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DEPARTMENT OF LABOUR
DEPARTEMENT VAN ARBEID

No. R. 870 **16 July 1999**

LABOUR RELATIONS ACT, 1995

LIQUOR, CATERING AND ACCOMMODATION TRADES, SOUTH COAST, NATAL: EXTENSION OF MAIN COLLECTIVE AMENDING AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Amending Agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Liquor, Catering and Accommodation Trades, South Coast, Natal, and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Amending Agreement, shall be binding on the other employers and employees in that Industry, with effect from 26 July 1999 and for the period ending 31 August 1999.

M. M. S. MDLADLANA
Minister of Labour

Note: A copy of the Zulu translation is available from the Council

UMNYANGO WEZEMISEBENZI

No. R. 870

16 July 1999

UMTHETHO WEZEMISEBENZI KA, 1995

UHWEBO LWEZOPHUZO OLUDAKAYO, IZINDAWO ZOKUDLA NOKULALA, OGWINI OLUSENINGIZIMU NE NATAL: UKWELULWA KWESIVUMELWANO SOKUQALA SOKUCHIBIYELA ESIBUTHELA ABASEZINHLANGANWENI SELULLWA KULABO ABANGEWONA AMALUNGU

Mina, Membathisi Mphumzi Shepherd Mdladlana, uNgqongqoshe womnyango wezemiSebenzi, ngokwesigaba 32 (2) soMthetho wezemiSebenzi, ka 1995 (Labour Relations Act, 1995), ngiyamemezela ukuthi iSivumelwano esibuthela ndawonye abasezinhlanganweni esivela kwiSheduli yesiNgisi exhunywe lapha, esenziwa emkhandlwini obuthelandawonye abasezinhlanganweni zabasebenzi Uhwebo Lwezophuzo Oludakayo, izindawo zokudla nokulala, Ogwini Oluseningizimu ne Natal (Bargaining Council for the Liquor, Catering and Accommodation Trades, South Coast, Natal) futhi siyisibopho ngokwesigaba 31 so Mthetho WezemiSebenzi ka 1995 (Labour Relations Act, 1995) kulawo maqembu enza isivumelwano esichibiyelayo leso, siyababopha nabanye abaqashi nabaqashwa kulowo mkhakha wezimboni, kusukela ngomhlaka 26 July 1999 Kuze kube mhla ziwu 31 August 1999.

M. M. S. MDLADLANA

UNgqogqoshe wezemiSebenzi

Qaphela: Amakhophi esiZulu alesivumelwano angatholakala kumkhandlu wokuvumelana ophethe Uhwebo Lwezophuzo Oludakayo, Izindawo Zokudla Nokulala, Ogwini Oluseningizimu ne Natal.

SCHEDULE

BARGAINING COUNCIL FOR THE LIQUOR, CATERING AND ACCOMMODATION TRADES, SOUTH COAST, NATAL: AMENDMENT OF MAIN COLLECTIVE AGREEMENT

The parties to this Agreement are Natal South Coast Accommodation Association, Natal Liquor and Catering Trades Employees' Union and Hotel Allied Restaurant Workers' Union of South Africa.

This Agreement incorporates two different sectors, being—

(1) the Private Hotel and Boarding House Trade consisting of the Natal South Coast Accommodation Association representing the employers and Natal Liquor and Catering Trades Employee's Union representing the employees; and

(2) the Liquor and Catering Trade consisting of the Natal South Coast Accommodation Association representing the employers and Natal Liquor and Catering Trades Employees' Union and Hotel and Allied Restaurant Workers' Union of South Africa representing the employees.

In accordance with the provisions of the Labour Relations Act, No. 66 of 1995, this Agreement is entered into between the Natal South Coast Accommodation Association, representing the employers in the Private Hotel and Boarding House Trade (hereinafter referred to as "the employers" or the "employers' organisation") and Natal Liquor and Catering Trades Employees' Union representing the employees in the Private Hotel and Boarding House Trade (hereinafter referred to as the "employees" or the "trade union") of the first part; and on the second part Natal South Coast Accommodation Association, representing the employers in the Liquor and Catering Trade (hereinafer referred to as "the employers" or the "employers' organisation" and Natal Liquor and Catering Trades Employees' Union and Hotel Allied Restaurant Workers' Union of South Africa, representing the employees in the liquor and catering trade (hereinafter referred to as "the employees" or the "trade union" of the second part, being parties of the Bargaining Council for the Liquor, Catering and Accommodation Trades, South Coast, Natal, to amend the Agreement published under Government Notice R. 194 of 19 February 1999.

1. SCOPE OF APPLICATION OF AGREEMENT

1. (1) The terms of this Agreement shall be observed in the Liquor Trade, the Catering Trade and the Private Hotel and Boarding House Trade—

(a) by all employers who are members of the employers' organisation and by all employees who are members of the trade unions;

(b) in the Magisterial Districts of Durban (excluding the area within a radius of 16 kilometres of the General Post Office, Durban), Port Shepstone and Umzinto.

(2) Notwithstanding the provisions of subclause 1 (1), the terms of this Agreement shall only apply in respect of employees for whom wages are prescribed in the Main Agreement.

(3) The terms of clauses 1 (1) (a) and 3 of this Agreement shall not apply to employers and employees who are not members of the said organisation or unions.

2. PERIOD OF OPERATION

This Agreement shall come onto operation on such a date fixed by the Minister of Labour in terms of section 32 of the Labour Relations Act, 1995, and shall remain in force until 31 August 1999.

3. CLAUSE 9: BARGAINING COUNCIL FUNDS

In subclause (1), substitute the expression "R6,00" for the expression "R5,00".

4. CLAUSE 19: SHOP STEWARDS

Substitute the following for clause 19:

"For the purpose of attending training courses and/or seminars and/or meetings arranged by the trade unions that are parties to this Agreement, shop stewards shall be entitled to five days' paid leave per annum, subject to the following conditions:

(1) The leave cycle shall commence on 1 January of each year. Leave shall not be cumulative or transferable from one employer to another.

(2) Prior arrangements shall be made by the trade union with the employer in writing, giving seven days' notice for the release of shop stewards. Permission to attend the training course and/or seminar and/or meeting should not be unreasonably withheld.".

Signed at Port Shepstone, on behalf of the parties, this 16th day of April 1999.

D. G. COMINOS

Chairperson of the Bargaining Council

L. REDDY

Vice-Chairperson of the Bargaining Council

S. E. BEZUIDENHOUDT

Secretary of the Bargaining Council

No. R. 871

16 July 1999

LABOUR RELATIONS ACT, 1995

BARGAINING COUNCIL FOR THE BUILDING INDUSTRY, NORTH & WEST BOLAND: EXTENSION OF AMENDMENT OF COLLECTIVE AGREEMENT TO NON-PARTIES

I, Membathisi Mphumzi Shepherd Mdladlana, Minister of Labour, hereby in terms of section 32 (2) of the Labour Relations Act, 1995, declare that the Collective Agreement which appears in the Schedule hereto, which was concluded in the Bargaining Council for the Building Industry and is binding in terms of section 31 of the Labour Relations Act, 1995, on the parties which concluded the Agreement, shall be binding on the other employers and employees in that Industry, with effect from 26 July 1999 and for the period ending 17 May 2003.

