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DIE PROVINSIE MPUMALANGA

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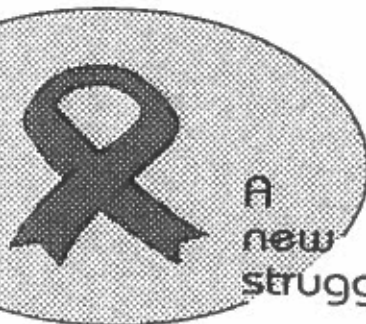
Vol. 17

NELSPRUIT, 25 MAY
MEI 2010

No. 1812

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

AIDS

HELPUNE

0800 012 322

DEPARTMENT OF HEALTH

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No.**GENERAL NOTICE**

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Lodging complaints in respect of an alleged unfair business practice

2. (1) Complaints lodged with the Office must be in writing.

(2) Complaints must be lodged -

(a) by mail;

(b) by hand delivery; or

(c) by facsimile to the Office, confirmation of successful transmission is proof of receipt of the complaint.

(d) in person and reduced to writing by the Office

(3) A complaint is deemed to be lodged on the date upon which the Office receives the complaint.

Processing of complaints

3. The Office must take the following steps in respect of any complaint lodged:

(a) open a file;

(b) allocate a file reference number to the complaint; and

(c) provide a written acknowledgement of receipt of the complaint to the complainant containing the reference number and a date.

Jurisdiction

4. If a complaint is not within the jurisdiction of the Court, the Office must -

(a) notify the Complainant in writing within 30 days of the receipt of the complaint; and

(b) refer the complaint to the relevant Consumer Court.

Office may request Complainant to provide further information

5. (1) The Office may request further particulars, in a form of an affidavit, where a person has lodged a complaint with the Office regarding an alleged unfair business practice, as contemplated in section 6(1) of the Act.

(2) The Office must upon request, prepare the Affidavit contemplated in sub regulation 5(1).

INVESTIGATION BY OFFICE FOR THE INVESTIGATION OF UNFAIR BUSINESS PRACTICE

Notice of investigation of person allegedly responsible for unfair business practice.

6. (1) When the Office institutes an investigation, whether -

(a) on receipt of a complaint as contemplated in section 6(1) of the Act;

(b) at its own accord, as contemplated in section 7(1) of the Act; or

(c) at the instance of the responsible Member as contemplated in section 7(2) of the Act;

the Office must give notice as contemplated in subregulation 6 (2) of the investigation and of the alleged unfair business practice in question to the person allegedly responsible for the unfair business practice.

(2) The notice referred to in subregulation 6(1) must be given to the person allegedly responsible for the unfair business practice in the following manner:

(a) by hand delivery; or

(b) by facsimile; or

(c) by prepaid registered mail to his or her -

(i) business address; or

(ii) address last known to the office.

(3) A warning to the person allegedly responsible for the unfair business practice that a statement or explanation, which he or she may give, may be used against him or her in proceedings before the court must accompany a notice referred to in subregulation 6 (1).

(4) A notice referred to in subregulation 6(1) must be sent, regardless of whether the Office makes known the investigation in the *Provincial Gazette* as contemplated in section 7(3) of the Act.

Search warrant

7. A search warrant contemplated in section 10(2) of the Act, must be signed by the Chairperson or any person authorized by the Chairperson and must comply with Form 3 in Annexure A to the Regulations.

Receipt to be issued on seizure

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

Notice of discontinuance of investigation to person investigated as well as complainant

9. If the Office decides not to institute proceedings in the Court as contemplated in section 12(2) of the Act, the Consumer Protector must inform -

(a) the complainant; and

(b) the person who was under investigation

Of the discontinuance of the investigation together with reasons for the discontinuance.

Procedure confirming arrangements and incidental request and applications

10. (1) The Office may negotiate and conclude an arrangement with any person as contemplated in section 11 of the Act.

(2) The Chairperson may determine the manner in which applications to the Court by the Office for confirmation of an arrangement, request or any other application incidental to pending proceedings by the Office or by an interested person may be brought before the Court.

(3) Applications and requests contemplated in subregulation 10(2) may be disposed in such manner and in accordance with such procedure as the Chairperson may determine.

Forms of summons

11. (1) A summons contemplated in section 8(1)(a) of the Act, must be in a format of Form 1 in Annexure A of the Regulations.

