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GENERAL NOTICE • ALGEMENE KENNISGEWING

DEPARTMENT OF TRANSPORT

NOTICE 906 OF 1998

**PUBLICATION FOR PUBLIC COMMENT: NATIONAL LAND TRANSPORT
INTERIM ARRANGEMENTS BILL, 1998**

The draft legislation set out in the Schedule hereto, which the Minister of Transport proposes to introduce in Parliament, is hereby published for public comment in compliance with section 154(2) of the Constitution of the Republic of South Africa, 1996, (Act No. 108 of 1996).

K GORDHAN
Director General

BILL

To make arrangements relating or relevant to transport planning and public road transport services within metropolitan transport areas declared under the Urban Transport Act, 1977, and to the designation of core cities under that Act. For those purposes to allow also a municipality falling within a metropolitan transport area situated wholly within the region of a regional services council, to be the core city of the metropolitan transport area concerned in certain circumstances; to require the core city to prepare a current public transport record in respect of its metropolitan transport area for submission to the relevant MEC not later than 31 December 1998; to require the core city to perform its transport planning for that area with due regard to that record and as an integral part of the land development process; to prescribe additional requirements relevant to disposing of applications concerning road carrier permits for the regular conveyance of persons within a metropolitan transport area for reward; to limit the circumstances in which a permit authority under the Road Transportation Act, 1977 (or, where applicable, any provincial law by which that Act is superseded), may refuse a road carrier permit to an applicant to whom a contract for the provision of a public transport service has been awarded by a provincial tender board after a public tendering process; to provide for legal succession to the South African Roads Board as far as its powers, functions and duties under the Urban Transport Act, 1977, are concerned; and to provide for incidental matters.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

Definitions

1. In this Act, if not inconsistent with the context—
 - (i) “core city” means a municipality designated under section 4 of the Urban Transport Act as the core city of a metropolitan transport area, and includes any municipality which, after the commencement of this Act, is so designated under that section read with section 2 of this Act; (iii)
 - (ii) “Department” means the Department of Transport in the national sphere of government; (i)
 - (iii) “Director General” means the Director General of the Department, and includes any employee of the Department acting on the authority of the Director General; (ii)
 - (iv) “MEC” means the member of the Executive Council of a province entrusted with public transport affairs; (iv)
 - (v) “metropolitan transport area” means any area declared a metropolitan transport area under section 3 of the Urban Transport Act; (v)
 - (vi) “Minister” means the Minister of Transport in the national sphere of government; (vi)

- (vii) "permit authority"—
 - (a) except in the circumstances mentioned in paragraph (b) of this definition, means a local road transportation board established under section 4 of the Road Transportation Act for an area declared a road transportation area under section 2(a) of that Act;
 - (b) where that Act has been superseded in any province by a law of the province, means any board, authority or other body which in terms of such a law performs in that province or any part thereof functions which are substantially the same as those that such a local road transportation board performs in relation to its own area of jurisdiction: (viii)
- (viii) "replacing provincial law" means a provincial law of the nature mentioned in paragraph (b) of the definition of "permit authority" in this section: (ix)
- (ix) "Roads Board" means the South African Roads Board established by section 2 of the South African Roads Board Act, 1988 (Act No. 74 of 1988): (vii)
- (x) "Road Transportation Act" means the Road Transportation Act, 1977 (Act No. 74 of 1977), as applicable and in force in each of the provinces of the Republic: and (x)
- (xi) "Urban Transport Act" means the Urban Transport Act, 1977 (Act No. 78 of 1977), as applicable and in force in each of the provinces of the Republic. (xi)

Regional services council need not be core city of metropolitan transport area situated wholly within its region

2. (1) Where an area that is declared a metropolitan transport area after the commencement of this Act, is situated wholly within the region of a regional services council that is wholly or partly charged with functions regarding the land use and transport planning in its region in terms of section 3(1)(b) of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), and is also not situated wholly within the area of jurisdiction of a transitional metropolitan council falling within that region, any other municipality whose area of jurisdiction falls wholly within that metropolitan transport area may, despite subsection (3)(a) of section 4 of the Urban Transport Act, be designated the core city of that metropolitan transport area—

- (a) if there are good and practical reasons for doing so;
- (b) with the agreement of the regional services council concerned and that other municipality; and
- (c) subject to subsection (2) of this section.

(2) In performing its core city functions in terms of the Urban Transport Act, a municipality so designated must liaise and at all times co-ordinate its activities with those of that regional services council so as to ensure that the land use and transport planning in the region is developed in a duly co-ordinated and integrated fashion.

Core cities to submit current public transport records to MEC in respect of their metropolitan transport areas

3. (1) After the commencement of this Act, the core city of each metropolitan transport area must prepare a record in accordance with the document titled "Requirements and Format for Preparation of Current Public Transport Records by Core Cities", as published in the *Gazette* on 22 May 1998 under General Notice No. 847 of 1998, to be known as a current public transport record, reflecting—

- (a) all the public transport services being provided and operated within its metropolitan transport area under the authority of road carrier permits issued under the Road Transportation Act or a replacing provincial law; and
- (b) all the facilities and infrastructure in place and utilised in that metropolitan transport area for the purpose of or in connection with those public transport services, as well as the facilities and infrastructure being developed within that metropolitan transport area for that purpose or in that connection.

(2) Every core city must submit its current public transport record to the MEC not later than 31 December 1998. However, the MEC, with the agreement of the Minister, by notice in the *provincial gazette* may extend the period for the submission of current public transport records for metropolitan transport areas under the jurisdiction of the province concerned, to a later date specified in the notice.

(3) The core city must ensure that the current public transport record is updated on a continuous basis and consolidated regularly.

Transport planning for metropolitan transport areas must be integrated with land development process

4. After the commencement of this Act, each core city, when preparing, revising or updating any transport plan for its metropolitan transport area in terms of section 17 of the Urban Transport Act, must do so with due regard to the current public transport record prepared by it for that metropolitan transport area in terms of section 3 of this Act and must ensure that the transport plan is duly integrated with the land development process in the context of integrated development planning in terms of the Local Government Transition Act, 1993 (Act No. 209 of 1993), and the Development Facilitation Act, 1995 (Act No. 67 of 1995), or, where appropriate, any similar or corresponding law in force in the province concerned.