M. M. S. MDLADLANA

Minister of Labour

SCHEDULE

BUILDING BARGAINING COUNCIL NORTH AND WEST BOLAND

COLLECTIVE AGREEMENT

in accordance with the provisions of the Labour Relations Act, No. 66 of 1995, made and entered into by and between the

Building Industries Association, North Boland

and

Bou Industrieë Assosiasie, Wes-Boland

(hereinafter referred to as the "employers" or the "employers' organisations"), of the one part and the

Building Worker's Union

(hereinafter referred to as the "employees" or the "trade union"), of the other part, being the parties to the Building Bargaining Council North and West Boland,

to amend the Collective Agreement, extended to non-parties, published under Government Notice No. R. 699 of 15 May 1998, as amended by Government Notice No. R. 1612 of 11 December 1998.

1. CLAUSE 1: SCOPE OF APPLICATION

(1) The terms of this Agreement shall be observed—

(a) by all employers and by all employees engaged or employed in the Building Industry who are members of the employers' organisations and the trade unions, respectively;

(b) in the Magisterial Districts of Ceres, Hopefield, Montagu, Moorreesburg, Piketberg, Robertson, Swellendam, Tulbach, Vredenburg and Worcester.

(2) Notwithstanding the provisions of subclause (1), in terms of this Agreement shall apply to—

(a) only those classes of employees for whom wage are prescribed in the Agreement;

(b) apprentices and learners only in so far as they are not inconsistent with the provisions of the Manpower Training Act, 1981, or any conditions fixed thereunder;

(c) labour-only contractors, working partners and working directors, principals and contractors.

(3) Notwithstanding the provisions of subclause (1) (a), in terms of this Agreement shall not apply to—

(a) clerical employees and administrative staff;

(b) university students and graduates in building science and construction surveyors and other such persons doing practical work in the completion of their academic training;

(c) foremen or general foremen;

(d) non-parties in respect of clause 1 (1) (a) and 5 (5) of this Agreement.

2. CLAUSE 4: DEFINITIONS

Substitute the following for the definition of "guard"—

"guard" means an employee who is engaged in guarding property where building work is being performed.

3. CLAUSE: 9. TERMS OF EMPLOYMENT

1. Substitute the following for subclause (1) (a):

"(1) Ordinary hours of work:

(a) No employee shall ordinarily be required to work more than the following hours:

Category	Daily hours	Weekly hours
Drivers.....	9 hours	45 hours.
All other employees	9 hours	42 hours.".

2. Substitute the following for subclause (4) (b):

"(4) Overtime:

(b) An employer may request, which request shall not be unreasonably rejected, an employee to work overtime not exceeding three (3) per day and ten (10) hours per week, Monday to Friday, and not exceeding eight (8) hours on Saturdays or Sundays.".

3. Substitute the following for subclause (6):

"(6) Annual leave:

(a) Every employee shall be entitled to 21 consecutive days annual leave during the building industry shutdown period, which shall include the public holidays falling on normal working days during the shutdown period, the dates of which shall be determined by the Council not later than 30 June of every year.

(i) The 1998/1999 annual building industry shutdown period shall commence at 17:00 on 11 December 1998 and end at 08:00 on 4 January 1999.

(b) Notwithstanding the terms of subclause 9 (6) (a) above, an employee may agree in writing with his employer to work during the period of annual leave and shall be paid the gross wage (the basic wages specified in clause 10 (1) plus the employer contributions referred to in clauses 14, 15, 16, 17 and 20 of this Agreement) for any time worked during that period, with the proviso that nobody shall work during the period 17:00 on 24 December to 08:00 on 2 January: And provided further that every employee shall be granted at least 10 normal working days, excluding public holidays, leave.

(c) Guards and other employees who had to work during the above period shall be granted leave by agreement with their employers equal to the period worked during the annual shut down.".

4. CLAUSE: 10. REMUNERATION

Substitute the following for subclause (3):

"(3) Overtime:

(a) An employer shall pay an employee, who works overtime in accordance with clause 9 (4) (a) as follows:

(i) in respect of overtime worked—

(aa) on Monday to Friday inclusive; and

(ab) on Saturday prior to 17:00;

one and a half times this hourly wage in respect of each hour or part of an hour so worked in any week.

(ii) in respect of overtime worked—

(aa) after 17:00 on Saturdays;

(ab) on Sunday and up to the normal starting time on Mondays;

(ac) during the leave periods prescribed in clause 9 (6)—

two times his hourly wage in respect of each hour or part of an hour so worked in any week.".

5. CLAUSE: 26. EXEMPTIONS

Substitute the following for clause 26:

(1) In terms of section 32 of the Labour Relations Act, No. 66 of 1995, as amended, the Council hereby establishes an independent body called an "Exemptions Board" to hear and decide any appeal brought against—

(a) the Council's refusal of a non-party's application for exemption from the provisions of this Agreement;

(b) the withdrawal of such an exemption by the Council.

(2) Any party to this Agreement or any member of a party to this Agreement may apply to the Council for exemption from any of the terms of the Agreement.

(3) The Council shall consider an application for exemption received from a party or a member of a party to the Agreement, at the first meeting of the Council following the receipt of the application, with the proviso that applications received within less than five (5) normal working days prior to a Council meeting, shall only be tabled at the next Council meeting.

(4) Applications for exemption referred to the Council in terms of subclauses 26 (2) or 26 (3) shall be considered by the Council in accordance with the exemption criteria set out in subclause 26 (13) hereof, and the applicant/s shall be advised, in writing, of the Council's decision within five (5) normal working days following the meeting at which the applications were considered.

(5) The Council shall, subject to the exemption criteria, only grant exemption on good cause and may determine such period and conditions of exemption as it deems fit, with the proviso that all exemptions granted shall lapse on 31 October of every year and may only be extended for a further period by the Council on the application for such extension by the applicant.

(6) Any non-party to which this Agreement has been extended to in terms of section 32 of the Act, may apply to the Council for exemption from any of the terms of this Agreement.

(7) Subclauses 26 (3) to and including (5) shall mutatis mutandis apply to any application for exemption received from a non-party.

(8) Within 14 consecutive days after having been advised of the Council's decision regarding an application for exemption, the non-party who feels aggrieved by the Council's decision, may submit a written appeal against the Council's decision to the Secretary of the Council. Such an appeal must be fully reasoned.

(9) The Secretary of the Council shall submit the appeal, together with the Council's decision regarding the application for exemption, to the Exemptions Board who shall as soon as possible, hear and decide the matter with reference to the exemption criteria set out in subclause 26 (13) hereof and when requested by the applicants or objectors to do so, may interview applicants or any objectors at its following meeting: Provided that the Exemptions Board may defer a decision to a following meeting if additional motivation, information or verbal representations are considered necessary to decide on the application for exemption.

