sound shall be deemed to mark the commencement and closing, respectively, of all sales. Any sale prior to or after these periods shall only be conducted by authority of the General Manager.

6.3 Risk of profit and loss

The risk of profit and loss of an agricultural product brought onto the market premises shall at all times, until such agricultural product has been sold, remain with the consigner. Nothing stated in this by-law shall be so interpreted as to absolve a market agent from fulfilling his obligations under this by-law.

6.4 Control and risk of an agricultural product

6.4.1 Any agricultural product brought onto the market floor for delivery to a market agent must, before it is brought onto the market floor, be registered with –

- (a) the market administration in the manner and format required by the General Manager; and
- (b) the market agent to whom the agricultural product is consigned in the manner prescribed in subparagraph (4) below.

6.4.2 An agricultural product that is brought onto the market premises and is not for sale on the market floor must be declared and registered as such in accordance with subsection (1) of this by-law, failing which the market administration may refuse the agricultural product and prohibit it from being brought onto the market premises.

6.4.3 Simultaneously with the registration referred to in subsection (1), further particulars of the agricultural product delivered by a consigner must be provided at the designated area as required from time to time by the market administration.

6.4.4 When an agricultural product is consigned to a market agent, the market agent must –

- (a) upon delivery of the agricultural product to him, supply the market administration with written acknowledgement of receipt of the agricultural product, specifying the date and time of delivery;
- (b) allocate a consignment number, prepared in accordance with the information required in subsection (3), and hand proof of the receipt to the market administration;
- (c) immediately make all the necessary arrangements to offload and place the agricultural product in the space or enclosure provided to him for the agricultural product; and
- (d) accept accountability to the consigner for the quantity of the agricultural product specified in the Act and necessary documentation.

6.4.5 If any person fails or refuses to comply with the provisions of subsection (1) or subsection (3), the General Manager may refuse the agricultural product and prohibit it from being brought onto the market premises.

6.4.6 The provisions of subsections (3) and (4) do not apply to the agricultural product referred to in subsection (2) of section 7.

6.5 Packing, stacking and display of an agricultural product

6.5.1 A market agent must to the satisfaction of the market administration –

- (a) keep the premises allocated to him in the market neat, clean and hygienic always;
- (b) conspicuously display, place and stack all agricultural products received by him, other than those stored in the cold storage facilities referred to in section 9 of this by-law, on the market floor in such a manner that an orderly appearance and healthy and safe environment are created;
- (c) at the daily closing of sales, display and restack all unsold agricultural products in the manner referred to in paragraph (b) above;
- (d) ensure proper adherence to the code of conduct for a sales person and housekeeping standards as determined by the General Manager from time to time.

6.5.2 A market agent must comply with all legislation and regulations governing the packing, grading, and marking of produce displayed on his floor.

6.5.3 The General Manager may at any time inspect the premises allocated to a market agent to ensure that the provisions of this by-law are being complied with. If any such premises are dirty or unhygienic, the General Manager may take corrective steps to clean such premises and any person who fails to comply with such an instruction, shall be guilty of an offence.

6.6 Cold storage and ripening

6.6.1 The Buffalo City Municipality may–

- (a) establish, equip and operate cold storage facilities and ripening chambers on the market premises;
- (b) levy fees, as determined by the Council annually, for the use of the cold storage facilities and ripening chambers.

6.6.2 Any person who makes use of any cold storage facility or ripening chamber referred to in subsection (1) or any other facility of the Buffalo City Municipality, does so at his own risk, and the Buffalo City Municipality is not liable for any loss or damage, whether direct or indirect, suffered by the person.

6.6.3 The General Manager may, subject to current policy, allow market agencies to erect and administer private coldrooms and ripening chambers at their allocated sales areas. The Buffalo City Municipality will not be liable for any loss or damage, whether direct or indirect, occurred in these facilities.

6.7 Storage

6.7.1 No person may, without the prior written approval of the General Manager, store or leave any agricultural product, article, item or thing of whatever nature on the market premises or other facilities provided by the Buffalo City Municipality Market;

6.7.2 Any person who fails to comply with the provisions of subsection (1) is, notwithstanding any other provisions of this by-law, liable to the Buffalo City Municipality for payment of the storage fees determined by the Council from time to time.

6.8 Abandoned agricultural products

6.8.1 If the General Manager, on reasonable grounds, suspects that any agricultural product left on the market premises has been abandoned, he may within 24 hours direct that the agricultural product be –

- (b) removed and destroyed; the Buffalo City Municipality will recover the fee, determined by the City Manager from time to time, from the person who abandoned the agricultural product, if his identity is known;
- (c) sold and the identity of the person entitled to the proceeds is not known, the proceeds will be paid into the trust account of the market agent who was in control of the agricultural product immediately before it was abandoned or, if it cannot be established with certainty which market agent exercised control over the agricultural product before it was abandoned, the proceeds will be paid into the separate account of the market referred to in Section 19(8)(b) of the Agricultural Produce Agents Act, (Act 12 of 1992).

