

Johannesburg, South Africa

## Market

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# Johannesburg South Africa

## Market By-law, 2022

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The Municipal Manager of the City of Johannesburg Metropolitan Municipality hereby in terms of section 13(a) of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), publishes the Market By-laws for the City of Johannesburg Metropolitan Municipality, as approved by its Council, as set out hereunder.

### Chapter 1 Interpretation and business hours

#### 1. Definitions

In these By-laws, unless the context otherwise indicates—

"**authorised official**" means any official of JM who has in writing been authorised by it to administer, implement and enforce the provisions of these By-laws to the extent so authorised and includes the Chief Executive Officer;

"**clean**" means free of soil, food residue, grease or other objectionable matter;

"**Chief Executive Officer**" means the person appointed by JM to act as its Chief Executive Officer and any person lawfully acting in that capacity and any employee of JM authorised by that Officer in writing to act on his or her behalf;

"**canvassing**" means attracting buyers or business in a fashion that disrupts good order on the JM premises;

"**cold storage**" means storage in any cold storage facility;

"**cold storage facilities**" means facilities provided by JM in the market for refrigerated storage and ripening of produce;

"**consignment**" means any consignment of produce to be delivered by a consignor to a market agent at any time as reflected on a delivery note in respect of that produce;

"**consignor**" means a producer or manufacturer of produce and any other person, irrespective of the type of business in which he or she is involved, who consigns produce to a market agent;

"**contract**" means an agreement entered into between JM and one or more parties with the intention of creating a legal obligation;

"**Council**" means

- (a) the Metropolitan Municipality of the City of Johannesburg established by Provincial Notice No. 6766 of 2000 dated 1 October 2000, as amended, exercising its legislative and executive authority through its municipal Council; or
- (b) its successor in title; or
- (c) a structure or person exercising a delegated power or carrying out an instruction, where any power in these By-laws has been delegated or sub-delegated, or an instruction given, as contemplated in section 59 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000),

as the case may be;

**"delivery note"** means a delivery note contemplated in section 16 and which is prepared by a consignor on a form acceptable to JM setting out the produce of each consignment;

**"handling equipment"** means any forklift and any other self-propelled or manually operated equipment, other than a motor vehicle, used to transport or otherwise handle produce in the market;

**"JM"** means the Joburg Market (SOC) Ltd., a municipal entity established by the Council as its service provider to operate and manage the market, and in relation to a situation where the JM does not operate and manage the market, any subsequent service provider contemplated in section 81(2) of the Local Government: Municipal Systems Act, 2000 and if there is no such service provider, the Council;

**"market"** means the area of land set aside by the Council for conducting thereon the sale of produce and any building or structure thereon used either wholly or partially, directly or indirectly, for the purpose of conducting activities relating to the market;

**"market agent"** means any person who is the holder of a fidelity fund certificate issued in terms of section 16 of the Act, who is the holder of a licence issued in terms of section 4, and who has entered into a contract with JM to occupy an area on the market sales floor for the receipt and sale of produce and includes any salesperson;

**"market agent licence"** means a licence issued in terms of section 4(4);

**"market sales floor"** means any area in the market set aside by the Chief Executive Officer, exclusively for the sale of produce consigned to market agents;

**"policy"** means any policy contemplated in these By-laws adopted by JM and published in terms of section 41;

**"prescribed"** in relation to—

- (a) a fee, means a fee prescribed by the Council as defined in paragraph (a) of the definition of "Council" and includes, where applicable, a fee determined by JM within the limitations set by the Council; and
- (b) any other matter, means prescribed by JM;

**"private treaty sale"** means a sale negotiated and concluded between a market agent and a buyer which does not involve an auction;

**"produce"** means any agricultural product specified in Part A read with Part C of Schedule 1 to the Act and any other product specified in a list of commodities issued by the Chief Executive Officer and displayed on the JM website;

**"protocol"** means an agreement, referred to as a protocol, between JM and a producer of produce or a producer organisation relating to produce, which agreement relates to the manner of receipt of that produce at and dealing with that produce in the market;

**"removal note"** means a note authorising the removal from the market of produce sold, generated by utilising the sales processing system;

**"sales note"** means a printed note on which particulars of a sale on the market sales floor are recorded by utilising the sales processing system;

**"sales permit"** means a permit issued in terms of section 9(5);

**"salesperson"** means an employee of a market agent authorised by that agent to act on his or her behalf to perform any activity of a market agent and who is the holder of a sales permit;

**"sales processing system"** means an electronic system of JM in the market utilised to record particulars of the receipt of produce, sales on the market sales floor, produce to be stored in the cold storage facilities, payments and for any other purpose related to activities in the market and includes any sub-system thereof;

"**service level agreement**" means an agreement contemplated in section 6(b);

"**service provider**" means JM and any other institution, entity or person which operates and manages the market on behalf of the Council by virtue of powers, functions and duties assigned to it through a service delivery agreement contemplated in section 76(b) of the Local Government: Municipal Systems Act, 2000, or any other law;

"**the Act**" means the Agricultural Produce Agents Act, 1992 (Act No. 12 of 1992) and any regulations made thereunder; and

"**unfit for human consumption**" in relation to produce, means that produce is so diseased or contaminated or has so deteriorated, that it is unfit for human consumption.

## 2. Relevant legislation and application of By-laws

- (1) These By-laws must be read in conjunction with the Foodstuffs, Cosmetics and Disinfectants Act, 1972 (Act No. 54 of 1972), the Health Act, 1977 (Act No. 63 of 1977), the Agricultural Product Standards Act, 1990 (Act No. 119 of 1990), Agricultural Produce Agents Act, 1992 (Act 12 of 1992) and any rules and regulations issued under those Acts, to the extent that such legislation is relevant to these By-laws.
- (2) These By-laws are applicable in respect of any fresh produce market established by the Council within its area of jurisdiction, to the extent that they are capable of application.

## 3. Business hours

- (1) Subject to the provisions of subsection (3), the market must be open to receive produce 24 hours of every day of the year other than from 14:00 on any Saturday to 18:00 on the succeeding Sunday.
- (2) Subject to the provisions of subsection (3), sales of produce on the market sales floor must take place on every day of the year except on Sundays and public holidays, from 05:00 to 11:00.
- (3) The Chief Executive Officer may, if it is necessitated by an emergency, by notice displayed on a notice board in a conspicuous place in the market and on JM's website, temporarily restrict the days and times for receiving produce, or temporarily restrict or extend the days and times for sales as contemplated in subsections (1) and (2) respectively.

## Chapter 2 Market agents and employees

### 4. Market agent licences

- (1) No person may operate as a market agent in the market unless he or she is the holder of—
  - (a) a fidelity fund certificate specified in the definition of market agent; and
  - (b) a market agent licence.
- (2) Application for a market agent licence contemplated in subsection (1)(b), must be made on a prescribed form available at the offices of the Chief Executive Officer, which form must be accompanied by—
  - (a) the prescribed application fee; and
  - (b) the other particulars and documents specified in such form,

and must be sent by registered or certified post to the address specified on that form or delivered to the offices of the Chief Executive Officer.