Permit authority must consider core city's recommendations in disposing of application for permit authorising transport in metropolitan transport area

5. (1)(a) After the commencement of this Act, a permit authority, before considering any application for the grant, renewal, amendment or transfer of a road carrier permit in terms of the Road Transportation Act, or a replacing provincial law, authorising the regular conveyance of persons for reward within a metropolitan transport area, must inform the core city of that metropolitan transport area by notice in writing of the application concerned, with the request to make recommendations with regard to the application, together with any representations, to that permit authority within the period stated in the notice (which may not be shorter than 21 days reckoned from the date of the notice).

- (b) The core city must make its recommendations, and any representations

it considers fit, having regard to the current public transport record prepared by it for that metropolitan transport area in compliance with section 3 of this Act, and submit them to the permit authority within the period allowed therefor by the notice issued in terms of paragraph (a).

(2) In disposing of such an application, the permit authority must duly take into account the recommendations and any representations made by the core city concerned.

(3) The provisions of this section are additional to and not in substitution of the relevant provisions of the Road Transportation Act or any replacing provincial law that relates to the disposal of applications in connection with road carrier permits.

Disposal of applications for public road carrier permits made by successful tenderers for contracts to provide public road transport services

6. Where any contract for the provision of a public road transport service within a metropolitan transport area has been awarded by a provincial tender board after completion of a process of public tendering in terms of any law, a permit authority, despite any contrary provisions of the Road Transportation Act or a replacing provincial law, may not refuse the successful tenderer's application for the grant or renewal of a public road carrier permit required for the purposes of that service except on any of the following grounds:

- (a) Any previous conviction of the applicant for an offence in terms of the Road Transportation Act or any replacing provincial law, and any other failure by the applicant as an operator of public transport.
- (b) The existence of any prohibition, limitation or restriction imposed by law on the use of motor vehicles in any area or on any street or road on the route or in the area where the applicant proposes to operate the transport service.

Director General of Transport to succeed South African Roads Board with regard to its functions under Urban Transport Act

7. (1) From the date of commencement of this Act, unless clearly inappropriate—

- (a) all the powers, functions and duties conferred or imposed on the Roads Board by or in terms of the Urban Transport Act, will pass to the Director General who, as from that date, may exercise any such power and, in the circumstances contemplated in that Act, must perform any such function or duty;
- (b) any power, function or duty exercised or performed by the Roads Board under the Urban Transport Act, and any other act performed by it in connection therewith, before the commencement of this Act, will be regarded and treated as if it had been exercised or performed by the Director-general under paragraph (a) of this subsection; and
- (c) any reference in the Urban Transport Act to the Roads Board, however expressed, will be regarded and treated, for all purposes, as if it were a reference to the Director General, subject to subsection (2).

(2) After the commencement of this Act, any reference in the Urban Transport Act to an officer of the Roads Board, however expressed, must be regarded and treated for all purposes as a reference to an employee of the Department acting on the authority of the Director

General in connection with any matter relating to a power, function or duty of the Director General in terms of subsection (1)(a).

Short title and commencement

8. This Act is called the National Land Transport Interim Arrangements Act, 1998, and comes into operation on a date that will be determined by the President by proclamation in the *Gazette*.

MEMORANDUM ON THE OBJECTS OF THE NATIONAL LAND TRANSPORT INTERIM ARRANGEMENTS BILL, 1998

BACKGROUND

1.1 The Government's policy regarding land transport is as set out in the White Paper on National Transport Policy that was approved by the Cabinet in September 1996 and accepted by the provinces through the MINCOM structure. Shortly thereafter, with a view to giving effect to that policy, the Department of Transport in the national sphere of government started developing draft national land transport legislation in consultation with the provincial and municipal spheres of government, culminating in a working document which was published for comment in December 1996.

1.2 The draft national land transport legislation being developed, depends greatly on the division of the whole Republic into transport areas declared according to municipal boundaries, to be governed by transport authorities on which the municipalities included in the transport area are represented. Given this role of municipalities in the proposed land transport legislation, it is vital to ensure that the provisions of that draft legislation are in harmony with local government legislation, especially as regards the classification, functions and competencies of municipalities, the demarcation of their areas and the relationships between the various categories of municipalities as contemplated in section 155(1) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996 - "the Constitution").

1.3 However, the existing local government legislation, notably the Local Government Transition Act, 1993 (Act No. 209 of 1993), is in the process of being superseded by new legislation being prepared by the Department of Constitutional Development and Provincial Affairs, so as to give effect to the Government's policy on local government as contained in the White Paper published in April 1998. Since the principles of the new local government legislation are still being developed and are not yet complete, it will be premature to introduce the proposed draft national land transport legislation at this stage. Accordingly that legislation is kept in abeyance pending finalisation of the new municipal dispensation.

1.4 However, to bridge the gap between the *status quo* and the proposed new national land transport legislation to some extent, it was deemed prudent to make certain interim arrangements, amongst others, so as to start the process of integrating transport planning with development planning. These interim arrangements are contained in the National Land Transport Interim Arrangements Bill, 1998.

THE BILL

2.1 At present, the responsibilities of the core cities designated for metropolitan transport

areas under the Urban Transport Act, 1977 (Act No. 78 of 1977), relate mainly to transport planning for their respective metropolitan transport areas. The proposed National Land Transport Interim Arrangements Bill, 1998 ("the Bill"), proposes to widen their functions in the interim inasmuch as provision is made for the following:

- (1) In terms of clause 3 of the Bill, a core city has to prepare a current public transport record, being a descriptive record of the public transport services, facilities and infrastructure in its metropolitan transport area, in accordance with requirements contained in a certain document published in the *Government Gazette*. Core cities are also required to submit their current public transport records to the MEC responsible for the province's public transport affairs, by 31 December 1998 (or the extended period agreed on between the MEC and the Minister of Transport).
- (2) In terms of clause 4 of the Bill this record must be taken into account by the core city in performing transport planning under the Urban Transport Act, 1977. At the same time this clause also requires a core city to ensure that its transport plan for the metropolitan transport area is integrated with the land development process in the context of integrated development planning in terms of the Local Government Transition Act, 1993, and the Development Facilitation Act, 1995 (Act No 67 of 1995), or any similar or corresponding provincial laws. (These provisions also provide the transition from transport planning under the Urban Transport Act, 1977, to the integrated transport plans required by the proposed national land transport legislation.)
- (3) Clause 5 of the Bill requires a local road transportation board, or, where applicable, a provincial permit board, to notify a core city in writing of any application for a permit to authorise regular passenger conveyance in its metropolitan transport area, and to request the core city for its recommendations regarding the application. The core city, furthermore, is obliged, in terms of this clause, to make its recommendations with due regard to the abovementioned record, while the board concerned, when disposing of the application, is obliged to take into account the core city's recommendations and representations in addition to the other matters referred to in the Road Transportation Act, 1977 (Act No. 74 of 1977), or any superseding provincial legislation.

