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OF
SOUTH AFRICA



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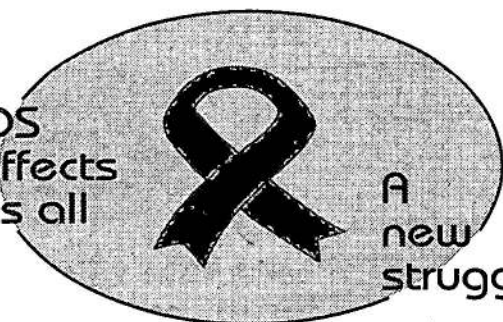
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OKTOBER 1999

No. 20567

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

**AIDS
HELPLINE**

0800 012 322

DEPARTMENT OF HEALTH

GOVERNMENT NOTICE GOEWERMENTSKENNISGEWING

**DEPARTMENT OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY
DEPARTEMENT VAN KUNS, KULTUUR, WETENSKAP EN TEGNOLOGIE**

No. R. 1275

29 October 1999

NATIONAL LIBRARY OF SOUTH AFRICA ACT, 1998

REGULATIONS

The Minister of Arts, Culture, Science and Technology has in terms of section 15 of the National Library of South Africa Act, 1998 (Act No. 92 of 1998), made the regulations in the Schedule.

SCHEDULE

ARRANGEMENT OF REGULATIONS

Chapter I	Definitions
Chapter II	Board
Chapter III	Property
Chapter IV	Misconduct and Grievances
Chapter V	Other matters

CHAPTER I DEFINITIONS

Definitions

1. In these Regulations any word or expression to which a meaning has been assigned in the Act, has the meaning so assigned to it and, unless the context indicates otherwise -

“chairperson” means the person appointed in terms of regulation 12(1) to inquire into a charge of misconduct;

“Department” means the Department of Arts, Culture, Science and Technology;

“employer” means the Board constituted in terms of section 6 of the Act;

"grievance" means any dissatisfaction or failing or injustice affecting the employment relationship of the person or persons concerned, or where there is an alleged misinterpretation or violation of his or her or their rights or a dispute on a matter of mutual interest;

"matter of mutual interest" means any matter within the power of the employer related to employment and the employer and employee relationship, including, but not limited to, terms and conditions of employment, disciplinary and grievance procedures and related procedures, employee compensation, remuneration and service benefits;

"the Act" means the National Library of South Africa Act, 1998 (Act No. 92 of 1998).

CHAPTER II

BOARD

Appointment of Board members

2. (1) The Minister must appoint persons who represent stakeholders and who have the experience, expertise or skills necessary to enable the National Library to achieve its objects and perform its functions, but the Minister must take into account the desirability of appointing women and historically disadvantaged persons and ensure that the Board is fairly representative of the various provinces of the Republic.

(2) Before persons contemplated in subregulation (1) are appointed, the Minister must-

(a) invite nominations from stakeholders and others by notice in the *Gazette*, at least two nationally distributed newspapers and appropriate local newspapers, specifying a period within which nominations must be submitted; and

(b) stipulate in such notice the form and procedure pertaining to these nominations.

(3) The Minister must appoint members of the Board from the persons so nominated.

Filling of vacancy on the Board

3. (1) The Minister may, after consultation with the chairperson of the Board, appoint a person if an office is vacated in terms of sections 6(3) and 6(4) of the Act, and may select a person from the shortlist from which the existing Board was appointed.

(2) Should it not be possible to fill the vacancy through the process mentioned in subregulation (1), the Minister must fill the vacancy in the manner prescribed under subregulations 2(2) and (3).

Meetings of the Board

4. (1) The first meeting of the Board must be held at the time and place determined by the Minister, and thereafter meetings are to be held at such times and places as the Board determines.

(2) The chairperson of the Board must give each member of the Board 14 days' written notice of the time, date and place of a meeting as well as the matters to be discussed.

(3) The chairperson of the Board or, in his or her absence, the National Librarian, may at any time call a special meeting of the Board to be held at the time and place determined by him or her.

(4) The Board must ensure that a register of attendance is kept and minutes prepared of the proceedings of its meetings and must have copies thereof circulated to the members of the Board and the Director-General of the Department of Arts, Culture, Science and Technology.

(5) The minutes so prepared, when confirmed at the next meeting and signed by the person who chairs that meeting, will, in the absence of proof of error therein, be regarded and treated as a true and correct record of the proceedings and matters that they purport to minute.

**CHAPTER III
PROPERTY****Safeguarding of records and documents and precautions against loss, damage or theft**

5. The Board must ensure that proper arrangements are made for the safe custody of all records and documents that belong to the National Library, or have been entrusted to its care, and must ensure that all practicable precautions are taken against loss, damage or theft.

Insurance

6. The Board must at all times keep the following property insured against loss or damage with a short-term insurer as defined in section 1 of the Short-term Insurance Act, 1998 (Act No. 53 of 1998):

- (a) All movable and immovable property of which the National Library is the owner.
- (a) All movable property or part thereof, entrusted to the National Library in terms of section 12 of the Act:

Provided that the Board may, in consultation with the Minister exempt such property or part thereof from the provisions of this regulation.

Disposal of movable property

7. Subject to the provisions of section 5(2)(a) of the Act, the Board may lease or sell, exchange or otherwise alienate or dispose of the following categories of movable property, except movable property entrusted to it in terms of section 12 of the Act:

- (a) Surplus, obsolete or duplicate documents received under legal deposit, provided that these documents fall within the categories contemplated in section 7(5) of the Legal Deposit Act, 1997.
- (b) Surplus, obsolete or duplicate documents purchased, received as a gift or in exchange, and originally intended for inclusion in the collection of the National Library.
- (c) Documents acquired for the purpose of distribution to other libraries or similar organisations in terms of national or international agreements or redistribution schemes.
- (d) Surplus, obsolete or damaged furniture, equipment or vehicles.

