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GENERAL NOTICE ALGEMENE KENNISGEWING

NOTICE 2915 OF 1998

ELECTORAL COURT

RULES REGULATING ELECTORAL DISPUTES AND COMPLAINTS ABOUT INFRINGEMENTS OF THE ELECTORAL CODE OF CONDUCT IN SCHEDULE 2 OF THE ELECTORAL ACT, 1998 (ACT NO. 73 OF 1998) AND DETERMINATION OF COURTS HAVING JURISDICTION

The Electoral Court has under section 20(4) of the Electoral Commission Act, 1996 (Act No. 51 of 1996), made the rules in the Schedule.

SCHEDULE

DEFINITIONS

1. In these rules, a word to which a meaning has been assigned in the Act has that meaning and, unless the context otherwise indicates -
 - '**apply**' means on motion, and 'application' has a corresponding meaning;
 - '**Chairperson**' means the Chairperson of the Court appointed in terms of section 19(1) of the Electoral Commission Act, 1996 (Act No. 51 of 1996);
 - '**clerk of the court**' means a clerk of the court appointed under section 13 of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944) and includes an assistant clerk of the court so appointed;
 - '**Code**' means the Electoral Code of Conduct in Schedule 2 of the Electoral Act, 1998 (Act No. 73 of 1998);
 - '**Court**' means the Electoral Court established in terms of section 18 of the Electoral Commission Act, 1996 (Act No. 51 of 1996);
 - '**day**' means any other day than a Saturday, Sunday or public holiday;
 - '**lodge**' means to serve copies on all parties and file the original with the clerk of the court or registrar or Secretary, as the case may be;
 - '**Magistrate's Court**' means a court established in terms of section 2(1)(f) of the Magistrates' Courts Act, 1944 (Act No. 32 of 1944);
 - '**Magistrates' Courts Rules**' means the rules regulating the conduct of proceedings of the Magistrate's Court;
 - '**notice**' means notice in writing;
 - '**registrar**' means the registrar of a High Court appointed under section 34 of the Supreme Court Act, 1959 (Act No. 59 of 1959);

'Secretary' means the Secretary of the Court care of the registrar of the Supreme Court of Appeal, Bloemfontein;

'serve' means to serve by facsimile or to hand to all parties concerned;

'the Act' means the Electoral Act, 1998 (Act No. 73 of 1998);

'Uniform Rules' means the rules regulating the conduct of proceedings of the several provincial or local divisions of the High Courts.

DETERMINATION OF COURTS AND JURISDICTION

2. (1) The Magistrate's Court and the High Court in whose area of jurisdiction -
- (a) any electoral dispute; or
 - (b) any complaint about an infringement of the Code, has arisen, have, subject to subrules (2) and (3), jurisdiction to hear such dispute or complaint.
- (2) The following courts have jurisdiction to impose the following sanctions referred to in section 96 of the Act:
- (a) The Court, all the sanctions in subsection (2);
 - (b) The High Court, all the sanctions in subsection (2) except (2)(h) and (i);
 - (c) The Magistrate's Court, all the sanctions in subsection (2) except (2)(d)(vii), (h) and (i) and with regard to the sanctions in subsection (2)(b) and (c), the Magistrate's Court must have regard to its civil jurisdiction.
- (3) A party may approach the Court directly in respect of any electoral dispute or complaint about an infringement of the Code-
- (a) where a sanction referred to in section 96(2)(h) or (i) of the Act is sought; and
 - (b) notwithstanding the provisions of subrule (1), in any matter where special circumstances are present, with prior leave of the Chairperson and at least two members of the Court.
- (4) The offences referred to in Part 1 of the General Provisions of Chapter 7 and in sections 107, 108 and 109 of the Act, are dealt with in accordance with the legislation applicable to criminal matters.

REPRESENTATION OF PARTIES

3. (1) A party may institute or defend and may carry to completion any proceedings either in person or by a duly authorised and suitably qualified representative.
- (2) A group of persons associated for a common purpose may in instituting or defending proceedings act through a member thereof nominated by it.

