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GOVERNMENT NOTICE
GOEWERMENTSKENNISGEWING

OFFICE OF THE PUBLIC SERVICE COMMISSION
KANTOOR VAN DIE STAATSDIENSKOMMISSIE

No. R. 373 **28 March 2002**

RULES FOR THE SUMMONSING OF WITNESSES IN CONNECTION WITH INQUIRIES OF THE PUBLIC SERVICE COMMISSION

It is hereby notified for general information that the Public Service Commission, under section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), has made the rules set out in the Schedule hereto.

DIRECTOR-GENERAL: OFFICE OF
THE PUBLIC SERVICE COMMISSION

SCHEDULE

RULES FOR THE SUMMONSING OF WITNESSES IN CONNECTION WITH INQUIRIES OF THE PUBLIC SERVICE COMMISSION

Definitions

1. In these rules, except where otherwise indicated by the context—

"**designated official**" means an official of the Office designated under rule 4(1) to serve summonses of the Commission;

"**summons**" means a summons which the Commission is competent to issue under subsection (2) of section 10 of the Act with a view to compelling a person—

(a) who may be able to give information of material importance concerning the

subject of an enquiry conducted by the Commission under that section, to be in attendance at that enquiry in order to disclose that information to, and be questioned about it by, the Commission; or

(b) who has in his or her possession or custody or under his or her control any book, document or object which may have a bearing on the subject of such an inquiry, to be in attendance at that inquiry and there to produce such book, document or object to the Commission and, if considered necessary, to be questioned by the Commission about it;

"**the Act**" means the Public Service Commission Act, 1997 (Act No. 46 of 1997);

"**the Commission**" means the Public Service Commission established by section 196(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996); and

"**the Office**" means the Office of the Public Service Commission specified in Column 1 of Schedule 1 to the Public Service Act, 1994 (promulgated by Proclamation No. 103 of 1994).

Form and contents of summons

2. (1) Every summons must substantially be in the form set out in the Annexure to these rules.

(2) A summons will have been properly issued under section 10(2) of the Act if signed by the Chairperson of the Commission or its designee, and duly completed so as to—

(a) clearly state the subject of the Commission's inquiry in connection with which the summons is issued;

(b) state the following in full:

(i) the first name/names and surname of the person on whom the summons is to be served (hereafter called the prospective witness); and

(ii) the residential address or work or business address of the prospective witness;

(c) specify the day on which and time and place at which the prospective witness is required to appear before the Commission in obedience to the summons;

(d) clearly indicate whether the prospective witness' appearance before the Commission is required for the purpose of—

(i) giving oral evidence and being questioned about matters relevant to that inquiry; or

(ii) producing any particular book, document or object in the possession or custody or under the control of the prospective witness,

and must, in the case of subparagraph (ii), clearly and sufficiently specify and identify the particular book, document or object to be produced; and

(e) indicate the place where and date on which the summons was signed by the Chairperson of the Commission or its designee in terms of section 10(3)(*b*) of the Act.

(3) Every summons must be issued in duplicate.

Commission's summons has force throughout Republic

3. A summons properly issued by the Commission under section 10(2) of the Act, will have force and be enforceable throughout the Republic.

Summons to be served by designated official of the Office

4. (1) A summons must be served, in the manner provided for in rule 5, by an official of the Office designated in writing for that purpose by the Chairperson of the Commission.

(2) The Commission's Chairperson or any official of the Office acting under the authority of that Chairperson, must issue to each official designated under subrule (1), a certificate signed by the Chairperson or the official of the Office so acting, in which is stated that the person on whose name the certificate has been issued, is authorised to serve any summons of the Commission, and the certificate so issued, is sufficient proof that the person on whose name it has been issued, is so authorised.

Manner in which summons to be served

5. (1) Subject to subrule (2), the designated official must serve the duplicate original of

the summons—

(a) on the prospective witness personally; or

(b) at the prospective witness' residence or physical place of work or business, by handing over the summons, at that residence or work or business place, to some person who apparently is not younger than 16 years of age and who apparently is resident or employed thereat (as the case may be).

(2) If the prospective witness keeps his or her residence, or, where applicable, his or her place of business, closed so as to prevent the service of the summons, the designated official may affix the duplicate original of the summons to the outer or principal door of that residence or place, which then will constitute sufficient service. However, this mode of service may be used only if the designated official has made at least three unsuccessful attempts, at reasonable times, to serve the summons in the manner provided for in subrule (1).

