

EXTRAORDINARY



BUITENGEWONE

THE UNION OF SOUTH AFRICA

Government Gazette

Staatskoerant

VAN DIE UNIE VAN SUID-AFRIKA

PUBLISHED BY AUTHORITY

UITGEGEE OP GESAG

VOL. XCV.]

PRICE 6d.

CAPE TOWN, 31st JANUARY, 1934.
KAAPSTAD, 31 JANUARIE 1934.

PRYS 6d.

[No. 2164.

PARLIAMENTARY NOTICE.

THE SENATE.

The following Bill has been introduced into this House and is published forthwith in accordance with Standing Order No. 73.

MAURICE J. GREEN,
Clerk of the Senate.

The Senate,
Houses of Parliament,
Cape Town,
30th January, 1934.

S.B. 2—'34 Natural and Historical Monuments,
Relics and Antiques Bill ii

PARLEMENTÈRE KENNISGEWING.

DIE SENAAT.

Die volgende Wetsontwerp is in die Huis ingedien en word hiermee gepubliseer ooreenkomstig Artikel 73 van die Reglement van Orde.

MAURICE J. GREEN,
Klerk van die Senaat.

Die Senaat,
Parlementshuis,
Kaapstad,
30 Januarie 1934.

S.B. 2—'34. Wetsontwerp op Natuurlike en Historiese Gedenkwaardighede en Oudhede iii

BILL

To repeal the Bushman Relics Protection Act, 1911, and the Natural and Historical Monuments Act, 1923; to re-enact their provisions in amended and amplified form; to provide for the control of the export of certain antique objects, and for matters incidental thereto.

(Introduced by the MINISTER OF THE INTERIOR.)

BE IT ENACTED by the King's Most Excellent Majesty, B the Senate and the House of Assembly of the Union of South Africa, as follows :—

Repeal of Acts Nos. 22 of 1911 and 6 of 1923.

Constitution of commission.

Members of commission not to be remunerated.

The commission body corporate.

Funds of commission.

Functions of commission.

1. The Bushman Relics Protection Act, 1911 and the Natural and Historical Monuments Act, 1923 are hereby repealed : Provided that notwithstanding such repeal, the Commission for the Preservation of Natural and Historical Monuments of the Union, established in terms of the lastmentioned act, shall continue to exist under the name of "the Commission for the Preservation of Natural and Historical Monuments, Relics and Antiques", and the persons who are at the commencement of this Act members of the said commission, shall continue to be such members in terms of their appointment, but subject to any regulations made under section eleven. 5

2. (1) The commission shall consist of not less than seven 15 members.

(2) If the commission consists of seven, eight or nine members, three shall form a quorum. If the commission consists of more than nine members, not less than one-third of the total membership shall form a quorum. 20

(3) Subject to the provision of sub-section (5) a decision of the majority of the members of the commission present at any meeting shall be deemed to be a decision of the commission.

(4) The members of the commission shall choose one of their 25 number as chairman, who shall convene all meetings of the commission. If the chairman is unable to convene a meeting, any three other members may convene a meeting. If at any meeting of the commission the chairman is absent, the members present shall choose one of their number as chairman at that 30 meeting.

(5) The member presiding as chairman at any meeting of the commission shall have a deliberate as well as a casting vote.

(6) The Minister may appoint new members to the commission and he shall notify every such appointment in the *Gazette*. 35

3. No remuneration shall be paid to the members of the commission, but each member may draw from the funds of the commission his reasonable expenses for travelling and subsistence while engaged upon the business of the commission at a tariff which may be prescribed by regulation under section eleven. 40

a. 4. The commission shall be a body corporate capable in law of suing and being sued, of acquiring, holding, alienating, hypothecating, letting and hiring property, movable and immovable, and of performing such acts as bodies corporate 45 may by law do, subject to the provisions of this Act.