2.2 In addition the Bill—

- (1) in clause 2, provides that a municipality falling within a metropolitan transport area situated in the region of a regional services council responsible for functions regarding land use and transport planning in the region, may be designated the core city of that metropolitan transport area rather than that regional council (i.e. despite section 4(3)(a) of the Urban Transport Act, 1977)—

* if there are good and practical reasons for doing so; and

* if that municipality and the regional services council have agreed thereto.

However, that municipality must co-ordinate its planning activities with those of the

- regional services council concerned;
- (2) in clause 6, limits the grounds on which a local road transportation board or provincial permit board (as the case may be) may refuse a road transport operator's application for a permit where the permit is required for the provision of a public transport service in terms of a contract awarded to the operator by a provincial tender board after completion of a process of public tendering. The limited grounds on which permit applications may be refused in terms of clause 6 in cases of this nature, relate, broadly stated, to previous convictions for road transport offences, and prohibitions and limitations imposed by municipal by-laws in connection with the use of motor vehicles in the municipal areas concerned. Excluding those mentioned in clause 6 of the Bill, the numerous grounds on which applications for road carrier permits may be refused in terms of the existing legislation, are either inapposite or completely irrelevant *vis-à-vis* such a transport operator's permit application;
- (3) in clause 7, provides for the Director-General of the Department of Transport to take over the powers, functions and duties of the South African Roads Board under the Urban Transport Act, 1977. These powers, functions and duties mainly relate to the administration of the (national) Urban Transport Fund.

CONSULTATION

3. The principles contained in the Bill have been widely discussed with all role players in the process being followed in preparing the proposed national land transport legislation. As mentioned above, that proposed legislation has already been published for comments and consultation as early as December 1996, and has been developed, so far, in consultation with the provincial and municipal spheres of government through the MINCOM structure.

PROCEDURE

4. The view is held by the State Law Advisers that the Bill should be dealt with in accordance with the procedure provided for in section 76 of the Constitution, inasmuch as the Bill—

- is designed to regulate matters with regard to public transport, being one of the functional areas mentioned in Schedule 4 to the Constitution; and
- does not contemplate any amendment to the Constitution nor propose the imposition of any tax, levy or duty.

DEPARTEMENT VAN VERVOER**KENNISGEWING 906 VAN 1998****PUBLIKASIE VIR OPENBARE KOMMENTAAR: KONSEP NASIONALE WETSONTWERP OP TUSSENTYDSE REËLINGS BETREFFENDE VERVOER OOR LAND, 1998**

Die konsepwetgewing in die Bylae hierby uiteengesit, wat die Minister van Vervoer voornemens is om in die Parlement in te dien, word hierby vir openbare kommentaar gepubliseer, ter voldoening aan artikel 154 (2) van die Grondwet van die Republiek van Suid-Afrika, 1996, (Wet No. 108 van 1996).

K GORDHAN
Direkteur-generaal

WETSONTWERP

Ten einde reëlings in te voer wat betrekking het op of ter sake is by vervoerbeplanning en openbare vervoerdienste binne metropolitaanse vervoergebiede kragtens die Wet op Stedelike Vervoer, 1977, verklaar, asook die aanwysing van kernstede kragtens dié Wet. Om vir dié doeleindes toe te laat dat ook h munisipaliteit wat val binne h metropolitaanse vervoergebied wat heeltemal binne die streek van h streekdiensteraad geleë is, onder sekere omstandighede die kernstad van die betrokke metropolitaanse vervoergebied kan wees; te vereis dat die kernstad h lopende openbare vervoerrekord ten opsigte van sy metropolitaanse vervoergebied opstel vir voorlegging aan die betrokke LUR nie later as 31 Desember 1998 nie; van die kernstad te vereis om sy vervoerbeplanning vir daardie gebied met behoorlike inagneming van dié rekord en as integrale deel van die grondontwikkelingsproses te verrig; bykomende vereistes voor te skryf wat ter sake is by die afhandeling van aansoeke betreffende padvervoerpermitte vir die gereelde vervoer van persone teen vergoeding binne h metropolitaanse vervoergebied; die omstandighede te beperk waaronder h permit-owerheid kragtens die Wet op Padvervoer, 1977 (of, wanneer van toepassing, h provinsiale wet wat daardie Wet vervang) h padvervoerpermit kan weier aan h aansoeker aan wie h kontrak vir die verskaffing van h openbare vervoerdiens toegeken is deur h provinsiale tenderraad na afloop van h openbare tenderproses; voorsiening te maak vir die regsopvolging van die Suid-Afrikaanse Padraad vir sover dit sy bevoegdhede, werksaamhede en pligte kragtens die Wet op Stedelike Vervoer, 1977, betref; en om voorsiening te maak vir bykomstige aangeleenthede.

