



an agency of the
Department of Arts and Culture

REGULATIONS IN ACCORDANCE WITH THE PROVISIONS OF 25(1)(b) OF THE NATIONAL HERITAGE RESOURCES ACT NO 25 OF 1999

The South African Heritage Resources Agency has, under section 25(1)(b) of the National Heritage Resources Act, 1999 (Act 25 of 1999), made the regulations set out in the Schedule.

SCHEDULE

Arrangement of the Regulations

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CHAPTER I

1. DEFINITIONS

- 1.1. In these regulations any word or expression which has been defined in the National Heritage Resources Act No 25 of 1999 shall have the meaning assigned to it in that Act.
- 1.2. “Conservation Body” means an organisation registered as a conservation body in terms of these regulations who holds an interest in the protection, maintenance, preservation, and sustainable use of heritage resources to safeguard their cultural significance.
- 1.3. “Days” means calendar days.
- 1.4. “The Act” means The National Heritage Resources Act, No. 25 of 1999.
- 1.5. “SAHRIS” means the South African Heritage Resources Information System, developed for the management of heritage resources that form part of the national estate in South Africa as well as for facilitating the inventory of the national estate, or any other system that may replace the said system.

2. PURPOSE

- 2.1. Noting that SAHRA is entrusted with such responsibility to establish regulations pertaining to the procedure for registration of, and consultation with, Conservation Bodies as contemplated under section 25(1)(b) of the National Heritage Resources Act, 1999 (Act 25 of 1999).
- 2.2. It therefore flows that these regulations set out standards and procedures for the registration of conservation bodies in line with the provisions of the Act.
- 2.3. Whilst these regulations seek to create an enabling environment for registered conservation bodies to actively engage in heritage management issues, comments received from registered conservation bodies does not constitute a limitation on the decision-making autonomy of the South African Heritage Resources Agency.

3. APPLICATION

- 3.1. Any organisation that –
 - a) Has as one of its primary objectives the conservation of heritage resources;
and
 - b) Is constituted and governed by a constitution that –
 - i. Provides for membership on a non-discriminatory basis.

ii. Provides for the election of office bearers on a regular basis.
May apply to register with the South African Heritage Resources Authority as a conservation body as contemplated in section 25(1)(b) of the Act.

- 3.2. An application for registration in terms of regulation 3.1. must be made in terms of one or more of the following categories:
- a) An interest in the conservation of certain categories of heritage resources or specific heritage resources which are protected at the national level in terms of sections 27(5) and 32(4) of the Act.
 - b) An interest in the conservation of specific heritage resources protected at the provincial level in terms of section 27(6) of the Act, and which are located in provinces where the Provincial Heritage Resources Authority does not hold competency to manage certain categories of heritage resource.
 - c) Represents a significant constituency within an area where heritage resources are protected at the national level in terms of section 27(5) of the Act are located.
 - d) A professional body with an interest in the conservation of heritage resources.
 - e) An interest in a general geographic area or category of heritage resources
- 3.3. Any organisation or professional body which is not principally based in South Africa may apply for registration as a conservation body in terms of regulation 3.2(d), provided that it is able to demonstrate that its membership has an interest in the conservation of South African Heritage resources.
- 3.4. Organisations that elect not to apply in terms of this regulation or have their registration revoked in line with regulation 11 no longer possess the right to be consulted.
- 3.5. An application for registration of a conservation body with the South African Heritage Resources Agency does not preclude registration with a relevant Provincial Heritage Resources Authority in terms of categories of heritage resources for which the Provincial Heritage Resources Authority holds competency in terms of section 8(6) of the Act.
- 3.6. Registration of a conservation body with the South African Heritage Resources Agency is valid for a period not exceeding five (5) years from the date of registration. The conservation body may reapply for registration giving at least ninety (90) days written notice to SAHRA before the registration have lapsed of its intention to do so.

