



**NORTH WEST
NOORDWES**

**EXTRAORDINARY
PROVINCIAL GAZETTE**

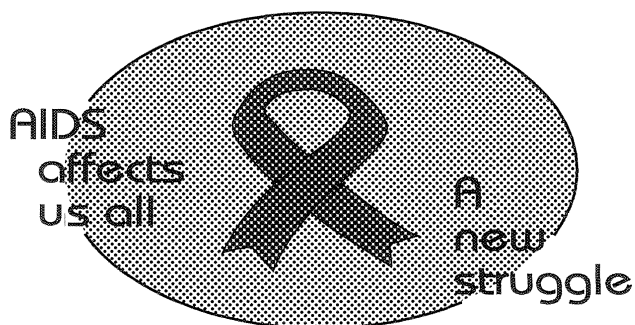
**BUITENGEWONE
PROVINSIALE KOERANT**

Vol. 258

27 MAY
MEI 2015

No. 7452

We all have the power to prevent AIDS



Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

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



IMPORTANT

Information

from Government Printing Works

Dear Valued Customers,

Government Printing Works has implemented rules for completing and submitting the electronic Adobe Forms when you, the customer, submits your notice request.

Please take note of these guidelines when completing your form.



GPW Business Rules

1. No hand written notices will be accepted for processing, this includes Adobe forms which have been completed by hand.
2. Notices can only be submitted in Adobe electronic form format to the email submission address submit.egazette@gpw.gov.za. This means that any notice submissions not on an Adobe electronic form that are submitted to this mailbox will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
3. Notices brought into GPW by "walk-in" customers on electronic media can only be submitted in Adobe electronic form format. This means that any notice submissions not on an Adobe electronic form that are submitted by the customer on electronic media will be **rejected**. National or Provincial gazette notices, where the Z95 or Z95Prov must be an Adobe form but the notice content (body) will be an attachment.
4. All customers who walk in to GPW that wish to submit a notice that is not on an electronic Adobe form will be routed to the Contact Centre where the customer will be taken through the completion of the form by a GPW representative. Where a customer walks into GPW with a stack of hard copy notices delivered by a messenger on behalf of a newspaper the messenger must be referred back to the sender as the submission does not adhere to the submission rules.
5. All notice submissions that do not comply with point 2 will be charged full price for the notice submission.
6. The current cut-off of all Gazette's remains unchanged for all channels. (Refer to the GPW website for submission deadlines – www.gpwonline.co.za)
7. Incorrectly completed forms and notices submitted in the wrong format will be rejected to the customer to be corrected and resubmitted. Assistance will be available through the Contact Centre should help be required when completing the forms. (012-748 6200 or email info.egazette@gpw.gov.za)
8. All re-submissions by customers will be subject to the above cut-off times.
9. All submissions and re-submissions that miss the cut-off will be rejected to the customer to be submitted with a new publication date.
10. Information on forms will be taken as the primary source of the notice to be published. Any instructions that are on the email body or covering letter that contradicts the notice form content will be ignored.

You are therefore advised that effective from **Monday, 18 May 2015** should you not comply with our new rules of engagement, all notice requests will be rejected by our new system.

Furthermore, the fax number **012- 748 6030** will also be **discontinued** from this date and customers will only be able to submit notice requests through the email address submit.egazette@gpw.gov.za.



DO use the new Adobe Forms for your notice request.

These new forms can be found on our website: www.gpwonline.co.za under the Gazette Services page.

DO attach documents separately in your email to GPW. (In other words, your email should have an Adobe Form plus proof of payment – 2 separate attachments – where notice content is applicable, it should also be a 3rd separate attachment)

DO specify your requested publication date.

DO send us the electronic Adobe form. (There is no need to print and scan it).

DON'T submit request as a single PDF containing all other documents, i.e. form, proof of payment & notice content, it will be **FAILED** by our new system.

DON'T print and scan the electronic Adobe form.

DON'T send queries or RFQ's to the submit.egazette mailbox.

