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GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

DEPARTMENT OF COMMUNICATIONS DEPARTEMENT VAN KOMMUNIKASIEWESE

No. R. 328

21 February 1997

RADIO ACT, 1952

AMENDMENT OF RADIO REGULATIONS

The Minister for Posts, Telecommunications and Broadcasting has, under section 18, read with sections 2, 4 (1), 7, 8, 9 and 14 of the Radio Act, 1952 (Act No. 3 of 1952), made the regulations in the Schedule.

SCHEDULE

DEFINITION

1. In these regulations, unless the context indicates otherwise, "the Regulations" means the Radio Regulations published by Government Notice No. R. 2862 of 28 December 1979, as amended by Government Notices Nos. R. 148 of 25 January 1980, R. 2661 of 4 December 1981, R. 366 of 26 February 1982, R. 855 of 30 April 1982, R. 1945 of 10 September 1982, R. 181 of 31 January 1986, R. 587 of 27 March 1986, R. 624 of 4 April 1986, R. 2633 of 12 December 1986, R. 1145 of 29 May 1987, R. 712 of 15 April 1988, R. 1349 of 30 June 1989, R. 1356 of 22 June 1990, R. 1814 and R. 1826 of 3 August 1990, R. 114 and R. 115 of 25 January 1991, R. 367 of 1 March 1991, R. 1666 of 19 July 1991, R. 2133 of 31 July 1992, R. 3302 of 4 December 1992, R. 1898 of 1 October 1993, R. 2412 of 17 December 1993, R. 2557 of 31 December 1993, R. 334 of 18 February 1994, R. 1546 of 9 September 1994, R. 19 of 6 January 1995, R. 62 of 20 January 1995, R. 1421 of 22 September 1995 and R. 1676 of 18 October 1996.

2. Any reference to either the Band Plan (as defined in the Regulation below) and the Migration Strategy (as defined in the Regulation below), or anything contained therein, is deemed to be incorporated into the Regulations.

AMENDMENT OF INDEX TO THE REGULATIONS

2.0 The Index to the Regulations is hereby amended by the insertion after Chapter 8 of the following:

"Chapter 9: Implementation of Migration within the Wireless Local Loop Bands."

INSERTION OF CHAPTER 9 OF THE REGULATIONS

3.0 The following chapter is hereby inserted in the Regulations:

"CHAPTER 9

Control of radio activities for the implementation of migration within the Wireless Local Loop bands.

1. In this chapter:

"control of radio activities" means the power or authority to direct, order, limit, manage or regulate all activities in connection with or regarding electromagnetic waves of frequencies lower than 3 000 GHz propagated in space, including, but not limited to (a) the internationally accepted principles of managing the radio spectrum as embodied in the radio regulations of the International Telecommunications Union ("ITU") embodying the use of a table of frequency allocations (also referred to as a "band plan"), in conjunction with various schemes to effect changes to the table of frequency allocations from time to time (also referred to as "migration strategies") contained in resolutions of ITU World Radio Conferences which form part of the ITU radio regulations, to ensure controlled, ordered and efficient use of the radio spectrum, (b) the South African Frequency Allocation Plan ("Band Plan"), concerning electromagnetic waves of certain frequencies below 3 000 GHz, which was published in Government Gazette No. 17701, Notice 18 of 1996, dated 27 December 1996, and used for national management of the radio spectrum, (c) the Migration Strategy to Implement the Band Plan ("Migration Strategy") concerning electromagnetic waves of certain frequencies below 3 000 GHz, which was published in Government Gazette No. 17701, Notice 18 of 1996, dated 27 December 1996, and used for national management of the radio spectrum, (d) the management of frequencies for the form of telecommunications channel/(s) using electromagnetic waves of certain frequencies below 3 000 GHz, including but not limited to such telecommunications channels as those being implemented between a local exchange in the Public Switched Telephone Network ("PSTN") and an item of customer premises equipment ("Wireless Local Loop"), which provides interconnectivity for purposes of basic telecommunications services, and (e) the meaning given to it in the Radio Act.