- (3) An application in terms of subsection (2)—
- (a) must be approved by the Chief Executive Officer subject to any condition that he or she deems fit, if—
    - (i) there is sufficient space available on the market sales floor to accommodate the applicant's business;
    - (ii) the applicant has satisfied the Chief Executive Officer that—
      - (aa) he or she is a competent, fit and proper person to conduct the business of a market agent and has complied with the provisions of the Act and any other law affecting market agents; and
      - (bb) if the applicant is a natural person, a company, a close corporation or a partnership, that the applicant or any of its directors, members or partners, as the case may be, has no direct or indirect interest in any other business, company, close corporation or partnership to which a licence has been issued in terms of this section or any by-law repealed by section 48: Unless the applicant demonstrates to the satisfaction of the Chief Executive Officer that any such interest does not promote anti-competitiveness or a conflict of interest between the applicant and such other licensee or JM; or
  - (b) may subject to the provisions of the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), be refused by the Chief Executive Officer if the applicant does not comply with any provision of subsection (2) or paragraph (a), and he or she must forthwith notify the applicant concerned in writing of the refusal, accompanied by written reasons for the refusal.
- (4) After approval of an application in terms of subsection (3)(a), a market agent licence must forthwith be issued to the applicant concerned after he or she has complied with the provisions of sections 5 and 6.
- (5) A market agent licence is not transferable and remains valid until it is cancelled in terms of section 7 or lapses in terms of section 8 or is cancelled in writing by the market agent concerned.

## 5. Security by market agents

- (1) An applicant whose application in terms of section 4(2) has been approved in terms of section 4(3)(a), must within 60 days after having been informed in writing of such approval or within an additional period permitted in writing by the Chief Executive Officer, furnish security in the form of a cash deposit or a bank guarantee or a combination of such deposit and guarantee, to the satisfaction of the Chief Executive Officer for an amount determined by that Officer, as security for payment by the applicant of any fee and costs that may become payable by him or her to JM in terms of these By-laws or any contract contemplated in section 6(a).
- (2) (a) The Chief Executive Officer may, subject to the provisions of the Promotion of Administrative Justice Act, 2000, at any time, by notice in writing delivered to a market agent, increase the amount of the security which that market agent furnished in terms of subsection (1).
- (b) The market agent concerned must in the form of a cash deposit or a bank guarantee or a combination of such deposit and guarantee, furnish the additional security contemplated in paragraph (a), to the satisfaction of the Chief Executive Officer, within 30 days from the date of receipt of a notice in terms of that paragraph or within an additional period permitted in writing by the Chief Executive Officer.



## 6. Agreements prior to issue of licence

A market agent whose application for a licence has been approved in terms of section 4(3)(a) must, prior to the issue of the licence—

- (a) enter into a contract with JM for the rental of offices, stores and other services in the market which are relevant to his or her proposed activities in the market; and
- (b) enter into a service level agreement on a prescribed form with JM stipulating the standard and quality of the service to be rendered by him or her to persons with whom he or she will deal in the market.

## 7. Cancellation of market agent licences

- (1) The Chief Executive Officer may, subject to the provisions of the Promotion of Administrative Justice Act, 2000, cancel a market agent licence if—
  - (a) the fidelity fund certificate, contemplated in section 4(1)(a), of the market agent concerned has lapsed in terms of section 16 or has been withdrawn in terms of section 26(1)(c) or has been suspended in terms of section 26(1)(bB) of the Act;
  - (b) the Chief Executive Officer on reasonable grounds believes that the market agent concerned has contravened or failed to comply with any provision of section 19;
  - (c) the market agent concerned has failed to comply with any condition subject to which a licence has been issued to him or her in terms of section 4(4);
  - (d) the market agent concerned has been convicted of any offence under these By-laws or any other law relating to the market or any offence involving dishonesty; or
  - (e) the market agent concerned has failed to comply or no longer complies, with the provisions of section 5(1) or (2)(b).
- (2) The Chief Executive Officer must forthwith, after a decision has been taken in terms of subsection (1), in writing notify the market agent concerned of the decision, accompanied by written reasons for that decision.
- (3) A market agent whose market agent licence has been cancelled, must immediately cease to operate as a market agent unless an appeal is lodged in terms of section 45, in which case he or she may continue carrying on the business concerned until a decision rejecting the appeal has been taken.

## 8. Lapsing of market agent licences

A market agent licence is not transferable and lapses if the market agent concerned—

- (a) is a natural person who has died or whose estate is provisionally sequestered;
- (b) commits an act of insolvency as contemplated in the Insolvency Act, 1936 (Act No. 24 of 1936);
- (c) is a partnership that is dissolved;
- (d) is a company that is placed under provisional or final liquidation or business rescue, is deregistered or is wound up; or
- (e) is a close corporation that is placed under provisional or final liquidation, is deregistered or is wound up.

## 9. Sales permits

- (1) No person may operate as a salesperson on a market sales floor unless he or she is the holder of a sales permit.

- (2) Application for a sales permit must be made by a market agent on behalf of any salesperson employed by him or her to the Chief Executive Officer, on a prescribed form, available at the offices of that Officer, which application must—
  - (a) be accompanied by the prescribed fee and other particulars and documents specified in the form; and
  - (b) be sent by registered or certified post to the address specified in that form or be delivered to the offices of the Chief Executive Officer.
  - (c) Provide proof of registration with the Agricultural Produce Agents Council as sales person and in possession of a valid permit as issued by this authority.
- (3) The Chief Executive Officer must approve an application in terms of subsection (2) subject to any condition he or she deems fit, if the salesperson concerned—
  - (a) is in the employ of the market agent who submitted the application concerned; and
  - (b) is, in the opinion of the Chief Executive Officer, a competent, fit and proper person to operate as a salesperson.
  - (c) has obtained a sales permit
- (4) If the salesperson concerned does not comply with any requirement of subsection (3), the Chief Executive Officer may, subject to the Promotion of Administrative Justice Act, 2000, refuse the application and must forthwith notify the applicant in writing of the refusal, accompanied by written reasons for the refusal.
- (5) Upon approval of an application in terms of subsection (3), a sales permit must forthwith be issued to the salesperson concerned.

