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GOVERNMENT NOTICE

GOEWERMENTSKENNISGEWING

OFFICE OF THE PUBLIC SERVICE COMMISSION

KANTOOR VAN DIE STAATS- DIENSKOMMISSIE

No. R. 800

1 July 1999

No. R. 800

1 Julie 1999

RULES FOR DEALING WITH COMPLAINTS AND GRIEVANCES OF OFFICIALS IN THE PUBLIC SERVICE

REËLS VIR DIE HANTERING VAN KLAGTES EN GRIEWE VAN BEAMPTES IN DIE STAATSDIENS

The Public Service Commission has under section 11 of the Public Service Commission Act, 1997 (Act No. 46 of 1997), read with section 196 (4) (f) (ii) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996), made the Rules in the Schedule.

Die Staatsdienskommissie het kragtens artikel 11 van die Staatsdienskommissiewet, 1997 (Wet No. 46 van 1997), saamgelees met artikel 196 (4) (f) (ii) van die Grondwet van die Republiek van Suid-Afrika, 1996 (Wet No. 108 van 1996), die Reëls in die Bylae uitgevaardig.

Thus done and signed at Pretoria on this the 1st day of July 1999.

Aldus gedoen en geteken te Pretoria op hede die 1 ste dag van Julie 1999.

S. S. SANGWENI

Chairperson

Public Service Commission

S. S. SANGWENI

Voorsitter

Staatsdienskommissie

SCHEDULE

BYLAE

A. General

1. **Definitions**

In these Rules, unless the context otherwise indicates, a word or expression defined in the Public Service Act, 1994 (Proclamation No. 103 of 1994), bears the same meaning.

2. **Application**

The Rules shall apply in respect of all officers referred to in section 2 of the Public Service Act, 1994, with the exception of those persons referred to in section 2 (2) of the said Act.

B. Rules

1. (a) If an officer is dissatisfied or discontented with an official act or omission, he or she may raise the matter with his or her supervisor.
- (b) It is the responsibility of the supervisor to determine the cause of the dissatisfaction or discontent.
- (c) After the supervisor has interviewed the officer he or she shall, if it is in his or her power and within his or her competence to dispose of the dissatisfaction, take active steps in the matter within five working days.
- (d) Supervisors should also be prepared to listen to complaints about official acts or omissions of their own which harm or may harm the material or spiritual well-being of the officers under their supervision or the interests of the State.
- (e) If the supervisor finds that the dissatisfaction or discontent has arisen from a matter which it is not in his or her power or within his or her competence to deal with, he or she shall, within five working days of the interview referred to in paragraph (c), inform the officer concerned of his or her right to make representations about the matter to a higher authority.
- (f) If the supervisor finds that the dissatisfaction or discontent has arisen from a matter which it is in his or her power or within his or her competence to deal with, but he or she does not succeed in disposing of the complaint, he or she shall, if the officer concerned has notified him or her that he or she is still dissatisfied or discontented, inform the latter within five working days of such notification of his or her right to make representations about the matter to a higher authority.
- (g) In the circumstances mentioned in paragraphs (e) and (f), the supervisor shall give the officer the assurance that such representations will be accorded objective consideration and that this right to make representations to a higher authority will be recognised at all times, provided they are made through the correct official channels and in accordance with the procedure laid down in these rules.

A. Algemeen

1. **Woordbepalings**

In hierdie Reëls, tensy uit die samehang anders blyk, het 'n woord of uitdrukking wat in die Staatsdienswet, 1994 (Proklamasie No. 103 van 1994), omskryf is, dieselfde betekenis.

2. **Toepassing**

Die Reëls is van toepassing op alle beamptes bedoel in artikel 2 van die Staatsdienswet, 1994 met die uitsluiting van die persone bedoel in artikel 2 (2) van die genoemde Wet.