(10) Once the Exemptions Board has decided to uphold the appeal and grant an exemption it shall issue a certificate and advise the applicant/s within ten (10) normal working days of the date of the decision, clearly specifying—

(a) the terms of the exemption; and

(b) the reporting requirements by the applicant and monitering re-evaluation processes.

(11) When the Exemptions Boards decides against granting an exemption or part of an exemption requested it shall advise the applicant/s within ten (10) normal working days of the date of such decision and shall provide the reason or reasons for the decision not to grant an exemption.

(12) All applications for exemptions referred to in this clause 26 shall be addressed to the Secretary of the Council and shall be—

(a) in writing on an application form provided by the Council;

(b) indicate the period of time for which the exemption is required;

(c) indicate clearly the clauses or subclauses of this Agreement from which exemption is applied;

(d) be fully reasoned and motivated and include proof that the exemption applied for has been discussed between the employer, his employees and their respective representatives and also include the responses resulting from such consultations whether in support or against the application;

(e) indicate possible substitutive provisions;

(f) indicate the specific workplaces and employees in respect of which the exemption is applied for;

(g) includes details of the total work force of the employer concerned.

(13) *Exemption criteria:* The Exemptions Board and the Council shall consider all applications of exemptions referred to in terms of this clause 26 with reference to the following criteria:

(a) The extent of consultation with and the petition for or against granting the exemptions as provided by employers or employees who are to be affected by the exemption if granted;

(b) infringement of basic conditions of employment rights;

(c) that a competitive advantage is not created by the exemption;

(d) that exemption from any employee benefit fund or training provision be viewed in relation to the alternative comparable bona fide benefit or provision including the cost to the employee, transferability, administration management and cost, growth and stability;

(e) the extent to which the proposed exemption undermines collective bargaining and labour peace in the Building Industry;

(f) the exemption policy of the Council in respect of Government subsidised, low-cost, labour intensive and community participating building construction projects adopted by the Council on 4 February 1997;

(g) the Site Specific Agreement of Understanding between the Council and Saldanha Steel Projects signed on 28 January 1997;

(h) the reality that the majority of employers at any time engaged in the Building Industry within the Council's area of jurisdiction as well as the majority of members of the employer parties to the Council, represent the category micro to medium enterprises and employ between one and twenty employees;

(i) any special economic or other circumstances that exist warrant the granting of the exemption;

(j) take cognisance of the recommendations contained in the Report of the Presidential Commision to Investigate Labour Market Policy.".

Signed on behalf of the parties this 16th day of March 1999.

D. E. SIMMONS
Chairman

R. K. WIPPICH
Vice-Chairman

N. J. KRUGER
Secretary

No. R. 871 **16 Julie 1999**

WET OP ARBEIDSVERHOUDINGE, 1995

BEDINGINGSRAAD VIR DIE BOUNYWERHEID, NOORD- EN WES-BOLAND: UITBREIDING VAN WYSIGING VAN KOLLEKTIEWE OOREENKOMS NA NIE-PARTYE

Ek, Membathisi Mphumzi Shepherd Mdladlana, Minister van Arbeid, verklaar hierby kragtens artikel 32 (2) van die Wet op Arbeidsverhoudinge, 1995, die Kollektiewe Ooreenkoms wat in die Bylae hiervan verskyn, en wat in die Bedingingsraad vir die Bounywerheid aangegaan is en kragtens artikel 31 van die Wet op Arbeidsverhoudinge, 1995, bindend is op die partye wat die Ooreenkoms aangegaan het, bindend vir die ander werkgewers en werknemers in daardie Nywerheid, met ingang van 26 Julie 1999 en vir die tydperk wat op 17 Mei 2003 eindig.

M. M. S. MDLADLANA
Minister van Arbeid

BYLAE

BOUBEDINGINGSRAAD NOORD- EN WES-BOLAND

KOLLEKTIEWE OOREENKOMS

ooreenkomstig die Wet op Arbeidsverhoudinge, Wet No. 66 van 1995, gesluit deur en aangegaan tussen die

Building Industries Association, North Boland

en

Bou Industrieë Assosiasie, Wes-Boland

(hierna die "werkgewers" of die "werkgewersorganisasies" genoem), aan die een kant en die

Building Worker's Union

(hierna die "werknemers" of die "vakvereniging" genoem), aan die ander kant, wat die partye is by die Boubedingingsraad Noord- en Wes-Boland,

om die Kollektiewe Ooreenkoms, uitgebrei na nie-partye, gepubliseer onder Goewermentskennisgewing No. R. 699 van 15 Mei 1998, soos gewysig deur Goewermentskennisgewing No. R. 1612 van 11 Desember 1998, te wysig.

1. KLOUSULE 1: TOEPASSINGSBESTEK

(1) Hierdie Ooreenkoms moet nagekom word—

(a) deur alle werkgewers en alle werknemers wat by die Bounywerheid betrokke of daarin werksaam is en wat lede is van onderskeidelik die werkgewersorganisasie en die vakvereniging;

(b) in die landdrosdistrikte Ceres, Hopefield, Montagu, Moorreesburg, Piketberg, Robertson, Swellendam, Tulbach, Vredenburg en Worcester.

(2) Ondanks subklousule (1) is hierdie Ooreenkoms van toepassing op—

(a) slegs op die klasse werknemers vir wie lone voorgeskryf word in hierdie Ooreenkoms;

(b) vakleerlinge en leerlinge slegs vir sover dit nie onbestaanbaar is nie met die Wet op Mannekragopleiding, 1981, of met voorwaardes wat daarkragtens opgestel is;

(c) slegs-arbeid-kontrakteurs, werkende vennote en werkende direkteurs, prinsipale en aannemers.

(3) Ondanks subklousule (1) (a), is die bepalings van die Ooreenkoms nie van toepassing nie op—

(a) klerke en administratiewe personeel;

(b) Universiteitstudente en gegradueerdes in die bouwetenskap en konstruksieopmeters en sodanige ander persone wat besig is met praktiese werk ter voltooiing van hul akademiese opleiding;

(c) voormanne of algemene voormanne;

(d) nie-partye ten opsigte van klousules 1 (1) (a) en 5 (5) van hierdie Ooreenkoms.

2. KLOUSULE 4: WOORDOMSKRYWINGS

Vervang die omskrywing "wag" deur die volgende—

"wag" 'n werknemer wat eiendom bewaak, waar bouwerk aan die gang is.

3. KLOUSULE: 9. DIENSVOORWAARDES

1. Vervang subklousule (1) (a) deur die volgende:

"(1) Gewone ure van werk

(a) Gewoon weg sal daar van geen werknemer verwag word om meer as die volgende ure te werk nie:

Kategorie	Daaglikse ure	Weeklikse ure
Drywers	9 ure	45 ure.
Alle ander werknemers	9 ure	42 ure.".