(2) A summons initiating proceedings before the Court against a person alleged to be responsible for an unfair business practice, as contemplated in section 18(1) of the Act, must comply with Form 5 in Annexure A to the Regulations.

(3) A summons envisaged by subregulation 11(2) must –

(a) contain the substance of allegations regarding the unfair business practice in question; and

(b) specify a date, which will not be less than 10 working days from the date of service and a place in which a person summoned is required to appear before the Court.

(4) A summons contemplated in section 19(1) of the Act, issued by the Clerk of Court and requiring a person to appear before the Court to give evidence or to produce an object for the purpose of ascertaining a matter relating to proceedings before the Court must comply with Form 6 in Annexure A to the Regulations.

Manner of service of summons

12. (1) A summons envisaged by Regulation 11(4) shall be delivered in the following manner:

(a) by delivery of a copy of the summons to the person to be served;

(b) by leaving a copy of the summons at the place of business or residence of the person to be served with or a person who appears to be in charge of the said premises at the time of service and who seems to be older than 16 years of age;

(c) by delivering a copy of the summons at the place of employment of the person to be served who appears to be in authority over the said person and seems to be older than 16 years of age;

(d) if the person to be served has chosen an address at which the summons may be served, by delivering a copy of the summons at the address so chosen;

(e) in the case of a company or close corporation, by delivering a copy of the summons to a responsible employee at its registered Office or its principal place of business within the jurisdiction of the court or, if none of the employees are willing to

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accept service, by affixing a copy of the summons to the door of such Office or place of business;

(f) by delivering a copy of the summons to an agent who is duly authorized in writing to accept service on behalf of the person to be served;

(g) Where a partnership, firm or voluntary association is to be served -

(i) by leaving a copy of the summons at the place of business of the partnership, firm or voluntary association with a person who appears to be in charge of such premises at the time of service and who seems to be older than 16 years of age; or

(ii) if the partnership, firm or voluntary association has no place of business at the time of service, by effecting service on a partner, the proprietor, the chairman, the secretary or managing body of the partnership, firm or association, as the case may be, in a manner set forth in this regulation; or

(iii) in a manner determined by the Court in a particular case.

(2) Where the person to be served is a minor or a person without legal capacity, the summons must be served in a manner mentioned in subregulation 12(1) on that person's guardian, tutor, curator or caregiver.

(3) For the purposes of subregulation 12(1)(b), when a block of flats or other building other than a hotel, boarding house, hostel or similar residential building is occupied by more than one person or family, the summons must be served as provided for in the said subregulation at that part of the building which the person to be served occupies as his or her residence or place of business.

PROCEEDINGS BEFORE THE CONSUMER AFFAIRS COURT

Proceedings against persons allegedly responsible for unfair business practice

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

(2) The Office must state the alleged unfair business practice and the nature of the involvement of the person who is allegedly responsible for the unfair business practice.

(3) The Chairperson must ask the person who is allegedly responsible for the unfair business practice whether he or she admits to any or all of the allegations, and an admission or denial must be recorded.

(4) Where the person who is allegedly responsible for the unfair business practice does not admit all the allegations, the office must be granted the opportunity to produce evidence in support of the allegations, which are denied.

(5) The person who is allegedly responsible for the unfair business practice must then be granted the opportunity to produce evidence against the allegations, which are denied.

(6) The Court may in its discretion allow further evidence to be produced or witnesses to be recalled by the Office or the person allegedly responsible for the unfair business practice.

(7) After the Office and the person who is allegedly responsible for the unfair business practice, have produced their evidence and stated their cases, the Court may recall a witness or call further witnesses to submit to questioning by the Court and thereafter by the Office and the person allegedly responsible for the unfair business practice.

(8) After all the evidence has been produced, the Office may address the Court on the evidence and the conclusions, which it has drawn.

(9) The person allegedly responsible for the unfair business practice may then be granted the opportunity to address the Court.

(10) The office may thereafter address the Court to reply only to those matters raised by the person allegedly responsible for the unfair business practice, which the Office has not yet dealt with.

(11) The Chairperson may determine that proceedings before the Court may be conducted otherwise other than in accordance with this regulation.

(12) The practice and rules of evidence and procedure applicable in a court of law do not apply in respect of proceedings before the Court, and the Court may ascertain a relevant fact in a manner as it may deem fit.

