

***ILEMELA MINICIPAL COUNCIL***

***ILEMELA MINICIPAL COUNCIL (SERVICE LEVY) BY-LAWS, 2013***

**GOVERNMENT NOTICE NO326 PUBLISHED ON 12/09/2014**

**THE LOCAL GOVERNMENT FINANCIES ACT, 1982**

**CAP 290**

**BY-LAWS**

*Made Under Section 13 and 15, S.35 of Act No. 8/2012*

**THE ILEMELA MUNICIPAL COUNCIL (SERVICE LEVY) BY LAWS, 2013**

**PART I  
CITATION, DATE OF COMMENCEMENT AND  
INTERPRETATION**

Citation and date of commencement	1	These by-laws may be cited as the Ilemela Municipal Council (Service Levy) By-Laws, 2013 and come into operation upon such date as the Minister may, by notice published in the <i>Gazette</i> .
Application	2	These by laws, shall apply throughout the area of jurisdiction of the Ilemela Municipal Council.
Interpretation	3	In these By-laws unless the context otherwise requires:  Act” means the Local Government Finance Act, 1982  “Accounting Period” in relation to any person means the period for which such persons makes up the accounts of his business.  “Council” means the Ilemela municipal Council.  “Authority” means the Council  “Authorized Officer” means any employee of the Authority duly authorized to administer these By-laws.  “Business” means any form of trade, protestation of vocation but does not include employment.  “Business Enterprises” means any corporate or

incorporated entity engaged in the economic activities consisting of industrial or agricultural production, distribution of goods rendering of services and commerce and includes importation of goods or services for sale.

“Director” means the Ilemela Municipal Director.

“Financial returns” means returns of turnover to be furnished by Enterprises or agency after the end of the accounting period under By law 8 of these By laws together with any document of particulars required to be furnished under these By-laws.

“Levy” means any Municipal service levy chargeable under these by-laws.

“Levy Payer” means the resident business entity liable to pay the levy under these by-laws.

“Provisional Return” means any entity corporate or incorporate which ordinarily carries on business within the area of jurisdiction of the Authority.

“Resident business entity” means any entity corporate or incorporate, which ordinarily carries on business within the area of jurisdiction of the Authority.

“Turn” means reports, records of accounts of any information or particulars regarding the quantity and gross financial values of goods or services produced, distributed, rendered and or sold for commercial purpose and includes both the provisional and final returns.

“Turn over” means gross sales or receipts inclusive of taxes duties.

“Year of Income” Means the Calendar year.

## **PART II ADMINISTRATION OF LEVY**

Charge of Levy

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There shall be levied and collected from every resident business enterprises or agency in each year of income at the rate of zero point three per centum (0.3%) of the turnover NET of the value added Tax (VAT) and

exercise duty in respect of all activities including, manufacturing, agricultural production, distribution, distribution of goods, rendering of services, commerce, importation of goods or services within the area of jurisdiction of the Authority.

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| Return of full particulars of business activities     | 5  | For the purpose of ascertaining the turnover, the Director or an Authorized Officer may by notice in writing require any levy payer or levy collector to furnish him with returns containing full particulars of his business activities including units and monetary values of goods, services produced, rendered, imported, distributed or sold for commercial purposes and financial statement within a reasonable time, not being less than thirty (30) days from the date of such notice. |
| Returns of information or particulars of any business | 6  | The Director or any Authorized Officer may by notice in writing, require any person in possession of any information or particulars in respect of any business enterprises or agency liable to pay levy under these By-laws to furnish him with such information or particulars within a reasonable time not being less than thirty (30) days from the date of service of such notice.   |
| Authorized Officer to enter into the premises         | 7  | The Director may direct any authorized officer to enter into the premises of a levy payer or collector for the purposes of making inquiries and examination of business records, books of accounts and such other particulars as he deems fit and to conduct investigation for the purposes of ascertaining the true liability of any levy payer.  |
| Submission  | 8  | The Director may by notice in writing require any levy payer or collector to submit business records or books of accounts and any other particulars as deems fit.  |
| Attendance  | 9  | For the purpose of obtaining information under the proceeding of these By-laws, the Director may require any person to attend before him or any authorized officer at such time and place he may appoint.  |
| Time to pay levy                                      | 10 | Every levy payer or collector shall be required to complete a yearly return and pay the levy due payable by the business enterprises or agencies at the time specified by the Director.  |

Appointment  
of Levy  
Collector

- 11 (1) The Director may appoint any person or institution to collect and pay levy to the Authority within the prescribed period under By-law 10.
- (2) Any levy collector or payer who fails to remit levy due from him or a levy payer shall be deemed to be a debtor payer and become liable as if it were a debt due from him to the Authority and all collection and recovery measures shall apply to him as if he was the levy payer.
- (3) Without prejudice to By-law 11(1), the Director may appoint any resident business enterprises or agencies to be the levy collector and it shall be the duty of such resident business entity to:-
- (a) Furnish any information of return required under these By-laws,
  - (b) Make a provisional or final assessment of the levy and make payment thereon within the due dates in one or four installments as provide in By-law 10 or By-law 13.

Duties of a  
levy collector

- 12 Every levy collector or any other person, body of persons or body corporate appointed to be a levy collector shall prepared such returns and within such time as may be specified by the authority;
- (a) Submit the return to the Director or to an authorized officer,
  - (b) Deposit with the Authority the levy collected within the specified period.

