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 No.***GENERAL NOTICE****Environmental Affairs, Department of***General Notice*

- 1084 National Environmental Management: Biodiversity Act (10/2004): Draft Norms and Standards for the Management of Damage-Causing Animals in South Africa: For comments.....

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GENERAL NOTICE

NOTICE 1084 OF 2010

DEPARTMENT OF ENVIRONMENTAL AFFAIRS

NATIONAL ENVIRONMENTAL MANAGEMENT: BIODIVERSITY ACT, 2004 (ACT NO. 10 OF 2004)

DRAFT NORMS AND STANDARDS FOR THE MANAGEMENT OF DAMAGE-CAUSING ANIMALS IN SOUTH AFRICA

I, Bomo Edith Edna Molewa, Minister of Water and Environmental Affairs, hereby publish in terms of section 9(1)(a) read with Section 100 of the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004) for public comment the draft Norms and Standards for the Management of Damage-Causing Animals in South Africa in the Schedule hereto.

Any person who wishes to submit written representations and/or objections to the proposed norms and standards is invited to do so within 30 days of the publication of this notice. All representations and comments must be submitted in writing to the following addresses:

By post to: The Director-General: Environmental Affairs
 Attention: Mr Thomas Mbedzi
 Private Bag X447
 PRETORIA, 0001

Delivered to: The Department of Environmental Affairs
 Attention: Mr Thomas Mbedzi
 North Tower (Room 1320)
 315 Pretorius Street
 PRETORIA

By fax to: (012) 320 7026

By e-mail to nmbedzi@environment.gov.za

Any inquiries in connection with the draft regulations can be directed to Mr Thomas Mbedzi at Tel. (012) 310-3225. Comments received after the closing date may not be considered.



BOMO-EDITH EDNA MOLEWA

MINISTER OF WATER AND ENVIRONMENTAL AFFAIRS

SCHEDULE

DRAFT NORMS AND STANDARDS FOR THE MANAGEMENT OF DAMAGE-CAUSING ANIMALS IN SOUTH AFRICA

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CHAPTER 1

INTERPRETATION, PURPOSE AND APPLICATION

Definitions

1. (1) In this Schedule, unless the context indicates otherwise, a word or expression defined in the Biodiversity Act has the same meaning, and—

“**applicable legislation**” includes but are not limited to—

- (a) the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);
- (b) the Animals Protection Act, 1962 (Act No. 71 of 1962);
- (c) the Performing Animals Protection Act, 1935 (Act No. 24 of 1935);
- (d) the Animal Matters Amendment Act, 1993 (Act No. 42 of 1993);
- (e) the Animal Health Act, 2002 (Act No. 7 of 2002);
- (f) the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993);
- (g) the Animals Diseases Act, 1984 (Act No. 35 of 1984);
- (h) the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983);
- (i) the Medicines and Related Substances Control Act, 1965 (Act No. 101 of 1965);
- (j) the Meat Safety Act, 2000 (Act No. 40 of 2000);
- (k) the Veterinary and Para-Veterinary Professions Act, 1982 (Act No. 19 of 1982);
- (l) the Animal Improvement Act, 1998 (Act No. 62 of 1998);
- (m) the Hazardous Substances Act, 1973 (Act No. 15 of 1973);
- (n) the Fertilisers, Farm Feeds, Agricultural Remedies and Stock Remedies Act, 1947 (Act No. 36 of 1947);
- (o) the Game Theft Act, 1991 (Act No. 105 of 1991); or
- (p) any relevant provincial legislation;

“**best practices**” means to perform or exercise a particular activity or activities in the most suitable, appropriate, advantageous or best advised ethical, humane and informed manner, in order to attain the highest standard while performing or exercising such activity or activities;

"Biodiversity Act" means the National Environmental Management: Biodiversity Act, 2004 (Act No. 10 of 2004);

"conservation authority" means any organ of state in the national or provincial sphere of government responsible for the conservation of biodiversity;

"controlled environment" has the meaning as defined in the TOPS Regulations;

"damage-causing animal" means a wild vertebrate animal that, when interacting with humans or interfering with human activities, there is substantial proof that it—