2. Start date of migration

(1) The date of coming into force of this regulation, shall be deemed to be 1 April 1997 ("Effective Date"). The Effective Date does not influence the start date of the migration as indicated in the Migration Strategy and therefore does not preclude the possibility that in various instances migration is already in progress. Where the Migration Strategy indicates the start date of migration of 1 January 1997, the principles of this regulation will apply only from the Effective Date, and the Effective Date will be regarded as the start of migration "Migration Start Date". In all other cases where the Migration Strategy indicates a start date of migration beyond 1 April 1997, the Migration Start Date shall be defined as the start date of migration as indicated in the Migration Strategy.

3. Facilitation of adherence to and/or acceleration of time-scales indicated in the Migration Strategy.

(1) In the event that Telkom SA Ltd "Telkom" does not require frequencies prior to the end of the period specified in the Migration Strategy for migration to occur ("Migration Strategy End Date"), the Director-General shall facilitate migration in accordance with the Migration Strategy by the Migration Strategy End Date in consultation with the parties involved.

(2) The following principles shall apply for migration occurring as outlined in subsection (1) only:

- (i) With the exception of the start of migration as defined in the Migration Strategy, which is superseded by the Migration Start Date as defined in section 2 only with regard to the application of the principles in this regulation, the time-scales indicated in the Migration Strategy shall form the basis of this section;
- (ii) The maximum exposure for which Telkom as the incoming licensee shall be liable, is a value calculated in Rands equal to US\$100 million at the prevailing rate of exchange at the time of payment, in the aggregate for all spectrum as it pertains specifically to Wireless Local Loop, in accordance with the procedures set out in subsection (3).

(3) The following procedures shall be utilized in order to facilitate adherence to the Migration Strategy time-scales:

- (i) Outgoing licensees who accelerate the time-scales indicated in the Migration Strategy shall be charged licence fees at preferential rates in the spectrum to which they migrate for a period equal to the period from the date of accelerated migration up to the Migration Strategy End Date. Such discounted rates shall be determined from time to time by the Minister in conjunction with the Minister of Finance;
- (ii) In the event that the outgoing licensee migrates earlier than the Migration Strategy End Date, the Director-General shall facilitate negotiations between the outgoing licensee and Telkom with the aim of determining the extent of migration cost and the sharing thereof. In this case Telkom's contribution to the cost of migration shall be reduced from 75% at the Migration Start Date pro rata to zero at the Migration Strategy End Date;
- (iii) In the event that the outgoing licensee is unable to, or indicates an unwillingness to migrate by the Migration Strategy End Date, the Director-General shall increase the spectrum fee charged per annum to the outgoing licensee. Such increased fees shall be determined from time to time by the Minister in conjunction with the Minister of Finance. Furthermore, the Director-General shall determine a reasonable period within which such migration shall be effected;
- (iv) Failure to complete migration within the determined period as established pursuant to subsection (3)(iii), shall result in the Director-General enforcing completion of migration at the expense of the outgoing licensee to the extent permissible under applicable law;
- (v) Notwithstanding the foregoing, in the event that Telkom is required to compensate an outgoing licensee in accordance with the provisions of subsection (3)(ii) and, in bearing such costs, Telkom becomes liable for payment in excess of the maximum exposure indicated in subsection (2)(ii), the outgoing licensee shall be fully liable for the remainder of its own migration cost.

4. Facilitation of migration earlier than the time-scales indicated in the Migration Strategy upon request by Telkom.

(1) In the event that Telkom requires frequencies prior to the Migration Strategy End Date, the Director-General shall facilitate an accelerated migration procedure where such accelerated migration is agreed to by the parties involved.

(2) The following principles shall apply to migration occurring as outlined in subsection (1) only:

- (i) With the exception of the start of migration as defined in the Migration Strategy, which is superseded by the Migration Start Date as defined in section 2 only with regard to the application of the principles in this regulation, time-scales stipulated by Telkom and the Migration Strategy will form the basis of the procedures set out in this section;
- (ii) The maximum exposure for which Telkom as the incoming licensee shall be liable, is a value calculated in Rands equal to US\$200 million at the prevailing rate of exchange at the time of payment, in the aggregate for all spectrum as it pertains specifically to Wireless Local Loop, in accordance with the procedures set out in subsection (3) for accelerated migration.