6.9 Agricultural products unfit for human consumption

6.9.1 If the General Manager on reasonable grounds believes that –

- (a) any agricultural product offered for sale on the market floor is diseased or unsound or unfit for human consumption, the General manager shall immediately withdraw and destroy the agricultural product;
- (b) a container is likely to contaminate the agricultural product, if any, in it, or any other agricultural product, he shall immediately withdraw and destroy the container and agricultural product.

6.9.2 Any person in the market to whom market administration has allocated a refuse receptacle shall be responsible for its safekeeping, cleanliness and for any damage thereto, and shall be responsible for depositing the contents thereof in the bulk refuse receptacles provided by market administration.

6.10 Market agents and their employees

6.10.1 No person may do business as a market agent at the market unless he is the holder of the following:

- (a) a fidelity fund certificate issued by Agricultural Produce Agents Council in terms of the Agricultural Produce Agents Act, (Act 12 of 1992);
- (b) a market agent's licence;
- (c) a valid service level agreement with Buffalo City Municipality.

6.10.2 An application for a market agent's licence must be made on the appropriate form available at the market administration offices situated on the market premises, which form must –

- (a) be accompanied by applicable particulars and documents requested on the form; and
- (b) be sent electronically, by post or delivered to market administration at the address indicated on the form.

6.10.3 A market agent's licence may be issued by the General Manager to an applicant if –

- (a) in the opinion of the General Manager, there is sufficient space available on the market floor to accommodate the applicant's business;

- (b) the applicant has satisfied the General Manager that he is fit, competent and the proper person to conduct the business of a market agent and has complied with the provisions of the Agricultural Produce Agents Act, (Act 12 of 1992), and all other legislation applicable to market agents; and
- (c) the applicant has furnished the Buffalo City Municipality, within the period determined by the General Manager, with security to the satisfaction of the General Manager for an amount determined by the General Manager in order to make provision for payment by the applicant of any costs, fees or deposits of whatever nature, that may become payable to the Buffalo City Municipality, provided that –
 - (i) the City Manager may from time to time determine that the amount for which a market agent gave security should be increased, in which case the General Manager will notify the market agent in writing of the increased amount; and
 - (ii) the market agent will furnish the additional security to the Buffalo City Municipality within 30 days from the date of the notice referred to in subparagraph (i), which additional security must be for the difference between the increased amount and the amount for which security was previously furnished.

6.10.4 If the General Manager is of the opinion that an applicant does not comply with any one or more of the provisions of subsection (3), he will refuse the issuing of a market agent's licence to the applicant and will notify the applicant in writing of the refusal as well as the reason for such refusal.

6.10.5 The General Manager may withdraw the market agent's licence if –

- (a) (i) his fidelity fund certificate has lapsed, been withdrawn or suspended in terms of section 16 of the Agricultural Produce Agents Act, (Act 12 of 1992);
 - (ii) in the case of the market agent being a company, close corporation or partnership, a change occurred in the shareholding of the company or the membership of the close corporation or the partners of the partnership without the market agent having obtained the General Manager's prior written approval for the change;
 - (iii) the market agent enters into a business relationship or obtains a business interest that, either directly or indirectly, could harm, prejudice, impair or compromise the interests of the market; or
 - (iv) breach of the Rules in Respect of Fresh Produce Agents as defined in the Agricultural Produce Agents Act, (Act 12 of 1992) and any one or more of the provisions of section 27 of this by-law are not complied with;
 - (v) the conduct of a market agent ensues that the agency is not a fit, competent, proper and suitably qualified entity to do business as a market agent at the Buffalo City Fresh Produce Market.
- (b) the General Manager decides to withdraw or suspend the market agent's licence of a market agent, in which case he will notify the market agent in writing with reasons of his decision. A market agent whose market agent's licence has been withdrawn or suspended:
- (i) can lodge an internal appeal with the City Manager as prescribed in section 39 of this by-law;

- (ii) must cease to do business as a market agent once the period for lodging an appeal as prescribed by the Municipal Systems Act has lapsed;
- (iii) must cease to do business as a market agent immediately in the absence of an appeal as contemplated in (i).

6.10.6 A market agent and his personnel render their services at their risk, and the Buffalo City Municipality is not liable to the market agent and his personnel for any loss or damage, whether to person or property, resulting from their services.