CHAPTER IV**MISCONDUCT AND GRIEVANCES****Misconduct**

8. (1) An employee is guilty of misconduct if he or she, amongst other things, -
- (a) contravenes or fails to comply with any provision of the Act;
 - (b) is negligent or indolent in the carrying out of his or her duties;
 - (c) performs, without the written permission of the National Librarian, any private work for compensation for another person or organisation either during or outside working hours;
 - (d) publicly comments to the prejudice of the administration of the National Library;
 - (e) makes use of his or her position to promote or to prejudice the interests of any political party;
 - (f) while on duty is under the influence of an intoxicating, illegal, unauthorised, habit forming or stupefying drug, including alcohol;
 - (g) misappropriates or wrongfully possesses, damages or causes loss to any property of the National Library, another employee or a visitor;
 - (h) commits an act of sexual harassment or intimidates or victimises fellow employees;
 - (i) absents or repeatedly absents him- or herself from his or her work without leave or valid cause;

- (j) makes a false or incorrect statement, or knowingly falsifies records and documentation, in the execution of his or her duties;
- (k) intentionally or negligently mismanages the finances of the National Library;
- (l) endangers the life of him- or herself or others by disregarding safety rules or regulations;
- (m) steals, bribes or commits fraud;
- (n) discriminates against others on the basis of the grounds contemplated in section 9(3) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- (o) performs poorly or inadequately for reasons other than incapacity;
- (p) while on duty, conducts him- or herself in an improper, disgraceful and unacceptable manner or displays disrespect towards others;
- (q) while on duty, assaults, or attempts or threatens to assault, another employee or person;
- (r) incites other personnel to unprocedural or unlawful conduct;
- (s) prevents other employees from belonging to any trade union or body;
- (t) operates any money-lending scheme for employees for his or her own benefit during working hours or from the premises of the National Library;
- (u) carries or keeps firearms or other dangerous weapons on the premises of the National Library, without the written authorisation of the National Librarian;
- (v) participates in unprocedural, unprotected or unlawful industrial action;
- (w) commits a common law or statutory offence while on the premises of the National Library; or
- (x) without authorisation sleeps on duty.

Preliminary investigation of misconduct

9. (1) Whenever an employee is accused of misconduct, the employer or a person designated by the employer may in writing appoint a person as investigating officer -

- (a) to investigate the matter;
- (b) to obtain evidence in order to determine whether there are grounds for a charge of misconduct against that employee; and
- (c) to report to the employer thereon.

(2) An investigating officer shall not question the employee concerned unless the investigating officer has informed that employee -

- (a) that the employee has the right to be assisted or represented by a fellow employee or a representative of a recognised union;
- (b) that the employee is not obliged to make any statement; and

- (c) that any statement so made may be used in evidence against the employee.

Charge of misconduct

10. (1) The employer may in writing charge an employee with misconduct if the employer is of the opinion that sufficient grounds for such a charge exist, whether or not an investigation contemplated in regulation 9(1) has been carried out.

(2) Such a charge must contain details of the alleged misconduct and must contain or be accompanied by a direction calling upon the employee charged to send or deliver within three working days after receiving the charge, to a person specified, a written admission or denial of the charge and, if he or she so desires, a written explanation regarding the misconduct with which he or she is charged.

(3) The employer may at any time withdraw a charge of misconduct.

(4) An employee who admits to a charge is deemed to be guilty of the misconduct with which he or she has been charged and the National Librarian must in that case make a recommendation as contemplated in regulation 14(b) to the employer.

(5) After consideration of the National Librarian's recommendations, the employer may -

- (a) caution and reprimand the employee;
- (b) reduce the employee's salary or rank, or both;
- (c) discharge the employee from service.

(6) The employer must as soon as possible inform the employee concerned of its decision and of the employee's right to appeal against its decision in terms of regulation 16.

(7) The provisions of regulation 16, read with the necessary changes, apply in case of such an appeal.

Suspension of employees

11. (1) Subject to the provisions of this regulation and the Labour Relations Act, 1995 (Act No. 66 of 1995), the employer may at any time before or after charging an employee with misconduct suspend that employee from duty on such conditions as the employer may determine, or transfer that employee to another position or office -

- (a) pending a disciplinary enquiry which could lead to the employee's dismissal;
- (b) if the employee is alleged to have committed a serious offence;
- (c) where the employee's presence at the workplace could lead to the aggravation of a sensitive situation or a disruption of work; or
- (d) if the employer believes that the employee's presence at the workplace might jeopardise any investigation contemplated in regulation 9, or endanger the well-being or safety of any person or property.

(2) Where an employee has been suspended from duty or transferred under this

regulation, the employer must cause a disciplinary inquiry to be held within 30 days from the date of such suspension or transfer.

Disciplinary inquiry

12. (1) If an employee charged with misconduct -
- (a) denies the charge; or
 - (b) fails to comply with the direction contemplated in regulation 10(2),

the employer must appoint a person to inquire into the charge.

(2) Subject to regulation 11(2), the chairperson must, in consultation with the employer, determine the time and place of the inquiry, and the employer must give the employee at least five working days' notice in writing of the time and place so determined, and such notice must be in the form of the Annexure to these Regulations.

(3) The employee must sign receipt of the notice and if he or she refuses to sign receipt of the notice, the notice must be given to the employee in the presence of a fellow employee who must sign the notice in confirmation that the notice has been delivered to the employee.

(4) If the employee fails to attend the inquiry or fails to remain present without valid cause, the chairperson may order that the inquiry continue in the employee's absence.

Procedure at disciplinary inquiry

13. (1) The employer is represented by a person nominated by the employer and he or she must present the employer's case at the inquiry.

(2) An employee may be represented by a fellow employee or a representative of a recognised trade union of whom the employee is a member.

(3) Neither the employer nor the employee may be represented by an attorney as defined in section 1 of the Attorneys Act, 1979 (Act No. 53 of 1979), or an advocate as contemplated in section 1 of the Admission of Advocates Act, 1964 (Act No. 74 of 1964).

(4) If necessary, the employee may seek the services of an interpreter who may attend the inquiry.

(5) Both the employer's representative and the employee may call witnesses in support of his or her case and the witnesses so called may be cross-examined by the other party.

(6) The chairperson must keep a written record of the proceedings of the inquiry.

Finding of disciplinary inquiry

14. At the conclusion of the inquiry into a charge of misconduct, the chairperson must -
- (a) find whether the employee concerned is guilty or not guilty of the misconduct with which the employee has been charged;

- (b) if the chairperson finds that the employee is guilty of the misconduct with which he or she has been charged, make a recommendation to the employer that -
 - (i) the employee be cautioned or reprimanded;
 - (ii) the employee's salary or rank, or both, be reduced;
 - (iii) the employee be discharged from service,and inform the employee in writing of his or her finding and recommendation.