DON'T send bad quality documents to GPW. (Check that documents are clear and can be read)



Form Completion Rules

No.	Rule Description	Explanation/example
1.	All forms must be completed in the chosen language.	GPW does not take responsibility for translation of notice content.
2.	All forms must be completed in sentence case, i.e. No fields should be completed in all uppercase.	e.g. "The company is called XYZ Production Works"
3.	No single line text fields should end with any punctuation, unless the last word is an abbreviation.	e.g. "Pty Ltd.", e.g. Do not end an address field, company name, etc. with a period (.) comma (,) etc.
4.	Multi line fields should not have additional hard returns at the end of lines or the field itself.	This causes unwanted line breaks in the final output, e.g. <ul style="list-style-type: none"> Do not type as: 43 Bloubokrand Street Putsonderwater 1923 Text should be entered as: 43 Bloubokrand Street, Putsonderwater, 1923
5.	Grid fields (Used for dates, ID Numbers, Telephone No., etc.)	<ul style="list-style-type: none"> Date fields are verified against format CCYY-MM-DD Time fields are verified against format HH:MM Telephone/Fax Numbers are not verified and allow for any of the following formats limited to 13 characters: including brackets, hyphens, and spaces <ul style="list-style-type: none"> 0123679089 (012) 3679089 (012)367-9089
6.	Copy/Paste from other documents/text editors into the text blocks on forms.	<ul style="list-style-type: none"> Avoid using this option as it carries the original formatting, i.e. font type, size, line spacing, etc. Do not include company letterheads, logos, headers, footers, etc. in text block fields.



No.	Rule Description	Explanation/example
7.	Rich text fields (fields that allow for text formatting)	<ul style="list-style-type: none"> • Font type should remain as Arial • Font size should remain unchanged at 9pt • Line spacing should remain at the default of 1.0 • The following formatting is allowed: <ul style="list-style-type: none"> ○ Bold ○ Italic ○ Underline ○ Superscript ○ Subscript • Do not use tabs and bullets, or repeated spaces in lieu of tabs and indents • Text justification is allowed: <ul style="list-style-type: none"> ○ Left ○ Right ○ Center ○ Full • Do not use additional hard or soft returns at the end of line/paragraphs. The paragraph breaks are automatically applied by the output software <ul style="list-style-type: none"> ○ Allow the text to wrap automatically to the next line only use single hard return to indicate the next paragraph ○ Numbered lists are allowed, but no special formatting is applied. It maintains the standard paragraph styling of the gazette, i.e. first line is indented.
	e.g. 1. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river. 2. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river. The quick brown fox jumps over the lazy river.	



You can find the **new electronic Adobe Forms** on the website www.gpwonline.co.za under the Gazette Services page.

For any **queries or quotations**, please contact the **eGazette Contact Centre** on 012-748 6200 or email info.egazette@gpw.gov.za

Disclaimer

Government Printing Works does not accept responsibility for notice requests submitted through the discontinued channels as well as for the quality and accuracy of information, or incorrectly captured information and will not amend information supplied.

GPW will not be held responsible for notices not published due to non-compliance and/or late submission.



DISCLAIMER:

Government Printing Works reserves the right to apply the 25% discount to all Legal and Liquor notices that comply with the business rules for notice submissions for publication in gazettes.

National, Provincial, Road Carrier Permits and Tender notices will pay the price as published in the Government Gazettes.

For any information, please contact the eGazette Contact Centre on 012-748 6200 or email info.egazette@gpw.gov.za

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LOCAL AUTHORITY NOTICE

LOCAL AUTHORITY NOTICE 49

CONSUMER AFFAIRS (UNFAIR BUSINESS PRACTICES) AMENDMENT ACT NO.4 OF 2015

[ASSENTED TO _____]

[DATE 17/04/2015]

*(As passed by the North West Provincial Legislature)
(The English text is the original text of this act)*

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments
 _____ Words underlined with a solid line indicate insertions in existing enactments

BILL

To amend the Consumer Affairs (Harmful Business Practices) Act, 1996 (Act No 4 of 1996, so as to effect textual amendments; to insert new definitions and new provisions; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of the Province of North West, as follows:-

Amendment of section 1 of Act No 4 of 1996

1. Section 1 of the principal Act is hereby amended –

- (a) by the substitution for the definition of “arrangement” of the following definition:
 “**arrangement**” means an arrangement or undertaking negotiated and concluded by the office under section [9] 8.”;
- (b) by the substitution for the definition of “court” of the following definition:
 “**court**” means the Consumer Affairs Court, a quasi-judicial body established under section [11] 10;”;
- (c) by the insertion after the definition of “commodity” of the following definition:
 “**competent court**” means a Magistrate, Regional or High Court;”;
- (d) by the insertion after the definition of “consumer” of the following definition:
 “**Consumer Protector**” means a person who is appointed in terms of section 2A(1);”;
- (e) by the substitution for the definition of “department” of the following definition:
 “**department**” means the Provincial Department [of Finance and Economic Affairs] responsible for Consumer matters;”;
- (f) by the deletion of the definition “**harmful business practice;**”.
- (g) by the deletion of the definition “**Head;**”.
- (h) by the substitution for the definition of “office” of the following definition:
 “**office**” means the Office for the Investigation of [Harmful] Unfair Business Practices contemplated in section 2;”;
- (i) by the insertion after the definition of “prescribed” of the following definition:
 “**prohibited conduct**” means an act or omission in contravention of the