6.11 Automatic lapses of a market agent's licence

A market agent's licence is neither negotiable nor transferable and lapses automatically and is of no force and effect if –

- (a) the market agent was found guilty in terms of a disciplinary hearing conducted by the General Manager.
- (b) in the event of a market agent being a natural person, he has died or his estate has become insolvent;
- (c) the market agent is a company or a close corporation that is placed under provisional or final liquidation.

6.12 Salespersons

6.12.1 No person will conduct business on the market floor unless he is the holder of a sales permit issued by the General Manager and a license issued in terms of the Agricultural Produce Agents Act, (Act 12 of 1992).

6.12.2 An application for a sales permit must be made by the market agent on behalf of the salesperson on the prescribed form available at the market administration offices situated on the market premises, which form must –

- (a) be accompanied by applicable particulars and documents indicated on the form; and
- (b) be sent electronically, by post or delivered to market administration at the address indicated on the form.

6.12.3 A sales permit may only be issued to an applicant if he has satisfied the General Manager that he –

- (a) is in the employ of a licensed market agent who is in possession of or sanctioned by a covering fidelity fund certificate to conduct business as such; and
- (b) is a fit, competent, proper and suitably qualified person to do business as a salesperson on the market floor.

6.12.4 If the General Manager is of the opinion that an applicant does not comply with any one or more of the provisions of subsection (3), he will refuse to issue a sales permit to the applicant and will notify the applicant in writing of his refusal and the reasons for it.

6.13 Lapse and withdrawal of a sales permit

6.13.1 A sales permit is neither negotiable nor transferable. A sales permit lapse if –

- (a) the salesperson ceases to be employed by the market agent in whose employment he was at the time when he was issued with a sales permit;
- (b) the estate of the salesperson has been finally sequestrated;

- (c) the fidelity fund certificate issued to the salesperson in terms of the Agricultural Produce Agents Act, (Act 12 of 1992), lapses, is withdrawn or is suspended; or
- (d) if so ordered at a hearing conducted by a disciplinary tribunal, committee or process.

6.13.2 The General Manager will withdraw the sales permit if –

- (a) any one or more of the provisions of section 16(3)(b) are not complied with;
- (b) the sales person contravenes any provision of section 27(a) to (f);
- (c) the code of conduct as contemplated in the Act was contravened.
- (d) If the salesperson is convicted of an offence specified in Section 34.

6.13.3 If the General Manager decides to withdraw or suspend a sales permit, he will notify the salesperson in writing of his decision. A salesperson whose sales permit has been withdrawn or suspended:

- (a) can lodge an internal appeal as prescribed in section 39 of this by-law;
- (b) must immediately cease to do business as a salesperson subject to the provisions of Section 39(3)(c) of this by-law

6.14 Market agents and floor sales

6.14.1 A market agent must conduct his business in accordance with the provisions, principles and rules made under the Agricultural Produce Agents Act, (Act 12 of 1992), the provisions of this by-law and any other policies, procedures and practices of the

Buffalo City Municipality which may from time to time be amended and are contained in policies, standard operating procedures, letters and circulars of the market administration.

6.14.2 A market agent may be subjected to stock takes at a time determined by the market administration to ensure that stock levels are reliable and a true reflection of quantities consigned by producers.

6.14.3 A market agent will conduct his business –

- (a) on the market floor, subject to the provisions of section 7(3) and (4) of this by-law; and
- (b) on a commission basis only and he may not be involved in any direct sale otherwise than in his capacity as a market agent.

6.14.5 In conducting his business, a market agent may only allow a salesperson registered with market administration and licensed in terms of the Agricultural Produce Agents Act, (Act 12 of 1992), to sell on the market floor.

6.15 Protective and corporate clothing

6.15.1 A market agent must –

- (a) subject to the provisions of the *Occupational Health and Safety Act*, 1993 (Act 85 of 1993), supply his employees with the necessary protective clothing; and
- (b) ensure that the protective clothing complies with the relevant policy of the market administration.

6.15.2 The market agent will not allow any of his employees to work at the Buffalo City Fresh Produce Market unless the employee is wearing the protective clothing referred to in subsection (1).

6.15.3 The market agent will ensure that all of his employees wear clearly identifiable corporate branded clothing such that a reasonable person can deduce that the particular employee is in the employ of the market agent concerned.

6.15.4 Personnel who do not comply with these provisions will not be allowed to carry out their duties on the sales floor.