Steps after inquiry

15. (1) After the conclusion of the inquiry into a charge of misconduct, the chairperson must in writing-

- (a) within seven days after the making of the finding, report to the employer on the result of the inquiry; and
- (b) submit to the employer the following -
 - (i) the record of the proceedings at the inquiry and any documentary evidence submitted thereat;
 - (ii) a written exposition of his or her finding and the reasons therefor;
 - (iii) any remarks which the chairperson wishes to make in connection with the inquiry; and
 - (iv) his or her recommendation in terms of regulation 14(b).

(2) After consideration of the documents referred to in subregulation 1(b), the employer may -

- (a) caution or reprimand the employee;
- (b) reduce the employee's salary or rank, or both;
- (c) discharge the employee from service.

(3) The employer must as soon as possible inform the employee concerned of its decision and of the employee's right of appeal in terms of regulation 16.

Appeals

16. (1) An employee may appeal against the finding of the chairperson or against the decision of the employer under regulation 15(2).

(2) The employee must submit his or her appeal to the appeal authority in writing within three working days of receipt of the employer's decision and the appeal must clearly set out the grounds of appeal.

(3) If an appeal is not made within three working days from the date on which the employee has been informed of the employer's decision, the finding of the chairperson and the employer's decision will be final.

- (4) The National Librarian must appoint a person -
- (a) who was not involved in the decision to institute the disciplinary proceedings; and
 - (b) who has a higher rank than the employee concerned; and
 - (c) who was not involved in the disciplinary inquiry,

as appeal authority to hear the appeal.

(5) The appeal authority must within five working days of receipt of the notice of appeal convene an appeal hearing.

(6) The employer and the employee, or their representatives, may be present at the appeal hearing and submit arguments on the grounds of the appeal.

(7) The appeal authority must decide on the outcome of the appeal within two working days after the conclusion of the appeal hearing.

(8) The appeal authority may -

- (a) uphold or reject the appeal;
- (b) alter the decision of the employer,

and must provide the employer and the employee with written reasons for his or her decision, and the employer must immediately implement the decision of the appeal authority.

(9) The decision of the appeal authority is final.

Grievances of employees

17. (1) An aggrieved employee must first attempt to resolve any grievance informally through discussion with his or her immediate supervisor or head.

(2) No record of the discussions will be kept without prejudice to either of the parties.

(3) If the grievance cannot be resolved through informal discussions, the grievant may lodge the grievance with the National Librarian in writing within 10 calendar days after the date on which the discussions were held and full details of the nature of the grievance must be set out.

(4) The National Librarian or a person designated by him or her must hold a formal enquiry within seven working days of receipt of the grievance contemplated in subregulation (3) in order to resolve the grievance and a written record of the enquiry must be kept.

(5) The National Librarian must in writing communicate the outcome of the inquiry in writing to the grievant and the Board within five working days of the meeting.

(6) If the grievance has not been disposed of to the satisfaction of the grievant he or she may declare a dispute with the National Library and refer the grievance to the Commission for Conciliation, Mediation and Arbitration for resolution in terms of Part C of Chapter VII of the Labour Relations Act, 1995 (Act No. 66 of 1995).

CHAPTER V OTHER MATTERS

Professional Advisory Committees

18. (1) The Board may from time to time appoint professional advisory committees consisting of suitably qualified and experienced persons, to advise the Board on matters relating to the functions of the National Library.

(2) The committees appointed under subregulation (1) must have no executive powers.

(3) No remuneration is payable to the members of the committees other than such reasonable travel and subsistence costs as the Minister with the concurrence of the Minister of Finance may determine.

Rules and conditions for access and use

19. The Board may make rules and set out conditions in respect of access to the premises of the National Library and the use of its collections and facilities in order to ensure the safety of its premises, facilities and employees, the safety and convenience of users of the National Library, and the long-term preservation of its collections.

ANNEXURE

NOTICE OF DISCIPLINARY HEARING

[DATE]

[NAME OF EMPLOYEE]

[PERSONAL DETAILS OF THE EMPLOYEE]

You are hereby given notice to attend a disciplinary hearing in terms of the Regulations of the National Library of South Africa Act, 1998.

The alleged misconduct and the available evidence are: -

[A DETAILED DESCRIPTION OF MISCONDUCT MAY BE ATTACHED]

The meeting will be held at _____ [PLACE] on [DATE] _____ at _____ [TIME]. If you do not attend and cannot give reasonable grounds for failing to attend, the meeting will be held in your absence.

A fellow employee or a representative of a recognised union, of which you are a member, may represent you.

You may give evidence to the hearing in the form of documents or through witnesses. You will be entitled to question any witness introduced by your employer.

If the enquiry holds that you are guilty of misconduct, you may present any relevant circumstances in determining the disciplinary sanction.

SIGNATURE OF EMPLOYEE

DATE: _____

SIGNATURE OF EMPLOYER

DATE: _____

SIGNATURE OF WITNESS (if applicable)

DATE: _____

No. R. 1275

29 Oktober 1999

WET OP DIE NASIONALE BIBLIOTEEK VAN SUID-AFRIKA, 1998**REGULASIES**

Die Minister van Kuns, Kultuur, Wetenskap en Tegnologie het, ingevolge artikel 15 van die Wet op die Nasionale Biblioteek van Suid-Afrika, 1998 (Wet No. 92 van 1998), die regulasies in die Bylae uitgevaardig.

BYLAE**INDELING VAN REGULASIES**

Hoofstuk I	Woordoms krywing
Hoofstuk II	Raad
Hoofstuk III	Goed
Hoofstuk IV	Wangedrag en griewe
Hoofstuk V	Ander aangeleenthede

HOOFSTUK I**WOORDOMSKRYWING****Woordoms krywing**

1. In hierdie Regulasies het enige woord of uitdrukking waaraan 'n betekenis in die Wet toegeken is, daardie betekenis en, tensy uit die samehang anders blyk, beteken —

“aangeleentheid van onderlinge belang” enige aangeleentheid binne die bevoegdheid van die werkgewer met betrekking tot indienshouding en die werkgewer-werknemerverhouding, met inbegrip van, maar nie beperk nie tot, bedinge en voorwaardes van diens, dissiplinêre en grieweprosedures en verwante prosedures, werknemerskompensering, -besoldiging en -diensvoordele;

“Departement” die Departement van Kuns, Kultuur, Wetenskap en Tegnologie;

“die Wet” die Wet op die Nasionale Biblioteek van Suid-Afrika, 1998 (Wet No. 92 van 1998);

“grief” enige ontevredenheid of versuim of onreg wat die diensverhouding van die betrokke persoon of persone raak, of waar daar ‘n beweerde verkeerde uitleg of skending van sy of haar regte of ‘n dispuut oor ‘n aangeleentheid van onderlinge belang is;

“voorsitter” die persoon wat ingevolge regulasie 12(1) aangestel is om ‘n aanklag van wangedrag te ondersoek;

“werkgewer” die Raad saamgestel ingevolge artikel 6 van die Wet.

