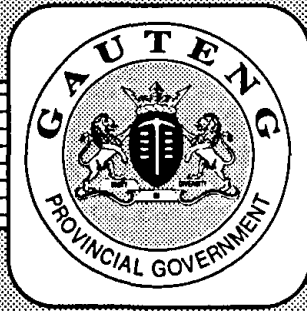


THE PROVINCE OF
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GENERAL NOTICE

NOTICE 740 OF 1998

FINANCE AND ECONOMIC AFFAIRS

CENTURION TOWN COUNCIL
STREET TRADING BY-LAWS

The Member of the Executive Council for Finance and Economic Affairs hereby publishes for public information by-laws regarding street trading, which he has approved in terms of section 6 (A) of the Businesses Act, 1991 (Act No. 71 of 1991).

P. J. MOLEKETI

MEC: Finance and Economic Affairs

STREET TRADING BY-LAWS

1. INTERPRETATION

In these by-laws any word or expression to which a meaning has been assigned in the Business Act, 1991 (Act 71 of 1991), shall have such meaning, and unless the context indicates otherwise

- (i) "Act" means the Business Act, 1991 (Act 71 of 1991);
- (ii) "authorised official" means an official of the Council authorised to implement the provisions of these by-laws and also:
 - (a) a traffic officer appointed in terms of section 3 of the Road Traffic Act, 1989 (Act 29 of 1989); or
 - (b) a peace officer as contemplated in section 334 of the Criminal Procedure Act, 1977 (Act 51 of 1977);
- (iii) "business" in relation to any park, public road or - place, means any act of selling or supplying goods coupled with the intention, at the time of such selling or supplying, to continue such activity;
- (iv) "Council" means the Centurion Town Council;
- (v) "goods" means any movables displayed by any person in a public place or public road for the purpose of the carrying on of the business of a street vendor including any article, receptacle, vehicle or movable structure;
- (vi) "municipality" means the area that falls under the jurisdiction of the Council;
- (vii) "park" includes any square or other open or enclosed space to which the general public has a right of access;
- (viii) "property" in relation to a person carrying on the business of a street vendor means any article, receptacle, vehicle or structure used or intended to be used in connection with such business and includes the goods of such a business;
- (ix) "public road or roadway" means a public road as defined in Section 1 of the Road Traffic Act, 1989 (Act 29 of 1989);

- (x) "public place" shall include any road, street, thoroughfare, bridge, overhead bridge, subway, foot pavement, foot-path, sidewalk, lane, square, open space, garden, park, enclosed space vested in the council under section 63 of Ordinance 17 of 1939 provided that for the purposes of these by-laws the expression "public place" includes any road, place or thoroughfare however created which is in the undisturbed use of the public or which the public have the right to use;
- (xi) "restricted area" means any place declared under section 6(A)(2) of the Act to be an area where the business of street trading is prohibited or restricted;
- (xii) "services" includes any advantage or gain for consideration or reward;
- (xiii) "sidewalk" means that portion of a verge intended for the exclusive use of pedestrians;
- (xiv) "stand" means a stand set apart and demarcated by the Council as contemplated in section 6(A)(3)(b) of the Act;
- (xv) "street vendor" means a person (carrying on business) selling goods or rendering services and includes a seller, pedlar or hawker and also:
 - (a) a person who as principal agent, assistant or employee carries on the business of street trading; and
 - (b) a person to whom a stand has been leased or allocated in terms of section 3 of these by-laws for as long as the person is carrying on the business of a street vendor on it;
- (xvi) "trade" means to sell goods or services in a public road or public place and "trading" or "street trading" has a corresponding meaning;
- (xvii) "verge" means a verge as defined in section 1 of the Road Traffic Act, 1989 (Act 29 of 1989);

2. PROHIBITION ON CARRYING ON BUSINESS

No person shall within the municipal area of the Council carry on the business of a street vendor -