5. The funds of the commission shall consist of such grants, donations, fees and annual subscriptions as may from time to time be made to it or be payable to it.

6. (1) The commission may— 50
 (a) if it has sufficient funds available for the purpose, employ a secretary and such other servants as may be necessary to enable the commission to carry out its functions and pay their remuneration from its funds ;
 (b) make a list of all objects whose proclamation under section eight it considers desirable ;
 (c) take steps to ascertain the owner of any such object ;
 (d) if it has sufficient funds available for the purpose, purchase or otherwise acquire any such object or by agreement with the Government or any public body 60 or with any private person having the ownership or control of any such object, take such steps as may be practicable to preserve it ;

WETSONTWERP

Om die „Boesmanoverblijfselen-Beschermingswet, 1911,” en die „Natuurlike en Historiese Monumentenwet, 1923” te herroep en hulle bepalings, gewysig en uitgebrei, weer in te voer; om voorstiening te maak vir die reëeling van die uitvoer van sekere antieke voorwerpe en vir daarmee verbandhoudende sake.

(Ingedien deur die MINISTER VAN BINNELANDSE SAKE.)

DIT WORD BEPAAL deur Sy Majesteit die Koning, die Senaat en die Volksraad van die Unie van Suid-Afrika, as volg:—

1. Die „Boesmanoverblijfselen-Beschermingswet 1911” en die „Natuurlike en Historiese Monumenten Wet, 1923,” word hiermee herroep: Met die verstande dat ondanks daardie herroeping, die „kommissie voor het behoud van de natuurlike en historische monumenten van die Unie” ingevolge laasgenoemde wet ingestel, bly voortbestaan onder die naam van „die kommissie tot behoud van natuurlike en historiese gedenkwaardighede en oudhede” en die persone wat by die inwerkingtreding van hierdie Wet lede van bedoelde kommissie is, sodanige lede bly volgens hulle aanstelling, dog met inagneming van die kragtens artikel *elf* uitgevaardigde regulasies.
- 10 2. (1) Die kommissie bestaan uit nie minder as sewe lede. Samestelling van kommissie.
 (2) As die kommissie uit sewe, agt of nege lede bestaan, maak drie 'n kworum uit. As die kommissie uit meer as nege lede bestaan, maak nie minder as een derde van die totale ledetal 'n kworum uit.
- 20 3. (3) Behoudens die bepaling van sub-artikel (5) word 'n besluit van die meerderheid van die lede van die kommissie wat op 'n vergadering aanwesig is, as 'n besluit van die kommissie aangemerkt.
- 25 (4) Die lede van die kommissie moet een uit hulle midde as voorsitter kies, wat alle vergaderings van die kommissie moet belê. As die voorsitter nie 'n vergadering kan belê nie, kan drie ander lede 'n vergadering belê. As die voorsitter van 'n vergadering afwesig is, moet die aanwesige lede een uit hulle midde kies as voorsitter van daardie vergadering.
- 30 4. (5) Die lid wat by 'n vergadering van die kommissie voorsit, het 'n beslissende sowel as 'n beraadslagende stem.
- 35 (6) Die Minister kan nuwe lede van die kommissie aanstel en moet elke sodanige aanstelling in die *Staatskoerant* bekendmaak.
3. Die lede van die kommissie word nie besoldig nie, dog Lede van elke lid kan uit die gelde van die kommissie sy redelike reis- en kommissie word onderhoudskoste trek terwyl hy die kommissie se besigheid nie besoldig verrig, volgens 'n tarief wat ingevolge artikel *elf* deur regulasies vasgestel kan word.
4. Die kommissie is 'n regspersoon wat as eiser en as ver- Kommissie is 'n weerder in regte kan optree, sowel roerende as onroerende regspersoon.
- 40 goed kan verkry, besit, vervreemd, verpand, huur en verhuur en alle handelings kan verrig wat regspersone regtens mag verrig, dog met inagneming van die bepalings van hierdie Wet.
5. Die middele van die kommissie bestaan uit die toelae, Middele van skenkings, fooie en jaarlikse bydrae wat van tyd tot tyd aan hom verleen of verskuldig word.
- 45 6. (1) Die kommissie kan— Werkkring van kommissie.
 (a) as hy oor voldoende middele daarvoor beskik, 'n sekretaris en ander dienare aanstel, wat nodig is om hom in staat te stel, sy werksaamhede te verrig en hulle besoldiging uit sy middele betaal;
- 50 (b) 'n lys aanlê van alle voorwerpe waarvan hy proklamering kragtens artikel *agt* wenslik ag;
- 55 (c) verneem wie die eienaar van so'n voorwerp is;
- (d) as hy oor voldoende middele daarvoor beskik, so'n voorwerp koop of op ander wyse verkry of by ooreenkoms met die Regering of 'n openbare liggaam of met 'n privaatpersoon wat die eienaar van so'n voorwerp is of daaroor beskik, doenlike maatreëls tref om dit in stand te hou;