## 10. Cancellation of sales permits

- (1) The Chief Executive Officer may, subject to the provisions of the Promotion of Administrative Justice Act, 2000, cancel a sales permit if—
  - (a) the salesperson concerned is no longer in the employ of the market agent contemplated in section 9(2);
  - (b) the salesperson commits an act of insolvency as contemplated in the Insolvency Act, 1936;
  - (c) the estate of the salesperson is provisionally sequestrated;
  - (d) in the opinion of the Chief Executive Officer, the salesperson concerned is no longer a competent, fit and proper person as contemplated in section 9(3)(b);
  - (e) the Chief Executive Officer on reasonable grounds believes that the salesperson concerned has contravened or failed to comply with any provision of section 19;
  - (f) the salesperson concerned has failed to comply with any condition subject to which a sales permit has been issued to him in terms of section 9(5); or
  - (g) the salesperson concerned has been convicted of any offence under these By-laws or any other law relating to the market or any offence involving dishonesty.
- (2) The Chief Executive Officer must forthwith in writing notify the market agent and the salesperson concerned of a decision in terms of subsection (1), accompanied by written reasons for that decision.
- (3) A salesperson notified in terms of subsection (2) must immediately cease to operate as a salesperson unless an appeal is lodged in terms of section 45, in which case he or she may continue to act as a salesperson until a decision rejecting the appeal is taken.

- (4) A sales permit is not transferable and remains valid until it is cancelled in terms of subsection (1) or is cancelled in writing by the market agent or salesperson concerned.

## 11. Market agent signage

A market agent must at his or her own expense—

- (a) display and maintain in good repair a signboard approved by an authorised official, on the door of the offices in the market occupied by him or her, bearing the name of the market agent's business and contact particulars; and
- (b) display and maintain in every area allocated to him or her on the market sales floor, the name of his or her business in such a manner as may be determined by an authorised official.

## 12. Employees of market agents

- (1) No employee of a market agent, other than a salesperson, may operate in the market unless he or she is the holder of a permit issued in terms of this section.
- (2) Application for a permit contemplated in subsection (1), must be made by the market agent on behalf of an employee employed by him or her, to the Chief Executive Officer on a prescribed form available at the offices of that Officer, which application must—
  - (a) be accompanied by the prescribed fee and the particulars and documents specified in the form; and
  - (b) be sent by registered or certified post to the address specified in that form or be delivered to the offices of the Chief Executive Officer.
- (3) An authorised official must approve an application in terms of subsection (2) if the employee concerned—
  - (a) is in the employ of the market agent who submitted the application concerned; and
  - (b) is, in the opinion of that official, a competent, fit and proper person to operate in the market.
- (4) If the employee concerned does not comply with any requirement of subsection (3) the authorised official may, subject to the Promotion of Administrative Justice Act, 2000, refuse the application and must forthwith notify the applicant in writing of the refusal, accompanied by written reasons for the refusal.
- (5) Upon approval of an application in terms of subsection (3), a permit must forthwith be issued to the employee concerned.

## 13. Cancellation of employee permits

- (1) An authorised official may, subject to the provisions of the Promotion of Administrative Justice Act, 2000, cancel a permit issued in terms of section 12(5) if—
  - (a) the employee concerned is no longer in the employ of the market agent contemplated in section 12(2);
  - (b) the estate of the employee is provisionally or finally sequestrated;
  - (c) in the opinion of an authorised official, the employee concerned is no longer a competent, fit and proper person as contemplated in section 12(3)(b);
  - (d) an authorised official on reasonable grounds believes that the employee concerned has contravened, or failed to comply with any provision of these By-laws; or
  - (e) the employee has been convicted of any offence under these By-laws or any other law relating to the market or any offence involving dishonesty.

- (2) An authorised official must forthwith in writing notify the market agent and employee concerned of a decision in terms of subsection (1), accompanied by written reasons for that decision.
- (3) An employee notified in terms of subsection (2) must immediately cease to operate as an employee in the market unless an appeal is lodged in terms of section 45 in which case he or she may continue operating in the market until a decision rejecting the appeal, is taken.
- (4) A permit issued in terms of section 12(5) is not transferable and remains valid until it is cancelled in terms of subsection (1) or cancelled in writing by the market agent or employee concerned.

#### **14. Obligations of market agents regarding employees**

A market agent—

- (a) must provide each of his or her employees operating on the market sales floor with clean and suitable protective clothing, bearing the name or distinctive mark of the market agent and must ensure that such clothing is kept clean and in good repair;
- (b) may not allow any of his or her employees to operate on the market sales floor unless he or she is wearing safety compliant protective clothing as contemplated in paragraph (a);
- (c) must make each of his or her employees operating in the market available for an induction course at a place and time specified in a notice issued to the market agent by an authorised official; and
- (d) must train, coach and direct each of his or her employees to ensure adherence to these By-laws and any policy, directive and instruction issued in terms of or for the purposes of these By-laws.

### **Chapter 3 Consignment control and receipt of produce**

#### **15. Registration of consignors**

- (1) Any consignor who intends to consign produce to a market agent must, at the time of delivery of any produce, be registered on the sales processing system of the JM by providing the information required therefor.
- (2) Every market agent must ensure that every consignor who consigns produce to him or her in the market is registered on the sales processing system at the time of delivery of the produce.
- (3) Any consignor who wishes to register and conduct deliveries to JM by utilising electronic means shall do so in the manner as contemplated under section 16(2)(b) of this bylaw.

#### **16. Consignment control and entry gate formalities**

- (1) Any person who, as a consignor or on behalf of such consignor brings a consignment to the market must advise the authorised official in control of the entrance gate of all produce on board of the delivery vehicle and disclose all produce not destined for a market agency on the JM market site by presenting delivery notes for all produce on board the delivery vehicle. Such consignments not destined for the JM market site must be recorded and checked for still being present on board when the relevant delivery vehicle embarks from the JM site. Every delivery note must be presented in Three (3) fold of which the original copy shall be retained by the authorized official. A delivery reference number will be generated by utilisation of the sales processing system and affixed to the relevant consignment delivery notes.
- (2) (a) Any person who, as a consignor/or on behalf of such consignor brings a consignment of produce to the market must, prior to entering the market, furnish the original of a correctly completed delivery note and two copies thereof to the authorised official in control of the entrance gate to the market, which original delivery note is retained by that official.

- (b) In the case of a consigner who wishes to utilise the option of submitting delivery notes by electronic means such consigner shall do so only after having registered with the Chief Executive Officer and having received a clearance certificate to commence with the electronic submission of delivery notes.
  - (c) If the authorised official concerned is satisfied that paragraph (a) has been complied with, he or she must register the consignment of produce on the sales processing system and furnish the two copies of the delivery note to the person contemplated in that paragraph.
  - (d) An authorised official contemplated in paragraph (a), must refuse entry to the market of any consignment of produce until the delivery note relating to that produce has been properly completed in every respect and the consignor registered on the sale process systems.
- (3)
- (a) If the authorised official concerned has any doubt concerning the contents of a vehicle transporting any consignment contemplated in subsection (1) or (2), he or she may prior to furnishing copies of the delivery note to the person contemplated in subsection (1) or (2), subject to the provisions of section 43, inspect the contents of the vehicle in the presence of the person transporting the produce, note any discrepancy found on the original and both copies of the delivery note and furnish two copies thereof to such person.
  - (b) The consignor concerned is liable to pay the prescribed fee in respect of every inspection conducted in cases where produce is found to be unfit for human consumption at the time of arrival at JM in terms of paragraph (a) to JM and the fee may be deducted from any amount due to him or her.