HOOFSTUK II

RAAD

Aanstelling van Raadslede

2. (1) Die Minister moet persone aanstel wat belanghebbers verteenwoordig en wat oor die ondervinding, kundigheid en vaardighede beskik wat nodig is om die Nasionale Biblioteek in staat te stel om sy oogmerke te bereik en sy werksaamhede te verrig, maar die Minister moet die wenslikheid in ag neem van die aanstelling van vroue en die histories agtergesteldes en verseker dat die Raad redelik verteenwoordigend is van die verskillende provinsies van die Republiek.

(2) Voordat die persone bedoel in subregulasie (1) aangestel word, moet die Minister —

- (a) nominasies van die belanghebbers en ander by kennisgewing in die *Staatskoerant*, minstens twee nasionaal verspreide koerante en toepaslike plaaslike koerante versoek, wat ‘n tydperk spesifiseer waarin nominasies voorgelê moet word; en
- (b) in sodanige kennisgewing die vorm en prosedure van toepassing op hierdie nominasies stipuleer.

(3) Die Minister moet Raadslede aanstel uit persone aldus genomineer.

Vul van vakature in die Raad

3. (1) Die Minister kan, na oorleg met die voorsitter van die Raad, iemand aanstel indien ‘n amp vakant raak ingevolge artikels 6(3) en 6(4) van die Wet, en kan iemand kies uit die kortlys waaruit die bestaande Raad aangestel is.

(2) Indien dit nie moontlik is om die vakature te vul deur middel van die proses vermeld in subregulasie (1) nie, moet die Minister die vakature vul op die wyse voorgeskryf kragtens subregulasies 2(2) en (3).

Vergaderings van die Raad

4. (1) Die eerste vergadering van die Raad moet gehou word op 'n tyd en plek deur die Minister bepaal, en daarna moet vergaderings op sulke tye en plekke gehou word wat die Raad bepaal.
- (2) Die voorsitter van die Raad moet aan elke lid van die Raad 14 dae kennis gee van die tyd, datum en plek van 'n vergadering, asook van die aangeleenthede wat bespreek gaan word.
- (3) Die voorsitter van die Raad of, in sy of haar afwesigheid, die Nasionale Bibliotekaris, kan te eniger tyd 'n spesiale vergadering van die Raad belê wat gehou moet word op 'n tyd en plek deur hom of haar bepaal.
- (4) Die Raad moet verseker dat 'n presensielys gehou word en notules opgestel word van die verrigtinge van sy vergaderings, en moet afskrifte daarvan laat rondstuur aan die lede van die Raad en aan die Direkteur-generaal van die Departement van Kuns, Kultuur, Wetenskap en Tegnologie.
- (5) Die notule aldus opgestel, moet by goedkeuring van die notule by die volgende vergadering en ondertekening deur die voorsitter van daardie vergadering, by ontstentenis van bewys van foute daarin, as 'n ware en getroue rekord van die verrigtinge en aangeleentheid waarvan dit 'n notule voorgee te wees, geag te word en behandel te word.

HOOFSTUK III**GOED****Beskerming van rekords en dokumente, en voorsorg teen verlies, skade of diefstal**

5. Die Raad moet verseker dat behoorlike reëlins getref word vir die veilige bewaring van alle rekords en dokumente wat aan die Nasionale Biblioteek behoort, of wat aan sy sorg toevertrou is, en moet verseker dat alle doenlike voorsorg getref word teen verlies, skade of diefstal.

Versekering

6. Die Raad moet die volgende goed te alle tye teen verlies of skade verseker by 'n korttermynversekeraar, soos omskryf in artikel 1 van die Korttermynversekeringswet, 1998 (Wet No. 53 van 1998):
- (a) Alle roerende en onroerende goed waarvan die Nasionale Biblioteek die eienaar is.
 - (b) Alle roerende goed of gedeelte daarvan, toevertrou aan die Nasionale Biblioteek ingevolge artikel 12 van die Wet.

Met dien verstande dat die Raad egter in oorleg met die Minister sodanige goed of gedeelte daarvan kan vrystel van die bepalings van hierdie regulasie.

Wegdoening van roerende goed

7. Behoudens die bepalinge van artikel 5(2)(a) van die Wet, kan die Raad die volgende kategorieë van roerende goed, uitgesonderd roerende goed aan hom toevertrou ingevolge artikel 12 van die Wet, verhuur, verkoop, verruil of op 'n ander wyse vervreem of daarmee wegdoen:

- (a) Surplus, verouderde of duplikaatdokumente ontvang kragtens pliglewering, mits hierdie dokumente in die kategorieë bedoel in artikel 7(5) van die Wet op Pliglewering, 1997, val.
- (b) Surplus, verouderde of duplikaatdokumente aangekoop, as geskenk of in ruil ontvang, en oorspronklik bedoel vir insluiting in die versameling van die Nasionale Biblioteek.
- (c) Dokumente bekom met die doel om te versprei aan ander biblioteke of soortgelyke organisasies ingevolge nasionale of internasionale ooreenkomste of herverspreidingskemas.
- (d) Surplus, uitgediende of beskadigde meubels, toerusting of voertuie.