- (e) assume control over any such object if requested by the person having the ownership or control thereof so to do, and as trustee for the State accept any such object which the owner desires to donate or has bequeathed to the State;
 - (f) recommend to the Minister the proclamation of such objects in terms of section eight:
 - (g) through any of its members have access at all reasonable times to any monument or relic proclaimed under section eight:
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(2) The commission shall—

- (a) when required by the Minister investigate and report upon any matter relating to any object proclaimed under section eight or upon the desirability of so proclaiming any object;
 - (b) on or before the thirty-first day of December in every year furnish to the Minister a report upon its work during the year which ended on the thirty-first day of March last preceding and on any other matters connected with the preservation of monuments, relics and antiques which it may desire to bring to the attention of the Minister;
 - (c) make a register of all monuments, relics and antiques proclaimed as such under section eight.
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Restriction on power to alienate, etc.

7. Save with the written consent of the Minister, the commission shall not alienate, hypothecate or let any object which is its property, or for which it is trustee as aforesaid.

Minister may proclaim monuments, relics or antiques.

8. The Minister may from time to time, on the recommendation of the commission, by notice in the *Gazette* proclaim to be—

- (a) a monument, any area of land having a distinctive or beautiful scenery or geological formation, any area of land containing a rare or distinctive or beautiful flora or fauna, any area of land containing objects of archaeological interest, any waterfall, cave, grotto, avenue of trees, old tree or old building and any other object (whether natural or constructed by man) of aesthetic, historical, archaeological or scientific value or interest;
- (b) a relic, any fossil of any kind, any drawing or painting on stone or petroglyph known or commonly believed to have been executed by Bushmen or other aborigines of South Africa, or by any people who inhabited or visited South Africa before the advent of the Europeans, and any implement or ornament known or commonly believed to have been used by them, and any anthropological or archaeological contents of the graves, caves, rock shelters, middens, shell mounds or other sites used by them;
- (c) an antique, any movable objects (not being a monument or relic) of aesthetic, historical, archaeological or scientific value, or interest, the whole or more valuable portion whereof has for more than one hundred years been in any part of South Africa included in the Union, or which was made therein more than one hundred years before the publication of the said notice:

Provided that—

- (i) at least one month before recommending to the Minister the proclamation of any object which does not belong to the State, the commission shall notify the owner thereof in writing that it proposes to make such recommendation, and such owner may thereupon lodge with the commission objections in writing to the proposed recommendation; and
- (ii) in making any such recommendation the commission shall submit to the Minister proof that the owner concerned has received the said notice and shall also transmit to the Minister any objections which may have been lodged against such recommendation.

Alienation, etc., of proclaimed objects.

9. (1) Whenever the owner of any object proclaimed under the provisions of section eight alienates, pledges or lets it he shall forthwith inform the commission of the name and address of the alienee, pledgee or lessee.