## 17. Receipt of produce

- (1) If produce is received by a market agent, he or she must—
- (a) upon receipt of the produce, identify him or herself to the person making the delivery, sign both copies of the delivery note, stamp them with a rubber stamp approved by the market agent to acknowledge receipt of the produce and note the time and date of the delivery on such copies;
  - (b) obtain from JM a goods received note and consignment number in respect of the consignment concerned, utilising the sales processing system;
  - (c) return one copy of the delivery note concerned to the person contemplated in paragraph (a) and retain the other copy for a period of five years from the date of delivery of the produce concerned;
  - (d) immediately upon receipt thereof make all the necessary arrangements to off-load and place the produce concerned in his or her allocated space on the market sales floor;
  - (e) inspect the consignment and confirm with the consignor the receipt of the produce concerned;
  - (f) confirm with the consignor the correctness of the producer reference number allocated to the consignment by JM and specified on the delivery note and have that number specified in any document relating to the consignment concerned; and
  - (g) report any discrepancy between the consignment concerned and the delivery note to an authorised official.
- (2) In packing, stacking and displaying produce, a market agent must—
- (a) display the produce in accordance with any applicable service level agreement and any written directive issued by the Chief Executive Officer and place and stack all produce received by him or her in such a manner that an orderly appearance is created; and
  - (b) in respect of any produce displayed, display the consignment number concerned, contemplated in subsection (1)(b); and

- (c) at the daily closing of sales, tidy the display and restack all unsold produce in accordance with paragraph (a).
- (3) Every container in which produce is delivered to a market agent must be labelled in accordance with —
  - (a) specifications as embodied in any protocol, if applicable; and
  - (b) any directive issued by the Chief Executive Officer.

## **18. Removal and packing of produce**

- (1) No consignor may remove or cause to be removed from the market produce brought into the market by or on behalf of him or her without the prior written permission of an authorised official.
- (2) No person may bring into the market and no market agent or other person may display any produce in a container which is packed in such a manner that the produce at the top or any side of the container is of a quality which differs from the quality of, or is of a larger size than, the produce in any other part of the container.

## **Chapter 4 Matters relating to sales**

## **19. Obligations of market agents and salespersons**

- (1) Any sale by a market agent or salesperson on the market sales floor must be conducted by private treaty and must be recorded on the sales processing system: Provided that an authorised official may instruct or permit that a sale be effected by public auction.
- (2) A market agent or salesperson must immediately upon a sale, whether by private treaty or public auction, being concluded, obtain the buyer's card issued to a buyer in terms of section 22, record the details of such sale on the sales processing system in a manner specified in a directive issued by the Chief Executive Officer.
- (3) A market agent or salesperson must record each item sold on the sales processing system against the consignment number allocated to the produce concerned in terms of section 17(1)(b) indicating the consignor who consigned that produce to the market agent concerned.
- (4) A market agent or salesperson must comply with every policy relating to sales practice and with any protocol and any other agreement concluded by JM with any producer or producer organisation, provided the Chief Executive Officer has approved such protocol or agreement for implementation in the market and has furnished a copy of any such policy, protocol or agreement to every market agent, who must furnish a copy thereof to every salesperson employed by him or her.
- (5)
  - (a) A market agent or salesperson is responsible for delivering to a buyer the correct quantity, grade and variety of the purchased produce in its proper container in accordance with a sample of that produce on the basis of which the sale concerned was concluded.
  - (b)
    - (i) If a dispute arises between a market agent or salesperson and a buyer in respect of a matter contemplated in paragraph (a) and such dispute cannot be resolved by the parties, an authorised official may, after affording each party the opportunity to make representations and after considering any such representations, make an order to resolve the dispute and advise the parties in writing of the decision accompanied by written reasons for the decision.
    - (ii) A decision in terms of subparagraph (i) is binding on the parties concerned, subject to the right of any party to appeal in terms of section 45 or to refer the matter to a court of law.

- (6) No market agent or employee of a market agent may buy produce on the market sales floor, except for private use and at a price not lower than the average price at which similar produce from the consignment concerned was sold on the market sales floor on the day of the sale.
- (7) No market agent or employee of a market agent may receive or handle cash in respect of any sale of produce in the market.
- (8)
  - (a) A market agent or salesperson must, when a buyer of produce presents proof to him or her of payment for, or of a deferred payment or a credit facility contemplated in section 23(1)(b) and (2) respectively, in respect of the produce concerned, issue to that buyer a sales note and a removal note in respect of the produce concerned and must endorse the removal note by stamping it with a prescribed stamp.
  - (b) No market agent or salesperson may transfer possession of any produce sold to a buyer, or allow its removal unless the provisions of paragraph (a) have been complied with.
- (9) No market agent or salesperson may offer for sale or sell any produce on the market sales floor unless he or she is at the time of conclusion of the sale, in possession of the produce concerned.
- (10) No market agent or employee of a market agent may anywhere in the market accept and handle produce, or allow produce to be accepted and handled which is not intended for sale on the market sales floor by the market agent concerned.
- (11) No market agent or salesperson may allow any person other than a salesperson to act as vendor on the market sales floor.
- (12) No market agent or employee of a market agent may canvass or allow canvassing on the market sales floor or elsewhere in the market with a view to securing the sale of produce to potential buyers.
- (13) No market agent or salesperson may in respect of any sale of produce, show preference to any potential buyer.

## 20. Passing of risk

Any produce brought into the market is at all times at the sole risk of the market agent to whom it is consigned until it is sold and delivered, whereafter the risk passes to the new owner.

## 21. Inspection of documentation

- (1) An authorised official may, subject to the provisions of section 43, inspect—
  - (a) any accounting document to be furnished to a consignor by a market agent in respect of any sale concluded in the market by such agent or salesperson on his or her behalf; and
  - (b) any document which a market agent or salesperson must furnish to a buyer in respect of any sale concluded in the market by such agent.
- (2) A market agent or salesperson must on demand by an authorised official, make any document contemplated in subsection (1), available for inspection by such official.

## Chapter 5 Buyers, payment and direct purchases

## 22. Obligations of buyers

- (1) No person may buy any produce on the market sales floor unless a buyer's card has been issued to him or her on a prescribed form by an authorised official, subject to terms and conditions specified on such card.