(3) The following procedures shall be utilized in order to facilitate the accelerated time-scales requested by Telkom:

- (i) Outgoing licensees adhering to the shortened time-scales stipulated by Telkom shall be charged licence fees at preferential rates in the spectrum to which they migrate for a period equal to the period from the date of accelerated migration up to the Migration Strategy End Date. Such discounted rates as described in subsection (3)(i) of section 3 shall apply;
- (ii) In the event that migration is not completed by the date stipulated by Telkom, but is nonetheless completed before the Migration Strategy End Date, then preferential rates as described in subsection (3)(i) of section 3 shall apply;

- (iii) At all times the Director-General shall facilitate negotiations with the aim of determining the extent of the migration cost;
- (iv) In the event that the outgoing licensee migrates on or before the date stipulated by Telkom, Telkom shall be liable to compensate the outgoing licensee for 100% of its migration costs;
- (v) In the event that the outgoing licensee migrates after the date stipulated by Telkom, but on or before the Migration Strategy End Date, then the contribution to be paid by Telkom shall be reduced pro rata from 25% to zero from the date stipulated by Telkom to the Migration Strategy End Date;
- (vi) In the event that migration is neither completed within the period stipulated by Telkom nor by the Migration Strategy End Date, then subsections (3)(iii) and (3)(iv) of section 3 shall apply;
- (vii) Notwithstanding the foregoing, in the event that Telkom is required to compensate an outgoing licensee in accordance with the provisions of this section and, in bearing such costs, Telkom becomes liable for payment in excess of the maximum exposure indicated in sub-section (2)(ii), the outgoing licensee shall be fully liable for the remainder of its own migration cost.”.

J. NAIDOO

MINISTER FOR POSTS, TELECOMMUNICATIONS AND BROADCASTING

No. R. 328

21 Februarie 1997

RADIOWET, 1952

WYSIGINGS VAN RADIOREGULASIES

Die Minister vir Pos-, Telekommunikasie- en Uitsaaiwese het kragtens artikel 18, saamgelees met artikels 2, 4 (1), 7, 8, 9 en 14 van die Radiowet, 1952 (Wet No. 3 van 1952), die regulasies in die Bylae uitgevaardig.

BYLAE**WOORDOMSKRYWING**

1. In hierdie regulasies, tensy uit die samehang anders blyk, beteken "die Regulasies" die Radioregulasies afgekondig by Goewermentskennisgewing No. R. 2862 van 28 Desember 1979, soos gewysig deur Goewermentskennisgewings Nos. R. 148 van 25 Januarie 1980, R. 2661 van 4 Desember 1981, R. 366 van 26 Februarie 1982, R. 855 van 30 April 1982, R. 1945 van 10 September 1982, R. 181 van 31 Januarie 1986, R. 587 van 27 Maart 1986, R. 624 van 4 April 1986, R. 2633 van 12 Desember 1986, R. 1145 van 29 Mei 1987, R. 712 van 15 April 1988, R. 1349 van 30 Junie 1989, R. 1356 van 22 Junie 1990, R. 1814 en R. 1826 van 3 Augustus 1990, R. 114 en R. 115 van 25 Januarie 1991, R. 367 van 1 Maart 1991, R. 1666 van 19 Julie 1991, R. 2133 van 31 Julie 1992, R. 3302 van 4 Desember 1992, R. 1898 van 1 Oktober 1993, R. 2412 van 17 Desember 1993, R. 2557 van 31 Desember 1993, R. 334 van 18 Februarie 1994, R. 1546 van 9 September 1994, R. 19 van 6 Januarie 1995, R. 62 van 20 Januarie 1995, R. 1421 van 22 September 1995 en R. 1676 van 18 Oktober 1996.