- (a) causes losses to stock or to other wild specimens;
- (b) causes damage to cultivated trees, crops, natural flora or other property;
- (c) presents a threat to human life; or
- (d) is present in such numbers that agricultural grazing is materially depleted;

"darting" means to shoot a damage-causing animal with a projectile loaded with a tranquilizing, narcotic, immobilizing, or similar agent;

"equipment" means the whole or any part of any implement, machine, instrument, apparatus, device or other object which can be used, capable of being used or adapted—

- (a) in or in connection with the manufacture, treatment, packing, labelling, storage, conveyance, preparation, serving or administering of any grouped poisonous substance; or
 - (b) for the purpose of trapping, capturing or hunting a damage-causing animal;
- in order to manage a damage-causing animal;*

"humane" means a condition that does not conflict with any provision of applicable legislation relating to cruelty against animals, and does not cause unnecessary distress to or suffering of the individual damage-causing animal;

"hunt" has the meaning as defined in the TOPS Regulations;

“issuing authority” has the meaning as defined in the TOPS Regulations;

“management of damage causing animals” means any action, activity or intervention, whether lethal or non-lethal, taken by any person contemplated in paragraph 3(b)(iii) to avoid, prevent or reduce loss or damage caused by damage-causing animals, including the application of any technique or method or the use of any equipment for the purpose of resolving or mitigating any conflict situation between humans and damage-causing animals;

“national department” means the national department responsible for environmental affairs;

“padding” in relation to soft traps means the practice of affixing rubber or similar material to the jaws of a soft trap in order to prevent or minimize injury to any animal that may be caught in such a device;

“permit” means a permit issued by an issuing authority, which authorizes the carrying out of a restricted activity involving a damage-causing animal;

“person” has the meaning as defined in the TOPS Regulations;

“poison” means any toxin, preparation or chemical substance used to kill or physically harm a damage-causing animal;

“poison collar” means a collar with one or more sealed compartments containing a poison registered for the management of damage-causing animals as regulated by the Hazardous Substances Act, 1973 (Act No.15 of 1973) and associated regulations;

“soft trap” means a leg holding device other than a gin trap that has been defined as a prohibited gin trap in terms of the TOPS Regulations, and of which the specifications are in accordance with paragraph 14;

“stakeholder” means any person or a group of persons who possesses a particular knowledge of or experience in, or who is/ are affected by, damage-causing animals and the management thereof;

"TOPS Regulations" means the Threatened or Protected Species Regulations promulgated in terms of section 97 of the Biodiversity Act and published under Government Notice No.R.152 in *Gazette* No. 29657 of 23 February 2007, as amended;

"trap cage" means a cage with a trap door or doors and mechanism, which is used to capture and restrain animals and complies with the provisions of these norms and standards and any applicable provincial legislation;

"wild vertebrate animal" means a terrestrial vertebrate animal that is living and reproducing in natural conditions with no or limited human intervention;

(2) In these norms and standards, a word or expression which is a derivative or other grammatical form of a word or expression defined in sub-paragraph (1) or in the Biodiversity Act has a corresponding meaning unless the context indicates that another meaning is intended.

Guiding Principles

2. (1) Any person or group of persons contemplated in paragraph 3(b)(iii) executing a function or exercising a power or carrying out an activity in terms of these norms and standards must do so with regard to any applicable legislation and the principles contained in these norms and standards.

(2) The implementation of an integrated and holistic management approach and best management practices is based on the following principles—

- (a) as far as possible identify, target and remove the specific individual damage-causing animal; and
- (b) the adaptation or implementation of management interventions to prevent damage by wild vertebrate animals to avoid or limit further losses.

(3) The management of damage-causing animals in South Africa must be aimed at preventing or reducing damage or losses in such a manner that—

- (a) the methods used are approved by issuing authorities and are lawful in terms of any applicable legislation;

- (b) the methods used are applied in accordance with any instructions and guidelines applicable to any equipment or registered poison or substance which forms part thereof;
- (c) is ecologically and socially acceptable—
 - (i) where “ecologically acceptable” refers to the probability that the method will have a minimal detrimental effect on species, ecological processes and the environment in general; or
 - (ii) where “socially acceptable” implies that society accept the methods applied with regards to the management of damage-causing animals;
- (d) is humane and ethical in terms of the general well-being of all damage-causing animals; and
- (e) the cost incurred to manage damage-causing animal does not exceed the value of the loss incurred or predicted to be incurred.