2. Vervang subklousule (4) (b) deur die volgende:

"(4) Oortyd:

(b) Enige werkgewer kan versoek, welke versoek nie onredelik van die hand gewys mag word nie, dat 'n werknemer oortyd werk vir 'n tydperk van nie meer as drie (3) uur daagliks en 10 uur per week, Maandag tot Vrydag, en hoogstens agt uur op Saterdae of Sondae: Met dien verstande dat met onderlinge vrywillige ooreenkoms, langer ure gewerk mag word.".

3. Vervang subklousule (6) deur die volgende:

"(6) Jaarlikse verlof:

(a) Elke werknemer is geregtig op 21 opeenvolgende dae jaarlikse verlof tydens die jaarlikse sluitingstydperk van die Bounywerheid, waarvan die datums deur die Raad bepaal moet word teen nie later nie as 30 Junie van elke jaar, en hierdie verlof sal die openbare vakansiedae wat gedurende die sluitingstydperk op gewone werksdae val, insluit.

(i) Die 1998/1999 jaarlikse sluitingstydperk van die Bounywerheid sal begin om 17:00 op 11 Desember 1998 en eindig om 08:00 op 4 Januarie 1999.

(b) Ondanks die bepalings van subklousule 9 (6) (a), kan 'n werknemer met sy werkgewer ooreenkom om tydens die jaarlikse verloftydperk te werk en moet daarvoor teen bruto lone besoldig word (die basiese loon gespesifiseer in klousule 10 (1) plus die werkgewerbydraes waarna verwys word in klousules 14, 15, 16, 17 en 20 van hierdie Ooreenkoms), met dien verstande dat niemand sal werk gedurende die tydperk 17:00 op 24 Desember tot 08:00 op 2 Januarie nie: En verder met dien verstande dat elke werknemer minstens 10 gewone werksdae, openbare vakansiedae uitgesluit, verlof toegestaan sal word.

(c) Wagte en ander werknemers wat tydens die jaarlikse verloftydperk moes werk, moet verlof toegestaan word, soos met hulle werkgewers ooreengekom, gelyk aan die tydperk gewerk tydens die jaarlikse sluitingstydperk.

4. KLOUSULE: 10. BESOLDIGING

Vervang subklousule (3) deur die volgende:

"(3) Oortyd:

(a) 'n Werknemer is soos volg geregtig op die betaling ten opsigte van oortyd gewerk ooreenkomstig klousule 9 (4) (a):

(i) ten opsigte van oortydwerk—

(aa) op Maandae tot Vrydae, insluitende; en

(ab) op Saterdae voor 17:00;

een en 'n half maal sy uurloon vir elke uur of gedeelte van 'n uur wat hy aldus in 'n week gewerk het.

(ii) vir oortydwerk verrig—

(aa) na 17:00 op Saterdae;

(ab) op Sondae en tot by die normale aanvangstyd op Maandae;

(ac) gedurende die verloftydperke gespesifiseer in klousule 9 (6)—

twee maal sy uurloon vir elke uur of gedeelte van 'n uur wat hy aldus in 'n week gewerk het.

5. KLOUSULE: 26. VRYSTELLINGS

Vervang subklousule 26 deur die volgende:

(1) 'n Onafhanklike liggaam wat as 'n "Vrystellingsraad" bekend sal staan, word hierby deur die Raad ingestel ingevolge artikel 32 van die Wet op Arbeidsverhoudinge, No. 66 van 1995, wat enige appèl aanhoor en beslis wat aangeteken word teen—

(a) die Raad se weiering van 'n nie-party se aansoek om vrystelling van die bepalings van hierdie Ooreenkoms;

(b) die intrekking van so 'n vrystelling deur die Raad.

(2) Enige party by hierdie Ooreenkoms of enige lid van 'n party by hierdie Ooreenkoms, mag na die Raad aansoek doen om vrystelling van enige van die bepalings van die Ooreenkoms.

(3) 'n Aansoek om vrystelling ontvang van 'n party of 'n lid van 'n party by die Ooreenkoms, sal deur die Raad oorweeg word op die eensvolgende vergadering van die Raad, met dien verstande dat aansoeke ontvang in minder as vyf (5) gewone werksdae onmiddellik voor 'n vergadering van die Raad, eers met die daaropvolgende vergadering ter tafel gelê sal word.

(4) Aansoeke om vrystelling na die Raad ingevolge subklousules 26 (3) (c) en 26 (3) (d) sal deur die Raad oorweeg word aan die hand van die vrystellingskriteria uiteengesit in subklousule 26 (13) hiervan, en die applikant sal skriftelik verwittig word van die Raad se beslissing binne vyf (5) gewone werksdae na die vergadering waartydens die aansoeke oorweeg was.

(5) Die Raad sal, onderhewig aan die vrystellingskriteria, vrystellings slegs om afdoende redes toestaan, en mag na goeddunke die vrystelling onderhewig stel aan voorwaardes en 'n tydsduur, met dien verstande egter dat alle vrystellings op 31 Oktober van elke jaar sal verval en slegs op aansoek deur die applikant vir die verlenging van die vrystelling, deur die Raad vir 'n verdere tydperk verleng kan word.

(6) Enige nie-party tot wie hierdie Ooreenkoms ingevolge artikel 32 van die Wet uitgebrei is, kan na die Raad aansoek doen om vrystelling van enige van die bepalings van hierdie Ooreenkoms.

(7) Die bepalings van subklousules 26 (3) tot en insluitende (5) sal mutatis mutandis geld ten opsigte van enige aansoek om vrystelling ontvang van 'n nie-party.

(8) Binne 14 opeenvolgende dae nadat die nie-party van die Raad se beslissing aangaande sy aansoek om vrystelling verwittig is, kan die nie-party wat ontevrede is met die Raad se beslissing, 'n skriftelike appèl teen die Raad se beslissing by die Sekretaris van die Raad indien. Sodanige appèl moet volledig gemotiveer wees.

(9) Die Sekretaris sal die appèl, tesame met die Raad se beslissing rakende die aansoek om vrystelling, aan die Vrystellingsraad voorlê en die Vrystellingsraad sal die aangeleentheid so spoedig moontlik aanhoor en daaroor besluit met inagneming van die vrystellingskriteria uiteengesit in subklousule 26 (13) hiervan, en indien daartoe versoek deur die applikante of beswaarmakers, onderhoude voer met die applikante of enige beswaarmakers tydens sy eersvolgende vergadering: Met dien verstande dat die Vrystellingsraad 'n beslissing tot 'n volgende vergadering mag uitstel indien addisionele motivering, inligting of mondelinge getuienis nodig geag word ten einde oor 'n aansoek om vrystelling te besluit.

(10) Nadat die Vrystellingsraad besluit het om die appèl te handhaaf en om 'n vrystelling toe te staan, sal hy 'n vrystellingsertifikaat uitreik en die applikante binne tien (10) gewone werksdae na die datum waarop die besluit geneem is, inlig deur duidelik te spesifiseer—

(a) wat die bepalings van die vrystelling behels; en

(b) die terugvoerbepalings wat deur die applikant nagekom word asook die montering en herevaluasiebepalings.