(3) Whenever a person on whom a summons is served in terms of subrule (1)(a) or (b), requires proof of the designated official's authority to serve the summons, the designated official must display the certificate of authorisation issued to him or her under rule 4(2).

(4) After having served the summons, the designated official must make a return of service by endorsing under his or her name and signature, on the original of the summons in the portion specifically designed therefor, the following, namely—

(a) (i) the first name/names and surname of the person on whom the summons was served, and, if that person is not the prospective witness, the age or apparent age of that person; or

(ii) where the summons was served in terms of subrule (2), particulars as to the specific manner in which the summons was so served in the particular case; and

(b) the date and time when and place where the summons was served.

(5) The original of the summons must be returned to the Chairperson of the Commission or the Commission's designee for filing and safekeeping in the Commission's records.

ANNEXURE

PUBLIC SERVICE COMMISSION

SUMMONS

IN TERMS OF SECTION 10(2) OF THE PUBLIC SERVICE COMMISSION ACT, 1997 (ACT NO. 46 OF 1997), TO APPEAR AS WITNESS AT THE INQUIRY OF THE PUBLIC SERVICE COMMISSION

INTO ....

....(State subject of Public Service Commission's inquiry)

YOU ....

(Full first name/names and surname of witness)

OF ....

....

(Residential address or work or business address of witness)

are hereby directed to appear before the Public Service Commission ("the Commission") personally at .... (venue) on the .... day of .... 20.. at .... (time) for the purpose of:

- giving oral evidence before the Commission with regard to relevant matters concerning the Commission's abovementioned inquiry and being questioned about any such matters;

AND/OR

- producing the following book(s), document(s) and/or object(s)

LIST OF BOOKS, DOCUMENTS AND/OR OBJECTS TO BE PRODUCED	
Item No	**Description**

(delete whichever is not applicable)

Given under my hand at .... on this ....day of ...., 20... .

____

***CHAIRPERSON: PUBLIC SERVICE COMMISSION / DESIGNEE OF PUBLIC SERVICE COMMISSION**

NOTE: In terms of subsection (4) of section 10 of the Public Service Commission Act, 1997, a person will commit an offence (punishable by a fine or a term of imprisonment of up to one year) if, among other things, and after having been duly summonsed under that section to attend a particular inquiry of the Commission, he or she, in disobedience of the summons and without sufficient reason—

- fails to appear before the Commission on the day and at the time and place specified for that inquiry in the summons; or
- fails to remain in attendance at that inquiry until excused by the Commission; or
- fails to produce to the Commission any specified book, document or object which he or she is required by the summons so to produce.

*Delete whichever is not applicable.

RETURN OF SERVICE BY DESIGNATED OFFICIAL WHERE SUMMONS SERVED IN TERMS OF RULE 5(1) OF THE RULES FOR THE SUMMONSING OF WITNESSES IN CONNECTION WITH INQUIRIES OF THE PUBLIC SERVICE COMMISSION

I, ..., the undersigned, hereby certify that I have duly served the duplicate original of this summons on the following person, viz ....— * who is the person named in the summons. * who is not the person named in the summons, and whose age or apparent age is .... years. I further certify that the summons was served on .... (date) at .... (time), at the following venue: .... Signed: .... (designated official) Date: .... Tel No: .... Fax No:	I, ..., the undersigned, do hereby declare that I have received the duplicate original of this summons at ....(time) on this .... day of .... 20.. . ... Signature

RETURN OF SERVICE BY DESIGNATED OFFICIAL WHERE SUMMONS SERVED IN TERMS OF RULE 5(2) OF THE RULES FOR THE SUMMONSING OF WITNESSES IN CONNECTION WITH INQUIRIES OF THE PUBLIC SERVICE COMMISSION

I, ..., the undersigned, hereby certify that I have served the duplicate original of this summons in terms of rule 5(2) of the Rules for the Summonsing of Witnesses in Connection with Inquiries of the Public Service Commission, by taking the following steps:

....

....

I further certify that this mode of service was resorted to only after having made three unsuccessful attempts, at reasonable times, viz on .... (date(s)), at .... (times), respectively, to serve this summons in the ordinary manner in terms of rule 5(1) of those Rules.