CHAPTER II

4. PROCEDURE FOR REGISTRATION

- 4.1. Any organisation contemplated in regulation 3 shall apply to the South African Heritage Resources Agency using the applicable registration form made available through the South African Heritage Resources Information System (SAHRIS).
- 4.2. The application contemplated in regulation 4.1 must be completed in full and must be submitted with –
 - a) A copy of the organisation's constitution or founding documents,
 - b) Names and contact details of all office bearers.
 - c) A copy of the minutes of the last annual general meeting.
 - d) A copy of the resolution made by the organisation empowering the representative/s making the application to do so.
 - e) A list of its membership indicating in which province they reside.
 - f) A copy of the financial statements of the organisation from the previous financial year.
 - g) Contact details which may be made publicly accessible for any person wishing to consult with the organisation.
 - h) Precise geographical area, in kml format, should the organisation wish to register its interest in a specific geographic area.
 - i) Category or categories of heritage resources, or specific heritage resources the organisation has interest in.
 - j) Any other documents which may be requested by the South African Heritage Resources Agency through its application form.
- 4.3. Incomplete applications for registration will be returned to the applicant unprocessed.
- 4.4. Applications made to the South African Heritage Resources Agency must be submitted to the Council for consideration.
- 4.5. In deciding upon the registration of a conservation body, the Council may-
 - a) Consult with any provincial heritage resources authority or any other relevant organisation regarding the application.
 - b) Approve or refuse the application.
 - c) Request further information.
- 4.6. All processing of personal information carried out in terms of these Regulations shall be conducted in accordance with the Protection of Personal Information Act, 2013 (Act 4 of 2013), and any applicable codes of conduct or regulations issued under that Act.
- 4.7. Where the Council approves the registration of a conservation body, the category of registration specified in regulation 3.2 must be specified.

- 4.8. In consultation with the conservation body, the Council may amend the category under which the conservation body is registered.
- 4.9. The South African Heritage Resources Agency must –
- a) Within 30 days of the decision of the Council, inform the applicant in writing of the decision.
 - b) If the application is approved, register the conservation body on the South African Heritage Resources Information System and provide the conservation body with a registration number.
 - c) If the application is refused, provide reasons for refusal.
- 4.10. The Council of the South African Heritage Resources Agency may, in writing, delegate any of its functions prescribed under these regulations to any approved decision-making forum within the South African Heritage Resources Agency.

5. DUTIES OF THE SOUTH AFRICAN HERITAGE RESOURCES AGENCY

- 5.1. In respect to registered conservation bodies, the South African Heritage Resources Agency must-
- a) Notify all registered conservation bodies with a registered interest in a specific geographic region or relevant category of heritage resource, in terms of regulation 3.2(e), of the intent to declare a resource in terms of sections 27(8) or 32(4-5) of the Act and provide at least 60 days for the conservation body to make submissions.
 - b) Advise applicants applying for any works on or relating to a heritage resource to first consult with any conservation body with an interest registered in terms of regulation 3.2(a)(b)(c) prior to submitting such application to the South African Heritage Resources Agency, so that the comments of the conservation body may be considered during the decision-making process.
 - c) Comments received by the South African Heritage Resources Agency from registered conservation bodies may be considered as part of decision-making purposes, but such consideration does not constitute agreement with the comment.
- 5.2. In respect to registered conservation bodies, the South African Heritage Resources Agency may-
- a) Consult with a conservation body registered in terms of regulation 3.2(d) on any application received by the South African Heritage Resources Agency, where it is determined that a conservation body may hold expertise that may assist in the decision-making process.
 - b) The provisions of regulation 5.2(a) does not constitute a limitation on persons, bodies or institutions with whom which the South African Heritage Resources Agency may consult.
 - c) Comments received by the South African Heritage Resources Agency from registered conservation bodies shall be taken into consideration for decision making purposes but does not constitute an approval of the comment. This also, does not place limitation on the autonomy of the South African Heritage Resources Agency in its decision-making processes.