DAAR WORD BEPAAL deur die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. In hierdie Wet, indien nie met die sinsverband onbestaanbaar nie, beteken—
 - (i) “Departement” die Departement van Vervoer in die nasionale regeringsfeer; (ii)
 - (ii) “Direkteur-generaal” die Direkteur-genertaal van die Departement, en omvat dit enige werknemer van die Departement wat op gesag van die Direkteur-generaal optree; (iii)
 - (iii) “kernstad” h munisipaliteit wat kragtens artikel 4 van die Wet op Stedelike Vervoer as die kernstad van h metropolitaanse vervoergebied aangewys is, en ook enige munisipaliteit wat ná die inwerkingtreding van hierdie Wet aldus aangewys word kragtens daardie artikel saamgelees met artikel 2 van hierdie Wet; (i)
 - (iv) “LUR” die lid van die Uitvoerende Raad van h provinsie aan wie

- openbare vervoersake toevertrou is; (iv)
- (v) "metropolitaanse vervoergebied" enige gebied kragtens artikel 3 van die Wet op Stedelike Vervoer tot metropolitaanse vervoergebied verklaar; (v)
- (vi) "Minister" die Minister van Vervoer in die nasionale regeringsfeer; (vi)
- (vii) "Padraad" die Suid-Afrikaanse Padraad ingestel by artikel 2 van die Wet op die Suid-Afrikaanse Padraad, 1988 (Wet No. 74 van 1988); (ix)
- (viii) "permit-owerheid"—
 - (a) behalwe in die omstandighede in paragraaf (b) van hierdie omskrywing genoem, h plaaslike padvervoerraad kragtens artikel 4 van die Wet op Padvervoer ingestel vir h gebied kragtens artikel 2(a) van daardie Wet tot padvervoergebied verklaar;
 - (b) waar daardie Wet in enige provinsie deur h wet van die provinsie vervang is, enige raad, owerheid of ander liggaam wat ingevolge so h wet in dié provinsie of enige deel daarvan werksaamhede verrig wat wesenlik dieselfde is as dié wat so h plaaslike padvervoerraad ten opsigte van sy eie regsgebied verrig; (vii)
- (x) "Wet op Padvervoer" die Wet op Padvervoer, 1977 (Wet No. 74 van 1977), soos in elk van die provinsies van die Republiek van toepassing en van krag; en (x)
- (xi) "Wet op Stedelike Vervoer" die Wet op Stedelike Vervoer, 1977 (Wet No. 78 van 1977), soos in elk van die provinsies van die Republiek van toepassing en van krag; (xi)

Streekdiensteraad hoef nie kernstad te wees van metropolitaanse vervoergebied wat heeltemal in sy streek geleë is nie.

2. (1) Wanneer h gebied wat na die inwerkingtreding van hierdie Wet tot metropolitaanse vervoergebied verklaar word, heeltemal binne die streek geleë is van h streekdiensteraad waaraan werksaamhede betreffende die grondgebruik en -beplanning in sy streek in die geheel of gedeeltelik ingevolge artikel 3(1)(b) van die Wet op Streekdiensterade, 1985 (Wet No. 109 van 1985), opgedra is, en ook nie heeltemal geleë is binne die regsgebied van h metropolitaanse oorgangsraad wat binne dié streek val nie, kan enige ander munisipaliteit wie se regsgebied heeltemal binne daardie metropolitaanse vervoergebied val ondanks subartikel (3)(a) van artikel 4 van die Wet op Stedelike Vervoer as die kernstad van daardie metropolitaanse vervoergebied aangewys word—

- (a) indien daar gegronde en praktiese redes bestaan om dit te doen; en
- (b) met die instemming van die betrokke streekdiensteraad en daardie ander munisipaliteit; en
- (c) behoudens subartikel (2) van hierdie artikel.

(2) By die verrigting van sy kernstadwerksaamhede ingevolge die Wet op Stedelike Vervoer moet h munisipaliteit aldus aangewys met daardie streekdiensteraad skakel en ten alle tye sy werksaamhede met dié van daardie streekdiensteraad koördineer ten einde te

verseker dat die grondgebruik en vervoerbeplanning in die streek op 'n behoorlik gekoördineerde en geïntegreerde wyse verloop.

Kernstede moet lopende openbare vervoerrekords ten opsigte van hul metropolitaanse vervoergebiede aan LUR voorlê

3. (1) Na die inwerkingtreding van hierdie Wet moet die kernstad van elke metropolitaanse vervoergebied 'n rekord opstel ooreenkomstig die dokument betiteld "Requirements and Format for Preparation of Current Public Transport Records by Core Cities" soos op 22 Mei 1998 by Algemene Kennisgewing No. 847 van 1998 in die *Staatskoerant* gepubliseer, wat bekend staan as 'n lopende openbare vervoerrekord en waarin aangetoon word—

(a) al die openbare vervoerdienste wat binne sy metropolitaanse vervoergebied voorsien en bedryf word op gesag van padvervoerpermitte kragtens die Wet op Padvervoer of 'n provinsiale vervangende wet uitgereik; en

(b) al die fasiliteite en infrastruktuur wat in dié metropolitaanse vervoergebied in plek is en gebruik word vir die doel van of in verband met daardie openbare vervoerdienste, asook die fasiliteite en infrastruktuur wat binne dié metropolitaanse vervoergebied vir daardie doel of in daardie verband ontwikkel word.

(2) Elke kernstad moet sy lopende openbare vervoerrekord nie later nie as 31 Desember 1998 aan die LUR voorlê. Die LUR, met die Minister se instemming, kan egter by kennisgewing in die *provinsiale koerant* die tydperk vir die voorlegging van lopende openbare vervoerrekords vir metropolitaanse vervoergebiede onder die jurisdiksie van die betrokke provinsie verleng na 'n latere datum in die kennisgewing vermeld.

(3) Die kernstad moet verseker dat die lopende openbare vervoerrekord vir sy metropolitaanse vervoergebied op 'n deurlopende grondslag bygewerk en gereeld gekonsolideer word.

Vervoerbeplanning vir metropolitaanse vervoergebiede moet met grondontwikkelingsproses geïntegreer word

4. Na die inwerkingtreding van hierdie Wet moet elke kernstad wanneer hy enige vervoerplan vir sy metropolitaanse vervoergebied ingevolge artikel 17 van die Wet op Stedelike Vervoer opstel, hersien of bywerk, dit doen met behoorlike inagneming van die lopende openbare vervoerrekord wat deur hom ingevolge artikel 3 van hierdie Wet vir daardie metropolitaanse vervoergebied opgestel is, en moet verseker dat die vervoerplan na behore met die grondontwikkelingsproses geïntegreer is binne die kontreks van geïntegreerde ontwikkelingsbeplanning ingevolge die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993), en die Wet op Ontwikkelingsfasilitering, 1995 (Wet No. 67 van 1995), of, wanneer toepaslik, enige soortgelyke of ooreenstemmende wet in die betrokke provinsie van krag.

