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DEPARTMENT OF TOURISM AND AVIATION

DECREE No. 23 OF 1990

CULTURAL INSTITUTION DECREE, 1990

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CULTURAL INSTITUTIONS DECREE, 1990

To provide for the establishment of a national museum, for the declaration of certain cultural institutions as declared institutions, for the establishment of councils to control such declared institutions and for payment of subsidies to such institutions and to provide for incidental matters.

BE IT DECREED by the Council of State for the Republic of Ciskei, as follows:-

1. Definitions. - In this decree unless the context indicates otherwise -

"administrative authority" means the administrative authority as defined in section 1(1) of the Public Service Act, 1981 (Act 2 of 1981);

"council" means a council referred to in section 5;

"declared institution" means an institution declared under section 2(2) to be subject to the provisions of this law or deemed to have been so declared;

"Head of State" means the Chairman of the Council of State;

"institution" means a museum, library, collection or other cultural institution deemed by the Minister to be of kindred character;

"Minister" means the Minister to whom the administration of any of the provisions of this law has been assigned in terms of section 12 (1) in so far as those provisions apply to a particular institution;

"prescribed" means prescribed by regulation under section 11;

"this Decree" includes the regulations made under section 11;

"Treasury" means the Councillor of State for Finance and Economic Development and includes any officer of his department acting under his authority.

2. Establishment of national museum and declaration of institutions. - (1) The Head of State may by proclamation in the *Gazette*;

(a) establish a national museum on land set aside for the purpose in terms of section 68 of the Republic of Ciskei Constitution Act, 1981 (Act 20 of 1981); and

(b) assign a name to the said museum and, if it is at any time necessary to do so, alter such name.

(2) (a) The Minister may, with the concurrence of the Treasury and by notice in the *Gazette*, declare that with effect from a date fixed in such notice the institution specified therein shall be subject to the provisions of this law.

(b) The national museum established under subsection (1) shall, as from the date of its establishment, be deemed to be a declared institution.

3. Declared institution may be subsidized. - For such purposes and on such basis and subject to such conditions as he may determine with the concurrence of the Treasury, the Minister may, out of moneys appropriated for the purpose by the Council of State pay subsidies to a declared institution.

4. Declared institution to be a juristic person. - (1) A declared institution shall be a corporate body with perpetual succession and capable in law of suing or being sued in its corporate name and may, with the prior approval of the Minister and the concurrence of the Treasury, purchase or otherwise acquire, hold, hire, let, sell, exchange or otherwise alienate, hypothecate or encumber immovable property or invest, lend or borrow money.

(2) Subject to the provisions of the Historical Monuments Act, 1989 (Act 10 of 1989) and unless the Minister has otherwise directed, a declared institution may -

(a) let, sell, exchange or otherwise alienate any specimen, collection or other movable property of which it is the owner, and

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(b) purchase or otherwise acquire, possess or hire any specimen, collection or other movable property,

and may perform all such other acts as are necessary for or incidental to the exercise of its powers and the performance of its functions.

(3) When any particular institution is under section 3 declared to be subject to the provisions of this law, all its assets and liabilities at the time of such declaration shall vest in or devolve upon such declared institution.

5. Control and management of declared institution. - (1) (a) The control and management of a declared institution shall be vested in a council consisting of not less than seven or more than fifteen members (including members *ex officio*) who shall be nominated or appointed as such in the prescribed manner.

(b) An *ex officio* member who is an officer or employee in the public service may appoint his deputy or other senior assistant as his alternate for the purpose of attendance at any meeting of a council or the exercise of any vote on his behalf: Provided that any such *ex officio* member who, without lawful excuse, fails to attend any meeting of a council of which he has received due notice shall, for the purposes of the Public Service Act, 1981 be deemed to have rendered himself guilty of misconduct.

(2) If any institution is, at the date on which it is declared to be subject to the provisions of this law, controlled and managed by a council or other body, such council or other body shall, until a council is constituted in respect of such institution in terms of this law, continue in office and have all rights and functions of a duly constituted council.

(3) (a) A member of a council (other than a member *ex officio*) shall be appointed for a period of three years unless the Minister, when appointing such member, determine a shorter period.

(b) Any member whose period of office has expired may be reappointed.

(4) If the office of a member of a council becomes vacant before the expiration of the period for which he has been appointed, the Minister may appoint another person to fill the vacancy for the unexpired period of office of that member.

(5) A member of a council (other than an *ex officio* member) shall vacate his office -

(a) if he resigns in writing;

(b) if he is absent from three consecutive meetings of the council without its leave;

(c) if he becomes insolvent;

(d) if he becomes mentally ill; or

(e) if he is convicted of an offence and sentenced to imprisonment without the option of a fine.

(6) A member of a council who is not in the full-time employment of the State shall be entitled to such allowances for attendance at meetings of the council or the performance of other business on its behalf as the Minister may have approved with the concurrence of the Treasury.

6. Chairman of council. - (1) The chairman of a council shall be appointed as such by the Minister from amongst its members.

(2) If the chairman vacates his office as such before the expiration of his period in office as a councillor, the Minister shall appoint another member of the council as chairman.

(3) If the chairman is absent from or unable to preside at any meeting, the members then present may elect one of their number to preside at that meeting and to perform the duties and functions of the chairman.

(4) In the event of an equality of votes at any meeting of a council the chairman shall also have a casting vote.