B. Reëls

1. (a) Indien 'n beampte ontevrede of misnoeg is oor 'n amptelike handeling of versuim, kan hy of sy die aangeleentheid by sy of haar toesighouer aanhangig maak.
- (b) Dit is die verantwoordelikheid van die toesighouer om te bepaal wat die oorsaak van die ontevredenheid of misnoegdheid is.
- (c) Nadat die toesighouer die beampte te woord gestaan bet, meet hy of sy, indien dit binne sy of haar vermoë en bevoegdheid is om die ontevredenheid uit die wag te ruim, binne vyf werksdae daadwerklike stappe in dié verband doen.
- (d) Toesighouers meet ook gewillig wees om te luister na klagtes oor hulle eie amptelike optrede of versuim wat die materiële of geestelike welsyn van die beamptes onder hulle toesig of die belange van die Staat benadeel of kan benadeel.
- (e) Indien die toesighouer bepaal het dat die oorsaak van die ontevredenheid of misnoegdheid uit 'n aangeleentheid spruit wat nie binne sy of haar vermoë of bevoegdheid is om op te los nie, moet hy of sy, binne vyf werksdae na die onderhoud waarna in paragraaf (c) verwys word, die betrokke beampte inlig oor sy of haar reg om verhoër daarvoor tot hoer gesag te rig.
- (f) Indien die toesighouer bevind dat die ontevredenheid of misnoegdheid voortspruit uit 'n aangeleentheid wat binne sy of haar vermoë of bevoegdheid is om op te los, maar hy of sy nie daarin slaag om die klagte uit die wag te ruim nie, meet hy of sy die betrokke beampte, indien laasgenoemde hoer of haar meegedeel het dat hy of sy steeds ontevrede of misnoeg is, binne vyf werksdae na so 'n mededeling, inlig oor sy of haar reg om verhoër daarvoor tot hoer gesag te rig.
- (g) In die omstandighede in paragrafe (e) en (f) vermeld, moet die toesighouer die beampte die versekering gee dat sodanige verhoër objektiewe oorweging sal geniet en dat sy of haar reg om dit tot hoer gesag te rig te alle tye erken sal word, mits dit geskied deur die korrekte amptelike kanale en in ooreenstemming met die prosedure by hierdie reëls voorgeskryf.

2. (a) If an officer's complaint concerns a matter which cannot be dealt with by his or her supervisor, or if he or she has a complaint about the supervisor him- or herself, or if the circumstances contemplated in subrule 1 (f) are present, he or she may make representations about the matter to the officer in the department's staff section or another competent senior officer specially designated by the head of department to deal with complaints and grievances.
- (b) The designated officer contemplated in paragraph (a) shall—
- (i) act without delay as stipulated in subrules 1 (b), (c), (e) and (f) or, within 10 working days of the receipt of such representations, refer the matter to an officer who is empowered to act as stipulated in the said subrules; and
- (ii) satisfy him- or herself that the provisions of subrule 1 (g) have been complied with and that the aggrieved officer has been fully informed of his or her rights.
- (c) If the designated officer contemplated in paragraph (a), or the officer to whom the representation have been referred in accordance with paragraph b (i), is not stationed at the same place as the officer making the representations, the procedure laid down in subrules 1 (b), (e), and (f) maybe pursued by correspondence or through the agency of a local or other supervisor designated for this purpose by the head of department, in which case the periods determined in subrules 1 (c), (e) and (f) maybe extended by a maximum of 10 working days.