Permit-owerheid moet kernstad se aanbevelings oorweeg by afhandeling van aansoek om permit ter magtiging van vervoer in metropolitaanse vervoergebied

5. (1) (a) Na die inwerkingtreding van hierdie Wet moet h permit-owerheid, vóór oorweging van enige aansoek om die toestaan, hernuwing, wysiging of oordrag van h padvervoerpermit ingevolge die Wet op Padvervoer, of h provinsiale vervangende wet, wat die gereelde vervoer van persone teen vergoeding binne h metropolitaanse vervoergebied magtig, die kernstad van daardie metropolitaanse vervoergebied by wyse van skriftelike kennisgewing oor die betrokke aansoek inlig, met die versoek om aanbevelings in verband met die aansoek tesame met enige vertoë aan daardie permit-owerheid voor te lê binne die tydperk in die kennisgewing vermeld (wat nie korter as 21 dae, bereken vanaf die datum van die kennisgewing, mag wees nie).

(b) Die kernstad doen sy aanbevelings, en rig enige vertoë wat hy gerade ag, met behoorlike inagneming van die lopende openbare vervoerrekord deur hom ter nakoming van artikel 3 van hierdie Wet vir daardie metropolitaanse vervoergebied opgestel, en lê dit aan die permit-owerheid voor binne die tydperk daarvoor toegelaat deur die kennisgewing ingevolge paragraaf (a) uitgereik.

(2) By die afhandeling van so h aansoek moet die permit-owerheid die aanbevelings gedoen en enige vertoë gerig deur die betrokke kernstad na behore in aanmerking neem.

(3) Die bepalings van hierdie artikel is bykomend by die tersaaklike bepalings van die Wet op Padvervoer of enige provinsiale vervangende wet wat op die afhandeling van aansoeke in verband met padvervoerpermitte betrekking het, en nie ter vervanging daarvan nie.

Afhandeling van aansoeke om openbare padvervoerpermitte gedoen deur suksesvolle tenderaars vir kontrakte vir verskaffing van openbare padvervoerdienste

6. Wanneer enige kontrak vir die verskaffing van h openbare padvervoerdienste binne h metropolitaanse vervoergebied toegeken is deur h provinsiale tenderraad na voltooiing van h openbare tenderproses ingevolge enige wet, mag h plaaslike padvervoerraad, ondanks enige andersluidende bepalings van die Wet op Padvervoer of h provinsiale vervangende wet, nie die suksesvolle tenderaar se aansoek om die toestaan of hernuwing van h openbare padvervoerpermit wat vir die doeleindes van daardie diens benodig word, weier nie behalwe op enige van die volgende gronde:

(a) Enige vorige veroordeling van die aansoeker weens h misdryf ingevolge die Wet op Padvervoer of h provinsiale vervangende wet, en enige ander versuim deur die aansoeker as h padvervoeroperator;

(b) Die bestaan van enige by wet opgelegde verbod, beperking of restriksie op die gebruik van motorvoertuie in enige gebied of op enige straat of pad op die roete of binne die gebied waar die aansoeker voornemens is om die vervoerdienste te bedryf.

Direkteur-generaal van Vervoer volg Suid-Afrikaanse Padraad op wat betref sy werksaamhede kragtens Wet op Stedelike Vervoer

7. (1) Vanaf die datum waarop hierdie Wet in werking tree, tensy duidelik onvanpas—
- (a) gaan al die bevoegdhede, werksaamhede en pligte wat die Padraad by of ingevolge die Wet op Stedelike Vervoer verleen of opgelê word, oor op die Direkteur-generaal, wat vanaf daardie datum enige sodanige bevoegdheid kan uitoefen en, in die omstandighede beoog in daardie Wet, enige sodanige werksaamheid of plig moet verrig; en
 - (b) word enige bevoegdheid, werksaamheid of plig deur die Padraad kragtens die Wet op Stedelike Vervoer uitgeoefen of verrig, en enige ander handeling deur hom in verband daarmee verrig, beskou en behandel asof dit deur die Direkteur-generaal kragtens paragraaf (a) van hierdie subartikel uitgeoefen of verrig was; en
 - (c) word enige verwysing in die Wet op Stedelike Vervoer na die Padraad, hoe dit ook al uitgedruk word, vir alle doeleindes beskou en behandel asof dit 'n verwysing na die Direkteur-generaal was, behoudens subartikel (2).
- (2) Na die inwerkingtreding van hierdie Wet word enige verwysing in die Wet op Stedelike Vervoer na 'n beamppte van die Padraad, hoe dit ook al uitgedruk word, vir alle doeleindes beskou en behandel as 'n verwysing na 'n werknemer van die Departement wat op gesag van die Direkteur-generaal optree in verband met enige aangeleentheid wat betrekking het op 'n bevoegdheid, werksaamheid of plig van die Direkteur-generaal ingevolge subartikel (1)(a).

Kort title en inwerkingtreding

8. Hierdie Wet word die Nasionale Wet op Tussentydse Reëlins betreffende Vervoer oor Land, 1998, genoem en tree in werking op 'n datum wat deur die President by proklamasie in die *Staatskoerant* bepaal sal word.

MEMORANDUM OOR DIE OOGMERKE VAN DIE NASIONALE WETSONTWERP OP TUSSENTYDSE REËLINGS BETREFFENDE VERVOER OOR LAND, 1998

AGTERGROND

1.1 Die Regering se beleid in verband met landvervoer is soos uiteengesit in die Witskrif betiteld "White Paper on National Transport Policy", wat deur die Kabinet in September 1996 goedgekeur is en deur die provinsies deur bemiddeling van die MINCOM-struktuur aanvaar is. Met die oog daarop om aan dié beleid uitvoering te gee, het die Departement van Vervoer in die nasionale regeringsfeer spoedig daarna begin om nasionale konsepwetgewing oor landvervoer in oorleg met die provinsiale en munisipale regeringsfere te ontwikkel, wat uitgeloop het op 'n werksdokument wat in Desember 1996 vir kommentaar gepubliseer is.