Signed: .... (designated official)
Date: ....
Tel No: ....
Fax No: ....

* Delete whichever is not applicable.

No. R. 373 **28 Maart 2002**

REËLS VIR DIE DAGVAARDING VAN GETUIES IN VERBAND MET ONDERSOEKE VAN DIE STAATSDIENSKOMMISSIE

Hiermeee word vir algemene kennisname bekend gemaak dat die Staatsdienskommissie kragtens artikel 11 van die Wet op die Staatsdienskommissie, 1997 (Wet No. 46 van 1997), die reëls uitgevaardig het soos in die Bylae hierby uiteengesit.

DIREKTEUR-GENERAAL: KANTOOR VAN DIE STAATSDIENSKOMMISSIE

BYLAE

REËLS VIR DIE DAGVAARDING VAN GETUIES IN VERBAND MET ONDERSOEKE VAN DIE STAATSDIENSKOMMISSIE

Woordomskrywing

1. In hierdie reëls, tensy uit die samehang anders blyk, beteken—

"aangewese beampte" 'n beampte van die Kantoor wat kragtens reël 4(1) aangewys is om dagvaardings van die Kommissie te beteken;

"dagvaarding" 'n dagvaarding wat die Kommissie bevoeg is om om kragtens subartikel (2) van artikel 10 van die Wet uit te reik met die doel om iemand—

(a) wat in staat mag wees om inligting van wesenlike belang te verstrek oor die

onderwerp van 'n ondersoek deur die Kommissie kragtens daardie artikel ingestel, te verplig om by daardie ondersoek teenwoordig te wees ten einde daardie inligting aan die Kommissie te openbaar en deur die Kommissie daaroor ondervra te word; of

(b) wat in sy of haar besit of bewaring of onder sy of haar beheer enige boek, stuk of voorwerp het wat op die onderwerp van so 'n ondersoek betrekking kan hê, te verplig om by dié ondersoek teenwoordig te wees en om sodanige boek, stuk of voorwerp aldaar aan die Kommissie oor te lê en, indien dit nodig geag word, om deur die Kommissie daaroor ondervra te word;

"**die Kantoor**" die Kantoor van die Staatsdienskommissie vermeld in Kolom 1 van Bylae 1 by die Staatsdienswet, 1994 (gepromulgeer by Proklamasie No. 103 van 1994);

"**die Kommissie**" die Staatsdienskommissie ingestel by artikel 196(1) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996); en

"**die Wet**" die Wet op die Staatsdienskommissie, 1997 (Wet No. 46 van 1997).

Vorm en inhoud van dagvaarding

2. (1) Elke dagvaarding moet wesenlik in die vorm wees soos in die Aanhangsel by hierdie reëls uiteengesit.

(2) 'n Dagvaarding is behoorlik kragtens artikel 10(2) van die Wet uitgereik indien dit deur die Voorsitter van die Kommissie of dié se benoemde onderteken en behoorlik voltooi is sodat dit—

(a) die onderwerp van die Kommissie se ondersoek in verband waarmee die dagvaarding uitgereik is, duidelik stel;

(b) die volgende volledig vermeld:

(i) die voornaam/-name en van van die persoon aan wie die dagvaarding beteken staan te word (hierna die beoogde getuie genoem); en

(ii) die woonadres of werks- of besigheidsadres van die beoogde getuie;

(c) vermeld die dag en tyd waarop en plek waar die beoogde getuie ter voldoening aan die dagvaarding voor die Kommissie moet verskyn;

(d) duidelik aandui of die beoogde getuie se verskyning voor die Kommissie vereis word ten einde—

(i) mondelinge getuienis af te lê en ondervra te word oor aangeleenthede wat by dié ondersoek tersaaklik is; of

(ii) enige bepaalde boek, stuk of voorwerp in die besit of bewaring van die beoogde getuie of onder dié se beheer, oor te lê,

en, in die geval van subparagraaf (ii), moet die bepaalde boek, stuk of voorwerp wat oorgelê word, duidelik en genoegsaam gespesifiseer en omskryf word; en

(e) aandui die plek waar en datum waarop die dagvaarding deur die Voorsitter van die Kommissie of dié se benoemde kragtens artikel 10(3)(*b*) van die Wet onderteken is.