HOOFSTUK IV WANGEDRAG EN GRIEWE

Wangedrag

8. (1) 'n Werknemer is skuldig aan wangedrag indien hy of sy onder andere —
- (a) enige bepaling van die Wet oortree of versuim om daaraan te voldoen;
 - (b) nalatig of traag is by die uitvoering van sy of haar pligte;
 - (c) sonder die skriftelike toestemming van die Nasionale Bibliotekaris enige private werk teen vergoeding vir 'n ander persoon of organisasie óf gedurende óf buite werksure verrig;
 - (d) hom of haar in die openbaar tot nadeel van die administrasie van die Nasionale Biblioteek uitlaat;
 - (e) gebruik maak van sy of haar posisie om die belange van 'n politieke party te bevorder of te benadeel;
 - (f) terwyl aan diens, onder die invloed van 'n sterk, onwettige, ongemaagtigde, gewoontevormende of bedwelmende middel is, met inbegrip van alkohol;
 - (g) hom of haar eiendom van die Nasionale Biblioteek, 'n ander werknemer of 'n besoeker wederregtelik toeëien of dit in besit het, beskadig of die verlies daarvan veroorsaak;

- (h) 'n daad van seksuele teistering pleeg of medewerkers intimideer of viktimiseer;
- (i) sonder verlof of geldige rede van sy of haar werk afwesig is of gereeld wegbly;
- (j) 'n valse of onjuiste verklaring aflê of rekords en dokumentasie wetende vervals in die uitvoering van sy of haar pligte;
- (k) die finansies van die Nasionale Biblioteek doelbewus of nalatig wanbestuur;
- (l) sy of haar lewe of dié van ander in gevaar stel deur veiligheidsreëls of -regulasies te minag;
- (m) steel, omkoop of bedrog pleeg;
- (n) teen ander diskrimineer op die grondslag van gronde bedoel in artikel 9(3) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996);
- (o) swak of ontoereikend presteer weens ander redes as onbekwaamheid;
- (p) terwyl aan diens, hom of haar op 'n onbehoorlike, skandelige en onbetaamlike wyse gedra of onbeleefd teenoor ander optree;
- (q) terwyl aan diens, 'n ander werknemer of persoon aanrand of poog of dreig om hom of haar aan te rand;
- (r) ander personeel tot onprosedurele of onwettige gedrag aanhits;
- (s) ander werknemers verhinder om aan 'n vakbond of liggaam te behoort;
- (t) enige geldleenskema vir werknemers tot sy of haar voordeel gedurende werksure of vanaf die perseel van die Nasionale Biblioteek bedryf;
- (u) vuurwapens of ander gevaarlike wapens op die perseel van die Nasionale Biblioteek sonder die skriftelike magtiging van die Nasionale Bibliotekaris dra of hou;
- (v) aan onprosedurele, onbeskermde of onwettige nywerheidsoptrede deelneem;
- (w) 'n gemeenregtelike of statutêre misdryf pleeg terwyl hy of sy op die perseel van die Nasionale Biblioteek is; of
- (x) sonder magtiging slaap terwyl hy of sy aan diens is.

Voorlopige ondersoek van wangedrag

9. (1) Wanneer 'n werknemer ook al van wangedrag beskuldig word, kan die werkgewer of persoon deur die werkgewer aangewys 'n persoon skriftelik as ondersoekbeamppte aanstel —

- (a) om die aangeleentheid te ondersoek;

- (b) om getuienis in te win ten einde vas te stel of daar gronde vir 'n aanklag van wangedrag teen daardie werknemer is; en
 - (c) om aan die werkgewer verslag daaroor te doen.
- (2) 'n Onderzoekbeampte mag nie die betrokke werknemer ondervra nie tensy die ondersoekbeampte daardie werknemer inlig —
- (a) dat die werknemer die reg het om deur 'n medewerker of verteenwoordiger van 'n erkende vakbond bygestaan of verteenwoordig te word;
 - (b) dat die werknemer nie verplig is om 'n verklaring af te lê nie; en
 - (c) dat enige verklaring wat aldus afgelê word, as bewys teen die werknemer gebruik kan word.

Aanklag van wangedrag

10. (1) Die werkgewer kan 'n werknemer skriftelik van wangedrag aankla indien die werkgewer van oordeel is dat daar voldoende gronde vir so 'n aanklag bestaan, hetsy 'n ondersoek beoog in regulasie 9(1) uitgevoer is al dan nie.

(2) Sodanige aanklag moet besonderhede bevat van die beweerde wangedrag en moet 'n opdrag bevat of daarvan vergesel gaan wat die aangeklaagde werknemer aansê om binne drie werksdae na ontvangs van die aanklag aan 'n gespesifiseerde persoon 'n skriftelike skulderkenning of -ontkenning van die aanklag te stuur of af te lewer en, indien hy of sy dit aldus verlang, 'n skriftelike verduideliking betreffende die wangedrag waarvan hy of sy aangekla word.

(3) Die werkgewer kan te eniger tyd 'n aanklag van wangedrag terugtrek.

(4) 'n Werknemer wat skuld erken, word geag skuldig te wees aan die wangedrag waarvan hy of sy aangekla word, en die Nasionale Bibliotekaris moet in daardie geval aan die werkgewer 'n aanbeveling soos bedoel in regulasie 14(b) doen.

(5) Na oorweging van die Nasionale Bibliotekaris se aanbevelings, kan die werkgewer —

- (a) die werknemer waarsku en berispe;
- (b) die werknemer se salaris of rang, of albei, verminder;
- (c) die werknemer uit diens ontslaan.

(6) Die werkgewer moet die betrokke werknemer so gou doenlik van sy beslissing inlig en van die werknemer se reg op appél teen die beslissing ingevolge regulasie 16.

(7) Die bepalinge van regulasie 16, gelees met die nodige veranderinge, is van toepassing in die geval van sodanige appél.

Skorsing van werknemers

11. (1) Behoudens die bepalings van hierdie artikel en die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995), kan die werkgever te eniger tyd voor of nadat die werkgever 'n werknemer van wangedrag aankla, daardie werknemer uit diens skors op sodanige voorwaardes wat die werkgever bepaal, of daardie werknemer na 'n ander posisie of kantoor oorplaas —

- (a) hangende 'n dissiplinêre ondersoek wat tot die werknemer se ontslag kan lei;
- (b) indien die werknemer na bewering 'n ernstige misdryf begaan het;
- (c) waar die werknemer se teenwoordigheid in die werkplek tot die verergering van 'n gevoelige situasie of 'n ontwinging van werk kan lei; of
- (d) indien die werkgever oortuig is dat die werknemer se teenwoordigheid in die werkplek 'n ondersoek bedoel in regulasie 9 kan belemmer, of die welsyn of veiligheid van enige persoon of goed in gevaar kan stel.

(2) Waar 'n werknemer kragtens hierdie regulasie uit diens geskors of oorgeplaas is, moet die werkgever 'n dissiplinêre ondersoek binne 30 dae na die datum van skorsing of oorplasing laat hou.

Dissiplinêre ondersoek

12. (1) Indien 'n werknemer wat van wangedrag aangekla is —

- (a) die aanklag ontken; of
- (b) versuim om te voldoen aan die aansegging in artikel 10(2) beoog,

moet die werkgever 'n persoon aan stel om die aanklag te ondersoek.