- (a) in a garden or park;
- (b) on a verge contiguous to:
 - (i) a building belonging to or occupied solely by the State or Council;
 - (ii) a church or other place of worship; or

- (iii) a building declared a national monument in terms of the National Monuments Act, 1969 (Act 28 of 1969);
- (c) in an area declared by the Council as a restricted area in terms of section 6(A)(2) of the Act, save on a stand leased by virtue of a lease agreement as contemplated in section 3 of these by-laws;
- (d) at a place where -
 - (i) it causes an obstruction in front of a fire hydrant or the entrance or exit from a building;
 - (ii) it causes an obstruction to vehicular traffic;
 - (iii) it substantially obstructs pedestrians in their use of a sidewalk;
- (e) on that half of a public road contiguous to a building used for residential purposes if the owner or person in control or any occupier of the building objects to it; and
- (f) on that half of a public road contiguous to a shop or that part of a building in which business is being carried on by a person who sells goods of the same nature as, or of a similar nature, to goods being sold by the street vendor if that person objects to it.

3. LEASE OR ALLOCATION OF STANDS

- (1) Any person who intends to carry on a business as street vendor in terms of the provisions of the Act, may apply to the Council in the prescribed manner for the lease or allocation of a stand in terms of section 6(A)(3)(c) of the Act.
- (2) If such application is successful -
 - (a) the applicant shall in respect of the lease of such stand enter into a lease agreement with the Council which lease agreement must be produced on the request of an authorised official;
 - (b) in respect of the allocation, as well as the lease, of a stand a token shall be issued to the applicant (hereafter the "street vendor") as proof of the person's right to occupy such stand for the purpose of carrying on business as contemplated in subsection 2(c) of this agreement;
 - (c) street vendors shall, while carrying on business on the stand, retain such tokens on their persons ready for display to any authorised officer who requests it; and

(d) the Council may, on the written request of the street vendor, issue a token to one bona fide employee of the street vendor and the provisions of subsection 2(c) shall *mutatis mutandis* be applicable to such employee.

(3) A person who carries on the business of a street vendor on a stand and who is unable to produce a valid lease agreement or token, as contemplated in subsection 2(a) and (b), shall be guilty of an offence.

4. GENERAL CONDUCT

A street vendor shall:

- (a) not place his/her property or goods on a verge or public place except for the purpose of commencing to trade;
- (b) ensure that his/her property or goods do not cover an area of a public road or public place in excess of 3 m² without the written consent of the Council;
- (c) not place or stack his/her property and goods in such a manner that it constitutes a nuisance or danger to any person, or property, or is likely to injure any person or cause damage to property;
- (d) not erect an unsightly or objectionable structure from where he/she conducts his/her business as street vendor;
- (e) on concluding his/her business activities for the day, remove all his/her property and goods except any structures allowed by the Council to a place which is not part of a public road or a public place;
- (f) on request by an employee or authorised official of the Council or any supplier of electricity, telecommunication, or other services, remove his property and goods so as to permit the carrying out of any work in relation to a public road, public place or any such service;
- (g) not attach any object by any means to any building, structure, sidewalk, tree, parking meter, lamp-pole, electricity pole, telephone pole, telephone booth, post box, traffic sign, bench or any other street furniture in or on a public road or a public place;
- (h) not make a fire in any place or in circumstances where it could cause injury or loss to a person, building, vehicle or street furniture referred to in paragraph (g) *supra*;
- (i) not store his/her property and goods in a manhole, stormwater drain, public toilet or tree.

5. CLEANLINESS

A street vendor shall:

- (a) maintain his/her stand, property and goods, for the purposes of street trading in a clean and sanitary condition;
- (b) dispose of all litter and refuse generated by his/her business activities by making use of any available Council facilities provided for this purpose, including dumping sites and recycling plants, and shall not dispose of such litter and refuse by placing it in any manhole, stormwater drain or any other place not intended for the disposal of litter;
- (c) ensure that on completion of business for the day the area or stand occupied by him/her is clean and free of litter and refuse;
- (d) take the necessary precautions to prevent the spilling onto a public road or public place of any fat, oil or grease in the course of conducting his/her business and shall further prevent smoke, fumes and odours emanating from his/her activities to cause a nuisance;
- (e) on request by an authorised official remove his/her goods and property to permit the cleansing of the standing if necessary.