Consumer Protection Act, 2008 (Act No. 68 of 2008) or National Credit Act, 2005 (Act No. 34 of 2005), as amended;;

(j) by the substitution for the definition of “regulation” of the following definition:

“**regulation**” means [a] regulation made under section [24] 23;”;

(k) by the substitution for the definition of “responsible Member” of the following definition:

“**responsible Member**” means the Member of the Executive Council of the Province responsible for [Finance and Economic Affairs] **consumer matters;**”; and

(l) by the insertion after the definition of “this Act” of the following definition:

“**unfair business practice**” means any business practice which, directly or indirectly, has or is likely to have the effect of –

(a) harming the relations between businesses and consumers;

(b) unreasonably prejudicing a consumer; or

(c) deceiving a consumer.”.

Substitution of the word [harmful] with the word “unfair” in Act 4 of 1996

2. The principal Act is hereby amended by the substitution of the word “harmful”, wherever it appears in this Act with the word “unfair”.

Substitution of the word [Head] with the word “Consumer Protector” in Act 4 of 1996

3. The principal Act is hereby amended by the substitution of the word “head”, wherever it appears in this Act with the word “Consumer Protector”.

Amendment of section 2 of Act No.4 of 1996

4. Section 2 of the Principal Act is hereby amended by the substitution of the subsection(1) of the following subsection:

“(1) There [shall be] is hereby established [in accordance with provisions of the laws governing the Public Service,] in the Department, an Office [to be] called [the] an Office for the Investigation of [harmful] Unfair Business Practices.”.

Insertion of sections 2A and 2B in Act No 4 of 1996

5. The following sections are hereby inserted after section 2 of the principal Act:

Appointment of Consumer Protector

2A.(1) Subject to the laws governing the Public Service, the responsible Member or his or her delegate –

(a) shall appoint a person known as the Consumer Protector;

(b) may from time to time appoint an Acting Consumer Protector, to discharge the duties of the Consumer Protector whenever the Consumer Protector is for any reason unable to perform those duties or while the appointment of a person as Consumer Protector is pending.

(2) The responsible Member may appoint one or more persons to assist with the performance of the functions of the office, subject to the control and directions of the Consumer Protector.

(3) A person contemplated in sub-section (1) may be paid such remuneration, allowances or expenses in accordance with the determined tariffs applicable in the public service.

Appointment of investigating officers and staff of office

2B.(1) The responsible Member or his or her delegate may, subject to the laws governing the Public Service, appoint persons in the service of the office or any other suitable persons, as investigating officers.

(2) An investigating officer who is not in the full time service of the State may be appointed on such terms and conditions, and be paid such remuneration as may be prescribed.

(3) When an investigating officer performs any function in terms of this Act, the investigating officer must –

(a) be in possession of a certificate of appointment issued to that investigating officer in terms of section 2 (3); and

(b) show that certificate to any person who –

(i) is affected by the investigating officer's actions in terms of this Act; and

(ii) requests to see the certificate.

(4) The Responsible Member may appoint or contract any suitably qualified person to assist the Consumer Protector with carrying out of a particular investigation under this Act.

(5) A person appointed or contracted in terms of sub-section (4) is not an investigating officer within the meaning of the Act.

((6) A person contracted as contemplated under subsection (4) may be paid such remuneration, allowance or expenses in accordance with the determined tariffs applicable in the public service.

(7) The Consumer Protector and any other employee of the Office must not –

(a) engage in any activity that may undermine the integrity of the office;(b) participate in any investigation, hearing or decision concerning a matter in respect of which that person has a direct financial interest or any similar personal interest;

(c) make private use of, or profit from, any confidential information obtained as a result of performing that person's official functions in the office; or

(d) divulge any information referred to in paragraph (c) to any third party, except as required as part of that person's official functions within the office.”.

