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REPUBLIC OF SOUTH AFRICA REPUBLIEK VAN SUID-AFRIKA

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THE PRESIDENCY

No. 1316

7 December 2001

It is hereby notified that the President has assented to the following Act, which is hereby published for general information:—

No. 69 of 2001: Cultural Laws Second Amendment Act, 2001.

DIE PRESIDENSIE

No. 1316

7 Desember 2001

Hierby word bekend gemaak dat die President sy goedkeuring geheg het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 69 van 2001: Tweede Wysigingswet op Kultuurwette, 2001.



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GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactments.
- Words underlined with a solid line indicate insertions in existing enactments.
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*(English text signed by the President.)
(Assented to 4 December 2001.)*

ACT

To amend the Cultural Institutions Act, 1998, so as to further regulate the amalgamation of declared institutions; to provide that a declared institution may in certain circumstances without prior approval of the Minister sell or otherwise alienate any specimen, collection or other movable property; to further regulate the constitution of a council; to further regulate the vacation of office by members of a council; to provide for the dissolution of a council; to empower the Minister to determine criteria for the allowances payable to and reimbursement of expenses incurred by members of the council; to empower the Minister to appoint the chairperson of a council; to provide for the submission by a council of a business plan and an annual report to the Minister; and to provide for the tabling of the annual report in Parliament by the Minister; to amend the National Heritage Council Act, 1999, so as to empower the Minister to appoint a chairperson for the Council; to provide for the dissolution of the Council; to empower the Minister to determine criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council; and to provide for the submission by the Council of a business plan to the Minister; and to provide for matters connected therewith.

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

Amendment of section 3 of Act 119 of 1998

1. Section 3 of the Cultural Institutions Act, 1998, is hereby amended—
 - (a) by the substitution for subsection (3) of the following subsection:
“(3) The Minister may by notice in the *Gazette* declare that [an] a declared institution or any other institution must be amalgamated with a flagship institution established by section 6(1) or (2).”; and
 - (b) by the addition of the following subsections:
 - “(4) The Minister may by notice in the *Gazette* declare that a declared institution or other institution must be amalgamated with other declared institutions or other institutions to form a new flagship institution.”
 - “(5) A flagship institution declared under subsection (4) is subject to section 6(4).”.

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- Woorde met 'n volstreep daaronder, dui invoegings in bestaande verordenings aan.

(Engelse teks deur die President geteken.)
(Goedgekeur op 4 Desember 2001.)

WET

Tot wysiging van die Wet op Kulturele Instellings, 1998, ten einde die samesmelting van verklaarde instellings verder te reguleer; voorsiening daarvoor te maak dat 'n verklaarde instelling onder sekere omstandighede, sonder voorafverkreë goedkeuring van die Minister, enige monster, versameling of ander roerende goed kan verkoop of op 'n ander wyse kan vervreem; die samestelling van 'n raad verder te reël; om verder die ontruiming van die amp deur raadslede te reel; om voorsiening te maak vir die ontbinding van 'n raad; die Minister te magtig om maatstawwe te bepaal vir die toelaes betaalbaar aan en terugbetaling vir uitgawes wat aangegaan is deur lede van die raad; die Minister te magtig om die voorsitter van 'n raad aan te stel; voorsiening te maak vir die indiening van 'n besigheidsplan en jaarverslag deur die raad aan die Minister; en om voorsiening te maak vir die tertafellegging van die verslag in die Parlement deur die Minister; tot wysiging van die Wet op die Nasionale Erfenisraad, 1999, ten einde die Minister te magtig om maatstawwe te bepaal vir die toelaes betaalbaar aan en terugbetaling vir uitgawes wat aangegaan is deur lede van die Raad; om die Minister te bemagtig om 'n voorsitter van die Raad aan te wys; om voorsiening te maak vir die ontbinding van die Raad; en om voorsiening te maak vir die indiening van 'n besigheidplan deur die Raad aan die Minister; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

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

Wysiging van artikel 3 van Wet 119 van 1998**1. Artikel 3 van die Wet op Kulturele Instellings, 1998, word hierby gewysig—**

(a) deur subartikel (3) deur die volgende subartikel te vervang:

“(3) Die Minister kan by kennisgewing in die *Staatskoerant* verklaar dat 'n verklaarde instelling of enige ander instelling moet saamsmelt met 'n vlagskip instelling ingestel kragtens artikel 6(1) of (2)."; en

(b) deur die byvoeging van die volgende subartikels:

“(4) Die Minister mag, na kennisgewing in die *Staatskoerant*, verklaar dat 'n verklaarde instelling of enige instelling geamalgameer moet word met 'n ander verklaarde instelling of ander instelling om 'n nuwe vlagskip instelling te vorm.”