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

(14) The Court may adjourn the proceedings where necessary to give the person allegedly responsible for the unfair business practice reasonable time to prepare representations, or for other good cause shown.

(15) Whenever the Chairperson is satisfied on evidence or information presented to the Court that the proceedings of the Court may adversely affect existing, instituted or pending legal proceedings or an investigation instituted in terms of another law, the Court must deal with evidence which is relevant to the legal proceedings or investigation.

Examination of witnesses

14. (1) A witness called by the Office may be cross-examined by the person against whom the proceedings were instituted and the other way round, and a witness called by the court may be cross-examined by the Office and that person against whom the proceedings were instituted.

(2) Without prejudice to the right of the Office or the person allegedly responsible for the unfair business practice to be represented or assisted as contemplated in section 18(4) and (6) of the Act, a witness appearing before the court may, in the discretion of the Chairperson and in the manner as the Chairperson may determine, be assisted by an advocate, attorney or any other person.

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

(4) Where evidence is given in a language with which the Court or the Office or the person alleged to be responsible for the unfair business practice in question or their representatives are not sufficiently conversant, a competent interpreter must interpret the evidence.

Costs award against person found to have conducted the unfair business practice

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

(a) be paid to the Office by the person against whom they are awarded; and

(b) be on a scale of costs contained in Tariff 2 in Annexure B of the Regulations, as amended from time to time, unless the Court determines otherwise.

(2). The Consumer Protector must cause the amount of costs paid to the Office as contemplated in subregulation 15(1)(a) to be paid into the Provincial Revenue Fund.

Interest on money repayable to affected consumers

16. (1) Where the Court orders that interest must be paid on money to be repaid to affected consumers as contemplated in section 22(2)(a) of the Act -

(a) the interest must be calculated at the prevailing rate prescribed from time to time under section 1(2) of the Prescribed Rate of Interest Act, 1975 (Act No.55 of 1975), unless the Court on the ground of special circumstances orders otherwise; and

(b) the Court must specify in its order the date from which and the amount on which interest is payable.

Proceedings in general

17. Proceedings not against a particular person but which are instituted generally as contemplated in section 12(1)(b) of the Act, with a view to declaring a business practice or a type of business practice unlawful as contemplated in section 24(1)(a) of the Act, may be disposed of in the manner and in accordance with the procedure as determined by the Chairperson.

Urgent temporary orders

18. (1) Where the Office seeks an urgent temporary order contemplated in section 20(1) of the Act, it must, before the temporary order is issued but subject to subregulation 18(4), give notice thereof to each person against whom the order will be sought or who will be named in or affected by the order.

(2) A notice contemplated in subregulation 18(1) must -

(a) state that the Office intends to place information before the Court that circumstances relating to the particular matter concerned, which is the subject of an investigation by the Office, render that matter urgent in that irreparable prejudice would be caused to a consumer or a group or class of consumers if the matter were to be dealt with only by the Court at proceedings in due course and that the Office will accordingly request the Court to issue a temporary order;

(b) provide sufficient particulars of the investigation to identify the matter which is the subject of the investigation;

(c) state the terms of the temporary order sought by the Office;

(d) state the date, time and place where the Office will request the Court to issue the order;

(e) state that the person notified may appear at the date, time and place and that he or she may object only on the ground that the matter is not urgent as contemplated in paragraph (a); and

(f) comply with Form 7 in Annexure A to the Regulation.

(3) A notice contemplated in subregulation 18(1) must be served in a manner prescribed by regulation 12.

(4) On request by the Office, the Court may in a particular case dispense with the notice requirement under subregulation 18(1) to any or all persons concerned if the giving of such notice would defeat the object of the temporary order, or for other good cause shown.

Appointments

19. (1) An investigating Officer appointed in terms of section 9(1) of the Act, must be provided with a certificate of appointment as contemplated in section 9(4) of Act, and the certificate must comply with Form 2 of Annexure A of the Regulations.

(2) If, in the opinion of the Court, it is expedient to appoint a competent Interpreter or the Office or the person allegedly responsible for the unfair business practice so desires, the Court may satisfy itself as to the competence and integrity of a proposed interpreter before he or she is appointed as such.