2. Enige verwysing na óf die Bandplan (soos in die Regulasie hieronder gedefinieer) óf die Migrasie-strategie (soos in die Regulasie hieronder gedefinieer), óf enigiets daarin vervat, word geag in die Regulasies geïnkorporeer te wees.

WYSIGING VAN DIE INHOUDSOPGAWE VAN DIE REGULASIES

2. Die Inhoudsopgawe by die Regulasies word hierby gewysig deur die volgende na Hoofstuk 8 in te voeg:

"Hoofstuk 9: Inwerkingstelling van Migrasie in die Draadlose Lokale Lus bande."

INVOEGING VAN HOOFSTUK 9 VAN DIE REGULASIES

3.0 Die volgende hoofstuk word hiermee ingevoeg:

“HOOFSTUK 9

Beheer van radioaktiwiteite vir die implementering van migrasie in die Draadlose Lokale Lus bande

1. In hierdie hoofstuk beteken:

“beheer van radioaktiwiteite” die gesag of magtiging om alle aktiwiteite in verband met of aangaande elektromagnetiese golwe van frekwensies laer as 3 000 GHz wat in die ruimte voortgeplant word, voor te skryf, beveel, beperk, bestuur of om alle aktiwiteite te reguleer insluitend, maar nie beperk nie tot (a) die internasionaal aanvaarde beginsels vir die bestuur van die radiospektrum soos vervat in die radioregulasies van die Internasionale Telekomunikasie Unie (“ITU”) insluitende die gebruik van ‘n frekwensie toewysingstabel (ook na verwys as ‘n “bandplan”) tesame met verskeie skemas om veranderinge aan te bring aan die frekwensie toewysingstabel (ook na verwys as “migrasie-strategie”) wat van tyd tot tyd in die resolusies van die Wêreld Radio Konferensies van die ITU vervat word en wat deel vorm van die ITU radioregulasies, ten einde beheerde, geordende en doeltreffende gebruik van die radiospektrum te verseker, (b) die Suid-Afrikaanse Frekwensie Toewysingsplan (“Bandplan”) aangaande elektromagnetiese golwe van sekere frekwensies laer as 3 000 GHz, wat in Staatskoerant No. 17701, Kennisgewing 18 van 1996, gedateer 27 Desember 1996, gepubliseer is en wat vir die nasionale bestuur van die radiospektrum gebruik word, (c) die Migrasie-strategie vir die Implementering van die Bandplan (“Migrasie-strategie”) aangaande elektromagnetiese golwe van sekere frekwensies laer as 3 000 GHz, wat in Staatskoerant No. 17701, Kennisgewing 18 van 1996, gedateer 27 Desember 1996, gepubliseer is en wat vir die nasionale bestuur van die radiospektrum gebruik word, (d) die bestuur van frekwensies vir die soort van telekommunikasiekanale wat gebruik maak van elektromagnetiese golwe van sekere frekwensies laer as 3 000 GHz, insluitend, maar nie beperk nie tot sodanige telekommunikasiekanale soos geïmplementeer word tussen ‘n plaaslike sentrale van die publieke skakeltelekommunikasienetwerk (“PSTN”) en ‘n item van kliënte perseel-toerusting (“Draadlose Lokale Lus”), wat verbinding vir die doeleindes van basiese telekommunikasiedienste verskaf, en (e) die betekenis daaraan gegee in die Radiowet.

2. Aanvangsdatum van Migrasie

(1) Die datum waarop hierdie regulasie in werking tree, is 1 April 1997, ("Effektiewe Datum"). Die Effektiewe Datum beïnvloed nie die aanvangsdatum van die migrasie soos in die Migrasie-strategie aangedui nie en sluit dus ook nie die moontlikheid uit dat migrasie reeds in verskeie gevalle reeds aan die gang is nie. Waar die Migrasie-strategie die aanvangsdatum van migrasie as 1 Januarie 1997 aandui, geld die beginsels van hierdie regulasie vanaf die Effektiewe Datum, en die Effektiewe Datum word beskou as die aanvang van migrasie ("Migrasie Aanvangsdatum"). In alle ander gevalle waar die Migrasie-strategie 'n aanvangsdatum van migrasie na 1 April 1997 aandui, word die Migrasie Aanvangsdatum gedefinieer as die aanvangsdatum van migrasie soos aangedui in die Migrasie-strategie.