“(5) 'n Vlagskip verklaar in onder subartikel (4) is onderhewig aan artikel 6(4).”

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Act No. 69, 2001 CULTURAL LAWS SECOND AMENDMENT ACT, 2001

Amendment of section 4 of Act 119 of 1998

2. Section 4 of the Cultural Institutions Act, 1998, is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) (a) A declared institution may not [, without prior approval of the Minister,] sell or otherwise alienate any specimen, collection or other movable property. 5

(b) The Minister may in a particular case exempt a declared institution from the prohibition referred to in paragraph (a).”.

Amendment of section 5 of Act 119 of 1998

3. Section 5 of the Cultural Institutions Act, 1998, is hereby amended— 10

(a) by the insertion of the following subsection after subsection (1):

“(1A) The director of a declared institution serves *ex officio* and has no voting powers.”;

(b) by the insertion of the following subsection after subsection (2):

“(2A) The chief executive officer of a flagship institution serves *ex officio* and has no voting powers.”;

(c) by the substitution for subsection (9) of the following subsection:

“(9) A member of a council must vacate [the] office if [the member]—

(a) that member resigns in writing;

(b) that member has been absent from three consecutive meetings of the council without its leave; 20

(c) that member is an unrehabilitated insolvent;

(d) that member is found to be of unsound mind by a court of law;

(e) that member is convicted of an offence involving dishonesty or bodily harm and is sentenced to imprisonment without the option 25 of a fine; [or]

(f) that member materially breaches the code of ethics of the institution; or

(g) on reasonable grounds, the majority of the council so recommends and the recommendation is accepted by the Minister.”; 30

(d) by the insertion after subsection (9) of the following subsection:

“(9A) The Minister may dissolve a council on any reasonable grounds.”; and

(e) by the substitution for subsection (10) of the following subsection:

“(10)(a) Subject to paragraph (b), a member of a council who is not in the full-time employment of the State may receive out of the funds of the council in question, in respect of his or her functions as a member, honoraria and reimbursement for expenses as the council in question may determine. 35

(b) The Minister, with the concurrence of the Minister of Finance, 40 must determine criteria for payment of the honoraria and reimbursement of expenses contemplated in paragraph (a).”.

Amendment of section 6 of Act 119 of 1998

4. Section 6 of the Cultural Institutions Act, 1998, is hereby amended by the addition to subsection (4) of the following paragraph: 45

“(c) The chief executive officer—

(i) serves for a renewable term of five years; and

(ii) must enter into a performance agreement with the relevant council before taking up his or her post as chief executive officer.”.

Amendment of section 7 of Act 119 of 1998

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5. Section 7 of the Cultural Institutions Act, 1998, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) The chairperson of a council is [elected] appointed by the Minister from the appointed members of the council and holds office for the period or the unexpired portion of the period for which he or she has been appointed as member of the 55 council [, unless the council otherwise determines].”.

Wysiging van artikel 4 van Wet 119 van 1998

2. Artikel 4 van die Wet op Kulturele Instellings, 1998, word hierby gewysig deur subartikel (6) deur die volgende subartikel te vervang:

"(6) (a) 'n Verklaarde instelling [kan] mag nie [sonder die voorafverkreë goedkeuring van die Minister,] enige monster, versameling of ander roerende goed verkoop of op 'n ander wyse vervreem nie."

"(b) Die Minister kan in 'n spesifieke geval 'n verklaarde instelling van die verbot bedoel in paragraaf (a) vrystel."

Wysiging van artikel 5 van Wet 119 van 1998

3. Artikel 5 van die Wet op Kulturele Instellings, 1998, word hierby gewysig—

(a) deur die volgende subartikel na subartikel (1) in te voeg:

"(1A) Die direkteur van 'n verklaarde instelling dien ex officio en het geen stemreg nie."

(b) deur die volgende subartikel na subartikel (2) in te voeg:

"(2A) Die hoof- uitvoerende beampete van 'n vlagskip instelling dien ex officio en het geen stemreg nie."

(c) deur die vervanging van subartikel (9) deur die volgende subartikel:

"(9) 'n Lid van 'n raad ontruim die amp indien [die lid]—

(a) die lid skriftelik bedank;

(b) die lid sonder toestemming van die raad van drie agtereenvolgende vergaderings van die raad afwesig was;

(c) die lid 'n ongereabiliteerde insolvent is;

(d) die lid deur 'n bevoegde hof as geestelik versteurd verklaar word;

(e) die lid aan 'n misdryf waar oneerlikheid of liggaamlike leed 'n element is skuldig bevind en tot gevengenisstraf sonder die keuse van 'n boete gevonnis word; [of]

(f) die lid die etiese kode van die instelling wesenlik verbreek; of

(g) op redelike gronde die meerderheid van dié raad so aanbeveel en die aanbeveling deur die Minister aanvaar word."