3. (a) If the officer's complaint cannot be disposed of to his or her satisfaction in accordance with the procedure laid down in subrules 1 and 2, or within the periods specified therein, he or she may make written representations about the matter to the designated officer contemplated in subrule 2(a).
- (b) The written representation shall contain the following information:
- (i) The name and rank of the officer.
- (ii) Full details of the reasons for his or her dissatisfaction or discontent.
- (iii) The steps already taken to dispose of the complaint and the outcome.
- (iv) Statements by other persons or other evidence, if any, in support of the contention of the officer concerned.
- (c) Within 10 working days of receiving the written representation, the designated officer contemplated in subrule 2 (a) shall submit such representation together with any comments, explanations, statements or evidence that may be required, via the aggrieved officer's office or divisional head, to the head of department.
2. (a) Indien die klagte van 'n beampte met 'n aan geleentheid te doen het wat nie deur sy of haar toesighouer gehanteer kan word nie, of indien hy of sy 'n klagte teen die toesighouer self bet, of indien die omstandighede beoog in subreël 1 (f) aanwesig is, kan hy of sy ver toë daaroor rig tot die beampte in die department se personeelafdeling of 'n ander bevoegde senior beampte wat deur die departementshoof spesifiek aangewys is om klagtes en griewe te hanteer.
- (b) Die aangewese beampte in paragraaf (a) bedoel moet—
- (i) sender versuim optree soos in subreël 1 (b), (c), (e), en (f) uiteengesit of, binne 10 werksdae na ontvangs v a n sodanige ver toë, die saak na 'n beampte verwys wat wel die bevoegdheid besit om op te tree soos genoemde subreëls bepaal; en
- (ii) hom- of haarself vergewis dat die bepa lings van subreël 1 (g) nagekom is en dat die gegriefde beampte ten voile op die hoogte van sy of haar regte is.
- (c) Indien die aangewese beampte in paragraaf (a) bedoel, of die beampte na wie die ver toë ooreenkomstig paragraaf (b) (i) verwys is, op 'n ander standplaas gestasioneer is as die beampte wat die ver toë gerig bet, kan die prosedure voorgeskryf by subreël 1 (b), (c), (e) en (f) deur middel van korrespondensie of deur tussenkoms van 'n plaaslike of ander toesighouer wat vir daardie doel deur die departementshoof aangewys word, uitgevoer word, in welke geval die tydperke bepaal in subreël 1 (c), (e) en (f) met 'n maksimum van 10 werksdae verleng mag word.
3. (a) Indien die klagte van 'n beampte nie tot sy of haar tevredenheid ooreenkomstig die prose dure voorgeskryf in subreëls 1 en 2, of binne die tydperke daarin gemeld, uit die wag geruim kan word nie, kan hy of sy skriftelike ver toë daaroor rig tot die aangewese beampte in subreël 2 (a) bedoel.
- (b) Die skriftelike ver toë meet die volgende inlig ting bevat:
- (i) Die naam en rang van die beampte.
- (ii) 'n Volledige uiteensetting van die redes vir sy of haar ontevredenheid of mis noegtheid.
- (iii) Die steppe wat reeds gedoen is om die klagte uit die wag te ruim en die uitslag.
- (iv) Verklarings van ander persone of ander bewyse, as daar is, ter staving van die bewering van die betrokke beampte.
- (c) Die aangewese beampte in subreël 2 (a) bedoel, meet die skriftelike ver toë binne 10 werksdae na ontvangs daarvan, tesame met enige kommentaar, verduidelikings, verkla rings of bewyse wat nodig mag wees, deur bemiddeling van die gegriefde beampte se kantoor- of afdelingshoof aan die departe mentshoof voorlê.