(2) Behoudens regulasie 11(2) moet die voorsitter die tyd en plek van die ondersoek in oorleg met die werkgever bepaal, en die werkgever moet aan die werknemer minstens vyf werksdae se skriftelike kennis gee van die tyd en plek aldus bepaal, en sodanige kennisgewing moet in die vorm wees van die Aanhangsel van hierdie Regulasies.

(3) Die werknemer moet die ontvangsbewys van hierdie kennisgewing onderteken en indien hy of sy weier om die ontvangsbewys van hierdie kennisgewing te onderteken, moet die kennisgewing aan die werknemer gegee word in die teenwoordigheid van 'n medewerknemer wat die kennisgewing moet onderteken ter bevestiging dat die kennisgewing afgelewer is aan die werknemer.

(4) Indien die werknemer versuim om die ondersoek by te woon of versuim om aanwesig te bly sonder geldige rede, kan die voorsitter gelas dat die ondersoek voortgesit word in die afwesigheid van die werknemer.

Prosedure by dissiplinêre ondersoek

13. (1) Die werkgewer word verteenwoordig deur iemand wat deur die werknemer benoem is en hy of sy moet die werkgewer se saak by die ondersoek stel.

(2) 'n Werknemer kan deur 'n medewerknemer of 'n verteenwoordiger van 'n erkende vakbond, waarvan die werknemer lid is, verteenwoordig word.

(3) Nóg die werkgewer nóg die werknemer kan verteenwoordig word deur 'n prokureur, soos omskryf in artikel 1 van die Wet op Prokureurs, 1979 (Wet No. 53 van 1979), of deur 'n advokaat, soos bedoel in artikel 1 van die Wet op die Toelating van Advokate, 1964 (Wet No. 74 van 1964).

(4) Indien nodig, kan 'n werknemer die dienste van 'n tolk, wat die ondersoek mag bywoon, aanvra.

(5) Die verteenwoordiger van die werknemer sowel as die werknemer kan getuies roep ter ondersteuning van sy of haar saak en die getuies aldus geroep, kan deur die ander party onder kruisverhoor geneem word.

(6) Die voorsitter moet 'n skriftelike rekord hou van die verrigtinge van die ondersoek.

Bevinding van dissiplinêre ondersoek

14. By die afsluiting van die ondersoek na 'n aanklag van wangedrag moet die voorsitter —

- (a) bevind of die werknemer skuldig is of nie skuldig is nie aan die wangedrag waarvan die werknemer aangekla is;
- (b) indien die voorsitter bevind dat die werknemer skuldig is aan die wangedrag waarvan hy of sy aangekla is, 'n aanbeveling aan die werkgewer doen dat —
 - (i) die werknemer gewaarsku of berispe word;
 - (ii) die werknemer se salaris of rang, of albei, verminder word;
 - (iii) die werknemer uit diens ontslaan word;

en die werknemer skriftelik van sy of haar bevinding en aanbeveling in kennis stel.

Stappe ná ondersoek

15. (1) Na afsluiting van die ondersoek na 'n aanklag van wangedrag moet die voorsitter skriftelik —

- (a) binne sewe dae na die bevinding, aan die werkgewer verslag doen oor die uitslag van die ondersoek; en
- (b) aan die werkgewer die volgende voorlê:

- (i) Die rekord van die verrigtinge by die ondersoek en enige dokumentêre bewyse daar voorgelê;
 - (ii) 'n skriftelike uiteensetting van sy of haar bevinding en die redes daarvoor;
 - (iii) enige opmerkings wat die voorsitter wil maak met betrekking tot die ondersoek; en
 - (iv) sy of haar aanbeveling ingevolge regulasie 14(b).
- (2) Na oorweging van die dokumente genoem in subregulasie 1(b) kan die werkgewer —
- (a) die werknemer waarsku of berispe;
 - (b) die werknemer se salaris of rang, of albei, verminder;
 - (c) die werknemer uit diens ontslaan.
- (3) Die werkgewer moet die betrokke werknemer so gou doenlik in kennis stel van die beslissing van die werkgewer en van die werknemer se reg op appèl ingevolge regulasie 16.

Appèlle

16. (1) 'n Werknemer kan appelleer teen die bevinding van die voorsitter of teen die beslissing van die werkgewer kragtens regulasie 15(2).
- (2) Die werknemer kan sy of haar appèl binne drie werksdae na ontvangs van die werkgewer se beslissing skriftelik aan die appèlgesag voorlê en die appèl moet die gronde vir appèl duidelik uiteensit.
- (3) Indien appèl nie aangeteken word binne drie werksdae vanaf die datum waarop die werknemer in kennis gestel is van die werkgewer se beslissing nie, is die bevinding van die voorsitter en die beslissing van die werkgewer finaal.
- (4) Die Nasionale Bibliotekaris moet as appèlgesag wat die appèl moet aanhoor, iemand aanstel —
- (a) wat nie betrokke was by die beslissing om die dissiplinêre verrigtinge in te stel nie;
 - (b) wat 'n hoër rang het as die betrokke werknemer; en
 - (c) wat nie betrokke was by die dissiplinêre ondersoek nie.
- (5) Die appèlgesag moet 'n appèlverhoor binne vyf werksdae na ontvangs van die appèlkennisgewing belê.
- (6) Die werkgewer en die werknemer, of hul verteenwoordigers, kan teenwoordig wees by die appèlverhoor en redevoerings voorlê op grond van die appèl.
- (7) Die appèlgesag moet binne twee werksdae na die afsluiting van die appèlverhoor oor die uitslag van die appèl beslis.

- (8) Die appèlgesag kan —
(a) die appèl handhaaf of verwerp;
(b) die beslissing van die werkgewer verander,

en moet die werkgewer en die werknemer voorsien van skriftelike redes vir sy of haar beslissing, en die werkgewer moet die beslissing van die appèlgesag onmiddellik implementeer.

- (9) Die beslissing van die appèlgesag is finaal.

Griewe van werknemers

17. (1) 'n Gegriefde werknemer moet eers probeer om enige grief informeel deur middel van bespreking met sy of haar onmiddellike toesighouer of hoof by te lê.

(2) Geen rekord van die besprekings word gehou sonder inkorting van regte van enigeen van die party nie.

(3) Indien die grief nie deur middel van informele besprekings bygelê kan word nie, kan die gegriefde die grief binne 10 kalenderdae na die datum waarop die besprekings gehou is, skriftelik by die Nasionale Bibliotekaris aanhangig maak, en volledige besonderhede van die aard van die grief moet uiteengesit word.