Amendment of section 3 of Act No 4 of 1996

6. Section 3 of the principal Act is hereby amended by the deletion of paragraph (b).

Amendment of section 4 of Act No 4 of 1996

7. Section 4 of the principal Act is hereby amended by the substitution of the following section:

“4. [Any Person] A consumer aggrieved by an alleged [harmful] unfair business practice, or any other interested person, may [lay the matter in question before the Head] lodge a complaint with the office [in the manner prescribed in terms of this Act].”.

Amendment of section 5 of Act No 4 of 1996

8. Section 5 of the principal Act is hereby amended by the deletion of sub-section 4.

Amendment of section 6 of Act No 4 of 1996

9. Section 6 of the principal Act is hereby amended by the deletion of sub-section 5

Amendment of section 7 of Act No 4 of 1996

10. Section 7 of the principal Act is hereby amended –

(a) by the substitution for subsection (2) of the following subsection:

“(2) Unless the owner or person in charge of the premises concerned has consented thereto in writing, an investigating officer shall enter premises and exercise powers contemplated in sub-section (1), only under a search warrant, which may only be issued by the **[Consumer Affairs Court] Competent Court** if it appears to that Court from information supplied, that there are reasonable grounds to suspect –

(a) that an **[harmful] unfair** business practice exists or may come into existence;”;

(b) that a book, document or other object which may afford evidence of such **[harmful] unfair** business practice is on or in those premises;”.

(b) by the substitution of subsection (7)(a) of the following:

“(7) A person shall be guilty of an offence if he or she –

(a) obstructs or hinders an Investigating Officer in the performance of his or her functions in terms of **[this section] this Act;**”;

(c) by the deletion of paragraph (b) of subsection (7);

(d) by the deletion of subsection (8).

Amendment of section 9 of Act No 4 of 1996

11. Section 9 of the principal Act is hereby amended –

(a) by the deletion of paragraph (a) of subsection (9);

(b) (b) by the insertion of item (iii) after item (ii) of paragraph (b) of section 9 of the following:

“(iii) against any person alleged to be responsible for the prohibited conduct in terms of the Consumer Protection Act No. 68 of 2008 or any other applicable legislation.”.

Amendment of section 11 of Act No 4 of 1996

12. Section 11 of the Principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A court shall ~~[consists]~~ consist of three or five persons appointed by the Responsible Member, namely –”

Amendment of section 13 of Act No 4 of 1996

13. Section 13 of the Principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) A court shall –

(a) hear, consider and make a decision on any matter which is before the court by virtue of proceedings instituted as contemplated in [section 9(b)] this Act, the Consumer Protection Act, 2008 (Act No. 68 of 2008) or any other applicable legislation;

(b) where applicable, exercise the powers and perform the functions and duties contemplated in [sections 15 to 20] this Act, the Consumer Protection Act, 2008 (Act No. 68 of 2008) or any other applicable legislation.”.

Insertion of sections 13A and 13B in Act No 4 of 1996

14. The following sections are hereby inserted after section 13(2) of the principal Act:

“Orders of court

13A. In addition to its other powers in terms this Act, the Consumer Protection Act, 2008 (Act No. 68 of 2008) or any other applicable legislation, the court may make appropriate order in relation to a prohibited conduct or unfair business practice including –

- (a) declaring a business practice to be an unfair business practice;
- (b) declaring a conduct to be a prohibited conduct;
- (c) imposing administrative fine on the scale to be prescribed or in the amount determined by the court, against any person found to have conducted an unfair business practice or engaged in a prohibited conduct;
- (d) administrative fine may be imposed with or without the addition of any other order in terms of this section;
- (e) confirming a consent agreement in terms of the Consumer Protection Act, 2008 (Act No. 68 of 2008) or any other applicable legislation as an order of the court;
- (f) interdicting any prohibited conduct;
- (g) requiring refund to the consumer for actual financial loss suffered as a result of engagement with an unfair business practice or prohibited conduct;
- (h) ordering any other appropriate relief to a consumer; (i) condoning non-compliance with any procedure on good cause shown.

Costs

13B. Each party participating in a hearing before the court shall bear its own costs.

(1) If a court –

- (a) has not made a finding against the respondent, it may award costs to the respondent against a complainant who referred the complaint in terms of section 141(1) of the National Credit Act, 2005 (Act No. 34 of 2005); or

(b) has made a finding against the respondent, it may award costs against the respondent to the complainant who referred the complaint in terms of section 141(1) of the National Credit Act, 2005 (Act No. 34 of 2005).”.