7. Functions of a council. - (1) A council, shall -

(a) hold and preserve all movable property of whatever kind placed in the care of or loaned or belonging to its declared institution;

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(b) receive, hold and preserve all specimens, collections or other movable property placed under its care and control in terms of section 9;

(c) ensure the efficient management and control of the moneys received by its declared institution and use such moneys for defraying expenses arising from the performance of its lawful functions;

(d) keep such books, accounts and other records as may be necessary for the purposes of paragraph (c) and as may be prescribed from time to time by the Auditor-General;

(e) keep a proper record of the property of its declared institution and submit to the head of the department of the Minister any returns or information required by him in regard thereto;

(f) subject to the provisions of this Act and with the approval of the Minister, determine the principal aims and objects of its declared institution and pursue those aims and objects resolutely; and

(g) generally do all such other things as may be necessary to promote and enhance the status and value of its declared institution.

(2) A council may determine the hours during which and the conditions (including any restrictions) subject to which members of the public or any particular class or group of persons may visit or do any study or research in its declared institution or any part thereof and the admission charges (if any) which shall be payable, either generally or on any particular days.

(3) The objects and functions of a declared institution may be described in the proclamation contemplated in subsection (1) of section 2 or in the notice referred to in subsection (2) of that section or in any other notice in the *Gazette*.

(4) The financial year of a council shall be from the first day of April to the thirty-first day of March next succeeding and its books and accounts shall be audited by the Auditor-General.

8. Fixed establishment of declared institutions and conditions of service of its employees. - (1) The Minister shall, after due consultation with the administrative authority and after such investigation as that authority may deem necessary, determine the nature and number of posts on the fixed establishment of a declared institution.

(2) The salaries, salary scales and allowances attaching to the aforesaid posts shall be determined or prescribed by the Minister in like manner.

(3) Subject to any regulations made by the Minister under section 11, the power to appoint any person to a post on the establishment of a declared institution or to transfer a person holding such a post to another such post or to terminate the services of a person holding such a post vest in the council of the institution: Provided that the Minister may direct that the appointment of persons to such posts as the Minister may specify shall be subject to his prior approval.

(4) Nothing in this section contained shall be construed as prohibiting or preventing the secondment to any council in terms of the Public Service Act, 1981, whether on a full-time or part time basis, of an officer or employee in the service of the department of the Minister for the performance of any duty attaching to a post on the fixed establishment of any declared institution.

9. State property may be made available to council. - (1) (a) The Minister may with the approval of, and subject to any conditions determined by, the Council of State make available to a council any State land or building for use by that council in the continuance, management and control of its declared institution and may take steps for the maintenance of any such building.

(b) Nothing in paragraph (a) contained shall be construed as prohibiting the alienation to any council in terms of the State Land Disposal Act, 1961 (Act 48 of 1961) or any other law of any land owned by the State.

(2) Subject to the provisions of the Historical Monuments Act, 1989, the Minister may place under the management and care of the council of a declared institution -

(a) any specimen, collection or other movable property belonging to the State; or

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(b) any specimen, collection or other movable property which has been given or bequeathed to the Government or to Ciskei or to the inhabitants of Ciskei for its or their benefit or use and in respect of which no other provision has been made for the protection or preservation thereof by the donor or testator.

10. Disestablishment of declared institution. - (1) The Head of State may, on the recommendation of the Council of State and by proclamation in the *Gazette*, disestablish any declared institution and in such proclamation repeal any proclamation or notice issued under section 2 as from a specified date.

(2) With effect from the date so specified -

(a) the declared institution in question shall cease to exist;

(b) all the assets, rights, liabilities and obligations of that declared institution, as they existed immediately prior to such date, shall vest in such other institution or in such person as the Council of State may have determined when making the recommendation referred to in subsection (1); and

(c) the property referred to in section 7 (1)(a) and (b) and still in existence shall be dealt with in such manner as the Minister may determine.

11. Regulations. - (1) Subject to the provisions of subsections (2) and (3), the Minister may make regulations regarding -

(a) the appointment of members of a council and the filling of casual vacancies on a council;

(b) the convening of, the procedure at, and the quorum for, meetings of a council;

(c) the safeguarding, custody and preservation of specimens, collections and other property belonging to or otherwise in the possession of a council;

(d) the investigation of charges of misconduct or inefficiency against employees of a declared institution or of any alleged irregularity in the affairs of or with respect to a declared institution, the procedure to be followed and the summoning and attendance of witnesses to give evidence thereat and the punishment of offenders;

(e) the management, control, utilization and disposal of all moneys received by any council;

(f) the keeping of records and the times when and form in which, and the persons to whom, financial accounts and reports shall be rendered in respect of declared institutions;

(g) any matter which shall or may be prescribed by regulation under this law, and

(h) any other matter which the Minister may deem necessary or expedient to prescribe for the achievement of the aims and objects of this law, the generality of this paragraph not being limited by the provisions of any preceding paragraph.

(2) The Minister shall not make any regulations relating to any moneys or allowances payable to any person or relating to the control of any money except with the concurrence of the Treasury.

(3) Different regulations may be made under subsection (1) in respect of different declared institutions.

(4) The regulations may prescribe penalties for any contravention thereof or failure to comply therewith not exceeding a fine of R1000.

12. Administration. - (1) The Head of State may by proclamation in the *Gazette* assign the administration of the provisions of this Decree to any Minister or assign to different Ministers the administration of any of the said provisions in so far as they apply to different declared institutions.

(2) The President may from time to time vary or amend such a proclamation.

13. Repeal of laws. - The laws mentioned in the Schedule are hereby repealed.

14. Short title. - This Decree shall be called the Cultural Institutions Decree, 1990.

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SCHEDULE

No. and year of law	Short title
Act 27 of 1969	National Culture Promotion Act, 1969
Act 29 of 1969	Cultural Institutions Act, 1969
Act 93 of 1974	Cultural Institutions Amendment Act, 1974
Act 17 of 1977	National Culture Promotion Amendment Act, 1977
Act 11 of 1981	Education and Culture Laws Amendment Act, 1981
Ordinance 8 of 1975	Museums Ordinance, 1975

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