Conditions of service

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

(a) the Investigating Officer is appointed for such hours, days or other period or periods as the Consumer Protector may determine;

(b) the Investigating Officer performs his or her functions subject to the control and directions of the Consumer Protector;

(c) the Investigating Officer performs his or her functions faithfully and diligently; and

(d) as determined by the Consumer Protector.

Remuneration

21. (1) An investigating officer appointed in terms of section 9(3) of the Act, must be paid such remuneration as agreed between such investigating officer and the Consumer Protector and approved by the responsible Member in consultation with the member of the Executive Council responsible for finance in the Province.

(2) Interpreters should be remunerated in accordance with the tariff of allowances prescribed by the Minister of Justice and published by notice in the Gazette in terms of section 15 of the Magistrate's Court Act, No. 32 of 1944, as amended.

(3) Persons ordered to serve summons in terms of regulations 12(4) must be remunerated on the scale of messengers of the Magistrate's Court Act, No. 32 of 1944, as amended from time to time.

(4) The remuneration contemplated in section 23(4) of the Act, which remuneration is payable to a curator who is not in the full-time service of the State, must be in accordance with tariff 3 in Annexure B to the Regulations.

Witness fees

22. (1) A person summoned, in terms of section 8(3)(b) of the Act, is entitled to witness fees to which that person would be entitled to if he or she was a witness in civil proceedings in a magistrate court.

(2) A person summoned as a witness in terms of section 19 of the Act, is entitled to witness fees to which that person would be entitled to if he or she was a witness in civil proceedings in a magistrate court.

Oath or affirmation

23. (1) A person appointed or designated to take down or record proceedings of the Court in shorthand or by mechanical means, or to transcribe the proceedings which have been so taken down or recorded, must at the outset make and sign an oath or solemn affirmation before the Clerk of the Court in accordance with Part 4 of Annexure C to the Regulations.

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

(3) A person summoned in terms section 19(1)(a) of the Act, must before giving evidence or producing an object take an oath or solemn affirmation put to him or her in the manner set out in Part 3 of Annexure C to the Regulations.

(4) A person summoned in terms of section 8(1)(a) of the Act, must, before being questioned or required to produce an object, make and sign an oath or solemn affirmation which must be put to him or her in a manner set out in Part 1 of Annexure C to the Regulations.

(5) A member or alternate member of the Court must before, assuming Office in terms of section 14(7) of the Act, make and sign an oath or solemn affirmation before the responsible Member in the form contained in Part 2 of Annexure C of the Regulations.

Signing of court order

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

Transcriptions

25. In the event of any person requiring a transcript of court proceedings, the person requiring such transcription shall bear the costs of the transcript.

Short title and commencement

26. These regulations shall be called the Mpumalanga Consumer Affairs Regulations, and shall come into operation _____ 2009.

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FORM 1

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

SUMMONS TO APPEAR BEFORE THE CONSUMER PROTECTOR OR A PERSON IN THE SERVICE OF THE OFFICE FOR THE INVESTIGATION OF UNFAIR BUSINESS PRACTICES

Consumer Affairs Act, 1998 (Act No. 6 of 1998)
Section 8(1)(a) and regulation 11(1).

To:..... Office ref:.....

In the matter of the alleged or suspected

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

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

.....(place) at.....hrs (time) on.....(date)

(a) to be questioned in connection with the matter particularized above;
and

(b) to produce
..... (describe books documents or objects) and be questioned in connection therewith.

(*Delete what is not applicable)

Section 19(2) of the Act states that a person shall be guilty of an offence if he or she, having been summoned -

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

.....(date)
.....(place)
.....(time)

Consumer Protector/Person Authorised by Consumer Protector

FORM 2

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC
DEVELOPMENT, ENVIRONMENT AND TOURISM

CERTIFICATE OF APPOINTMENT AS INVESTIGATING OFFICER

Consumer Affairs Act, 1998 (Act No. 6 of 1998)
Section 9(4) of the Act and regulation 19(1)

It is hereby certified that -

..... ID No.
(Full Names)

is an Investigating Officer appointed in terms of the above-mentioned Act,
with effect from (date)

Consumer Protector

..... (date)

..... (place)

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FORM 3

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

SEARCH WARRANT

Consumer Affairs Act, 1998 (Act No. 6 of 1998) Section 10 (2) and Regulation 7.