- (2) Application for a buyer's card contemplated in subsection (1), must be made to the Chief Executive Officer on a prescribed form, available at the offices of that Officer, and must be accompanied by the prescribed fee.
- (3) An authorised official may—
  - (a) approve an application in terms of subsection (2), subject to any condition he or she may impose, or
  - (b) subject to the Promotion of Administrative Justice Act, 2000, refuse any application for a credit buyer card applications in terms of subsection (2) and forthwith advise the applicant in writing of the refusal accompanied by written reasons for the refusal
- (4) If an application is approved in terms of subsection (3)(a), a buyer's card must forthwith be issued to the applicant.
- (5) The buyer must immediately upon a sale by private treaty or public auction being concluded on the market sales floor, present his or her buyer's card to the market agent concerned to enable him or her to record the details of such sale as contemplated in section 19(2).
- (6) No buyer or his or her agent or employee may hand or transfer money in respect of any sale on the market sales floor to any market agent or employee of a market agent.
- (7) No buyer may remove any produce from the market unless he or she is in possession of a sales note and a removal note endorsed in terms of section 19(8)(a).
- (8) No buyer may remove produce from the market without presenting a removal note to an authorised official controlling the exit gate of the market and affording that official the opportunity to check the produce in possession of the buyer against the information on the removal note.
- (9) An authorised official may, subject to the provisions of section 43, at any time inspect any produce being removed from the market sales floor and all documentation relating to that produce.

### **23. Payment for produce sold**

- (1)
  - (a) Subject to the provisions of subsections (2) and (3), a buyer of any produce on the market sales floor must, immediately after conclusion of the sale and before removing the produce purchased, pay the purchase price in respect of that sale to JM.
  - (b) Notwithstanding the provisions of paragraph (a), the Chief Executive Officer may, subject to the provisions of the National Credit Act, 2005 (Act No. 34 of 2005) and the credit control policy of JM, on written application of a buyer on a prescribed form, accompanied by a prescribed fee, grant the applicant an extension of time to pay the purchase price in respect of a sale contemplated in paragraph (a).
- (2) Subject to the provisions of the National Credit Act, 2005 (Act No. 34 of 2005), the Chief Executive Officer may on application made on a prescribed form by a buyer or prospective buyer, accompanied by the prescribed fee, in accordance with the credit control policy of JM, grant a credit facility to a buyer or prospective buyer subject to the applicant, at his or her own cost, furnishing to JM security in the form of a cash deposit or a bank guarantee or a combination of such deposit and guarantee, to the satisfaction of the Chief Executive Officer, for an amount determined by that Officer and issue a card to the applicant on a prescribed form to confirm that such facility has been granted to him or her, subject to any condition specified on such card.
- (3) If a buyer of produce is the holder of a card issued in terms of subsection (2), payment of the purchase price to JM in respect of any sale of produce from a market agent may only be effected by means of that card.



#### 24. Restriction on direct purchases

- (1) No person trading on the market may enter into an agreement for the purchase of produce from any person outside the market by virtue of which the produce concerned will be delivered directly to a buyer in the market unless he or she has, on written application, accompanied by a prescribed fee, obtained the prior written permission of an authorised official on a prescribed form.
- (2) The driver of a vehicle transporting produce in respect of which an approval was granted in terms of subsection (1), must advise the authorised official in control of the entrance gate to the market, that the produce transported relates to such approval and must furnish a copy of such approval to that official.
- (3) The Chief Executive Officer may issue a directive specifying any produce which may not be purchased in the manner contemplated in subsection (1), and that list must be furnished to an applicant when an application is made in terms of that subsection.

### Chapter 6

#### Porters, traders in pallets, vehicles and handling equipment

#### 25. Porters and traders in pallets

- (1) No person may act or ply for hire as a porter or trade in renovated pallets in the market unless he or she is the holder of a permit issued in terms of this section.
- (2) Application for a permit contemplated in subsection (1), must be made to the Chief Executive Officer on a prescribed form, available at the offices of that Officer, and must be accompanied by a prescribed fee.
- (3) An authorised official may—
  - (a) on a prescribed form approve an application in terms of subsection (2), subject to any condition specified in that form; or
  - (b) subject to the provisions of the Promotion of Administrative Justice Act, 2000, refuse such application and in writing advise the applicant of the refusal accompanied by written reasons for the refusal.
- (4) If an application has been approved in terms of subsection (3)(a), a permit must forthwith be issued to the applicant and permit is valid for a period specified therein and is not transferable.
- (5) A person issued with a permit in terms of this section must at all times in the market wear the prescribed identification.
- (6) An authorised official may, subject to the provisions of the Promotion of Administrative Justice Act, 2000, cancel a permit issued in terms of subsection (4), if—
  - (a) that official on reasonable grounds believes that the holder thereof has contravened or failed to comply with any provision of these By-laws; or
  - (b) the holder of the permit has been convicted of an offence under these By-laws or other law relating to the market or any offence involving dishonesty.
- (7)
  - (a) The holder of the permit concerned must forthwith be advised in writing of a cancellation in terms of subsection (6), accompanied by written reasons therefor.
  - (b) A permit holder notified in terms of subsection (a) must immediately cease to operate as a porter unless an appeal is lodged in terms of section 45, in which case he or she may continue to act as a porter until a decision rejecting the appeal is taken.

- (8) A permit issued in terms of subsection (4) is not transferable and may be cancelled in writing by the holder thereof.

## 26. Vehicles: prohibited conduct

- (1) No person may—
- (a) in the market, drive any vehicle on a roadway at a speed in excess of 30 kilometres per hour, or in excess of ten kilometres per hour at any other place;
  - (b) fail to observe any sign, or marking on the ground, displayed or present in the market, intended for the regulation of traffic;
  - (c) stop or park any vehicle in any place in the market, other than a place designated for stopping or parking by appropriate signage or by any marking on the ground:
- Provided that this provision does not apply to—
- (i) any emergency vehicle;
  - (ii) a vehicle parked in an appropriate place for the purpose of being loaded or off-loaded; or
  - (iii) to any handling equipment on the market sales floor or at the cold storage facilities.
- (d) bring any vehicle into the market for any purpose not related to business being carried on in the market or the business of a lessee of any premises or area in the market;
  - (e) leave any vehicle, other than handling equipment, in the market for a continuous period of longer than 24 hours without the prior written permission of an authorised official;
  - (f) transfer produce or any other goods from one vehicle to another in the market without having obtained prior the written permission of an authorised official;
  - (g) detach any vehicle from a trailer or semi-trailer and leave any trailer or semi-trailer stationary in the market without having obtained the prior written permission of an authorised official; or
  - (h) conduct any fuel transfer or drainage of any fuel on board a vehicle or from any container without having obtained prior written permission from an authorised official.
- (2) (a) No person may operate a motor or pedal cycle on the market sales floor without the prior written permission of an authorised official and subject to any condition specified in that permission.
- (b) Application for permission in terms of paragraph (a) must be made on a prescribed form, available at the offices of the Chief Executive Officer, and handed to an authorised official.
- (3) Any person operating a vehicle in the market must do so in a manner which will not create a danger to any person or property and must comply with any oral and written instruction given to him or her by an authorised official.