(d) deur die invoeging van die volgende subartikel na subartikel (9):

"(9A) Die Minister mag 'n raad onbind op enige redelike gronde."

en

(e) deur subartikel (10) deur die volgende subartikel te vervang:

"(10) (a) Onderhewig aan paragraaf (b) mag 'n lid van 'n raad wat nie in die voltydse diens van die Staat is nie, ontvang uit die fondse van die betrokke raad, ten opsigte van sy of haar werksaamhede as lid, sodanige honorarium en vergoeding van uitgawes as wat die betrokke raad mag bepaal.

(b) Die Minister, met die instemming van die Minister van Finansies, moet maatstawwe bepaal vir die betaling van honorarium en vergoeding van uitgawes oorweeg in paragraaf (a)."

Wysiging van artikel 6 van Wet 119 van 1998

4. Artikel 6 van die Wet op Kulturele Instellings, 1998, word hierby gewysig deur die byvoeging van die volgende paragraaf:

"(c) Die hoof- uitvoerende beampete—

(i) dien vir 'n hernubare termyn van vyf jaar;

(ii) moet 'n werksverrigtingssooreenkoms sluit met die betrokke raad voor die opneem van sy of haar pos as hoof- uitvoerende beampete."

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Wysiging van artikel 7 van Wet 119 van 1998

5. Artikel 7 van die Wet op Kulturele Instellings, 1998, word hierby gewysig deur subartikels (1) en (2) deur onderskeidelik die volgende subartikels te vervang:

"(1) Die voorsitter van 'n raad word deur die Minister uit die aangestelde lede van die raad [verkies] aangestel en beklee die amp vir die tydperk of die onverstreke gedeelte van die tydperk waarvoor hy of sy as 'n lid van die raad aangestel is [, tensy die raad anders bepaal].

(2) Indien die voorsitter van 'n raad die amp as voorsitter ontruim voor die verstryking van die tydperk waarvoor hy of sy aangestel is, word 'n ander lid van

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Act No. 69, 2001 CULTURAL LAWS SECOND AMENDMENT ACT, 2001

(2) If the chairperson of a council vacates the office as chairperson before the expiration of the period for which he or she was appointed, another member of the council must, subject to subsection (1), be [elected] appointed by the Minister as chairperson of the council from the appointed members of council.”.

Amendment of section 8 of Act 119 of 1998

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6. Section 8 of the Cultural Institutions Act, 1998, is hereby amended by the addition of the following subsections:

“(6) A council must not later than one month before the commencement of each financial year, submit a business plan covering the next three years and containing such information as may be prescribed by the Minister for his or her approval.”.

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(7) A council must submit an annual report to the Minister which must contain such information regarding the activities and financial position of the council as may be prescribed.

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(8) The Minister must table the report referred to in subsection (7) in Parliament within 14 days of receipt thereof if Parliament is then sitting, and if Parliament is not sitting, within 14 days after the commencement of the next sitting.

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(9) Within five months after the report has been tabled, a delegation consisting of the chairperson of the relevant council and at least two other council members must brief the relevant committees of Parliament on the annual report.”.

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Amendment of section 6 of Act 11 of 1999

7. Section 6 of the National Heritage Council Act, 1999, is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

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“(3) (a) The Minister shall appoint a chairperson from among the members who are appointed in terms of section 5(1)(a).

(b) The members of the Council shall, as the occasion arises, elect[—

(a) a chairperson from among the members who are appointed in terms of section 5(1)(a); and

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(b)] a vice-chairperson from among all the members.”; and

(b) by the insertion after subsection (5) of the following subsection:

“(5A) The Minister may dissolve the Council on any reasonable grounds.”.

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Substitution of section 9 of Act 11 of 1999

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8. The following section is hereby substituted for section 9 of the National Heritage Council Act, 1999:

“Honaria and reimbursement of expenses

9. (1) Subject to subsection (2), a member of the Council or of any committee thereof who is not in the full-time employment of the State may be paid honoraria, and be reimbursed for expenses incurred for services performed by him or her as such a member, as the council may determine.

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(2) The Minister, with the concurrence of the Minister of Finance, must determine criteria for payment of the honoraria and the reimbursement of expenses contemplated in subsection (1).”.

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Amendment of section 10 of Act 11 of 1999

9. Section 10 of the National Heritage Council Act, 1999, is hereby amended by the deletion in subsection (1) of the word “and” at the end of paragraph (j) and the insertion of the following paragraph after paragraph (j):

“(jA) not later than one month before the commencement of each financial year, submit a business plan covering the next three years and containing such information as may be prescribed to the Minister for his or her approval; and”.