APPLICATIONS

4. (1) Proceedings in respect of electoral disputes and complaints referred to in rule 2 are instituted by way of application.
- (2) An application must set out clearly and succinctly -
- (a) in the case of an electoral dispute -

- (i) the nature of the dispute and the facts upon which the dispute is based;
 - (ii) the registered parties or persons involved in the dispute; and
 - (iii) the relief claimed and the grounds upon which such relief is claimed.
- (b) in the case of a complaint about an infringement of the Code -
 - (i) the registered party, candidate or person who allegedly infringed the Code;
 - (ii) the nature of the infringement and the facts upon which the infringement is based;
 - (iii) the relief claimed and the grounds upon which such relief is claimed; and
 - (iv) the sanctions, referred to in section 96(2) of the Act, sought and where applicable, the grounds upon which the sanctions are sought.
- (3) An application must be accompanied by any relevant document substantiating the application.
- (4) The required information referred to in subrule (2) must be set out in an affidavit.
- (5) The application must be lodged in the appropriate court having jurisdiction.
- (6) The respondent must within three days after receipt of the application, lodge an answering affidavit.
- (7) The applicant must within two days after receipt of the answering affidavit, lodge a replying affidavit, if any.
- (8) After the lodging of any replying affidavit or after the time for lodging a replying affidavit has expired and on request of the applicant, the clerk of the court, the registrar or the Secretary, as the case may be, sets the matter down for hearing with due consideration of the provisions of section 20(5) of the Electoral Commission Act, 1996 (Act No. 51 of 1996).
- (9) The court hearing an application may extend or curtail the periods provided for in subrules (6) and (7).
- (10)
 - (a) In urgent applications the Court or a judge or a magistrate, as the case may be, may dispense with the provisions of this rule and may dispose of such matter at such time and place and in such manner and in accordance with such procedure, which must as far as practicable accord with the terms of this rule, as to it, him or her seems meet.
 - (b) The applicant must set out clearly and succinctly the circumstances that render the matter urgent and the reasons why he or she claims that he or she could not be afforded substantial redress at a hearing in due course.
- (11) The Uniform Rules or the Magistrates' Courts Rules, as the case may be, are *mutatis mutandis* applicable in respect of applications except as otherwise provided in this rule.
- (12) The Uniform Rules are, subject to this rule, *mutatis mutandis* applicable

in respect of applications brought directly to the Court.

APPEALS

5. (1) An appeal lies as of right against a decision of a Magistrate's Court to the appropriate High Court and from there to the Court on a point of law only and with leave of the Chairperson.
- (2) (a) The appellant must lodge a notice of appeal within three days after the decision setting out clearly and specifically the grounds of fact and/or law on which the appeal is based, with the clerk of the court.
- (b) The clerk of the court submits the notice of appeal forthwith to the presiding officer who gives his or her written judgment within three days after the notice of appeal has been received from the clerk of the court.
- (c) The clerk of the court hands the written judgment to the appellant who obtains a date for hearing within two days after receipt of the judgment, from the registrar.
- (d) The registrar sets the matter down for hearing of the appeal with due consideration of the provisions of section 20(5) of the Electoral Commission Act, 1996 (Act No. 51 of 1996) and informs the appellant of such date.
- (e) The appellant forthwith informs the clerk of the court and the respondent of the date.
- (f) The clerk of the court forthwith prepares as many copies of the record as directed by the registrar and transfers the copies to the registrar.
- (3) (a) An application for leave to appeal to the Court from the court of appeal, must be lodged within three days after the decision of the court of appeal with the Secretary setting out clearly and specifically the grounds of law on which leave to appeal is sought, together with a copy of the judgment, if available.
- (b) The Secretary forthwith submits the application to the Chairperson who considers the application in chambers.
- (c) If leave to appeal is granted by the Chairperson the Secretary sets the matter down for hearing of the appeal with due consideration of the provisions of section 20(5) of the Electoral Commission Act, 1996 (Act No. 51 of 1996) and informs the parties and the registrar of the time, date and place of the hearing.
- (d) The registrar forthwith prepares as many copies of the record as directed by the Secretary and transfers the copies to the Secretary.
- (4) (a) An appeal against a decision of the High Court as court of first instance lies, with leave of that court, to the Court, failing which with leave of the Chairperson.
- (b) An application for leave to appeal against a decision of the High Court as court of first instance, must be filed within three days after the decision of that court with the registrar after service on

all other parties setting out clearly and specifically the grounds of fact and/or law on which the appeal is based.