## 27. Vehicles: powers of Chief Executive Officer

The Chief Executive Officer may for purposes of these By-laws—

- (a) erect and display any sign and make any marking on the ground for the purposes of section 26(1)(b) and (c); and
  - (b) set aside and demarcate parking and loading spaces in the market.
- (2) The Chief Executive Officer may, in addition to spaces contemplated in subsection (1)(b), permit temporary parking and spaces for loading and off-loading in the market.

- (3) The Chief Executive Officer may, by written notice displayed at the entrance gate to the market and on the website of JM, prohibit any class of vehicle and any vehicle transporting any class of goods from entering and being in the market, if in his or her opinion, such prohibition is necessary to prevent or curtail—
- (a) the contamination of any produce; or
  - (b) the spread of any illness or disease; or
  - (c) any damage to a building, structure, installation, facility, roadway or parking area, in the market.

*[Please note: numbering as in original.]*

## **28. Handling equipment**

- (1) No market agent, buyer of produce or tenant of any building or part thereof may on any area in the market operate or allow any of his or her employees, including an independent contractor, to operate, and no such employee or contractor may operate, any self-propelled handling equipment in the market unless he or she complies with the provisions of the Occupational Health and Safety Act, 1993 (Act No. 85 of 1993), applicable to him or her and proof of such compliance must be furnished by the market agent, buyer or tenant to the Chief Executive Officer.
- (2)
- (a) An authorised official may, subject to the provisions of the Promotion of Administration of Justice Act, 2000 (Act No. 3 of 2000), by notice in writing prohibit any operator of handling equipment from operating such equipment if that official on reasonable grounds believes that the operator has contravened or failed to comply with any provision of these By-laws, a directive issued by the Chief Executive Officer or a written instruction issued by an authorised official, relating to such operation.
  - (b) An authorised official must furnish a copy of a notice in terms of paragraph (a) to the operator so contemplated and the market agent concerned.
  - (c) An authorised official may by notice in writing to the operator and market agent concerned, withdraw a prohibition in terms of paragraph (a), subject to any condition specified in that notice.
- (3)
- (a) If an authorised official finds that any piece of handling equipment is unsafe or incapable of proper operation, he or she may by written notice to the operator and the market agent concerned, prohibit the operation of such equipment.
  - (b) The authorised official concerned must furnish a copy of a notice contemplated in paragraph (a), to the operator and the market agent concerned.
  - (c) An authorised official may in writing withdraw a notice issued in terms of paragraph (a) if he or she is satisfied that the equipment concerned is safe and capable of proper operation.

## **Chapter 7 Cold storage**

### **29. Policies**

Subject to the provisions of this Chapter, all activities relating to cold storage must take place in accordance with any policy relating thereto.

### 30. Use of and deliveries to cold storage facilities

- (1) Any person may store produce in the cold storage facilities, subject to entering into a contract with JM on a prescribed form, available at the offices of the Chief Executive Officer and payment of the prescribed fee.
- (2)
  - (a) Produce delivered for cold storage must be accompanied by a deposit slip relating to the produce intended for cold storage, plus one copy thereof, generated on the sales processing system, relating to the produce to be stored.
  - (b) No produce may be accepted for cold storage which is not reflected in the deposit slip contemplated in paragraph (a).
- (3) A minimum of 24 hours notice must be given to an authorised official in control of the cold storage facilities to enable the required temperature to be provided.
- (4) Produce intended for cold storage must before delivery to the cold storage facilities, be packed in containers and stacked on pallets, to the satisfaction of an authorised official, to permit its convenient handling and stacking by utilising handling equipment.
- (5) Cold storage facilities are open for the receipt of produce during market hours contemplated in section 3(2) and (3) unless the need arises to close any part of or the whole of the cold storage facilities due to an emergency situation or to repairs being effected to such facilities.
- (6) An authorised official may refuse to accept any produce for cold storage if, in his or her opinion, the produce concerned is unfit for human consumption.
- (7) An authorised official may by notice in writing instruct a person who has produce in cold storage, or his authorised agent, immediately to remove any produce from cold storage if, in his or her opinion, such produce is unfit for human consumption, and if the person concerned fails to comply with such instruction, that official may remove such produce or cause it to be removed from the cold storage facilities and have it destroyed at the cost of the person concerned.
- (8) Subject to the foregoing provisions of this section, an entire cold storage chamber may be let or an area in a cold storage chamber assigned, to one market agent.

### 31. Withdrawal of produce

- (1) Any person wishing to withdraw produce from the cold storage facilities must present a withdrawal slip and one copy thereof generated on the sales processing system in respect of the produce to be withdrawn, to an authorised official.
- (2)
  - (a) The authorised official and the person wishing to withdraw produce must check the quantity of produce withdrawn against the withdrawal slip.
  - (b) The authorised official must, if he or she is satisfied that a withdrawal slip is in order and correctly reflects the produce to be withdrawn, stamp the original withdrawal slip and the copy thereof with an approved rubber stamp or by electronic means as approved by JM and hand the copy to the person concerned.
- (3) The authorised official concerned must register every withdrawal of produce by utilising the sales processing system.

### 32. General prohibitions and powers

- (1) No fuel- or gas-propelled vehicle may be used in the cold storage facilities.
- (2) An authorised official may, subject to the provisions of subsection (3), refuse to release any produce in cold storage until the prescribed fee due to JM in respect thereof has been paid.

- (3) Subject to the provisions of the National Credit Act, 2005, and the credit control policy of JM, the Chief Executive Officer may enter into an agreement on a prescribed form for the deferred payment of any prescribed fee due for cold storage.

### **33. Payment**

- (1) Subject to the provisions of section 32(3), payment in respect of every withdrawal of produce from the cold storage facilities must be made to JM prior to such withdrawal by utilising the sales processing system.
- (2) Subsection (1) does not apply where an entire cold storage chamber is let as contemplated in section 30(8).

## **Chapter 8 Storage, unclaimed and unfit produce**

### **34. Prohibited storage**

- (1) No person may without the prior written permission of an authorised official store or leave any produce in the market for collection by a third party for a period in excess of the period stipulated for the produce concerned in a policy.
- (2) No person may without the prior written permission of an authorised official, store or dump any produce or store or dump any other goods in the market, whether in any waste disposal or storage facility or elsewhere.
- (3) If an authorised official on reasonable grounds believes that any person contravened or failed to comply with subsection (1) or (2), that person is liable to pay the prescribed fee for storage to JM.