6.16 Market agents' branding

A market agent must at his expense –

- (a) affix a signboard on the door of the offices occupied by him that bear the name of the market agent's business, which signboard must be approved in writing by the General Manager;
- (b) maintain the signboard in good repair; and
- (c) display in the market hall the name of his business in a manner approved in writing by the General Manager;
- (d) display any marketing material for the market agency or any other third party in a manner approved in writing by the General Manager;
- (e) ensure that all employees can be easily identified by ensuring that employees wear clothing that clearly displays the name of his business.

6.17 Floor sales and the official sales system

6.17.1 The parties to a floor sale must be the buyer and the consigner of the market agent concerned; the Buffalo City Municipality will not be a party to a floor sale or in any manner be held liable for the due fulfilment of the terms and conditions of the floor sale.

6.17.2 If an agricultural product on the market floor is sold –

- (a) by weight, it must be the net weight of the agricultural product, and it is the responsibility of the market agent concerned to ensure that, before the agricultural product is offered for sale, the correct net weight of the agricultural product is displayed –
 - (i) on the agricultural product; and
 - (ii) on the container if the agricultural product is in a container.
- (b) by sample, the bulk of the agricultural product must correspond in quality to the sample of the agricultural product exhibited, and the market agent concerned remains responsible for ensuring that any sample of the agricultural product exhibited corresponds in quality to that of the bulk of the agricultural product.

6.17.3 The General Manager is entitled but not obliged –

- (a) to take such measures as he may deem necessary to ensure that the provisions of this section or any other provisions of this by-law are complied with;
- (b) to prohibit an agricultural product from being offered for sale if any of the provisions of this by-law are not complied with;

- (c) to prohibit an agricultural product from being offered for sale if any of the provisions of any other relevant law(s) are not complied with.

6.17.4 An agricultural product on the market floor may only be sold to a buyer who holds a valid buyer's card issued by the market administration.

6.17.5 When conducting a floor sale the buyer must immediately present his buyer's card to the market agent concerned, who must record the details of the sale in the manner determined by the General Manager from time to time.

6.17.6 A market agent may sell an agricultural product otherwise than on the market floor only with the prior written approval of the General Manager, provided that the agricultural product thus sold is first captured as stock on the official market system, after which a proper sales docket is generated for the sale by the market agent concerned, and provided further that the Buffalo City Municipality is paid the fee determined in terms of section 23 of this by-law for the sale.

6.17.7 Where sales are subject to the *Consumer Protection Act, 2008* (Act 68 of 2008), the market agent must ensure compliance therewith.

6.18 Commission on sales

6.18.1 The consigner is liable for payment to the Buffalo City Municipality of the fee determined by the Council annually for every floor sale concluded on his behalf.

6.18.2 The Buffalo City Municipality will deduct the fee referred to in subsection (1) from the proceeds of the purchase price for every floor sale and will, not later than two business days following the day on which the floor sale took place, pay the balance of the proceeds of that floor sale to the market agent who was responsible for the floor sale.

6.19 Collection and removal of an agricultural product

6.19.1 Subject to the provisions of subsection (2) , a buyer must as soon as possible but no later than 48 hours after the conclusion of the sale of an agricultural product, collect and remove or cause to be collected and removed all the agricultural products purchased by him, provided that the General Manager may at his discretion grant the buyer an extension of time for the collection and removal of the agricultural product.

6.19.2 No buyer or his representative may remove any agricultural product from the market floor unless –

- (a) he is in possession of the valid sales docket referred to in section 22(4) for the agricultural product; or
- (b) permission has been granted by the General Manager for the removal of the agricultural product read together with Section 27(b) of this by-law.
- (c) removal of agricultural product unfit for human consumption was sanctioned in terms of Section 12(1) of this by-law.

6.20 Default of buyer

6.20.1 If a buyer fails to present a buyer's card or to effect payment of the purchase price for the agricultural product purchased, the General Manager may direct that the agricultural product be resold in a manner he may deem fit and expedient.

6.20.2 A buyer contemplated in subsection (1) is liable to the Buffalo City Municipality for payment of any loss of fees suffered by the Buffalo City Municipality as a result of the resale of the agricultural product, and the General Manager is entitled to suspend the buyer's card of the buyer until the payment has been recovered from the buyer.

6.21 Dispute between buyer and market agent

6.21.1 If there is a dispute of whatever nature about an agricultural product, its sale or disposal between a buyer and a market agent, either of the parties to the dispute may refer the dispute to the General Manager who will facilitate or mediate the matter. The ruling of the General Manager will be binding on all the parties concerned.

6.21.2 Any buyer who is not satisfied with the ruling may refer the matter to any other consumer regulatory authority or legal entity.