1.2 Die nasionale konsepwetgewing oor landvervoer wat besig is om ontwikkel te word, maak grootliks staat op die indeling van die hele Republiek in vervoergebiede wat volgens munisipale grense verklaar word en bestuur staan te word deur vervoerowerhede waarop die munisipaliteite wat in die vervoergebied ingesluit is, verteenwoordig word. Inagenome dié rol van munisipaliteite in die voorgename landvervoernetgewing, is dit van die uiterste belang om te verseker dat die bepalings van dié konsepwetgewing met plaaslike regeringswetgewing strook, veral wat betref die klassifisering, werksaamhede en bevoegdhede van munisipaliteite, die afbakening van hul gebiede en die verhouding tussen die verskillende kategorieë munisipaliteite soos beoog in artikel 155(1) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996 - "die Grondwet").

1.3 Die bestaande plaaslike regeringswetgewing, en veral die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993), is in die proses om vervang te word deur nuwe wetgewing wat tans deur die Departement van Staatskundige Ontwikkeling en Provinsiale Sake opgestel word ten einde uitvoering te gee aan die Regering se beleid oor plaaslike regering soos vervat in die Witskrif wat in April 1998 gepubliseer is. Gesien dat die beginsels van die nuwe plaaslike regeringswetgewing nog besig is om ontwikkel te word en nog nie volledig is nie, sal dit voortydig wees om die voorgestelde nasionale konsepwetgewing oor landvervoer in hierdie stadium in te voer. Gevolglik word daardie wetgewing vireers agterweë gehou hangende die finalisering van die voorgestelde nuwe munisipale bedeling.

1.4 Om egter die gaping tussen die *status quo* en die voorgestelde nuwe nasionale landvervoernetgewing in 'n mate te oorbrug, is dit gerade geag om sekere tussentydse reëlins te tref sodat, onder meer, daar begin kan word met die proses om vervoerbeplanning met ontwikkelingsbeplanning te integreer. Hierdie tussentydse reëlins word in die Nasionale Wetsontwerp op Tussentydse Reëlins betreffende Vervoer oor Land, 1998, vervat.

DIE WETSONTWERP

2.1 Die verantwoordelikhede van die kernstede aangewys vir metropolitaanse vervoergebiede kragtens die Wet op Stedelike Vervoer, 1977 (Wet No. 78 van 1977), het tans hoofsaaklik betrekking op vervoerbeplanning vir hul onderskeie metropolitaanse vervoergebiede. Die voorgestelde Nasionale Wetsontwerp op Tussentydse Reëlins betreffende Vervoer oor Land, 1998 ("die Wetsontwerp") stel voor dat hul werksaamhede intussen verbreed word in soverre daar vir die volgende voorsiening gemaak word:

- (1) Ingevolge klousule 3 van die Wetsontwerp moet h kernstad h openbare vervoerrekord, synde h beskrywende rekord van die openbare vervoerdienste, -fasiliteite en -infrastruktuur in sy metropolitaanse vervoergebied, opstel ooreenkomstig vereistes vervat in h sekere dokument wat in die *Staatskoerant* gepubliseer is. Daar word ook van kernstede vereis om hul lopende openbare vervoerrekords aan die LUR wat vir die provinsie se openbare vervoersake verantwoordelik is, voor te lê nie later as 31 Desember 1998 (of die verlengde tydperk waarop die LUR en die Minister van Vervoer ooreenkom).
- (2) Ingevolge klousule 4 van die Wetsontwerp moet hierdie rekord deur die kernstad in berekening gebring word by die verrigting van vervoerbeplanning kragtens die Wet op Stedelike Vervoer, 1977. Terselfdertyd vereis hierdie klousule ook van h kernstad om te verseker dat sy vervoerplan vir die metropolitaanse vervoergebied geïntegreer is met die grondontwikkelingsproses binne die konteks van geïntegreerde ontwikkelingsbeplanning ingevolge die Oorgangswet op Plaaslike Regering, 1993, en die Wet op Ontwikkelingsfasilitering, 1995 (Wet No. 67 van 1995), of enige soortgelyke of ooreenstemmende provinsiale wette. (Hierdie bepalings bewerkstellig ook die oorgang van vervoerbeplanning kragtens die Wet op Stedelike Vervoer, 1977, na die geïntegreerde vervoerplanne vereis deur die voorgestelde nasionale landvervoerwetgewing.)
- (3) Klousule 5 van die Wetsontwerp vereis dat h plaaslike padvervoerraad, of, wanneer van toepassing, h provinsiale permit-raad, h kernstad skriftelik in kennis stel van enige aansoek om h permit wat die gereelde vervoer van passasiers in sy metropolitaanse vervoergebied magtig, en dat hy die kernstad versoek om aanbevelings te doen betreffende die aansoek. Origens is die kernstad ingevolge dié klousule verplig om sy aanbevelings te doen met behoorlike inagneming van bogenoemde rekord, terwyl die betrokke raad by die afhandeling van die aansoek verplig word om, benewens die ander aangeleenthede vermeld in die Wet op Padvervoer, 1977 (Wet No. 74 van 1977), of enige provinsiale wetgewing wat die plek daarvan inneem, ook die kernstad se aanbevelings en verhoë in aanmerking te neem.

2.2 Die Wetsontwerp, daarbenewens -

- (1) bepaal in klousule 2 dat h munisipaliteit wat val binne 'n metropolitaanse vervoergebied wat geleë is in die streek van h streekdiensteraad wat vir werksaamhede in sake grondgebruik en vervoerbeplanning in die streek verantwoordelik is, as die kernstad van daardie metropolitaanse vervoergebied

aangewys kan word eerder as daardie streekdiensteraad (d.w.s. ten spyte van artikel 4(3)(a) van die Wet op Stedelike Vervoer, 1977) -

- * indien daar gegronde en praktiese redes bestaan om dit te doen; en
- * indien daardie munisipaliteit en die streekdiensteraad daartoe ingestem het.