(3) Elke dagvaarding word in duplikaat uitgereik.

Kommissie se dagvaarding is van krag regoor Republiek

3. ȟ Dagvaarding behoorlik deur die Kommissie uitgereik, is van krag en afdwingbaar regoor die Republiek.

Dagvaarding beteken te word deur aangewese beampte van die Kantoor

4. (1) 'n Dagvaarding word beteken, op die wyse in reël 5 bepaal, deur 'n beampte van die Kantoor wat deur die Voorsitter van die Kommissie skriftelik vir dié doel aangewys word.

(2) Die Kommissie se Voorsitter of enige beampte van die Kantoor wat op gesag van dié Voorsitter optree, moet aan elke beampte kragtens subreël (1) aangewys, 'n sertifikaat uitreik wat deur die Voorsitter of die beampte van die Kantoor wat aldus optree, onderteken is, en waarin verklaar word dat die persoon op wie se naam die sertifikaat uitgereik is, gemagtig is om enige dagvaarding van die Kommissie te beteken, en die sertifikaat aldus uitgereik, is voldoende bewys dat die persoon op wie se naam dit uitgereik is, aldus gemagtig is.

Wyse waarop dagvaarding beteken word

5. (1) Behoudens subreël (2), moet die aangewese beampte die duplikaat-oorspronklike van die dagvaarding beteken—

(a) aan die beoogde getuie persoonlik; of

(b) by die beoogde getuie se woning of fisiese werks- of besigheidsplek, deur die dagvaarding by dié woning of werks- of besigheidsplek te oorhandig aan iemand wat oënskynlik nie jonger as 16 jaar is nie en wat oënskynlik aldaar woonagtig of werksaam is (na gelang van die geval).

(2) Indien die beoogde getuie sy of haar woning, of, waar van toepassing, sy of haar besigheidsplek, gesluit hou om daardeur die betekening van die dagvaarding te verhoed, kan die aangewese beampte die duplikaat-oorspronklike van die dagvaarding aan die buite- of hoofdeur van dié woning of besigheidsplek vasheg, wat dan voldoende betekening daarstel. Daar mag egter van hierdie wyse van betekening slegs gebruik gemaak word indien die aangewese beampte minstens drie ondeugdelike pogings, op redelike tye, aangewend het om die dagvaarding te beteken op die wyse waarvoor in subreël (1) voorsiening gemaak word.

(3) Wanneer ook al iemand aan wie 'n dagvaarding ingevolge subreël (1)(a) of (b) beteken word, van die aangewese beampte bewys verg van dié se magtiging om die dagvaarding te beteken, moet die aangewese beampte die magtigingsertifikaat wat kragtens reël 4(2) aan hom of haar uitgereik is, vertoon.

(4) Na betekening van die dagvaarding moet die aangewese beampte 'n relaas van betekening voltooi deur onder sy of haar naam en handtekening die volgende te endosseer op die oorspronklike van die dagvaarding, en wel op die gedeelte wat spesifiek daarvoor bestem is, naamlik—

(a) (i) die voornaam/-name en van van die persoon aan wie die dagvaarding beteken is, en, indien daardie persoon nie die beoogde getuie is nie, die ouderdom of oënskynlike ouderdom van daardie persoon; of

(ii) waar die dagvaarding ingevolge subreël (2) beteken is, besonderhede van die spesifieke wyse waarop die dagvaarding aldus in die bepaalde geval beteken is; en

(b) die datum en tyd waarop en plek waar die dagvaarding beteken is.

(5) Die oorspronklike van die dagvaarding moet aan die Voorsitter van die Kommissie of die Kommissie se benoemde terugbesorg word vir liassering en veilige bewaring in dié se rekords.

AANHANGSEL

STAATSDIENSKOMMISSIE

DAGVAARDING

INGEVOLGE ARTIKEL 10(2) VAN DIE WET OP DIE STAATSDIENSKOMMISSIE, 1997 (WET NO. 46 VAN 1997), OM AS GETUIE TE VERSKYN BY DIE ONDERSOEK VAN DIE STAATSDIENSKOMMISSIE

NA ....

....(Meld onderwerp van Staatsdienskommissie se ondersoek)

U ....

(Volle voornaam/-name en van van getuie)

VAN ....