6.22 Obligations of a market agent

A market agent must fulfil the following obligations:

- (a) The market agent or any of his employees may not receive any cash or other form of payment from a buyer other than payments made at the offices of the market agent with sufficient documentary proof of such payment.
- (b) The market agent may not allow a buyer to remove any agricultural product purchased on the market floor unless the buyer is in possession of a sales docket for the agricultural product in accordance with section 24(2)(a) of this by-law.
- (c) The market agent must provide for an agricultural product that is consistent with that purchased by the buyer in so far as the quantity, weight, quality, grade, variety and container of the agricultural product are concerned.
- (d) The market agent is liable towards a buyer if –
 - (i) the agricultural product provided by the market agent differs from that purchased by the buyer in so far as the quantity, weight, quality, grade, variety and container of the agricultural product are concerned; or

- (ii) in respect of an agricultural product bought by sample, the agricultural product provided by the market agent differs materially from the sample.
- (iii) in terms of the Consumer Protection Act, 2008 (Act 68 of 2008) he will be so liable.
- (e) The market agent may not purchase, or allow his employees to purchase, any agricultural product on the market floor for the purpose of reselling or trading that agricultural product for his own account.
- (f) The market agent or any of his employees are allowed, for purposes of personal use or consumption, to purchase any agricultural product on the market floor at a price not lower than the price at which the agricultural product was sold on the market floor on the same day.
- (g) The market agent must ensure that his salespersons comply with the provisions of this section and those of section 18(2) of this by-law;
- (h) The market agent is responsible for the conduct of all his employees, including the conduct of sales personnel employed by him.

6.23 Porters

6.23.1 No person may do business as a porter on the market premises unless he is registered with the market administration as a porter and holds a porter's permit.

6.23.2 A porter's permit may only be issued to a person on submission of proof of identification and on payment to the Buffalo City Municipality of a refundable deposit determined from time to time by the Council.

6.23.3 A porter must at all times wear the proper identification and clothing prescribed by the General Manager and must keep his person and the clothing clean and tidy.

6.23.4 A porter may not –

- (a) while he is not engaged in providing porter services, enter any part of the market premises other than an enclosure or other area set aside by the market administration for porters; and
- (b) tout for customers by shouting or persistently following a buyer or prospective buyer.

6.24 Barrows

6.24.1 The market administration may issue a barrow to a porter only if he –

- (a) wears the clothing referred to in section 28(3) of this by-law;
- (b) holds a valid porter's permit; and
- (c) has paid a monthly refundable deposit to the market administration for the rental of a barrow,

6.24.2 (a) A porter may not be in arrears with his barrow account,

- (b) A porter may not pull more than two barrows at any given time.
- (c) A porter may only use a barrow issued by the market administration.
- (d) A porter is liable for the safe use of a barrow issued to him.
- (e) A porter must ensure that the barrow issued to him is used in such a manner as to avoid any wilful or negligent damage.
- (f) A porter may not sublet a barrow to a third party or allow a third party to use it.

6.25 Withdrawal of a porter's permit

6.25.1 A porter's permit is neither negotiable nor transferable. The General Manager may withdraw a porter's permit if the porter –

- (a) fails to comply with any one or more of the provisions of section 29(1)(a) and (b) or section 29(2) of this by-law;
- (b) fails to pay the deposit referred to in section 29(1)(c); or
- (c) uses a barrow in a manner that can cause injury to a person or damage to property.

6.25.2 If the General Manager decides to withdraw the porter's permit, he will notify the porter in writing of his decision. A porter whose permit has been withdrawn forfeits the refundable deposit referred to in sections 28(2) and 29(1)(c) and:

- (a) can lodge an internal appeal as prescribed in section 39;
- (b) must immediately cease to do business as a porter subject to the provisions of Section 39(3)(c).

6.26 Liability of porters

The Buffalo City Municipality is not liable to any person for any loss or damage, whether to person or property, caused by a porter in the porter's execution of his porter services.

6.27 Private barrows, trolleys and pallet trolleys

6.27.1 Any person may apply in writing to the General Manager for approval to use a privately-owned barrow and or pallet trolley on the market premises, which approval will not be withheld or delayed unreasonably. The General Manager will notify the

person in writing of his decision, and if approval is granted, the written approval must at all times be in possession of the person while he is on the market premises.

6.27.2 No person may bring onto the market their own barrow, trolley or pallet trolley for soliciting business in competition with market administration.

6.28 Vehicles, motorcycles and pedal cycles

6.28.1 Except for operational units, no person may do business with a vehicle on the market floor, unless for reasons of health or disability he is unable to move around without a vehicle.

6.28.2 No person may do business with a vehicle without the prior written approval of the General Manager and subject to conditions determined him from time to time.