3. Fasilitering van nakoming van en/of versnelling van tydskele aangedui in die Migrasie-strategie.

(1) In die geval waar Telkom SA Bpk ("Telkom") nie frekwensies voor die einde van die periode in die Migrasie-strategie aangedui waarbinne migrasie moet plaasvind ("Migrasie-strategie Einddatum") benodig nie, fasiliteer die Direkteur-generaal migrasie in ooreenstemming met die Migrasie-strategie teen die Migrasie-strategie Einddatum na konsultasie met die betrokke partye.

(2) Die volgende beginsels is van toepassing op migrasie wat alleenlik plaasvind soos uiteengesit in subartikel (1).

(i) Met die uitsondering van die aanvang van migrasie soos in die Migrasie-strategie gedefinieer, wat deur die Migrasie Aanvangsdatum vervang word soos in artikel 2 gedefinieer slegs met betrekking tot die toepassing van die beginsels in hierdie regulasie, vorm die tydskele soos aangedui in die Migrasie-strategie die grondslag van hierdie artikel;

(ii) Die maksimum blootstelling waarvoor Telkom as die inkomende lisensiehouer verantwoordelik sal wees, is 'n waarde bereken in Rand gelykstaande aan 100 miljoen VSA dollars teen die heersende wisselkoers ten tye van betaling, gesamentlik vir alle spektrum soos van toepassing spesifiek op Draadlose Lokale Lus, ooreenkomstig die prosedures soos in subartikel (3) uiteengesit.

(3) Die volgende prosedures sal gebruik word ten einde nakoming van die Migrasie-strategie tydskele te bevorder:

- (i) Op uitgaande lisensiehouers wat die tydskele soos aangedui in die Migrasie-strategie versnel, sal lisensiefooie teen voorkeurtariewe gehef word in die spektrum waarheen hulle migreer vir 'n periode gelykstaande aan die periode vanaf die datum van versnelde migrasie tot die Migrasie-strategie Einddatum. Sodanige afslagtariewe sal van tyd tot tyd deur die Minister in oorleg met die Minister van Finansies bepaal word;
- (ii) Indien die uitgaande lisensiehouer vroeër as die Migrasie-strategie Einddatum migreer, fasiliteer die Direkteur-generaal onderhandelings tussen die uitgaande lisensiehouer en Telkom ten einde die omvang van die migrasiekoste en die verdeling daarvan te bepaal. In hierdie geval word Telkom se bydrae tot die migrasiekoste pro rata verminder vanaf 75% by die Migrasie Aanvangsdatum tot nul by die Migrasie-strategie Einddatum;
- (iii) Indien die uitgaande lisensiehouer nie in staat is nie, of 'n onwilligheid toon, om teen die Migrasie-strategie Einddatum te migreer, verhoog die Direkteur-generaal die spektrumfooie wat jaarliks gehef word op die uitgaande lisensiehouer. Sodanige verhoogde fooie word van tyd tot tyd deur die Minister in oorleg met die Minister van Finansies vasgestel. Verder bepaal die Direkteur-generaal ook 'n redelike periode waarbinne migrasie moet plaasvind;
- (iv) Versuim om migrasie te voltooi binne die vasgestelde periode wat ingevolge sub-artikel (3)(iii) bepaal is, sal daartoe lei dat die Direkteur-generaal die voltooiing van migrasie op die uitgaande lisensiehouer se koste afdwing, tot die mate toelaatbaar binne toepaslike reg;
- (v) Nieteenstaande die voorafgaande, indien dit van Telkom vereis word om 'n uitgaande lisensiehouer te vergoed ooreenkomstig die bepalings van subartikel (3)(ii) en, in die aangaan van sodanige koste, Telkom aanspreeklik word vir uitgawes bo die maksimum blootstelling aangedui in subartikel (2)(ii), is die uitgaande lisensiehouer ten volle vir die restant van sy eie migrasiekoste aanspreeklik.