(2) No person shall, without the written consent of the commission, destroy, or damage any monument or relic or make any alteration thereto or remove it from its original site or export it from the Union.

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- (e) op versoek van die eienaar van so'n voorwerp of van die persoon wat daaroor beskik, die toesig daaroor aanvaar en so'n voorwerp wat sy eienaar aan die Staat wil skenk of vermaak het, as kurator vir die Staat aanneem ;
- 5 (f) by die Minister die proklamering van sodanige voorwerpe ingevolge artikel *agt* aanbeveel ;
- (g) deur enigeen van sy lede op alle redelike tye toegang eis tot elke ingevolge artikel *agt* geproklameerde gedenkwaardigheid of oudheids-oorblyfsel.
- 10 (2) Die kommissie moet—
- (a) op las van die Minister ondersoek instel en verslag doen omtrent sake in verband met 'n voorwerp wat ingevolge artikel *agt* geproklameer is of omtrent die wenslikheid om een of ander voorwerp aldus te proklameer ;
- 15 (b) aljaarliks op of voor een-en-dertig Desember aan die Minister 'n verslag inlewer oor sy werkzaamhede gedurende die jaar wat op die voorafgaande een-en-dertigste Maart geëindig het en oor alle ander sake in verband met die instandhouding van gedenkwaardighede, oudheids-oorblyfsels en antieke voorwerpe wat hy onder die Minister se aandag wil bring ;
- 20 (c) 'n register aanlê van alle ingevolge artikel *agt* geproklameerde gedenkwaardighede, oudheids-oorblyfsels en antieke voorwerpe.
- 25 7. Die kommissie mag 'n voorwerp wat aan hom behoort of Beperking van waarvoor hy, soas voormeld, kurator is, nie sonder skriftelike vervreemdingstoestemming van die Minister vervreemd, verpand of verhuur bevoegdheid.
- 30 nie.
8. Die Minister kan van tyd tot tyd op aanbeveling van die Minister kan kommissie by kennisgewing in die *Staatskoerant* proklameer—
- (a) as 'n gedenkwaardigheid : elke gebied met 'n eien-aardige of skone landskap of geologiese formasie ; elke gebied waarin seldsame of eien-aardige of skone plante of diere voorkom ; elke gebied waarin voorwerpe van argeologiese belang voorkom ; elke waterval, spelonk, grot, boomlaning, ou boom of ou gebou of elke ander voorwerp (hetys natuurlik of deur die mens vervaardig) van estetiese, historiese, argeologiese of wetenskaplike waarde of belang ; of
- 35 (b) as 'n oudheids-oorblyfsel : elke fossiel van welke aard ook, elke tekening of skildery of graving op steen, waarvan bekend is of algemeen veronderstel word dat dit uitgevoer is deur Boesmans of ander inboorlinge van Suid-Afrika of deur 'n ander volk wat Suid-Afrika voor die koms van die Europeane bewoon of besoek het, en elke werktuig of sieraad waarvan bekend is of algemeen veronderstel word dat hulle dit gebruik het, en die antropologiese of argeologiese inhoud van die graftes, spelonke, rots-skulplekke, ashope, skulphope of ander plekke wat hulle gebruik het ;
- 40 (c) as 'n antieke voorwerp : elke roerende voorwerp (wat nie 'n gedenkwaardigheid of 'n oudheids-oorblyfsel is nie) van estetiese, historiese, argeologiese of wetenskap-like waarde of belang, wat geheel of waarvan die mees waardevolle deel reeds meer as honderd jaar lang in 'n deel van Suid-Afrika is, wat in die Unie opgeneem is, of meer as honderd jaar voor die uitvaardiging van bedoelde kennisgewing daarin vervaardig is :
- 45 Met dien verstande dat—
- (i) die kommissie minstens een maand voordat hy die proklamering van 'n voorwerp wat nie aan die Staat behoort nie, by die Minister aanbeveel, aan die eienaar daarvan skriftelik moet kennis gee dat die kommissie voornemens is om die aanbeveling te doen, waarop daardie eienaar by die kommissie 'n skriftelike beswaar teen die voorgenome aanbeveling kan indien ; en
- 50 (ii) wanneer die kommissie so'n aanbeveling doen, hy aan die Minister die bewys moet lewer dat die betrokke eienaar bedoelde kennisgewing ontvang het en ook alle teen die aanbeveling ingediende besware aan die Minister moet instuur.
- 55 9. (1) Wanneer die eienaar van 'n kragtens artikel *agt* geproklameerde voorwerp dit vervreemd, verpand of verhuur, moet hy onverwyd die naam en adres van die persoon aan wie die voorwerp vervreemd, verpand of verhuur is, aan die kommissie medeel.
- 60 (2) Niemand mag sonder skriftelike toestemming van die kommissie 'n gedenkwaardigheid of oudheids-oorblyfsel vernietig, beskadig of verander of van sy oorspronklike staanplek verwyder of uit die Unie uitvoer nie.
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(3) Any person desiring to remove any monument or relic from its original site or to export it from the Union shall, when applying to the commission for its consent, supply the commission with a drawing or photograph of the monument or relic in question and shall state the exact locality in which it is situated and the place to which and purposes for which it is desired to remove or to export it. 5