(4) All stakeholders—

- (a) accept that conflict with wild vertebrate animals is an inherent risk to—
 - (i) agricultural or game farmers within or adjacent to an area where continuous natural habitat occurs; or
 - (ii) any property owner living on the edge of an urban settlement and/ or natural area; and
- (b) who experience or potentially may experience damage, must also apply any or a combination of the deterrent methods contemplated in paragraph 8 to prevent or reduce damage.

(5) Issuing authorities recognize that—

- (a) wild vertebrate animals may cause damage;
- (b) the conservation and regulation of the sustainable utilization of natural biological resources in a manner which is scientifically, ethically and morally justifiable form an important part of their legal mandate; and
- (c) they play a major role in the management of damage-causing animals and in providing sound advice or training to landowners, members of communities or any other stakeholders.

(7) Initiatives to raise awareness should be carried out to promote the use of management measures for which a permit is not required, in favor of management measures for which a permit is required in terms of applicable conservation legislation.

(8) Development of market mechanisms such as green labeling efforts for wildlife friendly farmers should be encouraged.

Purpose

3. The purpose of these norms and standards is to—
- (a) provide for a uniform national approach relating to the management of all damage-causing animals; and
 - (b) provide minimum standards—
 - (i) to assist issuing authorities in the development of legislation and/ or policies to regulate the management of damage-causing animals;
 - (ii) for the lawful use of any method, technique or equipment to manage damage-causing animals; and
 - (iii) to assist any person or group of persons, organization, registered business, practitioner, conservation authority or issuing authority that manages damage-causing animals or provides equipment to manage damage-causing animals.

Application of international agreements

4. These norms and standards are informed by the—
- (a) International Convention on the Conservation of Biological Diversity (CBD), to which South Africa is a signatory country; and
 - (b) the International Union for Conservation of Nature (IUCN) guidelines.

Application of these norms and standards

5. The provisions of the TOPS regulations and these norms and standards apply to the management of any damage-causing animal within the Republic of South Africa.

CHAPTER 2
MANAGEMENT OF DAMAGE-CAUSING ANIMALS

Part 1

Provisions relating to damage-causing animals

Minimum standards to assess the impact caused by damage-causing animals

6. (1) The response of issuing authorities to complaints involving damage-causing animals must be timeous and proportionate to the severity of the damage, where severity in decreasing order refers to—

- (a) actual loss of life, where the interaction has already resulted in the loss of human life;
- (b) immediate threat of loss of life, where the interaction has nearly resulted in the loss of human life and/or has the potential to cause loss of human life in future;
- (c) actual loss of livelihood, where the interaction has already resulted in the loss of livelihood;
- (d) potential loss of livelihood, where predators are about to cause loss of livelihood;
- (e) actual loss of revenue, where the interaction has already resulted in loss of revenue on the part of the complainant; or
- (f) potential loss of revenue, where damage-causing animals has the immediate potential to result in loss of income on the part of the complainant.

(2) In the case where an inspection is required, the issuing authorities must assess the damage and compile a report containing the following information—

- (a) any supporting documentation or reports relevant to the damage, including police reports where applicable;
- (b) a detailed description of the circumstances surrounding the damage that has been caused;
- (c) a detailed description and analysis of the scale and duration of non-lethal mitigation efforts that had been implemented to prevent damage;
- (d) cause(s) of the damage, with justification whether the damage is due to human error or negligence, in which case it must be clearly detailed; and
- (e) quantification of the damage.

(3) Based on the information contained in the report contemplated in paragraph 6(2) the issuing authority must propose measures for the management of the damage-causing animal, which should be aimed at preventing or mitigating recurring damage.

(4) While considering all relevant factors, the proposed measures for the management of a damage-causing animal should conform to the following—

- (a) must be proportionate to the damage caused, and may include—
 - (i) live capture for the purpose of—
 - (aa) permanent removal from the system by euthanasia;
 - (bb) translocation for placement back to the wild; or
 - (cc) keeping in captivity in a registered captive breeding facility for breeding purposes, or scientific research by a registered scientific institution, with the approval of the ethical committee of the institution involved; or
 - (ii) killing; and
- (b) may not include killing of the damage-causing animal if the damage is solely due to human error or negligence.