6. RESTRICTED AND PROHIBITED TRADING AREAS

- (1) The Council may in terms of section 6(A)(2) of the Act declare any area within its jurisdiction as an area where the carrying on of the business as street trader, pedlar or hawker is restricted or prohibited with reference to:
 - (a) restricting trading to a specific category or categories of goods or services; and/or
 - (b) restricting trading to specific times or days or both.
- (2) The Council may identify and indicate any such restricted and/or prohibited trading area in any manner it deems appropriate and fit.

7. IMPOUNDMENT AND REMOVAL

- (1) An authorised official of the Council may impound and remove any goods, receptacles, vehicles or movable structures:
 - (a) which he/she reasonably suspects being used or is intended to be used or has been used in or in connection with the business of street trading, pedling or hawking; and

(b) which he/she finds at a place where the carrying on of such business constitutes an offence in terms of this by-laws, irrespective if such goods, receptacles, vehicles or movable structures are in the possession or control of any person at the time of such impoundment and/or removal.

(2) The disposition of any goods, receptacles, vehicles or movable structures impounded and removed as contemplated in subsection (1) supra, as well as any liabilities incurred by any person in connection with any expenditures incurred by the Council in connection thereof shall be determined and effected in accordance with the regulations promulgated by the Premier in terms of section 6(1)(b) of the Act.

8. OFFENCES AND PENALTIES

(1) Any person who contravenes a provision of these by-laws or fails to comply with any condition or restriction imposed under these by-laws, or an authorised official, shall be guilty of an offence.

(2) Any person who is guilty of an offence in terms of these by-laws shall on conviction be liable to a penalty or to imprisonment for a period not exceeding 3 months.

9. VICARIOUS LIABILITY OF PERSONS TRADING

(1) When an employee of a street trader performs any act or an omission which constitutes an offence in terms of these by-laws, the employer shall be deemed himself to have committed the act or omission, unless he satisfies the court that:

(a) in committing the act or omission the employee was acting without his permission or knowledge;

(b) he took all reasonable steps to prevent the act or the omission; and

(c) it was not within the scope of authority and the cause of employment of the employee to perform such act or omission, of the nature in question, and the mere fact that such employer issued instructions forbidding the act or omission shall not in itself be accepted as sufficient proof that he took the required steps referred to in subparagraph (b).

- (2) When an employer is, by virtue of subsection (1), liable for an act or omission by his employee, then that employee shall also be liable for prosecution of the offence.

SMOUSVERORDENINGE

1. WOORDOMSKRYWING

In hierdie Verordeninge het enige woord of uitdrukking waaraan 'n betekenis in die Wet op Besighede, 1991 (Wet 71 van 1991) toegeken is, daardie betekenis, en tensy dit uit die samehang anders blyk, beteken ...