Daardie munisipaliteit moet egter sy beplanningsbedrywighede met dié van die betrokke streekdiensteraad koördineer;

- (2) beperk. deur klousule 6, die gronde waarop h plaaslike padvervoerraad of provinsiale permit-raad (na gelang van die geval) h padvervoeroperateur se aansoek om h padvervoerpermit kan weier waar die permit benodig word vir die verskaffing van h openbare vervoerdiens ingevolge h kontrak wat na afloop van h openbare tenderproses deur h provinsiale tenderraad aan die operateur toegeken is. Die beperkte gronde waarop permit-aansoeke in gevalle van hierdie aard geweier kan word ingevolge klousule 6, het, algemeen gestel, betrekking op vorige veroordelings weens padvervoermisdrywe, en op verbodings en beperkings deur munisipale verordeninge opgelê in verband met die gebruik van motorvoertuie in die betrokke munisipale gebiede. Uitgesonderd dié in klousule 6 van die Wetsontwerp genoem, is die veelvuldige gronde waarop aansoeke om padvervoerpermitte ingevolge die bestaande padvervoerwetgewing geweier kan word, óf onvanpas óf heeltemal irrelevant *vis-à-vis* so 'n vervoeroperateur se permit-aansoek;
- (3) maak in klousule 7 voorsiening vir die Direkteur-generaal van die Departement van Vervoer om die bevoegdhede, werksaamhede en pligte van die Suid-Afrikaanse Padraad kragtens die Wet op Stedelike Vervoer, 1977, oor te neem. Hierdie bevoegdhede, werksaamhede en pligte het hoofsaaklik op die administrering van die (nasionale) Stedelike Vervoerfonds betrekking.

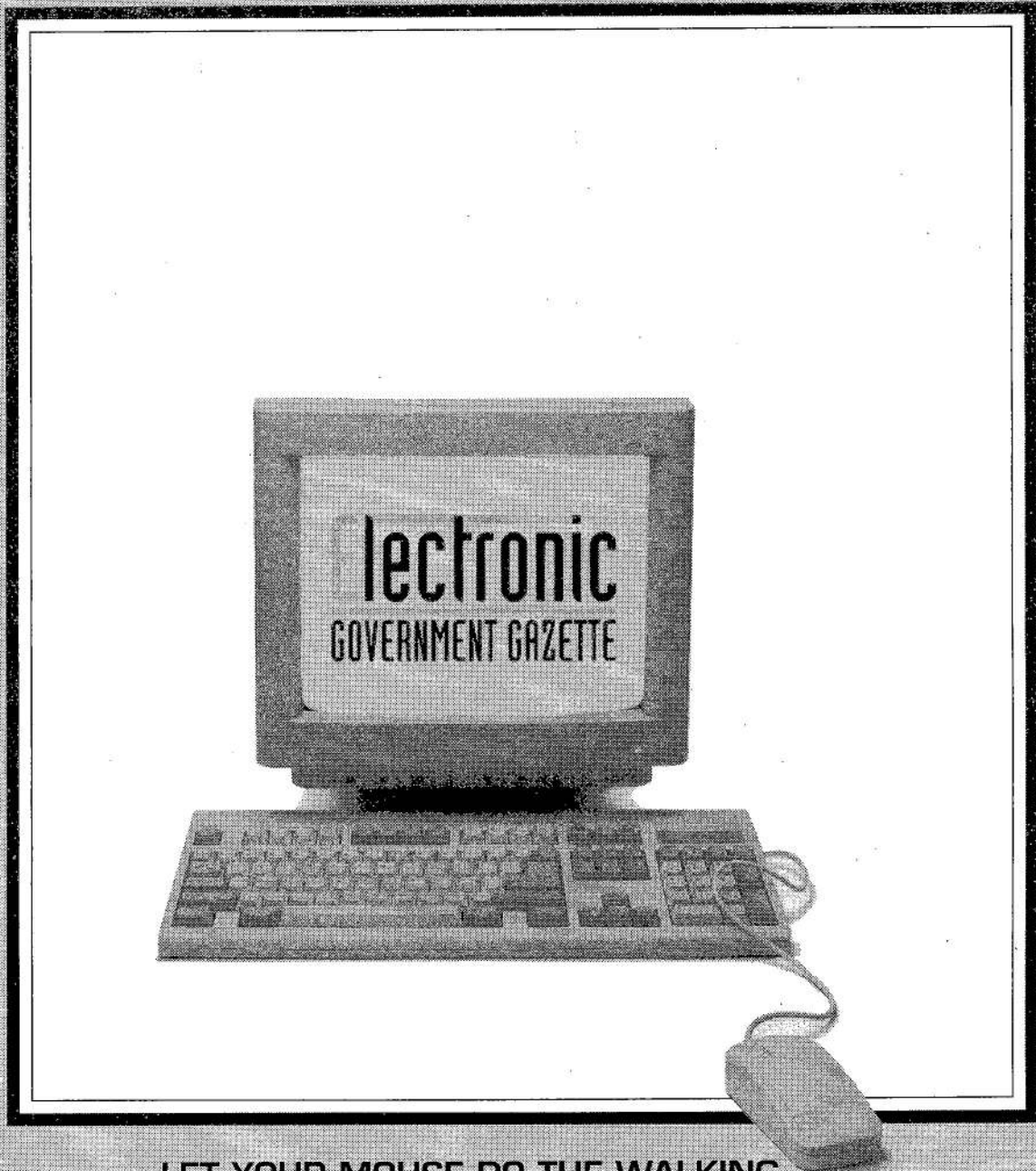
OORLEGPLEGING

3. Die beginsels in die Wetsontwerp vervat, is met al die rolspelers op 'n wye grondslag bespreek in die proses wat by die opstel van die voorgenome nasionale landvervoerwetgewing gevolg word. Soos hierbo genoem, is dié voorgestelde wetgewing reeds so vroeg soos Desember 1996 vir kommentaar en oorlegpleging gepubliseer, en is dit, tot nog toe, in oorleg met die provinsiale en munisipale regeringsfere deur bemiddeling van die MINCOM struktuur ontwikkel.

PROSEDURE

4. Die Staatsregsadviseurs huldig die mening dat die Wetsontwerp behandel behoort te word ooreenkomstig die prosedure waarvoor in artikel 76 van die Grondwet voorsiening gemaak word, insoverre die Wetsontwerp -

- gerig is op die reëling van aangeleenthede betreffende openbare vervoer, synde een van die funksionele gebiede genoem in Bylae 4 by die Grondwet; en
- nie enige wysiging aan die Grondwet beoog nie en ook nie die oplê van enige belasting, heffing of reg voorstel nie.