### **35. Abandoned and unclaimed produce and doubt as to ownership**

- (1) If an authorised official on reasonable grounds believes that produce left in the market has been unclaimed or abandoned or if the rightful owner of produce in the market cannot be identified or contacted, he or she may direct that such produce be impounded and—
  - (a) sold if it is fit for human consumption; or
  - (b) have the produce destroyed if it is unfit for human consumption.
- (2) If produce is—
  - (a) sold in terms of subsection (1)(a), JM must pay the proceeds of the sale, less any prescribed fee payable to JM and any amount payable to a market agent in respect of the produce concerned, to the person who is entitled to such proceeds, if his or her identity and address can by reasonable enquiry, be ascertained; or
  - (b) destroyed in terms of subsection (1)(b), the person who failed to claim or abandoned the produce and the owner thereof are liable jointly and severally to pay a prescribed fee to JM.
- (3) If the identity and address of a person contemplated in subsection (2)(a) cannot by reasonable enquiry be ascertained, or he or she cannot be contacted, the amount payable to that person in terms of that subsection must be held by JM in a suspense account for a period of three years from the date of the sale and if not claimed within that period must accrue to JM for its benefit, subject to the right of any person to claim payment thereof from JM.

### 36. Produce unfit for human consumption and contaminated containers

- (1) If an authorised official on reasonable grounds believes that—
  - (a) any produce offered for sale on a market sales floor is unfit for human consumption, he or she must—
    - (i) by notice in writing to the market agent concerned declare the produce to be unfit for human consumption and prohibit the sale and storage of and the removal from the market of that produce; and
    - (ii) take possession of the produce concerned;
  - (b) a container on a market sales floor is likely to render the produce contained in it, or any or other produce on the market sales floor unfit for human consumption, he or she must immediately—
    - (i) by notice in writing to the market agent concerned, prohibit the sale and storage and the removal from the market of the container and its contents, if any; and
    - (ii) take possession of the container and its contents, if any.
- (2) The authorised official who took possession of produce or a container in terms of subsection (1)(a)(ii) or (1)(b)(ii) respectively, must forthwith have the produce and container destroyed or otherwise removed from the market: Provided that the consignor or market agent concerned must be permitted by an authorised official to clean and retain any re-usable container.
- (3) Pending the taking of possession of produce or a container in respect of which a notice has been issued in terms of subsection (1), the market agent concerned must ensure that such produce is not made available to or becomes accessible to any person and must hand over to the authorised official concerned all the produce and every container in respect of which such notice has been issued.

## Chapter 9 General behaviour

### 37. Prohibited conduct

No person may—

- (a) occupy or trade from any office, area or stand or other place in the market, other than a place or area which has been let for trading to him or her or, with regard to a market agent, allocated to that agent, unless he or she has, subject to payment of a prescribed fee, obtained the prior written permission on a prescribed form of the Executive Officer;
- (b) without the prior permission of an authorised official, light a fire in the market;
- (c) stand or sit on or lean against any produce in the market;
- (d) except of the purposes of these By-laws, touch or taste any produce in the market;
- (e) throw an object at any person or property in the market;
- (f) tamper with any produce or container or tamper with or remove any label from produce or any container;
- (g) cause a blockage in, or damage to, the sewerage or stormwater drainage system in the market;
- (h) cause or allow any sewage, oil, foul water or other objectionable substance to enter any stormwater drain in the market;

- (i) without the prior written permission of an authorised official, wash, peel, pack, sort, grade or clean produce other than in an area in the market designated by an authorised official;
- (j) interfere with or molest any person in the market;
- (k) interfere with the activities or the proper conduct of, or business by, or be a nuisance to, any person in the market;
- (l) subject to the terms of any agreement with JM, enter or remain in the market or occupy any area after the business hours contemplated in section 3(2) or (3) without the prior written permission of an authorised official;
- (m) fail or refuse to comply with an instruction of an authorised official to remove an article from the market or relocate an article to another area in the market;
- (n) spit, loiter or use any threatening, obscene, abusive or offensive language, cause a disturbance or commit an indecent act in the market;
- (o) consume or be under the influence of intoxicating liquor or a drug having a narcotic effect in the market;
- (p) damage or deface any property or building in the market;
- (q) dispose of any peels, vegetable leaves or other refuse in the market otherwise than in accordance with a directive issued by the Chief Executive Officer;
- (r) hawk goods other than produce, hawk produce for immediate consumption, pedal or beg in the market;
- (s) without the prior written permission of an authorised official, remove any refuse, waste or condemned produce from the market;
- (t) cook food or make any beverage in the market, other than in an area designated by an authorised official;
- (u) without the prior written permission of an authorised official, bring any animal into the market;
- (v) without the prior written permission of an authorised official, display any notice, advertisement or sign other than those required to be displayed by these By-laws;
- (w) tout for custom in the market;
- (x) fail or refuse to depart from the market or any part thereof, or to remove any animal, vehicle, produce or any other thing from the market or any part thereof, if instructed by an authorised official to do so;
- (y) organise or conduct a meeting otherwise than in the ordinary course of his business in the market without the prior written approval of an authorised official;
- (z) handle any produce in the market in a manner which may render it unfit for human consumption;
- (aa) keep or expose or offer for sale any produce in the market which has been declared unfit for human consumption;
- (bb) conduct, set up or in any way be concerned with a lottery, game of chance or betting other than a selling point for tickets for the national lottery contemplated in Part 1 of the Lotteries Act, 1997 (Act No. 57 of 1997);
- (cc) without the prior permission of an authorised official, wash or clean any vehicle in the market;
- (dd) subject to any authority or permission granted in terms of any lease or other contract with JM, without the prior written permission of an authorised official, open any electric light-switch box or tamper with any electric wiring or installation or switch on any electric switch or installation or in any manner alter the intensity of lighting;

- (ee) use a fire hose for any purpose other than extinguishing a fire;
- (ff) subject to any authority or permission granted in terms of any lease or other contract with JM, without the prior written permission of an authorised official, make any alteration or addition to any area, premises or installation not contemplated in paragraph (dd) in the market let or allocated to him or her by JM, or install any equipment therein;
- (gg) fail to maintain any premises or area in the market allocated or rented to him or her and refuse receptacles in such premises or area in a clean and hygienic condition;
- (hh) sleep in the market;
- (ii) utilise a chemical for cleaning and sanitisation in the market other than one approved in writing by an authorised official;
- (jj) smoke in the market in an area other than an area designated in writing as a smoking area by an authorised official, and identified by the display of an appropriate sign in every such smoking area; or
- (kk) without the prior written permission of an authorised official, store any flammable substance, whether in liquid or gas form, in the market, other than fuel contained in the fuel tank of any vehicle or implement or equipment operated by the use of that fuel.

## **Chapter 10 Miscellaneous**

### **38. Market dues**

- (1) JM is in respect of every sale of produce by a market agent, entitled to a percentage commission stipulated in the prescribed fees, on the gross sale price of that produce;
- (2) JM may deduct any commission contemplated in subsection (1) from any amount payable to a market agent in respect of the sale concerned.

### **39. Monies**

- (1) If the Chief Executive Officer has reason to believe that any money in possession of JM and due to a market agent will not be paid by that market agent to the person who is entitled to that money, less any deduction which the market agent may lawfully make, he or she may either withhold payment of such money from that agent until he or she is satisfied that the money concerned will be paid to the person so entitled or pay the amount concerned directly to that person.
- (2) JM may set off any money due and payable to it in terms of these By-laws and which is not the subject of a disputed claim, against any money in its possession which is due and payable to the debtor concerned.