6. DUTIES OF CONSERVATION BODIES

6.1. A registered conservation body must-

- a) Conduct its affairs in accordance with the principles set out in section 5 and prescribed under section 6(1) of the Act, and any policies determined by the South African Heritage Resources Agency; and
- b) Act in a professional and ethical manner when it advises or provides comments on any matter, whether it be on the request of the South African Heritage Resources Agency, or within the course of its duties.
- c) Advise and issue comments strictly based on heritage grounds.
- d) Provide any advice or comments as may be requested by the South African Heritage Resources Agency, or any other organisation or person which requests advice or comment where the final recipient of such comment shall be the South African Heritage Resources Agency, via SAHRIS on the conservation body's official letterhead within 30 days or receipt of the request, except where this relates to the declaration of a heritage resource in terms of section 27(8) of the Act, whereby the applicable period shall be 60 days.
- e) Disclose any conflict of interest of its members, donors, or associates may have when providing advice or commentary on any matter.
- f) Inform the South African Heritage resources Agency of any significant changes in the conservation body, including changes in office bearers, within 30 days of the change occurring.

7. HERITAGE AGREEMENTS

7.1. The South African Heritage Resources Agency may, in terms of section 41(1) of the Act may enter into negotiation with a registered conservation body for the execution of a heritage agreement to provide for the conservation, improvement or presentation of a clearly defined heritage resource: Provided that the consent of the owner of such resource must be given.

7.2. Any heritage agreement entered into under the authority of section 41(1) of the Act and this regulation shall be in the form of a binding contract.

8. REPORTING

8.1. A registered conservation body must annually submit a report on the activities of the conservation body, this must include the following-

- a) Annually submit a copy of the minutes of their most recent Annual General Meeting.
- b) Most recent membership list and office bearers.
- c) A summary of comments provided in terms of regulation 6.1(c).
- d) A summary of comments provided to Provincial Heritage Resources Authorities where the conservation body is registered with both the South African Heritage Resources Agency and any Provincial Heritage Resources Authority.

- 8.2. The report noted in regulation 8.1(a) must reach the South African Heritage Resources Agency by no later than 30 November of each year.

9. DELEGATION OF POWERS

- 9.1. Pursuant to chapter V of Government Notice No. 323 published in Government Gazette No 21051 of 7 April 2000, the South African Heritage Resources Agency may delegate any of its functions or powers to specified office bearers or members of a registered conservation body as per the provisions of section 26(1)(e) of the Act.
- 9.2. Such delegation may only be conferred in writing by the Council of the South African Heritage Resources Agency, and must clearly state the functions delegated, any conditions attached to the delegation, the delegate, and the period of delegation.

10. TRANSFER OF REGISTRATION

- 10.1. Upon assessment of a provincial heritage resources authority, and where that assessment finds the provincial heritage resources authority competent to perform specific functions in terms of the Act, any conservation body registered with SAHRA in terms of regulation 3.2(b) shall be transferred to the provincial heritage resources authority.
- 10.2. Upon assessment of a provincial heritage resources authority, and where that assessment finds the provincial heritage resources authority competent to perform specific functions in terms of the Act, any heritage agreement entered in terms of regulation 7 shall remain in force for the period as stipulated in the agreement and no rights or obligations of the parties under the aforesaid agreement shall be varied unless expressly agreed by them.

11. SUSPENSION OR WITHDRAWAL

- 11.1. The South African Heritage Resources Agency may suspend or cancel the registration of a conservation body, if there exist reasonable grounds to believe that the conduct or activities of the conservation body conflict with regulation 6.1 or pose a threat or potential threat to the management of a heritage resource, provided that reasons must be given for such decision.
- 11.2. The South African Heritage Resources Agency may, in writing, suspend, cancel or amend the registration of a conservation body, if the registered conservation body no longer complies with the category of registration as per regulation 3.2.
- 11.3. The South African Heritage Resources Agency may, in writing, suspend or cancel the registration of a conservation body that fails to submit all or part of the report referred to in 8.1.
- 11.4. The South African Heritage Resources Agency may, in writing, withdraw any delegation made in terms of regulation 9.

12. APPEAL

- 12.1. Decisions taken in terms of these regulations are subject to the process of appeal as specified in chapter VI of Government Notice No. 323 published in Government Gazette No 21051 of 7 April 2000.