(5) Record of each incident where damage caused by a damage-causing animal has been reported, must be kept by the complainant and should include the following information—

- (a) date and location of the damage;
- (b) information of the species involved, including gender, length, weight, approximate age and general condition, as well as a picture of the damage-causing animal;
- (c) the non-lethal management measures employed to mitigate the damage, prior to the loss occurring;
- (d) particulars of a site visit and a copy of a detailed report of the incident by either the issuing authority or an independent registered environmental practitioner;
- (e) type of intervention recommended or instituted by the issuing authority;
- (f) reference to titles and locations of all relevant documentation; and
- (g) details of assessment of damage caused by damage-causing animals.

Part 2**Methods to manage damage-causing animals****Criteria for the translocation of damage-causing animals**

7. (1) Damage-causing animals should only be relocated when there is no scope for resolution of the conflict with the animal(s).

(2) Translocation of the damage-causing animal must be in accordance with any applicable legislation, policies and guidelines.

- (3) Any person or group of persons contemplated in paragraph 3(b)(iii)—
- (a) may lawfully capture, transport and release a damage-causing animal only under the conditions as determined by the relevant issuing authority, and with the prior written consent of the—
- (i) landowner on whose land the damage-causing animal is captured;
 - (ii) the landowner on whose land the damage-causing animal is to be released;
 - (iii) landowner/s. adjacent to the land where the damage-causing is to be released; and
 - (iv) the state veterinarian where applicable; and
- (b) must keep accurate record of the capture and translocation of the damage-causing animal, which must include the following—
- (i) contact details of both the client where the damage-causing animal has been captured and where it has been released;
 - (ii) species and number of individuals captured;
 - (iii) date of capture;
 - (iv) capture site;
 - (v) site of release;
 - (vi) copies of the written consent from land owners adjacent to the area where the damage-causing animal has been released; and
 - (vii) any other information that may be deemed necessary by the relevant issuing authority.

Deterrent methods to manage damage-causing animals

8. (1) The following deterrent methods to manage damage-causing animals may be used without a permit—

(a) fencing—

- (i) kraals;
- (ii) night enclosures;
- (iii) camps;
- (iv) barriers;
- (v) jackal-proof fencing; or
- (vi) cable fence;

(b) collars—

- (i) dead stop collars;
- (ii) king collars;
- (iii) bell collars;
- (iv) cell phone collars;
- (v) bell and smell collars;
- (vi) protective sheep collars; or
- (vii) smart technology collars;

(c) herding techniques—

- (i) shepherding; or
- (ii) livestock guarding animals, including but not limited to herding dogs, alpacas, donkeys, ostriches or other wild animals;

(d) repellants and scare tactics—

- (i) alarms;
- (ii) bells;
- (iii) smells;
- (iv) lights; or
- (v) noise;

(e) management practices, including but not limited to seasonal lambing coordination, breed selection, breed mixtures or stock rotations; or

(f) veldwagter motion sensing.

(2) The most effective management of damage-causing animals may be provided by using a combination of the methods listed in sub-paragraph (1).

Restricted methods

9. (1) The following methods to manage damage-causing animals may be used by an adequately trained person only and, if required, must be authorized by means of a permit issued by the relevant issuing authority—

- (a) cage trap;
- (b) poison collar;
- (c) darting;
- (d) call and shoot;
- (e) soft trap; and
- (f) dogs, including packs consisting of a maximum of 12 individuals, for the pursuing of a wounded damage-causing animal or flushing of a damage-causing animal only.

(2) Training must be provided by the issuing authorities or by training providers approved by the issuing authorities.

(3) The training provider contemplated in sub-paragraph (2) must provide proof that he/ she possesses the necessary knowledge and skills to provide the necessary training.