- (c) The registrar forthwith submits the application to the judge who heard the matter, who considers the application in chambers.
- (d) If leave to appeal is not granted by the judge, the applicant may within two days request the registrar forthwith to submit the application to the Secretary who forthwith submits it to the Chairperson who considers the application in chambers.
- (e) If leave to appeal is granted either by the judge referred to in paragraph (c) or by the Chairperson, subrule(2)(c) and (d) is *mutatis mutandis* applicable.

PROCEDURE TO APPLY WHEN RULES ARE SILENT

- 6. (1) A party who wishes to refer a matter to the Court and who is of the view that the rules do not address or do not adequately address a particular aspect must inform the Secretary accordingly without delay.
- (2) The Secretary, after having obtained the Court's directives, must inform the party concerned and other interested parties thereof without delay.
- (3) This rule does not affect the Court's authority to determine its own practice and procedures and make its own rules and the other courts having jurisdiction are bound by directives so given.

FAILURE TO COMPLY WITH TIME LIMITS OR DIRECTIVES

- 7. Failure to comply with the prescribed time limits or the directives of any court having jurisdiction will, by the mere fact thereof, result in a party being barred, unless such court, on good cause shown, directs otherwise.

KENNISGEWING 2915 VAN 1998

VERKIESINGSHOF

REËLS WAARBY VERKIESINGSGESKILLE EN KLAGTES OOR SKENDINGS VAN DIE VERKIESINGSGEDRAGSKODE IN BYLAE 2 VAN DIE KIESWET, 1998 (WET NO. 73 VAN 1998), GEREËL WORD EN BEPALING VAN HOWE MET REGSBEVOEGDHEID

Die Verkiesingshof het kragtens artikel 20(4) van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), die reëls in die Bylae gemaak.

BYLAE

WOORDOMSKRYWING

1. In hierdie reëls het 'n woord waaraan 'n betekenis in die Wet verleen is, daardie betekenis en, tensy uit die samehang anders blyk, beteken -
'**aansoek doen**' aansoek doen by wyse van mosie en het '**aansoek**' 'n ooreenstemmende betekenis;
'**beteken**' om per faksimile te beteken of aan alle betrokke partye te oorhandig;
'**dag**' enige dag behalwe 'n Saterdag, Sondag of openbare vakansiedag;
'**die Wet**' die Kieswet, 1998 (Wet No. 73 van 1998);
'**Eenvormige Reëls**' die reëls waarby die verrigtinge in die onderskeie provinsiale en plaaslike afdelings van die Hooggeregshof gereël word;
'**griffier**' die griffier van 'n Hooggeregshof aangestel ingevolge artikel 34 van die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959);
'**Hof**' die Verkiesingshof ingestel ingevolge artikel 18 van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996);
'**indien**' om afskrifte aan alle partye te beteken en die oorspronklike by die klerk van die hof, die griffier of die Sekretaris, na gelang van die geval, te liasseer;
'**landdroshof**' 'n hof ingestel ingevolge artikel 2(1)(f) van die Wet op Landdroshof, 1944 (Wet No. 32 van 1944);
'**Landdroshofreëls**' die reëls waarby die verrigtinge in die landdroshof gereël word;
'**kennisgewing**' 'n skriftelike kennisgewing;
'**klerk van die hof**' 'n klerk van die hof aangestel ingevolge artikel 13 van die Wet op Landdroshof, 1944 (Wet No. 32 van 1944) en sluit 'n assistent-klerk van die hof aldus aangestel, in;
'**Kode**' die Verkiesingsgedragskode in Bylae 2 van die Kieswet, 1998 (Wet No.

73 van 1998);

'Sekretaris' die Sekretaris van die Hof, per adres die griffier van die Hoogste Hof van Appèl, Bloemfontein;

'Voorsitter' die Voorsitter van die Hof aangestel ingevolge artikel 19(1) van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996).