(11) Wanneer die Vrystellingsraad 'n aansoek om vrystelling in sy geheel of gedeeltelik afgekeur het, moet hy die applikant binne tien (10) gewone werksdae na die datum waarop die besluit geneem is, so verwittig en ook die rede of redes vir die weiering van die vrystelling verstrek.

(12) Alle aansoeke om vrystelling bedoel in hierdie klousule 26, moet aan die Sekretaris van die Raad gerig word, en moet—

(a) skriftelik wees op 'n aansoekvorm voorsien deur die Raad;

(b) die tydperk aandui waarvoor vrystelling benodig word;

(c) duidelik die klousules of subklousules van hierdie Ooreenkoms aandui ten opsigte waarvan vrystelling benodig word;

(d) behoorlik gemotiveer wees en bewyse insluit dat die vrystelling waarvoor aansoek gedoen word, wel bespreek is tussen die werkgewer, sy werknemers en hul onderskeie verteenwoordigers. Die reaksies voortspruitend uit sodanige oorlegplegings, hetsy ten gunste of teen die aansoek, moet by die aansoek ingesluit word;

(e) moontlike alternatiewe bepalings aandui;

(f) die spesifieke werksplekke en werknemers, ten opsigte waarvan aansoek om vrystelling gedoen word, aandui;

(g) besonderhede van die totale werksmag van die betrokke werkgewer insluit.

(13) *Vrystellingskriteria:* Die Vrystellingsraad en die Raad moet alle aansoeke om vrystelling bedoel in hierdie klousule 26, oorweeg met verwysing na die volgende kriteria:

(a) die mate van raadpleging met en die vertoë vir of teen die vrystelling soos verskaf deur werkgewers of werknemers wat deur die vrystelling geraak sal word, indien toegestaan;

(b) die inbreuk maak op basiese voorwaardes van indiensnemingsregte;

(c) die feit dat 'n mededingende voordeel nie geskep word deur die vrystelling nie;

(d) dat vrystelling van enige werknemervoordelefonds of opleidingsbepaling gesien moet word in verhouding tot die alternatiewe vergelykbare bona fide-voordeel of bepaling, met inbegrip van die koste vir die werknemer, oordraagbaarheid, administrasiebestuur en -koste, groei en stabiliteit;

(e) die mate waarin die voorgestelde vrystelling die gesamentlike bedinging en arbeidsvrede in die Bounywerheid ondermyn;

(f) die vrystellingsbeleid van die Raad ten opsigte van Regering gesubsidieerde, laekoste, arbeidsintensiewe en gemeenskap deelnemende bouprojekte, soos deur die Raad aanvaar op 4 Februarie 1997;

(g) die Terrein Spesifieke Ooreenkoms van Begrip tussen die Raad en "Saldanha Steel Project" onderteken op 28 Januarie 1997;

(h) die realiteit dat die meerderheid werkgewers wat te eniger tyd in die Bounywerheid in die Raad se gebied van jurisdiksie werksaam is sowel as die meerderheid van die lede van die werkgewer partye by die Raad, die kategorie mikro en medium ondernemings verteenwoordig en tussen een-en-twintig werknemers in diens het;

(i) enige bestaande spesiale ekonomiese of ander omstandighede wat die verlenging van die vrystelling regverdig;

(j) die inagneming van die aanbevelings vervat in die Verslag van die Presidensiële Kommissie van Ondersoek na die Arbeidsmarkbeleid:

Geteken namens die partye op hierdie 16de dag Maart 1999.

D. E. SIMMONS

Voorsitter

R. K. WIPPICH

Vise-voorsitter

N. J. KRUGER

Sekretaris

DEPARTMENT OF HEALTH
DEPARTEMENT VAN GESONDHEID

No. R. 872 **16 July 1999**

REGULATIONS UNDER THE STERILISATION ACT, 1998 (ACT No. 44 OF 1998)

The Minister of Health has, in terms of section 8 of the Sterilisation Act, 1998 (Act No. 44 of 1998), and after consultation with the members of the Executive Council, made the regulations in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression to which a meaning has been assigned in the Act shall bear such meaning and, unless the context otherwise indicates—

"annexure" means an annexure to these regulations;

"panel" means a panel as contemplated in section 3 of the Act;

"Form 1" means the form in Annexure A;

"Form 2" means the form in Annexure B;

"standard consent form" means a form provided by a health facility for recording consent to the administration of a local or general anaesthetic and an accompanying surgical procedure;

"the Act" means the Sterilisation Act, 1998 (Act No. 44 of 1998).

REQUEST FOR STERILISATION

Persons capable of consenting

2. (1) A person who is capable of consenting and who requests that a sterilisation be performed on him or her shall complete Part A and Part B of Form 1 and submit such form to the head of the health facility, together with a completed standard consent form.

(2) Where a sterilisation is to be performed in terms of section 2 (3) (a) of the Act, Part A and Part C of Form 1 shall be completed.

Persons incompetent to consent or incapable of consenting owing to severe mental disability

3. (1) The parent, spouse, guardian or curator who requests the sterilisation of a person who is incapable of consenting or incompetent to consent owing to severe mental disability shall complete Part A and Part C of Form 1.

(2) A person suffering from chronic or acute mental illness shall not be considered for sterilisation while he or she is unable to consent owing to such mental illness.

Consent

4. A standard consent form for surgical procedures used by the health facility or hospital concerned shall be completed in any request for sterilisation.

Place where sterilisation may take place

5. (1) A public or private health facility shall have the following to be designated a facility in terms of section 5 of the Act:

(a) Access to medical and nursing personnel;
(b) access to an operating theatre;
(c) appropriate surgical equipment;
(d) drugs for intravenous and intramuscular injection;
(e) emergency resuscitation equipment and access to emergency referral centre or facility;
(f) access to appropriate transport should the need arise for emergency transfer;
(g) facilities and equipment for clinical observation and access to inpatient facilities;
(h) appropriate infection control measures;
(i) access to safe waste disposal infrastructure; and
(j) telephonic means of communication.

(2) A facility shall be able to provide a 24-hour service to be considered for designation.

Notification of sterilisation

6. The person performing a sterilisation shall complete Form 2 and submit such form to the head of the health facility at which the sterilisation was performed.

M. TSHABALALA–MSIMANG, Minister of Health

No. R. 872

16 Julie 1999

REGULASIES INGEVOLGE DIE WET OP STERILISASIE, 1998 (WET No. 44 VAN 1998)

Die Minister van Gesondheid het ingevolge artikel 8 van die Wet op Sterilisasie, 1998 (Wet No. 44 van 1998), en na oorlegpleging met die lede van die Uitvoerende Raad die regulasies in die Bylae uitgevaardig.