(4) Die Nasionale Bibliotekaris of iemand deur hom of haar aangewys, moet binne sewe werksdae na ontvangs van die grief 'n formele ondersoek hou, en 'n skriftelike rekord van die ondersoek moet gehou word.

(5) Die Nasionale Bibliotekaris moet die uitslag van die ondersoek binne vyf werksdae na die vergadering skriftelik aan die gegriefde kommunikeer.

(6) Indien die grief nie tot tevredenheid van die gegriefde afgehandel is nie, kan hy of sy 'n dispuut met die Nasionale Biblioteek verklaar en die grief na die Kommissie vir Versoening, Bemiddeling en Arbitrasie vir bylegging verwys ingevolge deel C van Hoofstuk VII van die Wet op Arbeidsverhoudinge, 1995 (Wet No. 66 van 1995).

HOOFSTUK V ANDER AANGELEENTHEDE

Beroepsadvieskomitees

18. (1) Die Raad kan van tyd tot tyd beroepsadvieskomitees aanstel, wat uit toepaslik gekwalifiseerde en ervare persone bestaan, om die Raad van raad te dien oor aangeleenthede betreffende die werksaamhede van die Nasionale Biblioteek.

(2) Die komitees aangestel kragtens subregulasie (1) moet geen uitvoerende bevoegdhede hê nie.

(3) Geen ander vergoeding is aan lede van die komitees betaalbaar nie as sodanige reis- en verblyfkoste as wat die Minister, met die instemming van die Minister van Finansies, bepaal.

Reëls en voorwaardes vir toegang en gebruik

19. Die Raad kan reëls uitvaardig en voorwaardes stel ten opsigte van toegang tot die perseel van die Nasionale Biblioteek en die gebruik van sy versamelings en fasiliteite ten einde die veiligheid van sy perseel, fasiliteite en werknemers, die veiligheid en gerief van gebruikers van die Nasionale Biblioteek, en die langtermynbewaring van sy versamelings te verseker.

AANHANGSEL

KENNIS VAN DISSIPLINÊRE ONDERSOEK

[DATUM]

[NAAM VAN WERKNEMER]

[PERSOONLIKE BESONDERHEDE VAN DIE WERKNEMER]

U word hierby kennis gegee om 'n dissiplinêre verhoor ingevolge die Regulasies van die Wet op die Nasionale Biblioteek van Suid-Afrika, 1998, by te woon.

Die beweerde wangedrag en die beskikbare bewyse is:-

[‘N GEDETAILLEERDE BESKRYWING VAN WANGEDRAG KAN AANGEHEG WORD]

Die vergadering word gehou te _____ [PLEK] op _____
[DATUM] _____ om _____ [TYD]. Indien u nie die vergadering bywoon nie en nie redelike gronde kan verstrek vir u versuim om dit by te woon nie, sal die vergadering in u afwesigheid gehou word.

‘n Medewerknemer of ‘n verteenwoordiger van ‘n erkende vakbond, waarvan u lid is, mag u verteenwoordig.

U kan by die verhoor getuienis lewer in die vorm van dokumente of deur getuies. U sal geregtig wees daarop om enige getuie wat deur u werkgewer voorgestel word, te ondervra.

Indien die ondersoek u skuldig aan wangedrag bevind, kan u enige tersaaklike omstandighede by die bepaling van die dissiplinêre sanksie aanbied.

HANDTEKENING VAN WERKNEMER

DATUM: _____

HANDTEKENING VAN WERKGEWER

DATUM: _____

HANDTEKENING VAN GETUIE (indien van toepassing)