6.28.3 A person to whom the approval contemplated in subsection (2) has been granted must comply strictly with the conditions, if any, failing which the General Manager is entitled to withdraw the approval.

6.29 Retailers, wholesalers and informal traders

The Buffalo City Municipality is entitled to reserve any part of the market premises for the purpose of retail, wholesale or informal business in market products and may, for that purpose, enter into agreements with a retailer, wholesaler or informal trader in terms of which a table, stall or area is leased to the retailer, wholesaler or informal trader, as the case may be, provided that the retailer, wholesaler or informal trader and the employees of the retailer, wholesaler or informal trader, as the case may be –

6.29.1 conduct business only in the part of the market premises allocated to them in terms of the lease; and

6.29.2 deal only in the market products specified in the lease.

6.30 Direct consignments

6.30.1 Subject to the provisions of section 7(2) of this by-law, no person may sell an agricultural product on the market premises other than that purchased on the sales floor.

6.30.2 A person may, with the prior written consent of the General Manager, sell an agricultural product delivered directly to him, provided that the fee specified in section 23(1) of this by-law, shall be levied, calculated on the average market price for that agricultural product on that specific day or as determined by the Buffalo City Municipality from time to time.

6.30.3 Any contradiction of section 34(a) will be subject to section 41 of this by-law.

6.31 Powers of the General Manager

The General Manager is entitled to –

6.31.1 inspect any agricultural product, article, item, object or thing of whatever nature on the market premises;

6.31.2 a person, other than a wholesaler, may, with the prior written consent of the General Manager, sell agricultural products delivered directly to him from the consigner, provided that separate written permission shall be required in respect of each consignment and provided further that the agricultural products in each such consignment is duly entered on a market sales note completed by a market agent of the wholesaler's choice and reflecting, inter alia, the price agreed upon by the wholesaler and the consigner concerned, in which event market administration shall be entitled to the fee as referred to in by-law 23(1) above;

- 6.31.3 If he reasonably suspects that any agricultural product offered for sale is stolen, prohibit the agricultural product from being sold until he is satisfied about the ownership of the agricultural product;
- 6.31.4 for statistical or other lawful purposes, request any documentation or information relating to any aspect whatever of the sale of an agricultural product on the market premises, in which event the person to whom the request was made must furnish him with documentation or information within a reasonable time;
- 6.31.5 instruct any person who has placed any agricultural product, article, item, object or thing on the market premises that causes an inconvenience or obstruction, to remove the agricultural product, article, item, object or thing;
- 6.31.6 prohibit the cleaning, stripping or peeling of an agricultural product on the market premises or in any part of the market premises; and
- 6.31.7 for the purpose of ensuring the effective, efficient, economical and proper functioning of the market and the safety and well-being of all people on the market premises, issue such instructions as he may deem necessary, which instructions may be contained in circulars, communiques, or notices affixed to notice boards in prominent places on the market premises, and must be obeyed and complied with by every person entering the market premises.

6.32 Indemnification from liability

Any person who enters the market premises does so at his risk, and neither the Buffalo City Municipality nor any of its employees are liable for any loss or damage to a person or his property arising from any act or omission of the Buffalo City Metropolitan Municipality or its employees in the execution of their duties unless they acted with gross negligence.

6.33 Removal and impoundment

6.33.1 A Law enforcement officer from the Buffalo City Metropolitan Police, South African Police Services or other authorized law enforcement officer may remove and impound any goods, articles, receptacle, vehicle or structure-

- (a) which he reasonable suspects of being used or has been used in or in connection with street trading or any other activity prohibited or in contravention under this by-law or any other by-law of the Municipality; or
- (b) which he finds at a place where street trading is restricted or prohibited in contravention of this by-law or any other by-law of the Municipality, in his opinion, constitutes an offence.

6.33.2 Any officer acting in terms of these provisions shall-

- (a) except in the case of goods which have been left or abandoned, issue forthwith to the person carrying on the business of illegal street trading or trading of goods and produce in contravention of this by-law or any other by-laws of the Municipality, a detailed receipt for any property so removed and where the property will be impounded and the procedure for reclaiming such property; and
- (b) forthwith deliver any such property to the Municipality.

6.33.3 Any property removed and impounded may, in the case of perishable property, be sold or destroyed by the Municipality within a reasonable time after the impoundment thereof, provided that such property shall, at any time prior to the disposal thereof, be returned to the owner on request and proof of ownership by such owner to the Municipality; provided further that such perishables are still fit for human consumption; within a period of one month of the date of impoundment save in the event of perishable goods which may be destroyed without delay having regard to the condition of such goods.