BYLAE

Woordomskrywing

1. In hierdie regulasies het 'n woord of 'n uitdrukking waaraan 'n betekenis in die Wet geheg is, sodanige betekenis, en tensy uit die samehang anders blyk, beteken—

"aanhangsel" die aanhangsel van hierdie regulasies;

"paneel" 'n paneel soos bedoel in artikel 3 van die Wet;

"Vorm 1" die vorm in Aanhangsel A;

"Vorm 2" die vorm in Aanhangsel B;

"standaard toestemmingsvorm" 'n vorm wat deur 'n gesondheidsinrigting voorsien word om toestemming tot die toediening van 'n lokale of algemene anestetikum en 'n gepaardgaande chirurgiese prosedure op te teken;

"die Wet" beteken die Wet op Sterilisasie, 1998 (Wet No. 44 van 1998).

VERSOEK OM STERILISASIE

Persone in staat om toe te stem

2. (1) 'n Persoon wat in staat is om toe te stem en wat versoek dat 'n sterilisasie op hom of haar uitgevoer word, moet Deel A en Deel B van Vorm 1 invul en sodanige vorm tesame met 'n ingevulde toestemmingsvorm aan die hoof van die gesondheidsinrigting voorlê.

(2) Waar 'n sterilisasie ingevolge artikel 2 (3) van die Wet uitgevoer moet word, moet Deel A en Deel C van Vorm 1 ingevul word.

Persone nie in staat nie of onbevoeg om toe te stem weens erge verstandelike gestremdheid

3. (1) Die ouer, eggenoot, voog of kurator wat die sterilisasie versoek van 'n persoon wat nie in staat is om toe te stem nie of onbevoeg is om toe te stem weens erge verstandelike gestremdheid, moet Deel A en Deel C van Vorm 1 invul.

(2) 'n Persoon wat aan 'n chroniese of akute geestesiekte ly, mag nie vir sterilisasie oorweeg word terwyl hy of sy weens sodanige geestesiekte nie in staat is om toe te stem nie.

Toestemming

4. 'n Standaard toestemmingsvorm vir chirurgiese prosedures wat deur die betrokke gesondheidsinrigting of hospitaal gebruik word, moet by 'n versoek om sterilisasie ingevul word.

Plek waar sterilisasie mag plaasvind

5. (1) 'n Openbare of privaat gesondheidsinrigting moet oor die volgende beskik om as 'n inrigting ingevolge artikel 5 van die Wet aangewys te word:

(a) Toegang tot geneeskundige en verpleegpersoneel;
(b) toegang tot 'n operasieteater;
(c) toepaslike chirurgiese toerusting;
(d) geneesmiddels vir binneaarse en binnespierse inspuiting;
(e) noodresussitasietoerusting en toegang tot 'n noodverwysingsentrum of -inrigting;
(f) toegang tot geskikte vervoer indien die nood sou ontstaan vir noodoordrag;
(g) fasiliteite en uitrusting vir kliniese waarneming en toegang tot binnepasiëntefasiliteite;
(h) geskikte infeksiebeheermaatreëls;
(i) toegang tot infrastruktuur vir die veilige wegdoen van afval;
(j) telefoniese kommunikasiemiddels.

(2) 'n Fasiliteit moet 'n 24-uur-diens verskaf om oorweeg te kan word vir aanwysing.

Verwittiging van sterilisasie

6. Die persoon wat 'n sterilisasie uitvoer, moet Vorm 2 invul en sodanige vorm voorlê aan die hoof van die gesondheidsinrigting waar die sterilisasie uitgevoer moet word.

M. TSHABALALA-MSIMANG, Minister van Gesondheid

ANNEXURE A

DEPARTMENT OF HEALTH

FORM I

STERILISATION ACT, 1998 (ACT No. 44 OF 1998)

REQUEST FOR A STERILISATION PROCEDURE

Instructions: 1. Complete block A.
2. Complete block B if you are capable of consenting under the Sterilisation Act.
3. Complete block C if person is incapable of consenting or incompetent to consent owing to severe mental disability.
4. Block D and E for the use of the Panel ONLY.

A. DETAILS OF PERSON TO BE STERILISED

1.	NAME				
2.	ID No.			3. AGE	
4.	RACE *(mark where applicable)*	ASIAN	AFRICAN	WHITE	COLOURED
5.	NUMBER OF CHILDREN				

B. DECLARATION OF PERSON TO BE STERILISED

I, ..., the undersigned, hereby request that a sterilisation procedure be performed on me.

....
Signature *Date*

C. DECLARATION OF RESPONSIBLE PERSON—PERSON CONCERNED IS INCAPABLE OF CONSENTING OR INCOMPETENT TO CONSENT

6.1	The patient is under the age of 18 years and requires to be sterilised for health reasons	NO	YES
6.2	The person is severely mentally disabled and it is in his or her best interest to be sterilised	YES	NO

6.3 I believe that sterilisation is necessary because:

I, ..., the undersigned,

with ID number | | | | | | | | | | | | | |

being the | Parent | Spouse | Guardian | Curator | *(mark where applicable)*

hereby request that a sterilisation procedure be performed on .....
(Person to be sterilised)

....
Signature *Date*

D. FOR THE PANEL TO COMPLETE

(Mark with a cross where applicable)		YES	NO
1.	Proof of date of birth.		
2.	Letter(s) in support of request from medical practitioners/other.		
3.	Information on previous use of contraceptive methods.		
4.	Other—please state what document is attached:		
5.	All the provisions of the Sterilisation Act, 1998, have been complied with.		

E. PANEL

1. The panel *(mark where applicable)* | concurred | did not concur | that a sterilisation may be performed.

   Where the panel has not concurred, state the reasons:

2.	Name of health facility			
3.	Date of panel meeting			
4.	Members of the panel:			
	NAME	PROFESSION	REG. No.	SIGNATURE

5. .....
Head of facility

..... *Date*

Print name.....

6. *(Once the panel has concurred, a standard consent form for the sterilisation procedure must be completed).*

ANNEXURE B

DEPARTMENT OF HEALTH

FORM II

STERILISATION ACT, 1998 (ACT No. 44 OF 1998)

NOTIFICATION OF STERILISATION

Instructions: 1. Form to be completed in duplication by person performing sterilisation.

1.	NAME OF FACILITY						
2.	NAME OF PERSON ON WHOM STERILISATION WAS PERFORMED						
3.	AGE	GENDER		RACE			
		MALE	FEMALE	AFRICAN	COLOURED	ASIAN	WHITE
	(Mark where applicable)						
4.	RECORD OF NUMBER OF CHILDREN						
5.	DATE OF STERILISATION						
6.	DECLARATION BY PERSON WHO PERFORMED THE STERILISATION						
	I declare that all the provisions of the Sterilisation Act, 1998, have been complied with.						

....

Person who performed the sterilisation *Date*

Print name.....