- (d) (i) On receipt of the **representations** the head of department shall within 10 working days and in **writing** notify the officer making the **representations** that an investigation is being made into his or her complaint, giving the names of three officers not involved in the matter concerning which representations are being made, one of whom may be chosen by the officer to be **designated** by the head of **department** to undertake the investigation.
- (ii) The officer shall exercise his or her right to choose within 10 **working** days of receiving the notification and shall notify the head of department of his or her choice in writing.
- (iii) If the officer fails to do so, the head of department may designate any one of the three officers mentioned in the **notification** to undertake the investigation.
- (iv) Should the officer who is appointed to investigate the representations, (**hereinafter** referred to as the investigating officer), become **unfit** or for some reason or other be unable to continue the investigation, another person may be **designated** in the same manner as described above, to continue with the investigation.
- (e) (i) Upon being designated, the investigating officer shall begin or continue the investigation of the complaint within 5 **working** days and shall complete the investigation within a period to be specified by the head of **department**, who may **extend** such period.
- (ii) The investigating officer shall be permitted to peruse relevant **official** documents and files and to obtain from officers information necessary for the investigation.
- (iii) The investigation officer shall verbally or in writing **request** the officer who has made the representations to indicate whether he or she wishes to furnish further information and may also, if necessary, obtain **further** information from him or her.
- (iv) The aggrieved officer may, if he or she so desires, be assisted or **represented** during the investigation by any officer, or an official or **office-bearer** of a staff association or trade union which are recognised at central or departmental level and of which the officer is a member.
- (v) The investigating officer shall keep detailed minutes of the investigation and of the information obtained during the investigation.
- (vi) After the investigating officer has thoroughly investigate the complaint, he or she shall record his or her findings and submit them, together with the minutes of the investigation, evidence (if any) and his or her recommendations on the matter, to the head of department within the period **determined** by the head of department in terms of paragraph (e)(i).
- (d) (i) By **ontvangs** van die **vertoë** gee die **departementshoof** aan die **beampte** wat die **vertoë** gerig bet, binne 10 **werksdae** **skriftelik** kennis dat **ondersoek** na sy of haar **klagte** ingestel word, met **vermelding** van die name van **drie** **beamptes** wat nie by die **aangeleentheid** waaroor die **vertoë** gaan, betrokke is nie, uit wie die **beampte** een persoon kan kies wat deur die **departementshoof** aangewys moet word om die **ondersoek** te doen.
- (ii) Die **beampte** meet sy of haar keuse binne 10 **werksdae** na **ontvangs** van die **kennisgewing** uitoefen en die **departementshoof** **skriftelik** daarvan in kennis stel.
- (iii) Indien die **beampte** versuim om dit te doen, kan die **departementshoof** enige van die **drie** **beamptes** wat in die **kennisgewing** genoem is, **aanwys** om die **ondersoek** te doen.
- (iv) Indien die **beampte** wat **aangewys** is om die **vertoë** te **ondersoek**, ongeskik raak of om die een of ander rede nie met die **ondersoek** kan voortgaan nie, kan 'n ander persoon op dieselfde wyse a s hierbo beskryf, **aangewys** word om, met die **ondersoek** voort te gaan.
- (e) (i) Die **ondersoekbeampte** meet binne vyf **werksdae** na sy of haar **aanwysing** met die **ondersoek** van die **klagte** begin of voortgaan en die **ondersoek** voltooi binne die tydperk wat die **departementshoof** bepaal en wat deur horn of haar verleng mag word.
- (ii) Die **ondersoekbeampte** meet toegelaat word om insae te kry in amptelike dokumente en lêers wat ter sake is en om die inligting wat vir die **ondersoek** noodsaaklik is, van **beamptes** te verkry.
- (iii) Die **ondersoekbeampte** meet die **beampte** wat die **vertoë** gerig bet, mondeling of **skriftelik** versoek om aan te dui of hy of sy verdere inligting wil verstreken kan ook, indien nodig, verdere inligting van horn of haar inwin.
- (iv) Die **gegriefde** **beampte** kan, indien hy of sy so verlang, tydens die **ondersoek** deur enige **beampte**, of 'n amptenaar of ampsdraer van 'n personeel- of vakvereniging wat op sentrale of departementele vlak erkenning geniet en waarvan die **beampte** lid is, bygestaan of verteenwoordig word.
- (v) Die **ondersoekbeampte** meet 'n volledige notule hou van die **ondersoek** en van die inligting wat daardeur verkry is.
- (vi) Nadat die **ondersoekbeampte** die **klagte** behoorlik **ondersoek** bet, meet hy of sy, sy of haar bevindings notuleer en dit saam met die notule van die **ondersoek**, bewyse (as daar is) en sy of haar **aanbevelings** oor die **aangeleentheid** aan die **departementshoof** voorlê binne die tydperk wat ingevolge paragraaf (e) (i) deur die **departementshoof** bepaal is.

