

REPUBLIC OF SOUTH AFRICA

CULTURAL LAWS SECOND AMENDMENT BILL

*(As introduced in the National Assembly as a section 76 Bill; explanatory summary of Bill
published in Government Gazette No 21452 of 4 August 2000) (The English text is the
official text of the Bill)*

(MINISTER OF ARTS, CULTURE, SCIENCE AND TECHNOLOGY)

[B 46—2000]

REPUBLIEK VAN SUID-AFRIKA

TWEEDE WYSIGINGSWETSONTWERP OP KULTUURWETTE

*(Soos ingedien in die Nasionale Vergadering as 'n artikel 76-wetsontwerp; verduidelikende
opsomming van Wetsontwerp in Staatskoerant No 21452 van 4 Augustus 2000 gepubliseer)
(Die Afrikaanse teks is die amptelike vertaling van die Wetsontwerp)*

(MINISTER VAN KUNS, KULTUUR, WETENSKAP EN TEGNOLOGIE)

[W 46—2000]

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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.

BILL

To amend the Cultural Institutions Act, 1998, so as to empower the Minister to declare that a declared cultural institution must be amalgamated with a flagship institution; 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 empower the Minister to determine criteria for the allowances payable to and reimbursement of expenses incurred by members of the council; and to empower the Minister to appoint the chairperson of a council; to amend the National Heritage Council Act, 1999, so as 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 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 by the substitution for subsection (3) of the following subsection: 5

“(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).”.

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: 10

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

(b) The Minister may in a particular case or in general, and on such conditions as he or she may determine, exempt a declared institution from the requirement referred to in paragraph (a).” 15

Amendment of section 5 of Act 119 of 1998

3. Section 5 of the Cultural Institutions Act, 1998, is hereby amended— 20
(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.”; and

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

“(10) (a) A member of a council or of any committee thereof who is not in the full-time employ of the State may be paid such allowances and be reimbursed for such expenses incurred for services performed by him or her as such a member as the council may determine, subject to paragraph (b). 10

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

Amendment of section 7 of Act 119 of 1998

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4. 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 council **[, unless the council otherwise determines].** 20

(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.”. 25

Substitution of section 9 of Act 11 of 1999

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

“Allowances and reimbursement of expenses in respect of members of Council and committees

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

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

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Short title and commencement

6. This Act is called the Cultural Laws Second Amendment Act, 2000, and comes into operation on a date determined by the President by proclamation in the *Gazette*. 40

MEMORANDUM ON THE OBJECTS OF THE CULTURAL LAWS SECOND AMENDMENT BILL, 2000

1. The Bill is the result of a process of evaluation by the Department of legislation administered by it. The Bill proposes amendments to the Cultural Institutions Act, 1998 (Act No. 119 of 1998), and the National Heritage Council Act, 1999 (Act No. 11 of 1999).

2. The Bill seeks to give the Minister of Arts, Culture, Science and Technology similar powers in respect of the members of any council and committee established by or under the Cultural Institutions Act, 1998, and the National Heritage Council Act, 1999, to determine criteria for the allowances payable to and reimbursement of expenses incurred by such members. See also the Cultural Laws Amendment Bill, 2000, in respect of similar amendments proposed to the Pan South African Language Board Act, 1995 (Act No. 59 of 1995), the National Archives of South Africa Act, 1996 (Act No. 43 of 1996), and the South African Geographical Names Council Act, 1998 (Act No. 118 of 1998).

3. The other amendments proposed to the Cultural Institutions Act, 1998, are to empower the Minister to declare that a declared cultural institution must be amalgamated with a flagship institution and to exempt a declared institution from the prohibition of selling any specimen, collection or other movable property without his or her prior approval.

4. BODIES CONSULTED:

All national and provincial departments.
All declared cultural institutions.

5. FINANCIAL IMPLICATIONS FOR STATE

There will be no new financial implications for the State. Any additional expenditure will be covered within existing budgetary constraints.

6. PARLIAMENTARY PROCEDURE

The State Law Advisers and the Department of Arts, Culture, Science and Technology are of the opinion that this Bill must be dealt with in accordance with the procedure prescribed by section 76(1) or (2) of the Constitution, since it falls within a functional area listed in Schedule 4 of the Constitution, namely "Cultural matters".