DEPARTMENT OF WATER AFFAIRS AND FORESTRY
DEPARTEMENT VAN WATERWESE EN BOSBOU

No. 879 **16 July 1999**

NATIONAL WATER ACT, 1998 (ACT NO 36 OF 1998)

INVITATION TO SUBMIT WRITTEN COMMENTS ON THE PROPOSED REGULATIONS REQUIRING THAT A WATER USE BE REGISTERED

In terms of section 26(1)(c), read together with section 69 of the National Water Act, 1998, (Act No 36 of 1998), the Minister of Water Affairs and Forestry intends publishing regulations for the registration of water use as contained in the Schedule set out hereunder.

In terms of section 69(1)(a)(ii) of that Act, interested parties are invited to submit written comments in connection with the proposed regulations by 17 September 1999. Comments must be submitted to the Director-General, Department of Water Affairs and Forestry, Private Bag X313, Pretoria 0001; Fax (012) 326-2630 E-mail: bschreiner @dwaf.pwv.gov.za and marked for the attention of Chief Director: Water Use and Conservation.

EXPLANATORY NOTE

The Minister of Water Affairs and Forestry is responsible for the protection, use, development, conservation, management and control of the water resources of South Africa on a sustainable basis. These regulations will contribute to this responsibility.

The National Water Act 1998 permits, in terms of section 32, the continuation of an existing water use which was authorised by any law in force immediately before this Act came into effect. No licence is required to continue with such a use until a responsible authority requires such a water user to apply for a licence.

Section 34(2) of the Act states that a responsible authority may, subject to any regulations made under section 26(1)(c), require the registration of an existing lawful water use. Section 29(1)(b)(vi) also states that in the case of a general authorisation,

the responsible authority may attach a condition requiring the registration of such water use.

Section 59 of the Act which deals with liability for water use charges, determines that charges may only be made in respect of a water use for which a person is registered, or by the licensing process. Section 59(2) further determines that any person registered in terms of a regulation under section 26 or holding a licence to use water must pay all charges imposed in terms of the pricing strategy established under section 56 in respect of that water use.

In terms of the National Water Act, 1998, the following objectives can be derived for the need to register existing water use:-

(a) To facilitate the management of water use and waterworks;

(b) To facilitate the determination of water balances for allocation purposes in water management areas; and

(c) To facilitate the imposition and recovery of charges as set out in the pricing strategy.

SCHEDULE

REGULATIONS ON REGISTRATION OF WATER USE

1. Definitions

In these regulations any word or expression to which a meaning has been assigned in terms of the National Water Act, 1998 [(Act No. 36 of 1998), hereinafter referred to as "the Act"] shall have the meaning so assigned unless the context indicates otherwise.

2. Water use

For the purpose of these regulations, and as set out in section 21 of the Act, water use includes:

(a) taking water from a water resource;

(b) storing water;

(c) impeding or diverting the flow of water in a watercourse;

(d) engaging in a stream flow reduction activity contemplated in section 36;

(e) engaging in a controlled activity identified as such in section 37(1) or declared under section 38(1);

(f) discharging waste or water containing waste into a water resource through a pipe, canal, sea outfall or other conduit;

(g) disposing of waste in a manner which may detrimentally impact on a water resource;

(h) disposing in any manner of water which contains waste from, or which has been heated in, any industrial or power generation process;

(i) altering the bed, banks, course or characteristics of a watercourse;

(j) removing, discharging or disposing of water found underground if it is necessary for the efficient continuation of an activity or for the safety of people; and

(k) using water for recreational purposes.

3. Application for registration of water use

Any person who uses water in terms of section 21 of the Act, must within the period stipulated in paragraphs (a) and (b) register such use on a form obtained from the Department, and by submitting the completed form to the responsible authority, as defined in section 1 of the Act:-

(a) as required under a general authorisation promulgated in terms of section 39 of the Act.; or

(b) when required or requested to do so by the responsible authority:-

(i) by means of a Notice published in the Government Gazette ; or

(ii) by other means likely to reach the water user.

4. Different users at different places

Different water users may be called upon to register specific water uses at different times and in different water geographical areas.

5. Only official forms may be used

Only official forms obtained from the Department may be used in terms of these regulations.

6 Extent of water use

(1) The extent of the relevant water use will be determined on the basis of the information supplied in the application forms. The responsibility is with the water user to ensure the correctness of all information.

(2) The extent of the water use is subject to verification by the responsible authority in terms of section 35 of the Act.

7 Registration certificate

(1) Upon submission of the application forms completed to the satisfaction of the responsible authority, a registration certificate will be issued.

(2) In the event of damage to or loss of the original certificate, the water user may obtain a replacement registration certificate from the responsible authority.

8 Entitlement to use water

Registration of water use in terms of these regulations is not an entitlement to a water use.

9 Deregistration

(1) A person who no longer wishes to continue with his or her registered water use, must apply to the responsible authority for the deregistration of that water use.

(2) Where a dam is a dam with a safety risk or declared to be a dam with a safety risk, the procedure as set out in Chapter 12 of the Act and any regulation appertaining thereto, must be complied with in respect of deregistration.

(3) Proof of deregistration of any registered water use may be obtained upon request from the responsible authority.

10 Inspection

The registration certificate and the property in respect of which a water use has been registered in terms of this Notice, is subject to inspection in terms of section 125 of the Act.

11 Exemptions from registration of water use

(1) The following water uses are exempted from registration:-

(a) Any water use permitted in terms of Schedule 1 to the Act; and

(b) Where registration is not required in terms of a general authorisation promulgated in terms of section 39 of the Act.

12. Amendment to the registration of water use

(1) The registered user must within three months of any change in the water use reflected in any registration certificate, report that change to the responsible authority.

(2) The responsible authority may instruct the water user in writing to submit an application for an amendment or to submit a new application for registration, within a specific time period.

13. Cost of registering a water use

(1) No charge will be made for an application to register a water use, if the completed registration forms are submitted within the period contemplated in regulation 3.

(2) A charge may be made for registration for any application not submitted within a stipulated time period.