To (full names), ID an investigating Officer appointed in terms of the above-mentioned Act.

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

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

..... (describe books, documents or objects) are in or on the premises situated at (physical address)

This warrant authorises you to enter the said premises in *the day time and also in *the night time as hereby authorized in terms of Section 10(3)(b) of the said Act (*delete if not applicable), and there-

- (a) inspect or search those premises, and there to make such enquiries as may be necessary for the purpose of obtaining information in relation to the said unfair business practice;
(b) examine any object found on or in the premises which has or might have a bearing on the investigation into said unfair business practice and to request from the owner or person in charge of the premises or from a person in whose possession or charge that object is, information regarding that object;
(c) make copies of or extracts from a book or document found on or in the premises which has or might have a bearing on the investigation, and request from a person who is suspected of having the necessary information, any explanation of an entry made therein;
(d) seize, against the issue of a receipt, anything on or in the premises which has or might have a bearing on the investigation, if the Investigating Officer needs to retain it for further examination or for safe custody.

..... (date)
..... (time)
..... (place)

Chairperson: Consumer Affairs Court

FORM 4

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

RECEIPT FOR ARTICLES SEIZED

Consumer Affairs Act, 1998 (Act No. 6 of 1998) Section 10(1)(d) and Regulation 8.

To:..... (name of owner or person in charge of premises)

I,(full names), Investigating Officer, duly appointed under the above-mentioned Act, have seized on or in the premises situated at.....

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

- 1.
2.
3.
4.
5.
6.
7.
8.
9.
10.

.....(date)
.....(time)
.....(place)

Investigating Officer

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FORM 5

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

SUMMONS INITIATING PROCEEDINGS BEFORE THE CONSUMER AFFAIRS COURT

Consumer Affairs Act, 1998 (Act No.6 of 1998)
Section 18(1) and Regulation 11(2).

To: Court ref:.....
.....
.....

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

(particulars of unfair business practice):

THAT proceedings are hereby instituted in the Consumer Affairs Court against you as the person allegedly responsible for the above mentioned business practice;

THAT the proceedings against you will commence before the Consumer Affairs Court at(place)at..... hrs (time) on.....(date).

THAT proceedings before the Consumer Affairs Court will be prosecuted by the Office for the Investigation of Unfair Business Practices, which Office may be represented or assisted by an advocate, attorney, or another person approved by the Member of the Executive Council of the province responsible for Economic Development; Environment and Tourism

AND THAT you must participate in the proceedings and that if you intend to defend the allegation against you, you must notify the Consumer Protector within 7 days of receipt of this summons or may appear in person or be represented or assisted by an advocate, attorney or another person.

Further, take note that if you fail to appear an order may be made against you.

.....(date)
.....(time)
.....(place)

Consumer Protector/Person Authorised by the Consumer Protector

FORM 6

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

SUMMONS TO APPEAR BEFORE THE CONSUMER AFFAIRS COURT

Consumer Affairs Act, 1998 (Act No. 6 of 1998) Section 19(1) and regulation 11(4)

To: Court ref:
.....
.....

In the matter of the alleged unfair business practice(s) as set out below:

.....
.....

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

You are hereby summoned to appear before the Consumer Affairs Court at (place) at hrs (time) on (date)

*(a) to give evidence in connection with the above matter;

or

* (b) to produce

.....
(describe books, documents or objects) and be questioned in connection therewith.

*(Delete what is not applicable)

Section 19(2) of the Act states that a person shall be guilty of an offence if he or she, having been summoned-

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

..... (date)
..... (place)
..... (time)

Clerk of the Consumer Affairs Court

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FORM 7

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

URGENT TEMPORARY ORDER

Consumer Affairs Act, 1998 (Act 6 of 1998) Section 20(1) and regulation 18

To:

TAKE NOTICE THAT you are alleged to be responsible for the unfair business practice of (particulars of unfair business practice).

THAT the Consumer Protector intends to place information before court on.....(date) at..... hrs (time) or as soon as the Consumer Protector may be heard for an order on the following terms:

- (1) THAT this application is treated as an urgent temporary application and that the court in accordance with regulation 18(2)(e) dispense with the forms and service provided for in the above-mentioned Act and regulations;
(2) THAT the respondent is prohibited from

THAT proceedings before the Consumer Affairs Court will be prosecuted by the Office for the investigation of Unfair Business Practices, which may be represented or assisted by an advocate, attorney or any other person approved by the responsible member.