BEPALING VAN HOWE EN REGSBEVOEGDHEID

2. (1) Die landdroshof en die Hooggeregshof in wie se regsgebied-
- (a) 'n verkiesingsgeskil; of
 - (b) 'n klagte oor 'n skending van die Kode, ontstaan het, het behoudens subreëls (2) en (3) regsbevoegdheid om sodanige geskil of klagte aan te hoor.
- (2) Die volgende howe het regsbevoegdheid om die volgende sanksies bedoel in artikel 96 van die Wet op te lê:
- (a) Die Hof, al die sanksies in subartikel (2);
 - (b) Die Hooggeregshof, al die sanksies in subartikel (2), behalwe (2)(h) en (i);
 - (c) Die landdroshof, al die sanksies in subartikel (2), behalwe (2)(d)(vii),(h) en (i) en ten opsigte van die sanksies in subartikel (2)(b) en (c), moet die landdroshof se siviele regsbevoegdheid in ag geneem word.
- (3) 'n Party kan die Hof direk nader met betrekking tot enige verkiesingsgeskil of klagte oor 'n skending van die Kode-
- (a) wanneer 'n sanksie bedoel in artikel 96(2)(h) of (i) verlang word; en
 - (b) ondanks die bepalings van subreël (1), ten opsigte van enige aangeleentheid waar daar spesiale omstandighede is, met vooraf verlof van die Voorsitter en ten minste twee lede van die Hof.
- (4) Die oortredings bedoel in Deel 1 van die Algemene Bepalings van Hoofstuk 7 en in artikels 107, 108 en 109 van die Wet, word ooreenkomstig wetgewing van toepassing op strafregtelike aangeleenthede hanteer.

VERTEENWOORDIGING VAN PARTYE

3. (1) 'n Party kan, hetsy persoonlik of deur 'n behoorlik gemagtigde en paslik gekwalifiseerde verteenwoordiger, 'n geding instel of verdedig en tot voltooiing voer.
- (2) 'n Groep persone wat vir 'n gemeenskaplike doel geassosieer is, kan, wanneer hulle 'n geding instel of verdedig, deur middel van 'n groeplid wat deur hulle genomineer is, optree.

AANSOEKE

4. (1) 'n Aksie met betrekking tot verkiesingsgeskille en klagtes bedoel in reël 2 word ingestel by wyse van aansoek.
- (2) 'n Aansoek moet duidelik en saaklik uiteensit -
- (a) in die geval van 'n verkiesingsgeskil -
 - (i) die aard van die geskil en die feite waarop die geskil

- gegrond is;
- (ii) die geregistreerde partye of persone betrokke by die geskil; en
- (iii) die regshulp wat verlang word en die gronde waarop sodanige regshulp verlang word;
- (b) in die geval van 'n klagte oor 'n skending van die Kode -
 - (i) die geregistreerde party, kandidaat of persoon wat na bewering die Kode geskend het;
 - (ii) die aard van die skending en die feite waarop die skending gegrond is;
 - (iii) die regshulp wat verlang word en die gronde waarop sodanige regshulp verlang word;
 - (iv) die sanksies, bedoel in artikel 96(2) van die Wet, wat verlang word en waar van toepassing, die gronde waarop die sanksies verlang word.
- (3) 'n Aansoek moet vergesel gaan van enige tersaaklike dokument wat die aansoek staaf.
- (4) Die vereiste inligting bedoel in subreël (2) moet in 'n beëdigde verklaring gegee word.
- (5) Die aansoek moet ingedien word by die toepaslike hof met regsbevoegdheid.
- (6) Die respondent moet binne drie dae na ontvangs van die aansoek, 'n antwoordende beëdigde verklaring indien.
- (7) Die applikant moet binne twee dae na ontvangs van die antwoordende beëdigde verklaring, 'n repliserende beëdigde verklaring, as daar is, indien.
- (8) Na die indiening van 'n repliserende beëdigde verklaring of nadat die tyd vir indiening daarvan verstryk het, en op versoek van die applikant, plaas die klerk van die hof, die griffier of die Sekretaris, na gelang van die geval, en met behoorlike inagneming van die bepalings van artikel 20(5) van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), die aangeleentheid op die rol vir verhoor.
- (9) Die hof wat 'n aansoek aanhoor, kan die tydperke wat in subreëls (6) en (7) bepaal word, verleng of verkort.
- (10) (a) By dringende aansoeke kan die Hof of 'n regter of 'n landdros, na gelang van die geval, afsien van die bepalings van hierdie reël en kan hy sodanige aangeleentheid afhandel waar en wanneer en op sodanige wyse en in ooreenstemming met sodanige prosedure wat so ver doenlik met hierdie reël ooreenstem, as wat die Hof of hy of sy goeddink.
- (b) Die applikant moet die omstandighede duidelik en saaklik uiteensit wat die aangeleentheid dringend maak en die redes waarom hy of sy beweer dat hy of sy nie mettertyd wesenlike verhaal by gewone beregting sal kry nie.
- (11) Tensy anders in hierdie reël bepaal, is die Eenvormige Reëls of die Landdroshowereëls, na gelang van die geval, *mutatis mutandis* op aansoeke van toepassing.