- (f) (i) On receipt of the documents referred to in paragraph (e) (vi), the head of department shall come to a decision in regard to the representations without delay and advise the officer who made the representations accordingly in writing.
- (ii) If the head of department decides that the complaint is without foundation or that for some reason the representations have to be rejected, the reasons for the decision shall be given to the officer concerned in as much detail as possible and he or she shall be informed of his or her right to demand that his or her representations be submitted to the Commission.
- (iii) All documents and evidence relating to the investigation and to the decisions taken in the matter shall be retained in a separate supplement to the officer's personnel file.
4. (a) If an officer's complaint cannot be disposed of to his or her satisfaction by following the procedures laid down in subrule 3, he or she may within ten working days of receipt of the notification referred to in subrule 3 (f) (i) demand, that all the documents relating to the complaint be submitted to the Commission. Such a demand shall be in writing and shall be submitted to the head of department through the official channels within ten working days.
- (b) Within ten working days of receiving the demand the head of department shall forward all the files and documents referred to in subrule 3 (f) (iii) to the Commission and advise the officer that this has been done.
- (c) The Commission shall—
- (i) consider the said files and documents and, if it is deemed expedient, designate, in terms of section 13 of the Public Service Commission Act, 1997, one of its members or an officer to investigate the matter within a period to be specified by the Commission, which may extend such period; and
- (ii) advise the head of department and the officer who has made the complaint accordingly through the official channels.
- (d) (i) The investigating officer thus designated, who shall have the powers contemplated in section 10 of the Public Service Commission Act, 1997, shall commence his or her investigation within five working days of his or her being informed of his or her designation and shall complete his or her investigation within the period determined by the Commission in terms of paragraph (c) (i). If the investigating officer becomes incapacitated for some reason or if he or she is not available to complete the investigation, the Commission shall, within ten working days of its being informed thereof, designate another member or officer to proceed with the investigation.
- (f) (i) By ontvangs van die dokumente in paragraaf (e) (vi) genoem, meet die departementshoof onverwyld 'n besluit oor die verhoë neem en die beamppte wat die verhoë gerig bet, skriftelik van sy of haar besluit in kennis stel.
- (ii) Indien die departementshoof besluit het dat die klagte ongegrond is of dat daar om die een of ander redenie aan die verhoë gehoor gegee kan word nie, meet die redes vir die besluit so volledig moontlik aan die betrokke beamppte verstrek word en meet hy of sy gewys word op sy of haar reg om te eis dat sy of haar verhoë aan die Kommissie voorgelê word.
- (iii) Al die dokumente en bewyse wat betrekking het op die ondersoek en op die besluite wat oor die aangeleentheid geneem is, meet in 'n afsonderlike byvoegsel by die persoonlike lêer van die beamppte bewaar word.
4. (a) Indien 'n beamppte se klagte nie tot sy of haar tevredenheid uit die wag geruimkan word deur die procedures te volg wat by subreël 3 voorgeskryf word nie, kan hy of sy binne tien werksdae na ontvangs van die kennisgewing wat in subreël 3 (f) (i) genoem is, eis dat al die stukke wat op die klagte betrekking bet, aan die Kommissie voorgelê word. Sodanige eis moet skriftelik wees en meet binne tien werksdae deur die amptelike kanale aan die departementshoof voorgelê word.
- (b) Binne tien werksdae na ontvangs van die eis moet die departementshoof al die lêers en dokumente wat in subreël 3 (f) (iii) genoem is, aan die Kommissie stuur en die beamppte kennis gee dat dit gedoen is.
- (c) Die Kommissie—
- (i) oorweeg die gemelde lêers en dokumente en, indien hy dit dienstig ag, wys hy kragtens artikel 13 van die Wet op die Staatsdienskommissie, 1997, een van sy lede of 'n beamppte aan om, binne die tydperk wat die Kommissie bepaal en wat deur horn verleng mag word, ondersoek na die aangeleentheid in te stel; en
- (ii) stel die departementshoof en die beamppte wat die klagte bet, deur die amptelike kanale daarvan in kennis.
- (d) (i) Die ondersoekbeamppte wat aldus aangewys is en die bevoegdhede het wat in artikel 10 van die Wet op die Staatsdienskommissie, 1997, bedoel word, meet binne vyf werksdae nadat hy of sy van sy of haar aanwysing verwittig is, met sy of haar ondersoek begin en meet sy of haar ondersoek voltooi binne die tydperk wat ingevolge paragraaf (c) (i) deur die Kommissie bepaal is. Indien die ondersoekbeamppte om enige rede ongeskik raak of nie beskikbaar is om die ondersoek te voltooi nie, wys die Kommissie, binne tien werksdae nadat hy daarvan verwittig is, 'n ander lid of beamppte aan om daarmee voort te gaan.