Amendment of section 14 of Act No 4 of 1996

15. Section 14 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) All proceedings of the court shall, subject to the provisions of sub-section (3) be **[opened]** open to the public.”.

Insertion of section 14A in Act No 4 of 1996

16. The following section is hereby inserted after section 14(7) of the principal Act:

“Appeals and reviews

14A. Subject to the rules of the Competent Court and within 21 working days after a decision has been taken, a participant in a hearing before the court may -

(1) apply to the Competent Court to review the decision of the court in that matter; or

(2) appeal to the Competent court against the decision of the court in that matter.”.

Amendment of section 15 of Act No 4 of 1996

17. Section 15 of the principal Act is hereby amended

(a) by the substitution for sub-section (1)(c) of the following subsection:

“(c) question such person and examine any book, document or object which he or she has been required **[ro]** to.”.

(b) by deletion of sub-section 3.

Amendment of section 16 of Act No 4 of 1996

18. Section 16 of the principal Act is hereby amended by the substitution for sub-section (1) of the following subsection:

“(1) A court may, if it is satisfied from **[information]** evidence placed before it by the Office that circumstances relating to a particular matter which is the subject of an investigation render that matter urgent in that irreparable prejudice would be caused if the matter were only to be dealt with by the court at proceedings in due course, issue a temporary order -;”.

Amendment of section 17 of Act No 4 of 1996

19. Section 17 of the principal Act is hereby amended –

(a) by the substitution for sub-section (2) of the following sub-section:

“(2) the court may, after the person concerned has been given an opportunity to be heard, **[issues] issue** an order –₁”;

(b) by the insertion of subsections (3) and (4) after subsection (2) of the following:

“(3) The court may submit its order to the competent court, within 21 working days after the expiry of a period to apply for a review or appeal or within 21 working days after the decision of the review or appeal as the case may be, to be made an order of that court in terms of its rules.

(4) The competent court may, without hearing evidence –

(a) confirm the order;

(b) indicate changes that must be made in the draft order before it grant an order;

(c) refuse to make the order.”.

Amendment of section 18 of Act No 4 of 1996

20. Section 18 of the principal Act is hereby amended –

(a) by the substitution for substitution for sub-section (1)(b) of the following sub-section:

“(b) any person who is or was party to an agreement, understanding or omission, or who uses or has used any advertising or type of advertising or applies or has applied a scheme, practice or method of trading, including any method of marketing or distribution, or commits or has committed an act, or **[bring] brings** or has brought about a situation, or has or had any interest in a business or derives or derived any income from a business, or type of business, which is connected with the said **[harmful]unfair** business practice which may be specified in the order to –₁”;

(b) by the insertion of a comma after the word “scheme” in sub-section (1) (b) (v) (cc).

(c) by the substitution for sub-section (1)(b)(v)(dd) of the following sub-section:

“(dd) committing any act or bringing about a situation, which is of a nature specified in the order and which the court is satisfied is likely to be applied for the purposes of, or in connection with, the creation or maintenance of any **[harmful] unfair** business practice;”;

(d) by the deletion of sub- section 18(1)(c).

(e) by the substitution for sub-section (2)(b) of the following sub-section:

“(b) may be made known in any other **[matter]** manner, including a notice in **[a newspaper or magazine or on the radio or television]** any form of print or electronic media.”.

Deletion of section 19 of Act 4 of 1996

21. Section 19 of the principal Act is hereby deleted.

Deletion of section 20 of Act 4 of 1996

22. Section 20 of the principal Act is hereby deleted.

Amendment of section 21 of Act No 4 of 1996

23. Section 21 of the principal Act is hereby amended –

(a) by the deletion of sub-section (1);

(b) by the substitution for sub-section (2) of the following sub-section:

“(2) The **[Head]** Consumer Protector shall, if there is reason at any time during or after the completion of an investigation **[estimation]** to suspect that there has been or is being committed, or that an attempt has been or is being made to commit -₁”; and

(c) by the substitution for sub-section (2)(a) of the following sub-section:

“(a) an offence, notify the **[Attorney General]** National Director of Public Prosecutions concerned accordingly₁”.

Amendment of section 22 of Act No 4 of 1996

24. Section 22 of the principal Act is hereby amended by the substitution for paragraph (a) of the following paragraph:

“(a) in so far as may be necessary for the purpose of the due and proper exercise or performance of any power, function or **[duly]** duty in terms of this Act; or.”.

Short title

25. This Act is called the Consumer Affairs (Unfair Business Practices) Amendment Act, 2015.

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