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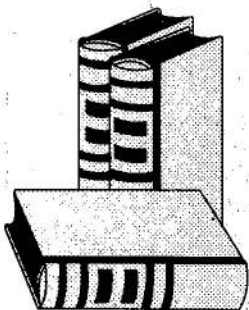
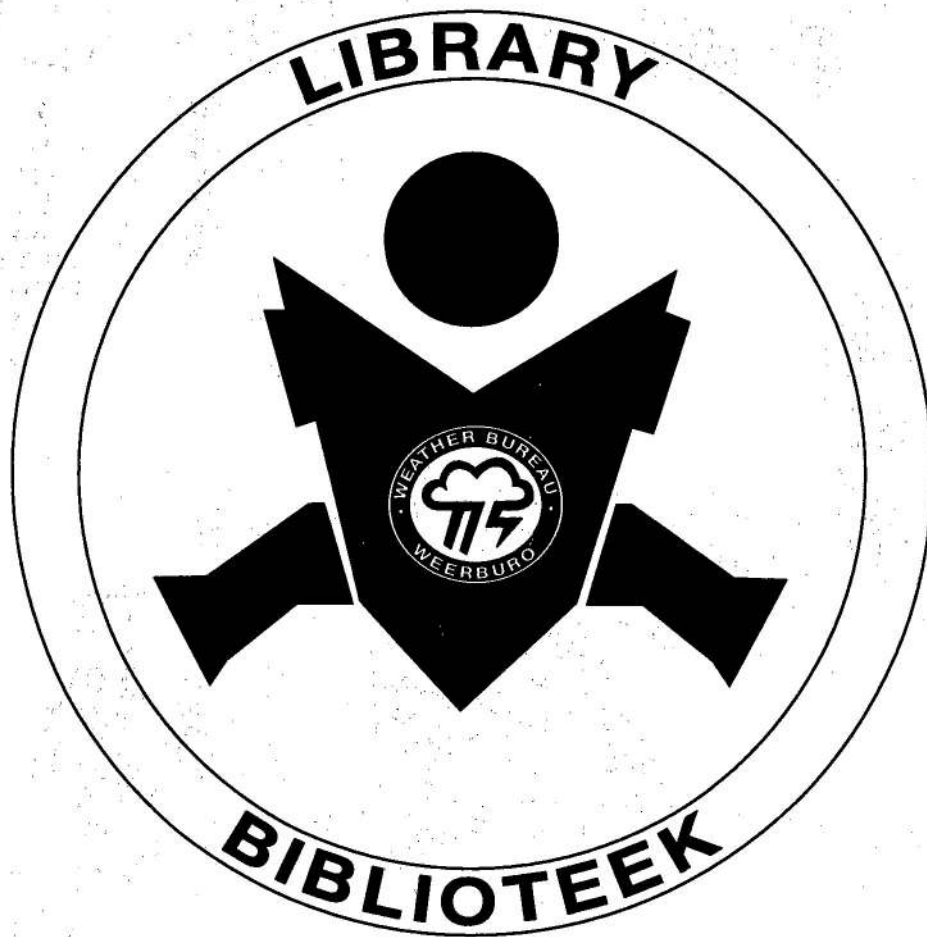
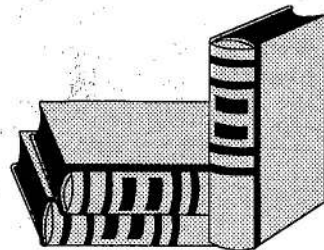
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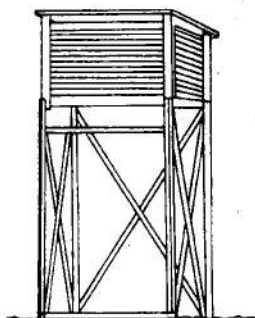
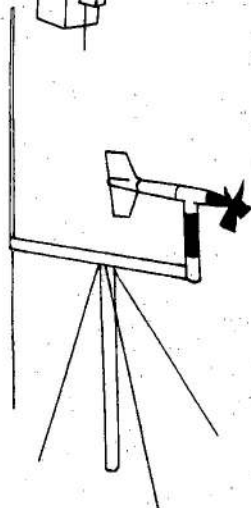
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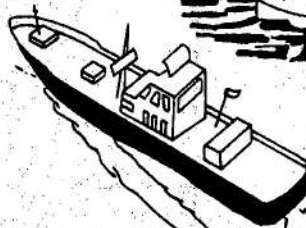
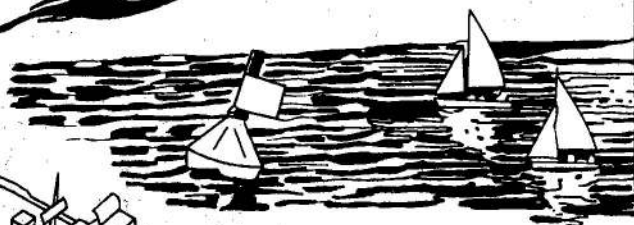
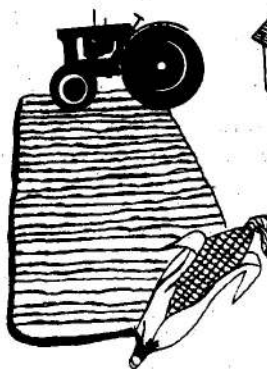
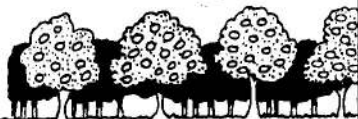
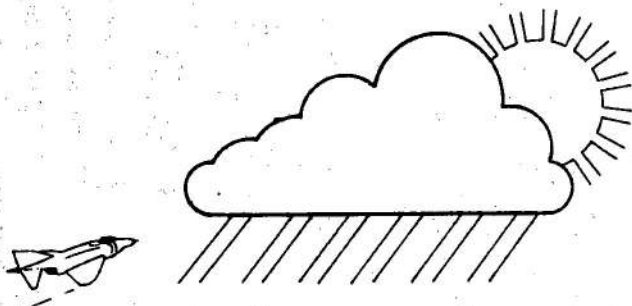


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