4. Fasilitering van migrasie op versoek van Telkom vroër as die tydscale in die Migrasie-strategie aangedui.

- (1) In die geval waar Telkom frekwensies voor die Migrasie-strategie Einddatum benodig, sal die Direkteur-generaal 'n versnelde migrasie-prosedure fasiliteer waar die betrokke partye op sodanige versnelde migrasie prosedure ooreenkom.
- (2) Die volgende beginsels geld vir migrasie alleenlik soos uiteengesit in sub-afdeling (1):
 - (i) Met uitsondering van die aanvang van migrasie soos gedefinieer in die Migrasie-strategie, wat vervang word deur die Migrasie-strategie Aanvangsdatum soos in artikel 2 slegs met betrekking tot die toepassing van die beginsels in hierdie regulasie gedefinieer, sal tydscale neergelê deur Telkom en die Migrasie-strategie die grondslag vorm van die prosedures soos in hierdie artikel uiteengesit;
 - (ii) Die maksimum blootstelling waarvoor Telkom as die inkomende lisensiehouer verantwoordelik is, is 'n waarde bereken in Rand gelykstaande aan 200 miljoen VSA dollars teen die heersende wisselkoers ten tye van betaling, gesamentlik vir alle spektrum soos van toepassing spesifiek op Draadlose Lokale Lus, in ooreenstemming met die prosedures in hierdie artikel.
- (3) Die volgende prosedures word gebruik om die versnelde tydscale soos deur Telkom versoek, te fasiliteer:
 - (i) Op uitgaande lisensiehouers wat hou by die verkorte tydscale deur Telkom gestipuleer, word lisensiefooie gehef teen die voorkeurtariewe in die spektrum waarheen hulle migreer vir 'n periode gelykstaande aan die periode vanaf die datum van versnelde migrasie tot die Migrasie-strategie Einddatum. Sodanige afslagtariewe soos beskryf in subartikel (3)(i) van artikel 3 is van toepassing;
 - (ii) In die geval waar migrasie nie voltooi is teen die datum wat Telkom bepaal het nie, maar nogtans voltooi is voor die Migrasie-strategie Einddatum, is voorkeurtariewe soos beskryf in subartikel (3)(i) van artikel 3 van toepassing;

- (iii) Die Direkteur-generaal fasiliteer ten alle tye onderhandelings met die doel om die omvang van die migrasiekoste te bepaal;
- (iv) In die geval waar die uitgaande lisensiehouer migreer voor of op die datum deur Telkom gestipuleer, sal Telkom verantwoordelik wees om die uitgaande lisensiehouer vir 100 % van sy migrasiekoste te kompenseer;
- (v) Indien die uitgaande lisensiehouer migreer na die datum deur Telkom gestipuleer, maar voor of op die Migrasie-strategie Einddatum, dan word die bydrae betaalbaar deur Telkom pro rata verminder vanaf 25 % tot nul vanaf die datum deur Telkom gestipuleer tot die Migrasie-strategie Einddatum;
- (vi) Indien migrasie bereik is nóg in die periode gestipuleer deur Telkom nóg teen die Migrasie-strategie Einddatum, is subartikels (3)(iii) en (3) (iv) van artikel 3 van toepassing;
- (vii) Nieteenstaande die voorafgaande, indien Telkom 'n uitgaande lisensiehouer in ooreenstemming met die bepalings van hierdie afdeling vergoed en, by die aangaan van sodanige koste, Telkom aanspreeklik word vir uitgawes bo die maksimum blootstelling aangedui in subartikel (2)(ii), is die uitgaande lisensiehouer ten volle vir die restant van sy eie migrasiekoste aanspreeklik."