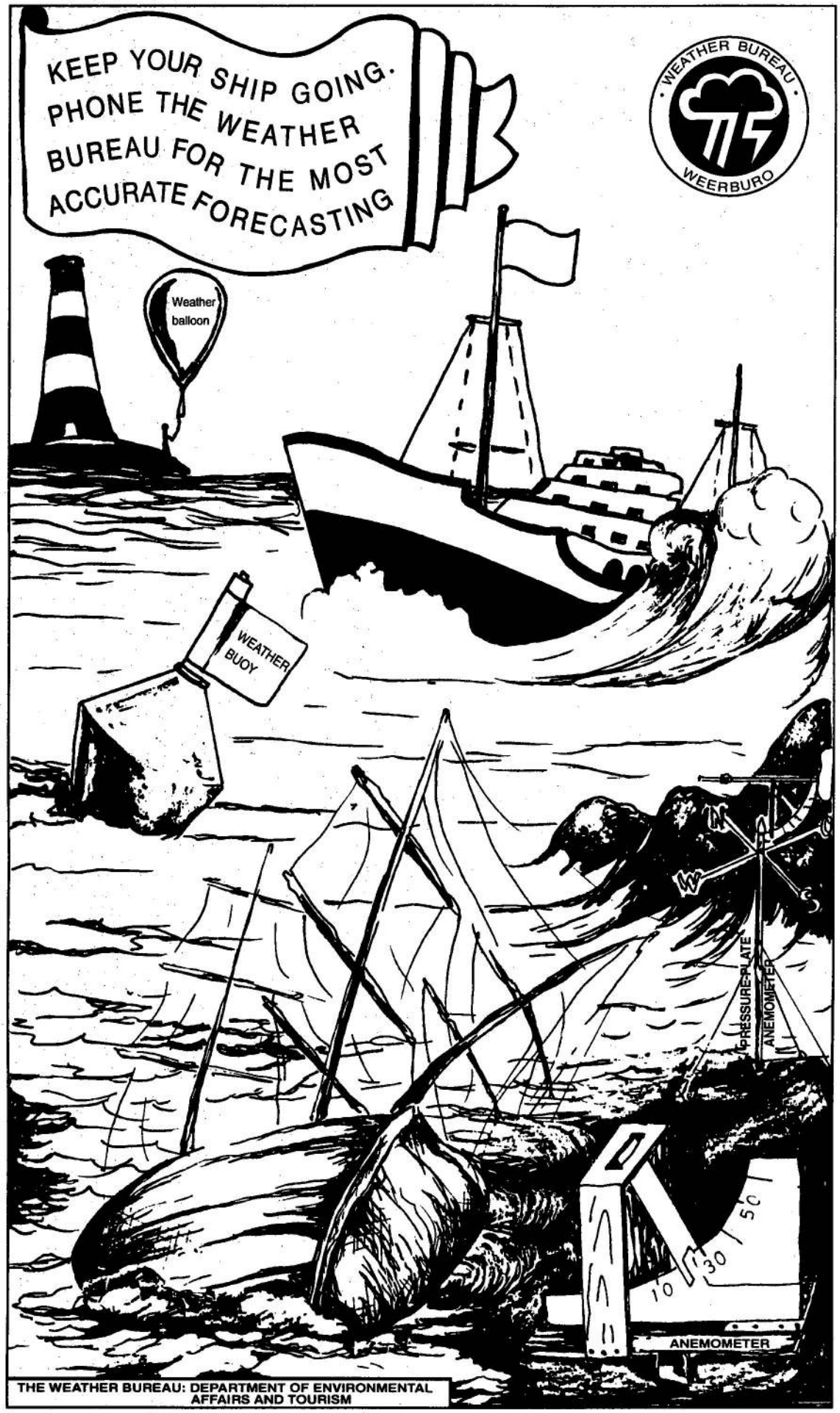
(3) Replacement of a lost or damaged registration certificate will be subject to a charge to cover the costs of replacement.

14. Offence

Any person who contravenes or fails to comply with any provision of these regulations is guilty of an offence and liable on conviction to the penalty prescribed under this Act .

15 Title and coming into effect

These regulations are called the Water Use Registration Regulations and will come into force on the date of publication.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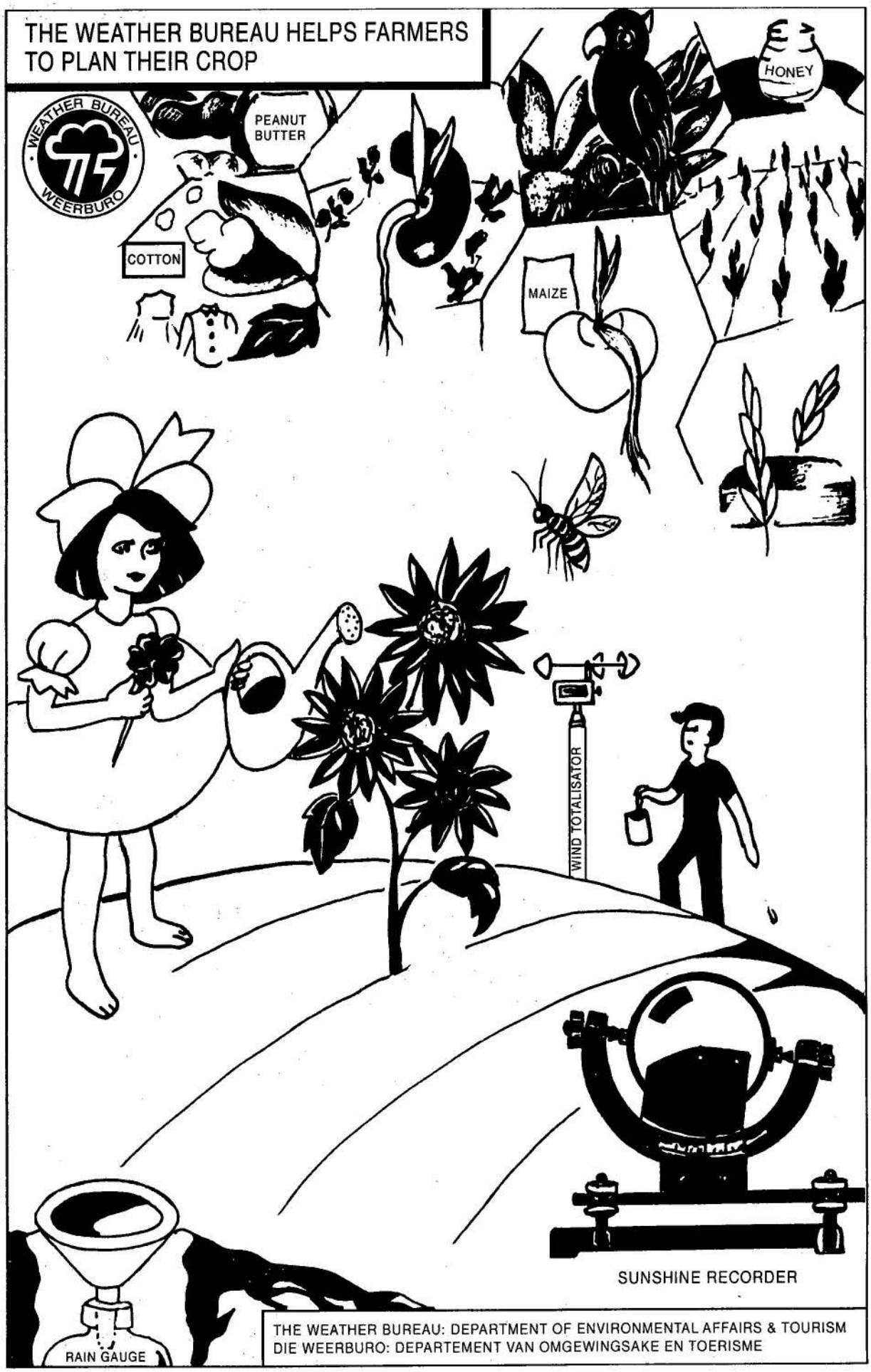
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