....

(Woonadres of werks- of besigheidsadres van getuie)

word hierby gelas om in persoon voor die Staatsdienskommissie ("die Kommissie") te verskyn te .... (plek) op die .... dag van .... 20.. om .... (tyd), ten einde:

- voor die Kommissie mondelinge getuienis af te lê oor tersaaklike aangeleenthede betreffende die Kommissie se bovermelde ondersoek, en oor enige sodanige aangeleenthede ondervra te word;

EN/OF

- die volgende boek(e), stuk(ke) en/of voorwerp(e) oor te lê:

LYS VAN BOEKE, STUKKE EN/OF VOORWERPE WAT OORGELÊ MOET WORD	
Item No	**Beskrywing**

(skrap dit wat nie van toepassing is nie)

Gegee onder my naamtekening te .... op hede, die .... dag van .... 20... .

____

***VOORSITTER: STAATSDIENSKOMMISSIE / BENOEMDE VAN STAATSDIENS-KOMMMISSIE**

LET WEL: Ingevolge subartikel (4) van artikel 10 van die Wet op die Staatsdienskommissie, 1997, pleeg iemand 'n misdryf (strafbaar met 'n boete of 'n termyn van gevangenisstraf van tot een jaar) onder meer, indien, nadat hy of sy behoorlik kragtens daardie artikel gedagvaar is om 'n bepaalde ondersoek van die Kommissie by te woon, hy of sy, ter verontagsaming van die dagvaarding en sonder voldoende rede—

- in gebreke bly om voor die Kommissie te verskyn op die dag, tyd en plek vir daardie ondersoek wat in die dagvaarding vermeld word; of
- in gebreke bly om by daardie ondersoek teenwoordig te bly totdat hy of sy deur die Kommissie verskoon word; of
- in gebreke bly om aan die Kommissie enige gespesifiseerde boek, stuk of voorwerp oor te lê wat hy of sy uit hoofde van die dagvaarding verplig word om aldus oor te lê.

* Skrap dit wat nie van toepassing is nie.

<table>
<tr><th colspan="2">RELAAS VAN BETEKENING DEUR AANGEWESE BEAMPTE WAAR DAGVAARDING BETEKEN IS INGEVOLGE REËL 5(1) VAN DIE REËLS VIR DIE DAGVAARDING VAN GETUIES IN VERBAND MET ONDERSOEKE VAN DIE STAATSDIENSKOMMISSIE</th></tr>
<tr><td>Ek, ..., die ondergetekende, sertifiseer hiermee dat ek die duplikaat-oorspronklike van hierdie dagvaarding na behore aan die volgende persoon beteken het, nl .... —
* synde die persoon in die dagvaarding genoem; of
* wat nie die persoon genoem in die dagvaarding is nie, en wie se ouderdom of oënskynlike ouderdom .... jaar is.

Ek sertifiseer voorts dat die dagvaarding beteken is op .... (datum) om .... (tyd), by die volgende plek: ....

Geteken: .... (aangewese beampte)
Datum: ....
Tel No: ....
Faks No: ....</td><td>Ek, ..., die ondergetekende, verklaar hiermee dat ek die duplikaat oorspronklike van hierdie dagvaarding ontvang het om......................(tyd) op hede, die .... dag van .... 20.. .

....
Handtekening</td></tr>
</table>

<table>
<tr><th>RELAAS VAN BETEKENING DEUR AANGEWESE BEAMPTE WAAR DAGVAARDING BETEKEN IS INGEVOLGE REËL 5(2) VAN DIE REËLS VIR DIE DAGVAARDING VAN GETUIES IN VERBAND MET ONDERSOEKE VAN DIE STAATSDIENSKOMMISSIE</th></tr>
<tr><td>Ek, ..., die ondergetekende, sertifiseer hiermee dat ek die duplikaat-oorspronklike van hierdie dagvaarding beteken het ingevolge reël 5(2) van die Reëls vir die Dagvaarding van Getuies in Verband met Ondersoeke van die Staatsdienskommissie, deur die volgende stappe te doen: ....
....
Ek sertifiseer voorts dat daar tot hierdie wyse van betekening oorgegaan is slegs nadat ek drie ondeugdelike pogings aangewend het, op redelike tye, nl. op .... (datum(s)), om .... (tye), onderskeidelik, om hierdie dagvaarding op die gewone wyse ingevolge reël 5(1) van daardie Reëls te beteken.