DATUM: _____

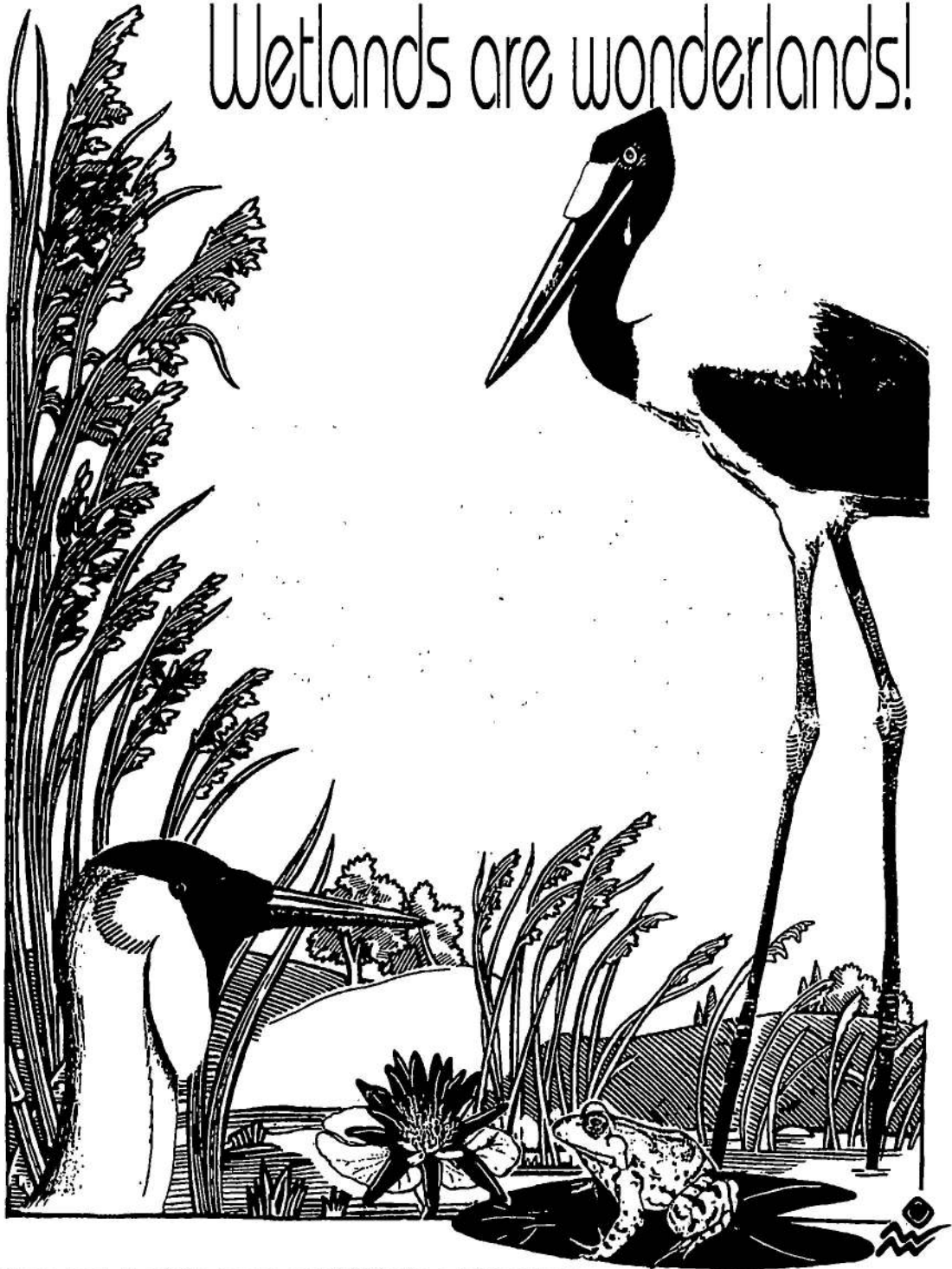
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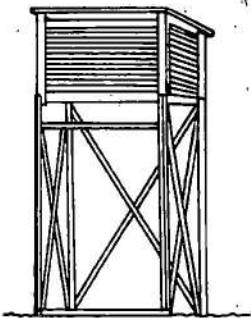
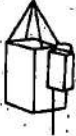
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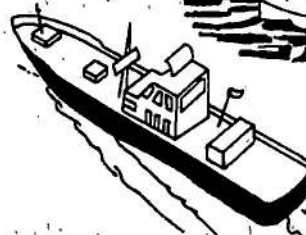
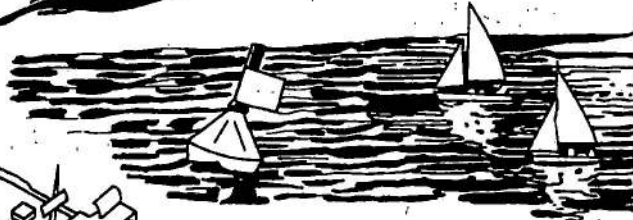
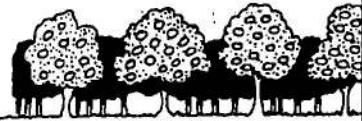
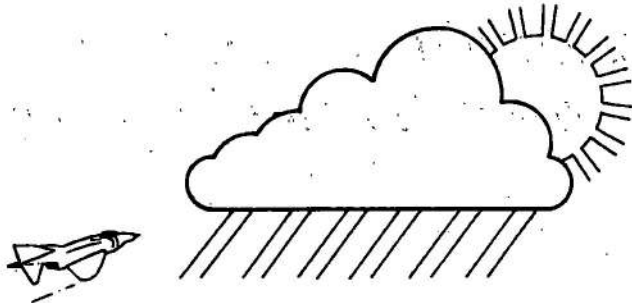


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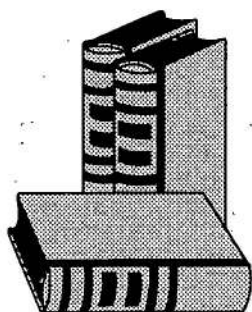
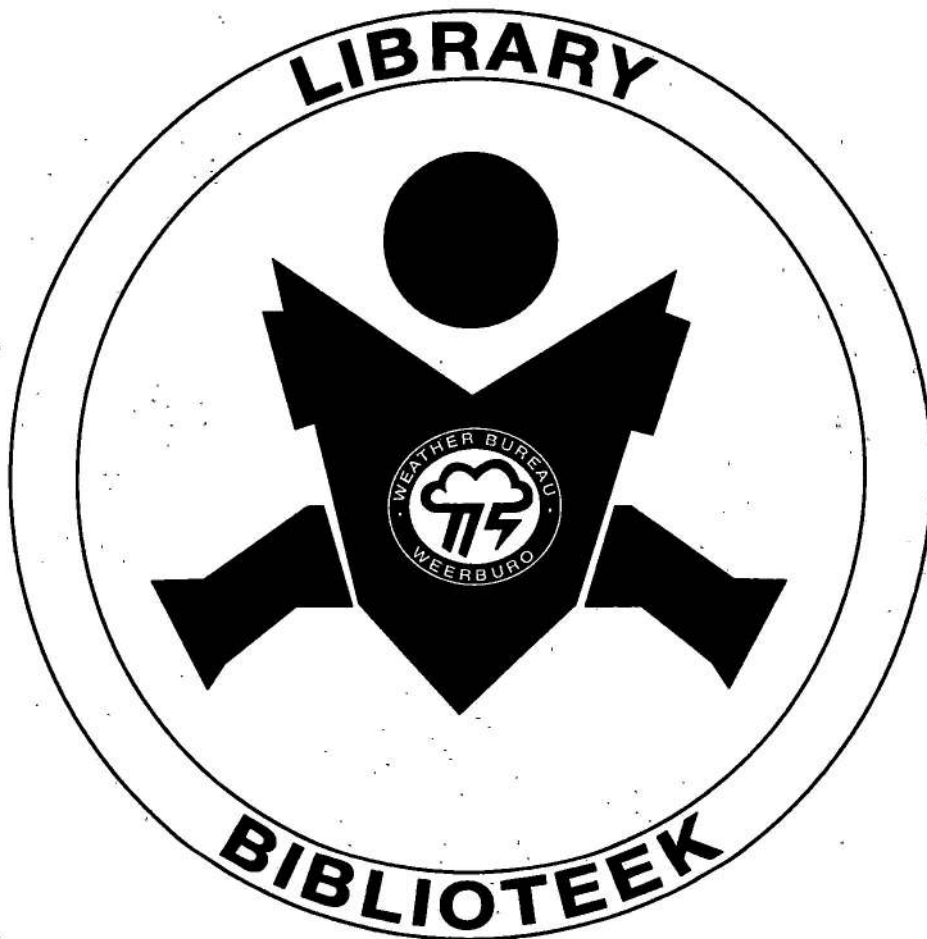
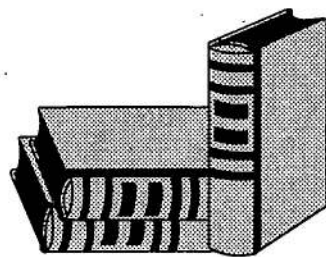
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