- (i) "beperkte gebied" enige plek wat ingevolge artikel 6A(2) van die Wet verklaar word as 'n gebied waar die dryf van die besigheid van straathandelaar verbied of beperk is;
- (ii) "besigheid" met betrekking tot enige park, openbare pad of -plek, enige handeling van verkoop of lewering van goedere wat gekoppel is aan die bedoeling, ten tyde van sodanige verkoop of lewering, om sodanige aktiwiteit voort te sit;
- (iii) "diens" ook enige voordeel of wins verkry as vergoeding of beloning;
- (iv) "eiendom" in verband met 'n persoon met betrekking tot die dryf van die besigheid van straathandelaar, enige artikel, houër, voertuig of struktuur wat bedoel is vir gebruik in verband met sodanige besigheid en sluit ook die handelsware van hierdie bedryf in;
- (v) "gemagtigde amptenaar" 'n amptenaar van die Raad wat gemagtig is om uitvoering te gee aan die bepalings van hierdie Verordening en ook:
 - (a) 'n verkeersbeampte aangestel kragtens artikel 3 van die Padverkeerswet, 1989 (Wet 29 van 1989); of
 - (b) 'n vredesbeampte soos bedoel in artikel 334 van die Strafproseswet, 1977 (Wet 51 van 1977);
- (vi) "goedere" enige roerende goed wat uitgestal word deur enige persoon in 'n openbare plek of -straat met die doel om die besigheid van 'n straathandelaar te bedryf) en sluit in enige artikel, houër, voertuig of beweegbare struktuur;
- (vii) "handeldryf" om goedere of dienste te verkoop in 'n openbare pad of straat of openbare plek, en "straatverkope" of "handeldrywing" het 'n ooreenstemmende betekenis;
- (viii) "munisipaliteit" die gebied wat onder die Raad se jurisdiksie val;
- (ix) "park" ook enige plein of ander oop of geslote ruimte waartoe die algemene publiek reg van toegang het;

- (x) "openbare pad of straat" 'n openbare pad soos omskryf in artikel 1 van die Padverkeerswet, 1989 (Wet 29 van 1989);
- (xi) "openbare plek" ook enige pad, straat, deurgang, brug, bogrondse brug, duikweg, voetbestrating, voetpad, sypaadjie, steeg, plein, oopruimte, tuin, park, ingeslote ruimte waarvan die eiendomsreg by die Raad kragtens artikel 63 van Ordonnansie 17 van 1939 berus, met dien verstande dat vir die doeleindes van hierdie verordeninge die uitdrukking "publieke plek" enige pad, plek of deurgang omvat, hoe dit ook al tot stand gekom het, waarvan die publiek die onbelemmerde gebruik het of die reg van gebruik besit;
- (xii) "Raad" beteken die Stadsraad van Centurion;
- (xiii) "soom" 'n soom soos omskryf in artikel 1 van die Padverkeerswet, 1989 (Wet 29 van 1989);
- (xiv) "staanplek" 'n staanplek wat die Raad opsy gesit en afgebaken het soos bedoel in artikel 6A(3)(b) van die Wet op Besighede, 1991 (Wet 71 van 1991);
- (xv) "straathandelaar" 'n persoon wat (besigheid dryf), goedere verkoop of dienste aanbied en sluit ook in 'n verkoper, venter of smous asook:
 - (a) 'n persoon wat as prinsipaal, agent, assistent of werknemer by die dryf van die besigheid as straathandelaar betrokke is; en
 - (b) 'n persoon aan wie 'n staanplek verhuur of toegewys is ingevolge artikel 3 van hierdie Verordeninge vir solank as wat die persoon die besigheid van straathandelaar daarop bedryf;
- (xvi) "sypaadjie" die deel van die soom wat uitsluitlik vir gebruik deur voetgangers bedoel is;
- (xvii) "wet" die Wet op Besighede, 1991 (Wet 71 van 1991);

2. VERBOD OP DIE DRYF VAN BESIGHEID

Geen persoon mag binne die Munisipale grense van die Raad die besigheid van 'n straathandelaar bedryf nie -

- (a) in 'n tuin of park;
- (b) op 'n soom aangrensend aan:
 - (i) 'n gebou wat behoort aan of geokkupeer word slegs deur die Staat of die Raad;