AND THAT you must participate in the proceedings in person or be represented or assisted by an advocate, attorney or another person.

Take note that if you fail to appear an order can be made against you.

.....(date)
.....(time)
.....(place)

Consumer Protector/Person Authorised by Consumer Protector

MPUMALANGA PROVINCIAL GOVERNMENT: DEPARTMENT OF ECONOMIC DEVELOPMENT, ENVIRONMENT AND TOURISM

ANNEXURE B

Tariff 1

Witness fees

Section 8(3)(b) and regulation 22(2)

Subsistence Allowance

1. A person summoned in terms of section 8(3)(b) of the Act, shall be entitled to the following allowance for each 24 hours or part thereof for which he or she is, for the purpose of such attendance absent from his or her place of residence or business:

(i) R10-00, for a person who resides or sojourns more than 8 kilometres from the place where he or she appears, provided that, and if the Consumer Protector is satisfied that the person had to incur expenses exceeding R10.00 in respect of such attendance, the person may be paid his or her reasonable actual expenses on submission of documentary proof;

(ii) A person who of necessity has to hire accommodation for a night shall be reimbursed his or her reasonable actual expenses.

(iii) A person who resides or sojourns 8 kilometres or less from the place where he or she appears, if the Consumer Protector is satisfied that the person had to incur expenses in respect of such attendance, shall be reimbursed his or her reasonable actual expenses on submission of documentary proof.

(2) A person summoned must qualify for allowance referred to in subparagraph (1)(ii) for the full period for which he or she is absent from his or her place of residence or work for the purpose of attending at the place to which he or she is summoned, if during such absence he or she has to hire accommodation for a night or spend a night on a train or bus.

Income forfeited

2. A person summoned who has forfeited income as a result of his attendance's pursuant to the summons must, in addition to any allowance to which he or she is entitled in terms of paragraph 1, be entitled to an allowance equal to the actual amount of income so forfeited, subject to a maximum of R100-00 per day.

Travelling Expenses and Transport

3. (1) When ever a person summoned makes use of public transport to attend such proceedings, an allowance equal to the actual cost of such transport for the to and return journey along the shortest convenient route must be paid to him or her: Provided that, if more than one suitable means of public transport is available, such allowance must be paid in respect of the least expensive of such means of transport

(2) Whenever suitable public transport is not available and the person makes use of his or her own hired transport to attend such proceedings, an amount for the to and return journey along the shortest convenient route must be paid, calculated at 50 cents per kilometer in respect of a motor vehicle, excluding a motor cycle, and at 42 cents per kilometre in respect of motor cycle or another means of conveyance.

(3) Whenever suitable public transport is available and the person make use of his or her own hired transport to attend, the amount referred to in subparagraph (2) must be paid for a forward and return journey not exceeding 100 kilometres, provided that, if the Consumer Protector is satisfied that the circumstances in the particular instance justify exceeding 100 kilometres, the Consumer Protector may order that the amount referred to in subparagraph

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(2) or lesser amount as he or she may deem equitable in the circumstances be paid for such longer distance.

(4) If the Consumer Protector is satisfied that in particular circumstances a person is justified in making use of air transport to attend such proceedings, the Consumer Protector may grant approval for an allowance equal to the cost of such air transport to be paid to that person.

Supplementary Provision

4. In calculating the period of his or her absence for purposes of paragraph 1 a person summoned must be allowed not more than four hours –

(a) if making use of private transport, for each –

(i) 100 kilometres or part thereof if traveling by motor vehicle; or,

(ii) 10 kilometres or part thereof if traveling by means of transport other than a motor vehicle; or

(b) if traveling on foot, for each five kilometers or part thereof.

5. When ever the fee of a person summoned includes the costs of meals and sleeping accommodation, no allowance in terms of paragraph 1 must be paid.

6. The Consumer Protector may, if satisfied that the payment of the allowances prescribed in this tariff may cause a person hardship, approve the payment to that person of allowance at a higher tariff.

7. Where the expenses of a person summoned in connection with his or her attendance at the place to which he or she is summoned are provided for from another source, no allowance in terms of this tariff must be paid to him or her.