- (12) Behoudens hierdie reël is die Eenvormige Reëls *mutatis mutandis* van toepassing op aansoeke wat direk aan die Hof gerig word,

APPÈLLE

5. (1) Uit hoofde van vasstaande regte word appèl teen 'n beslissing van 'n landdroshof na die toepaslike Hooggeregshof gebring en daarvandaan na die Hof, op 'n regspunt alleenlik en met verlof van die Voorsitter.
- (2) (a) Die appellant moet binne drie dae na die beslissing 'n kennisgewing van appèl by die klerk van die hof indien waarin die feitelike en/of regsgronde waarop die appèl berus, duidelik en in besonderhede, uiteengesit word.
- (b) Die klerk van die hof lê die kennisgewing van appèl onverwyld aan die voorsittende beampte voor wat binne drie dae nadat die kennisgewing van die klerk van die hof ontvang is, sy of haar skriftelike uitspraak verstrek.
- (c) Die klerk van die hof gee die skriftelike uitspraak aan die appellant, wat binne twee dae na ontvangs van die uitspraak 'n verhoordatum van die griffier verkry.
- (d) Die griffier plaas die aangeleentheid op die rol vir verhoor van die appèl met behoorlike inagneming van die bepalings van artikel 20(5) van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996) en stel die appellant van sodanige datum in kennis.
- (e) Die appellant stel die klerk van die hof en die respondent onverwyld van die verhoordatum in kennis.
- (f) Die klerk van die hof maak onverwyld soveel afskrifte van die oorkonde as wat die griffier bepaal en stuur dié afskrifte aan die griffier.
- (3) (a) 'n Aansoek om verlof om van die hof van appèl na die Hof te appelleer, moet binne drie dae na die beslissing van die hof van appèl by die Sekretaris ingedien word, in welke aansoek die regsgronde waarop verlof om te appelleer verlang word, duidelik en in besonderhede uiteengesit word, tesame met 'n afskrif van die uitspraak, indien beskikbaar.
- (b) Die Sekretaris lê onverwyld die aansoek voor aan die Voorsitter wat die aansoek in kamers oorweeg.
- (c) Indien verlof tot appèl deur die Voorsitter verleen word, plaas die Sekretaris die aangeleentheid vir aanhoring van die appèl op die rol met behoorlike inagneming van die bepalings van artikel 20(5) van die Wet op die Verkiesingskommissie, 1996 (Wet No. 51 van 1996), en stel die partye en die griffier in kennis van die tyd, datum en plek van verhoor.
- (d) Die griffier maak onverwyld soveel afskrifte van die oorkonde as wat die Sekretaris bepaal en stuur dié afskrifte aan die Sekretaris.
- (4) (a) 'n Appèl teen 'n beslissing van die Hooggeregshof as hof van eerste instansie word met verlof van daardie hof, of as verlof nie verleen word nie, met verlof van die Voorsitter, na die Hof gebring.
- (b) 'n Aansoek om verlof tot appèl teen 'n beslissing van die

Hooggeregshof as hof van eerste instansie moet binne drie dae na die beslissing van daardie hof by die griffier geliasseer word na betekening op alle ander partye met die feitelike en/of regsgronde waarop die appèl berus, duidelik en in besonderhede daarin uiteengesit.

(c) Die griffier lê die aansoek onverwyld aan die regter voor wat die aangeleentheid verhoor het en wat die aansoek dan in kamers oorweeg.

(d) Indien verlof tot appèl nie deur die regter verleen word nie, kan die applikant die griffier binne twee dae versoek om die aansoek onverwyld aan die Sekretaris te stuur wat dit onverwyld aan die Voorster voorlê, wat die aansoek in kamers oorweeg.

(e) As verlof tot appèl deur of die regter bedoel in paragraaf (c) of die Voorster verleen word, is subreël (2)(c) en (d) *mutatis mutandis* van toepassing.

PROSEDURE VAN TOEPASSING INDIEN REËLS SWYG

6. (1) 'n Party wat 'n aangeleentheid na die Hof wil verwys en wat van mening is dat die reëls nie 'n besondere aspek aanspreek of behoorlik aanspreek nie, moet die Sekretaris onverwyld dienooreenkomstig inlig.