- (b) ten opsigte van die toewysing, sowel as die huur, van 'n staanplek word 'n kenteken aan die aansoeker (hierna die "straathandelaar" genoem) uitgereik, welke kenteken as bewys dien van die persoon se reg op okkupasie van sodanige staanplek vir die doeleindes van die dryf van besigheid soos bedoel in subartikel 2(c) van hierdie artikel;
 - (c) moet straathandelaars gedurende die dryf van besigheid op die staanplek sodanige kentekens aan hul persoon hou, gereed vir voorlegging aan enige gemagtigde amptenaar wat daarvoor vra; en
 - (d) kan die Raad, op skriftelike versoek van die straathandelaar, 'n kenteken aan een bona fide-werknemer van die straathandelaar uitreik en die voorwaardes van subartikel (c) is mutatis mutandis op sodanige werknemer van toepassing.
- (3) 'n Persoon wat op 'n staanplek as 'n straathandelaar besigheid bedryf en nie in staat is om die kenteken of huurooreenkoms soos bedoel in subartikels 2(a) en (b) voor te lê nie, is aan 'n misdryf skuldig.

4. ALGEMENE GEDRAG

'n Straathandelaar sal:

- (a) nie sy/haar goedere of eiendom op 'n soom, soos omskryf of op 'n openbare plek plaas, behalwe met die doel om te kan begin met handeldrywing nie;
- (b) verseker dat sy/haar goedere of eiendom nie 'n ruimte van méér as 3 vierkante meter (3 m²) van 'n openbare pad of 'n openbare plek beslaan sonder die skriftelike toestemming van die Raad nie;
- (c) nie sy/haar goedere of eiendom op só 'n wyse uitstal of vertoon dat dit 'n gevaar of oorlas inhou vir enige persoon of eiendom, of moontlik aanleiding kan gee tot die besering van enige persoon of beskadiging van eiendom nie;
- (d) nie 'n onooglike of aanstootlike struktuur oprig vanwaar hy/sy as straathandelaar besigheid bedryf nie;
- (e) by beëindiging van sy/haar sakebedrywighede vir die dag, alle goedere en eiendom verwyder, behalwe enige strukture soos toegelaat deur die Raad na 'n plek wat nié deel vorm van 'n openbare pad of openbare plek nie;
- (f) op versoek van 'n werknemer of gevolmagtigde van die Raad, of enige verskaffer van elektrisiteit, telekommunikasie- of ander dienste, sy/haar goedere en eiendom verwyder ten einde enige werksaamhede aan 'n openbare pad of openbare plek of enige sodanige dienste toe te laat;

- (g) nie enige voorwerp op enige wyse vasheg aan enige gebou, struktuur, sypaadjie, boom, parkeermeter, lamppaal, elektrisiteitspaal, telefoonpaal, telefoonhokkie, posbus, verkeerstek, bank of enige ander straattoerusting in of op 'n openbare pad of openbare plek nie;
- (h) nie vuur maak nie op enige plek of in enige omstandighede waar dit beserings of skade kan aanrig aan 'n persoon, gebou, voertuig of straattoerusting soos omskryf in paragraaf (g) hierbo;
- (i) nie sy goedere stoor in 'n mangat, stormwaterpyp, openbare toilet of boom nie.

5. SINDELIKHEID

'n Straathandelaar sal:

- (a) die standplaas en sy/haar goedere en eiendom wat gebruik word vir doeleindes van sodanige besigheid op 'n skoon en sindelike wyse onderhou;
- (b) wegdoen van alle rommel en afvalmateriaal wat deur sy/haar besigheidsaktiwiteite gegenereer word deur gebruik te maak van enige beskikbare Raadsfasiliteite verskaf vir dié doel, met inbegrip van stortingsterreine en herwinningsaanlegte en sal nie van sodanige afval en rommel ontslae raak deur dit te plaas in 'n mangat, stormwaterafvoersloot, openbare plek, openbare pad of enige ander plek nie bedoel vir die storting van rommel en afvalmateriaal nie;
- (c) verseker dat die standplaas wat hy/sy gebruik vir handeldrywing by beëindiging van die dag se sakebedrywigheede skoon en rommelvry sal wees;
- (d) die nodige voorsorg tref om te voorkom dat stowwe soos vet of ander afvalstowwe op 'n openbare pad of openbare plek gestort word in die loop van sy/haar besigheidsaktiwiteite en moet verder toesien dat rook, walms en reuke voortspruitend uit sodanige besigheidsaktiwiteite nie 'n oorlas veroorsaak nie;
- (e) op versoek van 'n gemagtigde amptenaar sy goedere en eiendom verwyder om die skoonmaak van sy standplaas moontlik te maak, indien nodig.