(4) No person having control of any antique shall without the written consent of the commission destroy or damage it or export it from the Union. 10

(5) Any person desiring to export any antique from the Union shall, when applying to the commission for its consent, supply the commission with a photograph and description thereof and shall state the place to which and purpose for which it is to export the antique. 15

Penalties.

10. Any person who knowingly—

- (a) fails to comply with or contravenes any provision of section *nine*; or
- (b) in any application to the commission for its consent makes any statement which is false in any material respect or supplies therewith any drawing or photograph which is false in any material respect, shall be guilty of an offence and liable on conviction to a fine not exceeding one hundred pounds or in default of payment to imprisonment not exceeding six months, and in the case of the unauthorized export of an antique the said fine may be increased to a sum not exceeding seventy-five per cent. of the market value of such antique. 25

Regulations.

11. The Minister may make regulations, not inconsistent with this Act, prescribing— 30

- (a) the procedure in connection with meetings of the commission;
- (b) the qualifications of its members;
- (c) the period for which its members shall hold office;
- (d) the rates of travelling and subsistence allowances to be paid to members of the commission. 35

Bye-laws.

12. (1) Subject to the approval of the Minister, the commission may make bye-laws—

- (a) regulating the access of the public to monuments, relics or antiques which are the property of the commission or which are by agreement with the owner under its control, or which are vested in it as trustee as aforesaid; 0
- (b) fixing fees which shall be payable to the commission for such access; 45
- (c) safeguarding monuments, relics and antiques from disfigurement, alteration, destruction or export;
- (d) regulating the excavation and removal of relics.

(2) Such bye-laws may prescribe fines not exceeding twenty-five pounds for contravention thereof or non-compliance therewith. 50

Definitions.

13. In this Act—

- “antique” means an object proclaimed by the Minister as such under the provisions of section *eight*;
- “commission” means the commission referred to in section *one*;
- “Minister” means the Minister of the Interior or any other Minister of State acting in his stead;
- “monument” means an area or object proclaimed by the Minister as such under the provisions of section *eight*;
- “relic” means an object proclaimed by the Minister as such under the provisions of section *eight*.

Short title and commencement.

14. This Act shall be known as the Natural and Historical Monuments, Relics and Antiques Act, 1934, and shall come into operation on a date to be fixed by the Governor-General by proclamation in the *Gazette*. 65

(3) Iemand wat 'n gedenkwaardigheid of oudheids-oorblyfsel van sy oorspronklike staanplek wil verwyder of uit die Unie uitvoer moet, wanneer hy die kommissie se toestemming daartoe aanvra, aan die kommissie 'n tekening of fotografie van die betrokke gedenkwaardigheid of oudheids-oorblyfsel verstrek en die juiste plek waar dit geleë is en die plek waarheen en doel waarvoor hy dit wil verwyder of uitvoer, aangee.