- 6.33.4 The Municipality shall be entitled to keep the property concerned until all reasonable expenses have been paid to it, failing which the property may be sold by public auction upon 14 days' notice being given in any Local Newspaper of the choice of the Municipality or in the case of perishable goods either be sold or destroyed without delay by the Municipality.
- 6.33.5 In case of a sale of impounded property by the Municipality, the proceeds of such sale less the reasonable expenses incurred by the Municipality in connection with the removal, impoundment; storage fees and costs and/or disposal of such property, shall be paid to the person who was the owner of such property when such property was impounded. If such owner fails to claim the said proceeds within three months of the date on which such property was sold, such proceeds shall be forfeited to the Municipality.
- 6.33.6 In the event of the proceeds of any sale of property contemplated by this provision, not being sufficient to defray the reasonable fees and expenses incurred by the Municipality in connection with such removal, impoundment, storage and/or disposal, including costs of advertisement and auctioneering commission and costs, the owner of such property, when such property was impounded, shall remain responsible for all such fees and costs, as the case may be.
- 6.33.7 The Municipality is not liable for any damages arising from the confiscation, removal or disposal of signs. Any costs incurred by the Municipality in removing, storing or undertaking alterations to a sign.

7. Enforcement of the By-law

- (1) The by-law shall be enforced through the policy and any further enforcement mechanism

8. Offences

No person may –

8.1 occupy or trade from any office, area, stand or other place on the market premises unless he has –

- (a) obtained prior written permission of the General Manager in terms of the approved policy of the market administration; and
- (b) paid in advance any rent or fee lawfully due for the office, area, stand or other place on the market premises;

8.2 purchase or sell any agricultural product, save as provided for in this by-law;

8.3 light a fire on the market premises without the written approval of the General Manager;

8.4 stand or sit on or against any agricultural product on the market premises;

8.5 throw an object at any person or property on the market premises;

8.6 tamper with any agricultural product or container, or tamper with or remove any label on any agricultural product or container;

8.7 cause a blockage in or damage to the sewerage or storm water drainage system of the market premises;

8.8 wash, peel, pack, sort, grade or clean agricultural products other than in the allocated area of the market premises without the prior written approval of the General Manager;

- 8.9 interfere with or molest any other person on the market premises;
- 8.10 interfere with the activities or business of, or be a nuisance to any other person on the market premises;
- 8.11 enter or remain on the market premises after hours without the written approval of the General Manager;
- 8.12 fail or refuse to comply with an instruction by the market administration to remove an article from the market premises or relocate an article to another area on the market premises;
- 8.13 spit, loiter or use threatening, obscene, abusive or offensive language or cause a disturbance on the market premises;
- 8.14 be under the influence of intoxicating liquor or a drug having a narcotic effect or consume liquor on the market premises, other than at premises licensed to sell liquor to customers for on-site consumption;
- 8.15 damage or deface any property or building on the market premises;
- 8.16 dispose of any peels, vegetable leaves, garbage or other refuse on the market premises other than in the appropriate waste receptacles provided;
- 8.17 interfere with, disrespect or obstruct any employee of the Buffalo City Municipality in the execution of his duties;
- 8.18 without permission hawk, peddle or beg on the market premises;
- 8.19 remove any refuse, waste or condemned agricultural product from the market premises without the prior written approval of the Buffalo City Municipality;

- 8.20 cook food or make any beverage other than in the allocated areas of the market premises approved by the General Manager;
- 8.21 bring any animal onto the market premises without the prior written approval of the General Manager;
- 8.22 gamble on the premises;
- 8.23 assault, verbally abuse, swear, and perform any unbecoming conduct that infringes on the rights and privileges of an individual as defined in Bill of Rights contained in Chapter 2 of the *Constitution of the Republic of South Africa, 1996*;
- 8.24 park vehicles at non designated areas;
- 8.25 load a market product at non designated areas;
- 8.26 sell any market product outside of an area specifically designated therefor.

9. Sanctions

9.1 Any person who –

- (a) fails to comply with or performs any act contrary to the terms, conditions, restrictions or directions of a licence, permit, approval, consent or authority that has been issued or granted to him under this by-law;
- (b) contravenes or fails to comply with any provision of or direction issued, or requirement imposed under this by-law; or
- (c) contravenes or fails to comply with any provision of this by-law shall be guilty of an offence and if found guilty be subject to a sentence of a maximum fine of R60,000.00 (Sixty Thousand Rand), or imprisonment not exceeding 3 (Three)

years, or both such fine or imprisonment which the court may deem appropriate; Provided that should the offence justifies that the matter be heard within the Regional Court jurisdiction, then such fine may be increased to a maximum of R300,000.00 (Three Hundred Thousand Rand), or imprisonment not exceeding 15 (Fifteen), years or both such fine or imprisonment which the court may deem appropriate.