Time of  
payment of  
final levy

- 13 (1) Every levy payer or collector shall furnish a final return to the Authority within four months from the end of the Accounting period to which the levy relates showing the total turnover and pay the levy thereon in one installment.
- (2) Where a levy payer or collector has submitted the return to an Authorized Officer, the Authorized Officer May;
- (a) Accept the return and assess the levy on the basis thereof; or
  - (b) If he has reasonable cause to believe that such return is not true and correct, determine according to the best of his judgment, the amount of turnover of such levy payer and assess him accordingly.

- (3) Where a levy payer has not delivered a return of turnover for any year of income whether or not, has been required by the Director to do so, and the Authorized office considers that such levy payer is liable to the levy for that year of income, he may, according to the best of his judgment determine the amount of turnover of that levy payer but the assessment shall not be affected any liability otherwise incurred by such levy payer under these By laws in consequence of his failure to deliver such returns.
- (4) The levy assessed under these By- laws shall be due and payable within thirty days from the date the assessment notice was served.

Additional  
levy in event  
of default

- 14 (1) Any person who, in relation to any year of income fails to furnish a return required by these By laws within the specified period shall be surcharged with an additional levy equal to one point five per centum (1.5) a month's or three thousand shillings whichever is greater of the levy payable by him.
- (2) Any person who in relation to any year of income omits from his return or makes any incorrect statement in relation to any matter affecting his liability to the levy, where that omission or statement was due to any fraud or gross negligence, shall be charged with additional levy equal to fifty per centum (50%) of the different between the levy per the return so submitted and the amount of the levy as determined.

Compound  
charged on  
unpaid levy

- 15 (1) Where the levy remain unpaid after the due date Specified in these By-laws is surcharged, of one point five on per centum (1.5%) a month's or part thereon, shall accrue and become payable together with the principal sum.
- (2) The surcharge leviabale under these By-laws shall be deemed to be the levy due and payable and all collection and recovery measure shall apply to it "*mutates*" as if were the levy payable by the payer.

**PAR II**  
**OFFENCENS AND PENALTIES**

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| Failure to comply with requirements of these By-laws | 16 | <p>Any person who without reasonable excuse</p> <ul style="list-style-type: none"><li>(a) Fails to furnish a full and true return in accordance with these by laws,</li><li>(b) Fails to furnish, return, document, information, or any particulars required to be furnished to the Authority within the time prescribed as required by those By-laws,</li><li>(c) Fails to keep any record, books of accounts in according with the requirements of these by-laws,</li><li>(d) Fails to produce any record or document for examination purposes in accordance with the requirements of any notice served on him under these By – laws,</li><li>(e) Not being an authorized auditor or any authorized accountant provisional of final return,</li></ul> <p>Commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings (50,000/-) or imprisonment for twelve months or to both the fine and imprisonment.</p> |
| Making incorrect of fraudulent returns               | 17 | <p>Any person who without reasonable cause,</p> <ul style="list-style-type: none"><li>(a) Makes false return by omitting or understanding therein; any turnover which should have been stated therein;</li><li>(b) Makes an incorrect statement in relation to his liability.</li><li>(c) Give any incorrect information in relation to any matter of thing affecting the liability to levy of himself or any person</li><li>(d) Give any false information in relation to any matter or thing affecting his liability to levy, or that or any person.</li><li>(d) Prepares maintains or authorized the preparation or maintenance of any false books of account or the records of falsifies or authorized the falsification of such books of accounts or records; or</li></ul>   |
| Obstruction of officer                               | 18 | <p>Any person who in any way obstructs or attempts to obstruct an Officer or the Authority in the performance of his duties or in the exercise of his powers under these</p>  |

By-laws commits an offence and his liable on conviction to a fine not exceeding fifty thousand shillings (50,000) or imprisonment to twelve months or to both the fine and imprisonment.

Power of the  
Director of  
compounding  
of offences

19 Where any person has committed an offence under these By-laws, the Director may compound such offence and order that person to pay that sum of money as he thinks fit provided that amount shall not be below five hundred thousand shillings for each such offence.

Summary  
warrant of  
attachment

20 (1) Where any person or legal person who shall have had demand for payment of the service levy, delivered to him personally or at his or its place of business or office, defaults to comply with these By-laws, it shall be competent for the council to apply to a competent court having jurisdiction within the local authority for a summary warrant to recover the levy due together with the arrears and interest at the current bank rate from the person, firm, body corporate or any levy payer liable to pay the same, which warrant such court shall grant a production of correct name and proper address of the person, firms or body corporate with certificate by the Director that the party in default has been required to make payment of the said service levy and that the rate of the said levy does not exceed the rate fixed under the relevant law and every authority and shall be executed in all respect as though it were both a warrant of attachment and a warrant of sale issued out by such court.

(2) Every certificate filled in court pursuant to the provisions of sub section (1) shall be conclusive evidence of the truth of statement contained in such certificate.

Civil debt,  
Act No  
20/1996

21 Notwithstanding the provisions of these By-laws the Council shall recover any debt due to it as a civil debt by way of summary procedure under the civil procedure Act and shall accrue an interest at the prevailing Bank rate.