6. BEPERKTE EN VERBODE HANDELSGEBIEDE

- (1) Die Raad mag ingevolge die bepalinge van artikel 6A(2) van die Wet enige plek binne die regsgebied van die Raad verklaar tot 'n gebied waarin die dryf van die besigheid van straathandelaar, venter of smous beperk of verbied kan word met betrekking tot:

- (a) die kategorie of kategorieë van goedere of dienste waarin gehandel mag word; en/of
 - (b) die spesifieke tye of dae, of beide, wanneer handel gedryf mag word.
- (2) Die Raad mag enige aldus verbode of beperkte handelsgebiede identifiseer en aandui op 'n wyse wat die Raad as toepaslik beskou.

7. BESLAGLEGGING EN VERWYDERING

- (1) 'n Gemagtigde amptenaar van die Raad kan op enige goedere, houer, voertuig of beweegbare struktuur beslag lê en dit verwyder:
- (a) wat hy redelikerwys vermoed gebruik word of bestem is om gebruik te word of gebruik is by of in verband met die dryf van die besigheid van straathandelaar, venter of smous; en
 - (b) wat hy vind op 'n plek waar die dryf van sodanige besigheid 'n oortreding van hierdie Verordeninge uitmaak, ongeag of sodanige goedere, houer, voertuig of beweegbare struktuur in die besit of onder die beheer is van enige persoon ten tye van sodanige verwydering en beslaglegging.
- (2) Die beskikking oor enige goedere, houers, voertuie of beweegbare strukture waarop beslag gelê en verwyder is, soos in subartikel 1 hierbo bedoel en die aanspreeklikheid van enige persoon ten opsigte van uitgawes deur die Raad aangegaan in verband daarmee, sal geskied in ooreenstemming met die regulasies uitgevaardig deur die Premier ingevolge artikel 6(1)(b) van die Wet.