Part 3

Minimum requirements applicable to restricted methods

Minimum requirements for the use of trap cages

10. (1) A person or group of persons contemplated in paragraph 3(b)(iii) who uses a trap cage to capture a damage-causing animal must—

- (a) comply with the conditions applicable to the placement of the trap cage, as determined by the relevant issuing authority;

- (b) prior to placement, have the trap cage inspected and approved, by the relevant issuing authority, for the specific use intended;
- (c) place the trap cage in the shade where possible;
- (d) check the trap cage at least every 24 hours to ascertain whether any animal has been caught in it;
- (e) close the door of any trap cage that is not in use;
- (f) cover the trap cage as soon as possible after discovery of the captured animal to reduce stress; and
- (g) translocate and release, or euthanize, the captured animal immediately, as determined by the issuing authority, upon being discovered in the trap.

(2) The person or group of persons contemplated in sub-paragraph (1) may not—

- (a) taunt or injure the captured animal or allow it to be taunted or injured;
- (b) leave the captured animal unprotected against any natural or environmental elements or other disturbances;
- (c) use the captured animal for display purposes;
- (d) leave the captured animal in the trap cage for longer than 24 hours; or
- (e) keep the captured animal in captivity unless under veterinary care.

(3) A trap cage must conform to the following minimum requirements—

- (a) the size of the trap cage must be species-specific and should therefore take the size of the target damage-causing animal into account;
- (b) the frame of the trap cage must be adequately covered with smooth mesh material to prevent the captured damage-causing animal from escaping the trap cage;
- (c) the trap cage for baboon and dangerous predators must be equipped with a safety catch on the door to prevent the captured animal from escaping the trap cage;
- (d) precautions must be taken to minimize injuries to a captured damage-causing animal, especially in the case of baboon and leopard where the door could fall onto the animal's tail when the cage door is activated;
- (e) the trap cage must be free of any sharp metal edges and wires on the inside;
- (f) the door frame of the trap cage must be equipped with a stopper at the bottom to prevent the trap door from falling through when it is picked up;

- (g) the trap cage must be equipped with handles to allow the cage to be lifted and carried without injury to the captured animal or to the persons lifting and carrying the cage; and
- (h) the trap cage must be covered with a sheet or tarpaulin to reduce stress to the captured animal.

Minimum requirements for the use of poison collars

11. (1) A person or group of persons contemplated in paragraph 3(b)(iii) who uses a poison collar must—

- (a) comply with the conditions applicable to the use of the poison collar, as determined by the relevant issuing authority;
- (b) prior to use of the poison collar, have the device inspected and approved by the relevant issuing authority, for the specific use intended;
- (c) prominently display warning notices of the intended use of the poison collars, for the full duration of the use of the poison collars;
- (d) immediately remove, bury or destroy the carcass of any animal killed by the poison collar, or the carcass of an animal wearing a poison collar that did not survive an attack by a damage-causing animal, in accordance with paragraph 16;
- (e) immediately shave off and bury the wool or hair of the prey animal wearing the poison collar that survived an attack of a damage-causing animal; and
- (f) keep all poison collars which are not used in safe custody in order to prevent any unauthorized person of unlawfully obtaining such poison collars.

(2) Only sodium monofluoroacetate (Compound 1080) may be used in poison collars. This provision has been made in terms of Regulation No. R. 1488 of *Gazette* No. 18412 of 14 November 1997 published in terms of the Hazardous Substances Act, 1973 (Act No. 15 of 1973).

Minimum requirements to dart damage-causing animals as a management measure

12. Darting of damage-causing animals must be undertaken by a registered veterinarian or, under his / her direct supervision, by a person authorized by the relevant issuing authority, and subject to conditions as determined by the relevant issuing authority.

Minimum requirements for the use of call and shoot to manage damage-causing animals

13. (1) A person or group of persons contemplated in paragraph 3(b)(iii) who uses the method of call and shoot to lure a damage-causing animal must—
- (a) comply with the conditions applicable to the use of the call and shoot method, as determined by the relevant issuing authority; and
 - (b) submit records of all hunting events to the relevant issuing authority.