J. NAIDOO

MINISTER VIR POS-, TELEKOMMUNIKASIE- EN UITSAAIWESE

Save a drop — and save a million

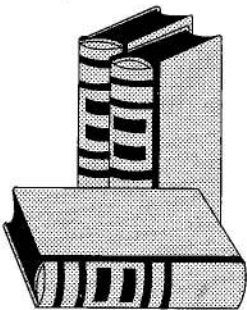
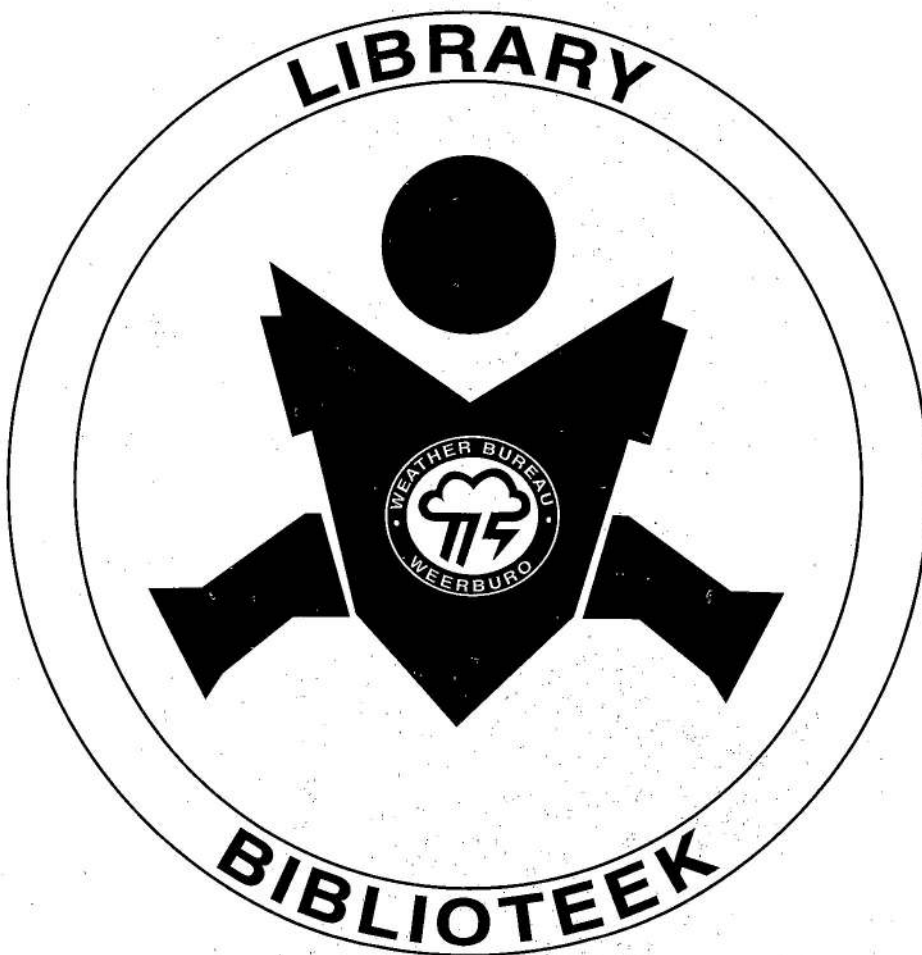
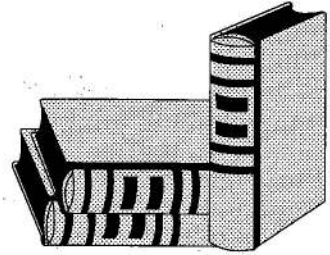
Water conservation is very important to the community and industry to ensure their survival. So save water!



Spaar 'n druppel — en vul die dam

Indien almal van ons besparingsbewus optree, besnoei ons nie slegs uitgawes nie maar wen ook ten opsigte van ons kosbare water- en elektrisiteitsvoorraad

Where is the largest amount of meteorological information in the whole of South Africa available?



Waar is die meeste weerkundige inligting in die hele Suid-Afrika beskikbaar?

Department of Environmental Affairs and Tourism
Departement van Omgewingsake en Toerisme

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