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die raad, behoudens subartikel (1), deur die Minister uit die aangestelde lede van die raad as voorsitter [verkies] aangestel.".

Wysiging van artikel 8 van Wet 119 van 1998

6. Artikel 8 van die Wet op Kulturele Instellings, 1998, word hierby gewysig deur die byvoeging van die volgende subartikels:

"(6) 'n Raad moet, nie later nie as een maand voor die aanvang van die boekjaar, 'n besigheidsplan indien wat die volgende drie jaar dek en sodanige ander inligting soos vereis deur die Minister, vir sy of haar goedkeuring.

(7) 'n Raad moet 'n jaarverslag indien by die Minister wat sodanige inligting bevat rakende die werksaamhede en finansiële posisie van die raad, soos voorgeskryf mag word.

(8) Die Minister moet die verslag, verwys na in subartikel (7), ter tafel lê in die Parlement binne 14 dae na die ontvangs daarvan as die Parlement in sitting is, en indien die Parlement nie in sitting is nie, binne 14 dae na die aanvang van die volgende sitting.

(9) Binne vyf maande nadat die verslag ter tafel gelê is, moet 'n afvaardiging van die betrokke raad bestaande uit die voorsitter en ten minste twee ander raadslede die tersaaklike komitees van die Parlement inlig oor die jaarverslag.".

Wysiging van artikel 6 van Wet 11 van 1999

7. Artikel 6 van die Wet op die Nasionale Erfenisraad, 1999, word hierby gewysig— 20

(a) deur die vervanging van subartikel (3) deur die volgende subartikel:

"(3)(a) Die Minister sal 'n voorsitter aanstel uit die geledere van die lede, wat aangestel is ingevolge artikel 5(1)(a).

(b) Die lede van die Raad moet, wanneer die geleentheid hom voordoen[—

(a) 'n voorsitter kies uit die geledere van die lede wat ingevolge artikel 5(1)(a) aangestel is; en

(b)] 'n ondervoorsitter uit die geledere van al die lede kies."; en

(b) deur die invoeging van die volgende subartikel na subartikel (5):

"(5A) Die Minister mag die Raad ontbind op enige redelike gronde.".

Vervanging van artikel 9 van Wet 11 van 1999

8. Artikel 9 van die Wet op die Nasionale Erfenisraad, 1999, word hierby deur die volgende artikel vervang:

"Honorarium en vergoeding van uitgawes

9. (1) Onderhewig aan paragraaf (2) mag 'n lid van die Raad of enige Komitee daarvan wat nie in die volydse diens van die Staat is nie, honorarium betaal word, en vergoed word vir uitgawes aangegaan vir dienste deur hom of haar as sodanige lid gelewer, wat die raad mag bepaal.

(2) Die Minister, met die instemming van die Minister van Finansies, moet maatstawwe bepaal vir betaling van die honorarium en die vergoeding van uitgawes in subartikel (1) bedoel.".

Wysiging van artikel 10 van Wet 11 van 1999

9. Artikel 10 van die Wet op die Nasionale Erfenisraad, 1999, word hierby gewysig deur die skrapping van die woord "en" aan die einde van paragraaf (j) in subartikel (1) en die invoeging van die volgende paragraaf na paragraaf (j):

"(jA) nie later nie as een maand voor die aanvang van die boekjaar, 'n besigheidsplan indien en sodanige ander inligting soos voorgeskryf deur die Minister, vir sy of haar goedkeuring; en".

Amendment of section 13 of Act 11 of 1999

10. Section 13 of the National Heritage Council Act, 1999, is hereby amended by the addition of the following subsection:

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“(4) Within five months after the report has been tabled, a delegation consisting of the chairperson of the Council and at least two other members of the Council must brief the relevant committees of Parliament on the annual report.”.

Short title and commencement

11. This Act is called the Cultural Laws Second Amendment Act, 2001, and comes into operation on a date determined by the President by proclamation in the *Gazette*.

Wysiging van artikel 13 van Wet 11 van 1999

10. Artikel 13 van die Wet op die Nasionale Erfenisraad, 1999, word hierby gewysig deur die byvoeging van die volgende subartikel:

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“(4) Binne vyf maande nadat die verslag ter tafel gelê is, moet ’n afvaardiging van die betrokke raad bestaande uit die voorstander en ten minste twee ander raadslede die tersaaklike komitees van die Parlement inlig oor die jaarverslag.”.

Kort titel en inwerkingtreding

11. Hierdie Wet heet die Tweede Wysigingswet op Kultuurwette, 2001, en tree in werking op ’n datum wat deur die President by proklamasie in die *Staatskoerant* bepaal 10 word.