### **40. Directives by Chief Executive Officer**

The Chief Executive Officer may issue any written directive which he or she considers necessary or expedient for the proper conduct and functioning of any activity at the entrance gate to the market and in the market.

### **41. Publication of policies and directives**

Every policy adopted and every directive issued in terms of or for the purposes of these By-laws must be published by—

- (a) furnishing a copy thereof to any person to whom it is applicable in the manner provided for the service of notices in section 44;



- (b) displaying it on a conspicuous notice board in the market; and
- (c) displaying it on JM's website.

#### **42. Sales processing system**

If for any reason the sales processing system is wholly or partially inoperative, an authorised official may issue a notice that some other system must be utilised to effect any function for the purposes of these By-laws in substitution for the sales processing system.

#### **43. Powers of inspection**

- (1) In addition to any power of inspection an authorised official may have in terms of these By-laws, he or she may at any reasonable time, for any purpose related to the implementation and enforcement of these By-laws, carry out any inspection.
- (2) An authorised official may for the purpose of any inspection authorised by these By-laws—
  - (a) enter and inspect any property, premises, building or structure in the market and any vehicle in, or about to enter, the market and inspect anything in or on such property, premises, building, structure or vehicle;
  - (b) instruct any person to open, or him or herself open any container in the market or on any vehicle contemplated in subsection (1);
  - (c) take a sample of any produce in or about to be brought into the market and have such sample tested in a laboratory to establish whether the produce is fit for human consumption and whether it complies with the Foodstuffs, Cosmetics and Disinfectants Act, 1972, and any other applicable law;
  - (d) question any person in the market or in control of a vehicle contemplated in paragraph (a), in relation to any matter concerning the market; and
  - (e) require any document relevant to activities in the market to be furnished to him or her and may peruse and make a copy of such document; and
- (3) Before commencing any inspection contemplated in subsection (2), an authorised official concerned must, at the request of any person concerned with the inspection, furnish written proof of his or her authority to carry out such inspection.
- (4) An authorised official carrying out an inspection in terms of these By-laws, must conduct himself or herself with strict regard to decency and orderliness and with regard to any person's human rights according to the Bill of Rights contained in Chapter 2 of the Constitution of the Republic of South Africa, 1996.

#### **44. Serving of directives and notices**

Any notice that is required to be, or may be served, delivered or given in terms of, or for the purposes of these By-laws, must be served in any of the following ways:

- (a) By handing a copy of the notice at the person to whom it is addressed;
- (b) by leaving a copy of the notice at the person's place of residence or business with any other person who is apparently at least 16 years old and in charge of the premises at the time;
- (c) by faxing a copy of the notice to the person, if the person has in writing furnished a fax number to JM or an authorised official;
- (d) by emailing a copy of the notice to the person, if the person has in writing furnished an email address to JM or an authorised official;

- (e) by handing a copy of the notice to any representative authorised in writing by the person concerned to accept service on behalf of that person;
- (f) if the person concerned has chosen an address or fax number for service, by leaving a copy of the notice at that address or by faxing it to that fax number;
- (g) by sending a copy of the notice by prepaid registered or certified post to the last-known address of the person concerned;
- (h) if the person concerned is a company or other body corporate, by serving a copy of the notice on an employee of the company or body corporate at its registered office or its place of business or, if there is no employee willing to accept service, by affixing a copy of the document to the main door of that office or place of business; or
- (i) if the person is a partnership, firm or voluntary association, by serving a copy of the notice on a person who at the time of service is apparently in charge of the premises and apparently at least 16 years of age, at the place of business of such partnership, firm or association or if such partnership, firm or association has no place of business, by serving a copy of the notice on a partner, the owner of the firm or the chairman or secretary of the managing or other controlling body of such association, as the case may be.

#### 45. Appeals

- (1) Any person whose rights are affected by a decision by an authorised official or any other employee of JM, in terms of or for the purposes of these By-laws, may appeal against that decision to the board of directors of JM by lodging written notice of appeal with the Chief Executive Officer within 21 days of the date on which he or she was notified of that decision.
- (2) The board of directors, or a committee appointed by it, must within 30 days of the lodging of an appeal in terms of subsection (1), commence consideration thereof and must, subject to the provisions of the Promotion of Administrative Justice Act, 2000, within a reasonable time, take a decision in respect of the appeal which it considers appropriate.
- (3) The Chief Executive Officer must forthwith after a decision has been taken in terms of subsection (2), in writing notify the appellant thereof and furnish the applicant with written reasons for the decision.

#### 46. Delegation by Chief Executive Officer

- (1) Subject to the provisions of subsection (2), the Chief Executive Officer may in writing delegate any power, function or duty conferred or imposed on him or her in terms of these By-laws to any employee of JM and may in writing amend or withdraw such delegation.
- (2) No power granted to the Chief Executive Officer in terms of sections 4(3), 7(1), 10(1), 27(3) and 39(1) may be delegated.

#### 47. Offences and penalties

Any person who—

- (a) contravenes or fails to comply with any provision of these By-laws;
- (b) refuses or fails to comply with any directive or notice addressed to or any condition imposed on him or her in terms of or for the purposes of these By-laws;
- (c) obstructs, hinders or interferes with an authorised official, the Chief Executive Officer or other employee of JM in the exercise of any power or the performance of any function or duty in terms of or for the purposes of these By-laws;

- (d) fails or refuses to furnish to an authorised official with any documentation or information required from him or her in terms of or for the purposes of these By-laws or furnishes a false or misleading document or false or misleading information;
- (e) fails or refuses to comply with any instruction given to him or her in terms of or for the purposes of these By-laws;
- (f) pretends to be an authorised official,

is guilty of an offence and—

- (i) liable on conviction to a fine or in default of payment to imprisonment for a period not exceeding 36 months;
- (ii) in the case of a continuing offence, to a further fine not exceeding R3000, or in default of payment to imprisonment not exceeding one day for every day during the continuance of such offence after a written notice has been served on him or her by the Chief Executive Officer requiring the discontinuance of such offence.

#### **48. Repeal of By-laws**

The By-laws specified in the Schedule are hereby repealed.

#### **49. Transitional provision**

Anything done under a provision of a by-law repealed by section 48 is deemed to have been done under the corresponding provision of these By-laws.

#### **50. Short title**

These By-laws are referred to as the Market By-laws.

### **Schedule 1**

#### **Repeal of By-laws**

1. The Johannesburg Municipality: Market By-laws published under Administrator's Notice No. 520 dated 12 April 1978.
2. Amendment to the Johannesburg Municipality: Market By-laws published under Administrator's Notice No. 1051 dated 6 July 1978.
3. Amendment to the Johannesburg Municipality: Market By-laws published under Administrator's Notice No. 1123 dated 3 October 1979.