8. The allowances prescribed in this tariff are also payable to a person who of necessity accompanies a person summoned on account of youth or infirmity, owing to old age or other infirmity of the person summoned.

Tariff 2

Scale of costs

Section 17(1)(b) and regulation 15

A person found to have conducted the unfair business practice shall pay -

1. R5 000, for the investigation conducted by the Office; and
2. R3 000, for each day or part of a day on which the court sat for the hearing of the proceedings relating to the person found to have conducted the unfair business practice.

Tariff 3

Remuneration payable to a curator not in the full-time service of the State

Section 23(4) and regulation 21(4)

A curator who is not in the full time service of the State shall be remunerated on the scales as set out below:

1. 10% of the gross proceeds of the movable property (other than shares or similar securities realized or disposed of as contemplated in section 23(1)(a) or (j) of the Act or on the gross amount collected under promissory notes or book debts, or as rent, interest or other income;

2. 3% of the gross proceeds of immovable property, shares or similar securities realized or disposed of as contemplated in section 23(1)(a) or (j) of the Act, life insurance policies and mortgage bonds recovered and the balance recovered in respect of immovable property sold prior to a court order under section 22 (1) of the Act;

3. 1% of -

- (i) money of the person for whom the curator is appointed;
- (ii) the gross proceeds of cheques and postal orders payable to that person; and
- (iii) the gross proceeds of amounts standing to the credit of that person, in current, savings and other accounts and of fixed deposits and other deposits at banking institutions, building societies or other financial institutions;

4. 6% of sales by the curator in carrying on the business of the person, or part thereof, as contemplated in section 23(1)(d) of the Act;

5. 2% of amounts and assets distributed as contemplated in section 23(1)(b) of the Act, excluding an amount on which remuneration is payable under another item of this tariff;

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

ANNEXURE C

OATHS AND AFFIRMATIONS

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

PART 1

**Oath or affirmation by person summoned to appear before Consumer Protector or person in service of Office
Regulation 23(4)**

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

(*Delete where not applicable)

DEPONENT

**CONSUMER PROTECTOR/PERSON
AUTHORISED BY THE CONSUMER PROTECTOR**

DATE:_____

DATE:_____

PART 2

**Oath or affirmation by member or alternate member of court
Regulation 23(5)**

"I,hereby *swear/s/solemnly affirm/s *that, as a member/alternate member* of the Consumer Affairs Court for Mpumalanga Province, I will truly and faithfully uphold and apply the Consumer Affairs Act, 1998 (Act No. 6 of 1998 and other applicable law . (In case of an oath) So help me God"

(*Delete what is not applicable)

DEPONENT

**MEC: ECONOMIC DEVELOPMENT,
ENVIRONMENT AND TOURISM**

DATE: _____

DATE: _____

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PART 3

Oath or affirmation by person summoned to give evidence or to produce an object

Regulation 23(3) and (4)

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

(*Delete what is not applicable*)

DEPONENT

MEMBER OF THE CONSUMER AFFAIRS COURT

DATE:_____

DATE:_____

PART 4

Oath or affirmation by a person appointed or designated to take down or record proceedings

Regulation 23(1)

"I..... hereby swear/s/solemnly affirm/s* that I shall faithfully and to the best of my ability * take down/record * the proceedings of the Consumer Affairs Court for *Mpumalanga shorthand/by mechanical* as ordered by the Chairperson of the court or other person presiding; or

(b) that I shall transcribe fully and to the best of my ability shorthand notes/a mechanical record of the proceedings of the Consumer Affairs Court for Mpumalanga Province made by me or another person."

(In the case of an oath) "So help me God"

(*Delete what is not applicable)

..... (date)

..... (time)

..... (place)

Deponent

Clerk of the Consumer Affairs Court

PART 5

**Oath or affirmation by interpreter
Regulation 23(2)**

"I,hereby, * swear/s/solemnly affirm/s *that, whenever I am called upon to perform the functions of an interpreter in the proceedings in the Consumer Affairs Court for Mpumalanga Province, I will truly and correctly to the best of my ability interpret from the language which I may be called upon to interpret into another language as required by the Court, and the other way round.

(In the case of an oath) * So help me God*

(*Delete that which is not applicable)

.....(date)
..... (time)
..... (place)

Deponent

Clerk of the Consumer Affairs Court