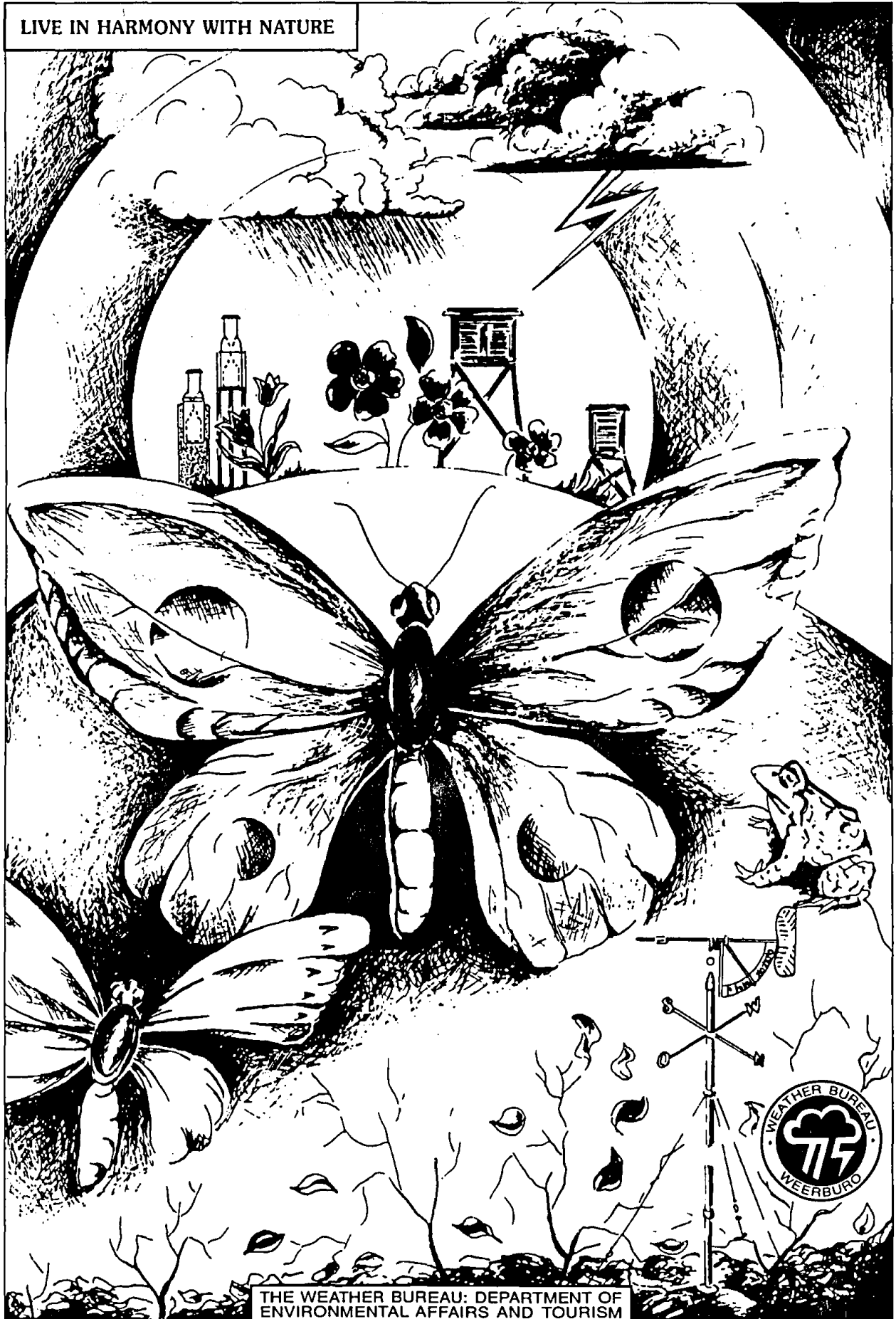
8. MISDRYWE EN STRAWWE

- (1) Enige persoon wat 'n bepaling van hierdie Verordeninge oortree, of versuim om te voldoen aan enige voorwaarde of beperking opgelê ingevolge hiervan, of deur 'n gematigde amptenaar, is skuldig aan 'n misdryf.
- (2) 'n Persoon wat skuldig is aan 'n oortreding van hierdie Verordeninge is by skuldigbevinding strafbaar met 'n boete of gevangenisstraf vir 'n tydperk van hoogstens 3 maande.

9. MIDDELIKE AANSPREEKLIKHEID VAN PERSONE WAT HANDEL DRYF

- (1) Indien 'n werknemer van 'n straathandelaar enige handeling of versuim begaan wat 'n oortreding ingevolge hierdie Verordeninge sou wees sal die werkgewer geag word self die betrokke handeling of versuim te begaan het, tensy hy die hof daarvan kan oortuig dat:
- (a) tydens die pleging van die handeling of die versuim die werknemer opgetree het sonder die medewete of toestemming van die werkgewer;
 - (b) hy alle redelike stappe geneem het om die handeling of versuim te voorkom;
 - (c) dit nie binne die omvang van die volmag of in die loop van die diensbestek van die werknemer was om die betrokke handeling of versuim te begaan nie en die blote feit dat die werkgewer opdragte gegee het wat die betrokke handeling of versuim verbied, sal nie opsigself as genoegsame bewys daarvan dien dat hy voldoende stappe geneem het soos na verwys word in subparagraaf (b) nie.
- (2) Wanneer 'n werkgewer ingevolge die bepalings van subartikel (1) aanspreeklik gehou kan word vir die handeling of versuim van 'n werknemer, sal die betrokke werknemer self ook aanspreeklik wees weens die oortreding.

LIVE IN HARMONY WITH NATURE



THE WEATHER BUREAU: DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

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