Geteken: .... (aangewese beampte)
Datum: ....
Tel No: ....
Faks No: ....</td></tr>
</table>

* Skrap dit wat nie van toepassing is nie.

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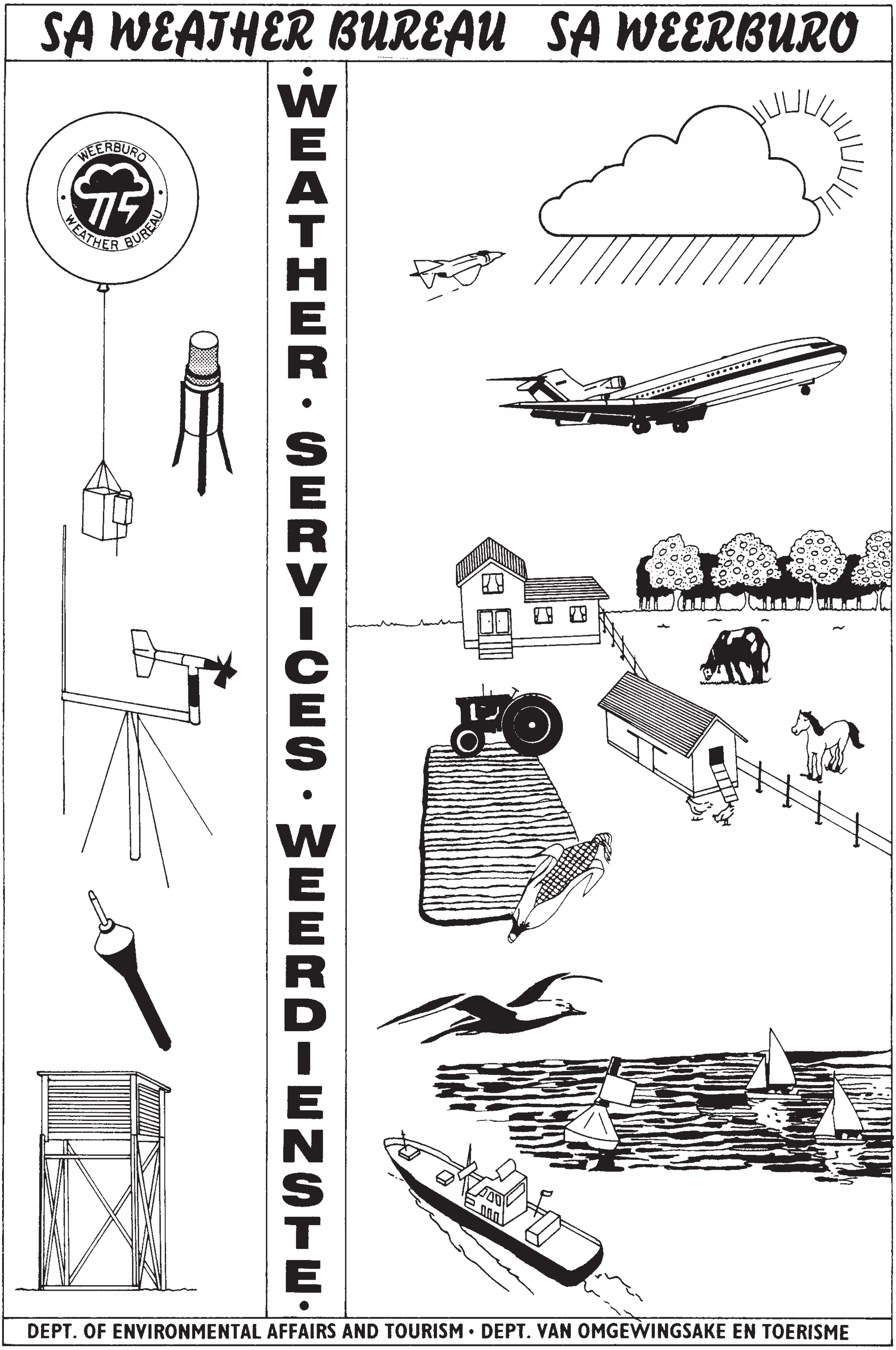
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