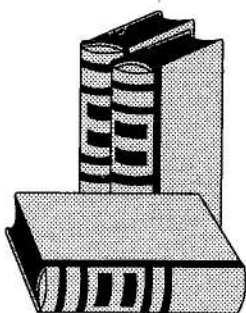
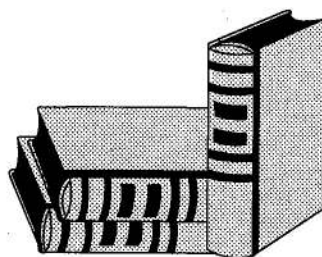
(2) Na ontvangs van die Hof se voorskrifte, moet die Sekretaris die betrokke party en ander belanghebbende partye onverwyld daarvan in kennis stel.

(3) Hierdie reël beïnvloed nie die Hof se gesag om sy eie praktyk en prosedures te bepaal en sy eie reëls te maak nie en die ander hoewe wat regsbevoeg is, word gebind deur die voorskrifte aldus gegee.

VERSUIM OM AAN TYDSBEPERKINGE OF VOORSKRIFTE TE VOLDOEN

7. Versuim om aan die voorgeskrewe tydsbeperkings of die voorskrifte van 'n hof wat regsbevoeg is, te voldoen sal, op grond van die blote feit daarvan, tot gevolg hê dat 'n party onder belet geplaas word, tensy sodanige hof by aanvoering van goeie gronde anders gelas.

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

LIVE IN HARMONY WITH NATURE

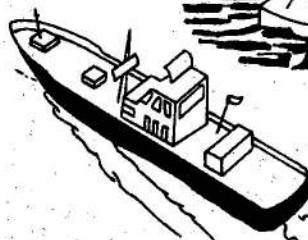
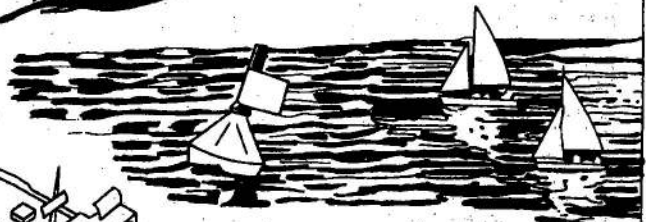
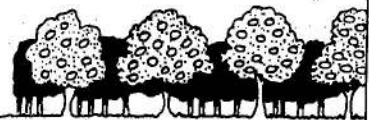
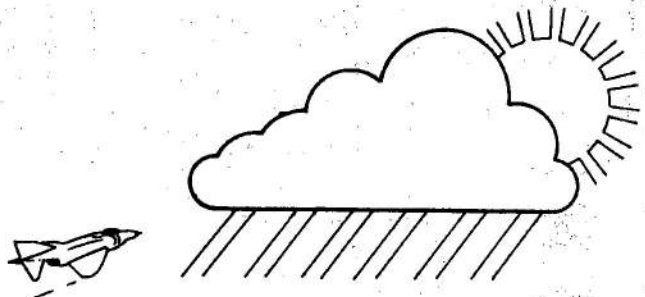
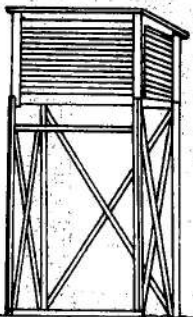
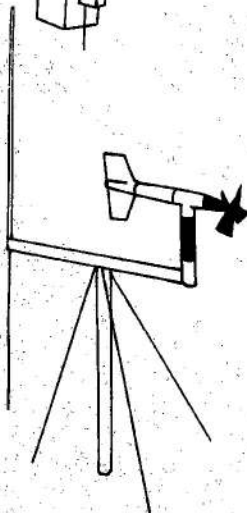


THE WEATHER BUREAU: DEPARTMENT OF
ENVIRONMENTAL AFFAIRS AND TOURISM



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2915 Wet op die Verkiesingskommissie (51/1996): Verkiesingshof: Reëls waarby verkiesingsgeskille en klagtes oor skendings van die verkiesingsge- dragskode in Bylae 2 van die Kieswet, 1998 (Wet No. 73 van 1998), gereël word en bepaling van howe met regs- bevoegdheid.....	7	19572