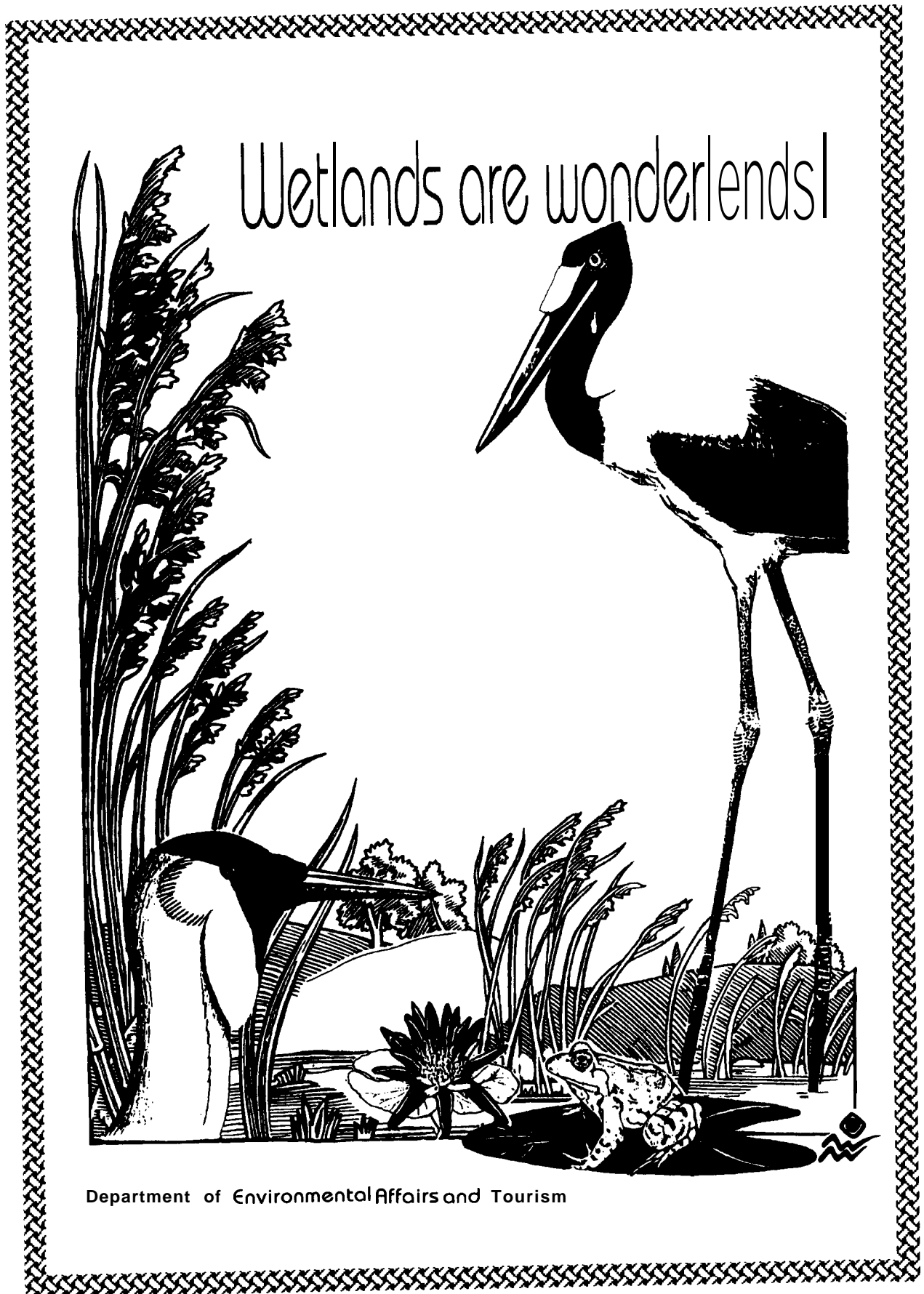
- (ii) The investigating officer shall keep detailed minutes of the investigation and of the information obtained from the aggrieved officer.
 - (iii) The investigating officer shall keep detailed minutes of the investigation and of the information obtained during the investigation.
 - (iv) After the investigation officer has thoroughly investigated the complaint, he or she shall record his or her findings and submit them, together with the minutes of the investigation, evidence (if any) and his or her recommendations on the matter, to the Commission within the period determined by the Commission in terms of paragraph (c) (i).
- (e) On receipt of the documents referred to in paragraph (b) and, if further investigation has been ordered in terms of paragraph (c) (i), the documents mentioned in paragraph (d) (iv), the Commission shall -
- (i) decide on the representations, and make a recommendation in terms of section 196 (4) (f) (ii) of the Constitution of the Republic of South Africa, 1996, and advise the aggrieved officer through the official channels that a recommendation has been so made; or
 - (ii) refer the matter to the investigating officer for further investigation,
5. After the department concerned has made a decision regarding the recommendation by the Commission contemplated in subrule 4, the head of department shall advise the Commission and the aggrieved officer accordingly.

C. Savings

Notwithstanding the repeal of Public Service Regulation A22, any complaint or grievance instituted or commenced under Public Service Regulation A22 shall be continued and concluded as if Public Service Regulation A22 had not been repealed.

C. Oorgangsbepaling

Nieteenstaande die herroeping van Staatsdiensregulasie A22, sat enige klagte of grief wat in terme van Staatsdiensregulasie A22 ingestel is of 'n aanvang geneem bet, voortgesit en afgehandel word asof Staatsdiensregulasie A22 nie herroep is nie.



Department of Environmental Affairs and Tourism

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