Minimum requirements for the use of soft traps

14. (1) A person or group of persons contemplated in paragraph 3(b)(iii) who uses a soft trap to capture a damage-causing animal must—
- (a) comply with the conditions applicable to the use of a soft trap, as determined by the relevant issuing authority;
 - (b) prior to use of the soft trap, have the device inspected and approved by the relevant issuing authority, for the specific use intended.
- (2) The soft trap must conform to the following minimum requirements—
- (a) the size and type of soft trap must be target specific and selective towards trapping the individual damage-causing animal;
 - (b) have a screw capable of adjusting the tension of the pan, which must be set for at least 1.75 kg. to exclude most foxes and carnivores smaller than the black-backed jackal, in order to release the jaws of the soft trap when the target animal sets off the soft trap;
 - (c) leave a space of at least 5 mm between the closed jaws when the soft trap is set off;
 - (d) the chain which connects the device to a drag iron must have at least two swivels and a steel spring to absorb shock and minimize injury; and
 - (e) the jaws of the soft trap must not be serrated or spiked and may be padded.
- (3) The soft trap must be used in conjunction with a scent or lure to draw the individual damage-causing animal to the device.
- (4) The soft trap may not be set—
- (a) in any pathway, road or track;

- (b) in or near holes in fence lines;
- (c) directly alongside fence lines;
- (d) within 100m radius of any waterhole or watering point;
- (e) in front of dens or shelters; or
- (f) near natural prey killed by predators; or
- (g) in areas where critically endangered or endangered species occur.

Minimum requirements for the use of dogs

15. (1) A person or group of persons contemplated in paragraph 3(b)(iii) who uses dogs to hunt a damage-causing animal must—

- (a) comply with the conditions applicable to the use of dogs, as determined by the relevant issuing authority;
- (b) register each pack of dogs, its owner and the handler with the relevant issuing authority;
- (c) mark each registered dog by means of a micro chip. The number of the microchip, together with a picture of the dog, must be recorded on the registration certificate;
- (d) have the dogs examined by a registered veterinarian on an annual basis, after which a certificate of good health must be issued and submitted to the issuing authority; and

(2) A maximum of six registered dogs may at any time participate in the hunt. Not more than twelve dogs may be present during the hunt to allow for the training of a maximum of six unregistered dogs.

Part 4**General Provisions****Disposal of carcasses**

16. Any person responsible for the lawful killing of a damage-causing animal by means of poison must bury the carcass without delay at least one meter deep and cover it with lime.

Suppliers of equipment

17. Any person or group of persons contemplated in paragraph 3(b)(iii) who manufactures or supplies any equipment for the management of damage-causing animals must—

- (a) adhere to the legal requirements of any relevant legislation applicable to the management of damage-causing animals;
- (b) adhere to the conditions as determined by relevant the issuing authority;
- (c) ensure that the lawful selling of poison for the use of a poison collar or poison collars must be in accordance with section 3 of the Hazardous Substances Act, 1973 (Act No. 15 of 1973); and
- (d) *comply with all the provisions of these norms and standards when manufacturing, distributing, selling, donating, receiving or using any device.*

CHAPTER 3 OPERATIONAL ARRANGEMENTS

Transitional provision

18. Soft traps may be used lawfully to manage damage-causing animals for a period of three years after the promulgation of these norms and standards, after which the use thereof will be prohibited if it is not used according to the provisions of these norms and standards. During this three-year period, research must be undertaken to improve the effectiveness of the soft traps and to search for effective alternative methods

Compensation strategy

19. (1) Each conservation authority may develop a compensation strategy for the payment of compensation to a person who has experienced damage caused by a damage-causing animal.

(2) The compensation strategy should consider, but not be limited to, the following criteria to determine under which circumstances compensation could be paid—

- (a) financial cost to implement the compensation strategy;
- (b) type of compensation (monetary, meat, skins);
- (c) possible reduction in the occurrence of damage as a result of the payment of compensation;
- (d) species and origin of the damage-causing animal;
- (e) negligence on the part of the person who has experienced damage, or the State;
- (f) proposed management methods already implemented by the person who experienced damage;
- (g) consultation with relevant affected parties;

- (h) the written agreement between the MEC of a province and the management authority of a national park, as required in terms of Regulation 3 of the TOPS Regulations; and
- (i) insurance of the person who experienced damage.

CHAPTER 4 MISCELLANEOUS

Short title and commencement

- 20.** These Norms and Standards are called the Norms and Standards for the Management of Damage-Causing Animals in South Africa, and take effect on a date determined by the Minister in the *Gazette*.
-