9.2 Any person who is convicted of an offence-

- (a) mentioned in subsection (1)(a) shall be liable –
 - (i) on a first conviction, to a fine or to imprisonment for a period not exceeding two years or to both a fine and such imprisonment;
 - (ii) on a second or subsequent conviction to a fine or to imprisonment for a period not exceeding four years or to both a fine and such imprisonment;
- (b) mentioned in subsection (1)(b), shall be liable to a fine or to imprisonment for a period not exceeding one year or to both a fine and such imprisonment; and
- (c) mentioned in subsection (1)(b)(a) shall be liable to a fine or to imprisonment not exceeding three months or to both a fine and such imprisonment.

9.3 Any conviction in terms of this section will be determined by a court of law in accordance with the *Adjustment of Fines Act*, 1991 (Act 101 of 1991).

10. Appeals and appeals procedures

10.1 Any person aggrieved by a decision of the General Manager made in terms of this by-law may appeal against that decision in accordance with the provisions of section 62 of Municipal Systems Act which provisions apply *mutatis mutandis* in respect of the appeal.

10.2 Pending the outcome of the appeal contemplated in subsection (1) –

- (a) a market agent referred to in section 13(5)(b) of this by-law is entitled to continue to do business as a market agent;
- (b) a salesperson referred to in section 17(2) of this by-law is not entitled to continue to do business as a salesperson; and
- (c) a porter referred to in section 30(2) of this by-law is not entitled to continue to do business as a porter.

10.3 The following procedures must be followed when an appeal is lodged in terms of sections 13(5)(b), 17(2) and 30(2) of this by-law:

- (a) all appeals must be submitted to market administration in written format;
- (b) market administration must acknowledge receipt of the appeal in writing, to the party without delay;
- (c) an appeal will be considered by the Municipal Manager within 30 days of which result will be made known to the aggrieved party in writing. If an appeal is not successful, the aggrieved will be informed of the reasons why the appeal was not successful.

11. Review

- 11.1 This by-law will be reviewed after a period of three years from the date of its promulgation in the Provincial Government Gazette

12. Repeal of the East London Municipality: Market By-law

12.1 The East London Municipality: Market By-law promulgated and published under Local Authority Notice 59 in Provincial Gazette No. 4626 of 26 January 1990, is hereby repealed.

13. Short Title

This By-law shall be referred to as the Buffalo City Fresh Produce Market By-law and will come into operation on date of promulgation thereof in the Provincial Government Gazette.

DRAFT

LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE 34 OF 2020**BUFFALO CITY METROPOLITAN MUNICIPALITY (EASTERN CAPE)**

Removal of restrictive conditions in terms of the Spatial Planning and Land Use Management Act 2013 (Act 16 of 2013) and the Buffalo City Metropolitan Municipality Spatial Planning and Land Use Management By-Law 92016).

RE: ERF 7273 EAST LONDON

In terms of Section 47(1) of the Spatial Planning and Land Use Management Act No 16 of 2013, read with Section 59 of the Buffalo City Metropolitan Municipal Spatial Planning and Land Use Management Bylaw of 2016, approval is hereby granted for the removal of restrictive title deed conditions B (3) and (4) found in Deed of Transfer No T5813/2005 pertaining to Erf 7273 East London.

LOCAL AUTHORITY NOTICE 35 OF 2020**BUFFALO CITY METROPOLITAN MUNICIPALITY****SPLUMA Act No. 16 of 2013: ERF 2171, GONUBIE:
REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013 and upon instruction from the abovementioned municipality, notice is hereby given that Conditions C. (a), C. (e), C. (f), D. 1 and D. 2 found in the Deed of Transfer No. T 747/2000, pertaining to Erf 2171, Gonubie, are hereby removed.

LOCAL AUTHORITY NOTICE 36 OF 2020**BUFFALO CITY METROPOLITAN MUNICIPALITY****SPLUMA Act No. 16 of 2013: ERF 2171, GONUBIE:
REMOVAL OF RESTRICTIONS**

Under Section 47 (1) of the Spatial Planning and Land Use Management Act, No. 16 of 2013 and upon instruction from the abovementioned municipality, notice is hereby given that Condition C. (e) found in the Deed of Transfer No. T 747/2000, pertaining to Erf 2171, Gonubie, is hereby removed.

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Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
Also available at the Legal Advisory Services, **Province of the Eastern Cape**, Private Bag X0047, Bisho, 5605.
Tel. (040) 635-0052.