(4) Niemand wat oor 'n antieke voorwerp beskik, mag dit sonder skriftelike toestemming van die kommissie vernietig, beskadig of uit die Unie uitvoer nie.

(5) Iemand wat 'n antieke voorwerp uit die Unie wil uitvoer, moet, wanneer hy die kommissie se toestemming daartoe aanvra, aan die kommissie 'n fotografie en beskrywing daarvan verstrek en die plek waarheen en doel waarvoor hy dit wil uitvoer, vermeld.

10. Elkeen wat wetens—

Strawwe.

(a) 'n bepaling van artikel *nege* veronagsaam of oortree ; of
 (b) in 'n aansoek by die kommissie vir sy toestemming 'n medeling doen wat in 'n belangrike oopsig vals is of
 20 daarmee 'n tekening of fotografie verstrek wat in 'n belangrike oopsig vals is,
 maak hom aan 'n misdryf skuldig en is by veroordeling strafbaar met 'n boete van hoogstens honderd pond of by wanbetaling, met gevangenisstraf van hoogstens ses maande, en in geval
 25 van die ongeoorloofde uitvoer van 'n antieke voorwerp, kan bedoelde boete verhoog word tot vyf-en-sewentig persent van die markwaarde van daardie antieke voorwerp.

11. Die Minister kan regulasies uitvaardig wat nie met Regulasies hierdie Wet onbestaanbaar mag wees nie, tot vasstelling van—

30 (a) die prosedure in verband met vergaderings van die kommissie ;
 (b) die vereistes vir lidmaatskap daarvan ;
 (c) die ampsduur van sy lede ;
 (d) die tarief van die aan lede van die kommissie te betale
 35 reis- en onderhoudstoelae.

12. (1) Met goedkeuring van die Minister kan die kommissie Verordenings verordenings uitvaardig—

40 (a) tot reëling van die toegang van die publiek tot gedenkwaardighede, oudheids-oorblyfsels of antieke voorwerpe wat aan die kommissie behoort of wat volgens ooreenkoms met die eienaar onder die kommissie se toesig staan of waaronder hy kurator is, soas voormeld ;
 [(b) tot vasstelling van die fooie wat vir bedoelde toegang aan die kommissie te betale is ;
 45 (c) tot beveiliging van gedenkwaardighede, oudheids-oorblyfsels en antieke voorwerpe teen skending, verandering, vernietiging of uitvoer ;
 (d) tot reëling van die opgraving en verwydering van oudheids-oorblyfsels.

50 (2) Sodanige verordenings kan op hulle oortreding of veronag-saming 'n boete van hoogstens vyf-en-twintig pond stel.

13. In hierdie Wet beteken—

Woordomskrywing.

„antieke voorwerp”, 'n kragtens artikel *agt* deur die Minister as sodanig geproklameerde voorwerp ;
 55 „kommissie”, die kommissie vermeld in artikel *een* : „Minister”, die Minister van Binnelandse Sake of 'n ander Minister wat namens hom optree ; „gedenkwaardigheid”, 'n kragtens artikel *agt* deur die Minister as sodanig geproklameerde gebied of voorwerp ; „oudheids-oorblyfsel”, 'n kragtens artikel *agt* deur die Minister as sodanig geproklameerde voorwerp.

14. Hierdie Wet heet die Wet op Natuurlike en Historiese Kort titel en in Gedenkwaardighede en Oudhede, 1934, en tree in werking op werkingtreding.
 65 'n dag deur die Goewerneur-generaal by proklamasie in die *Staatskoerant* vas te stel.