



**REPUBLIC OF SOUTH AFRICA**

**GOVERNMENT GAZETTE**

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**DEPARTMENT OF THE PRIME MINISTER**

No. 773.

11 April 1979.

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

No. 35 of 1979: National Monuments Amendment Act, 1979.

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**DEPARTEMENT VAN DIE EERSTE MINISTER**

No. 773.

11 April 1979.

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

No. 35 van 1979: Wysigingswet op Nasionale Gedenkwaardighede, 1979.

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NATIONAL MONUMENTS AMENDMENT ACT, 1979.

**GENERAL EXPLANATORY NOTE:**

**[** Words in bold type in square brackets indicate omissions from existing enactments.

       Words underlined with solid line indicate insertions in existing enactments.

**ACT**

To amend the National Monuments Act, 1969, relating to the definitions; so as to define the object of the council in greater detail; to extend from three to five years the period during which anything provisionally declared to be a national monument, shall for the purposes of the application of certain provisions of that Act be a monument; to extend the powers, functions and duties of the council; to provide for the registration of and the rendering of financial assistance to any authority or body of persons preserving national monuments, the delegation of powers by the Minister and the designation of a director and acting director of the council; to empower the Minister to guarantee the repayment of the loans and interest on the loans of the council; to compel the council to utilize its funds in accordance with an estimate of expenditure approved by the Minister, acting with the concurrence of the Minister of Finance; to provide for the declaration of certain wrecks as monuments; to extend from three to six months the duration of notices of proposed or provisional declaration of monuments; to compel certain persons to report the finding of certain objects; to prohibit the damaging and removal of memorial tablets, the badge of the council and signs; to increase the penalties for certain contraventions of that Act; to increase the jurisdiction of magistrates' courts relating to penalties for such contraventions; and to provide that local authorities shall obtain the approval of the Minister as well as that of the council for the making of by-laws in terms of that Act; to amend the Financial Relations Act, 1976, so as to confer upon provincial councils the power to provide for the making of payments in connection with immovable monuments; and to provide for incidental matters.

*(Afrikaans text signed by the State President.)  
(Assented to 3 April 1979.)*

**BE IT ENACTED** by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:—

Amendment of  
section 1 of  
Act 28 of 1969.

1. Section 1 of the National Monuments Act, 1969 (hereinafter referred to as the principal Act), is hereby amended—

(a) by the insertion before the definition of "council" of the following definition:

"'badge' means the badge of the council registered in

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- terms of the Heraldry Act, 1962 (Act No. 18 of 1962);”;
- (b) by the substitution for the definition of “monument” of the following definition:  
 “‘monument’ means any property declared under this Act to be a national monument and includes, for the purposes of section 12, any property provisionally so declared for a period of three five years from the date of the provisional declaration;”;
- (c) by the insertion of the following definitions after the definition of “monument”:  
 “‘register’, as a verb, means to register as contemplated in section 5A (1);”;  
 “‘register’ means the register mentioned in section 5 (7);”;
- (d) by the insertion after the definition of “Republic” of the following definition:  
 “‘sign’ means a sign determined from time to time by the council which indicates that an object has been declared to be a monument;”;
- (e) by the insertion after the definition of “territory” of the following definition:  
 “‘wreck’ means any wreck as defined in section 112 (1) of the Customs and Excise Act, 1964 (Act No. 91 of 1964);”.

Insertion of  
section 2A in  
Act 28 of 1969.

2. The following section is hereby inserted in the principal Act after section 2:

“Object  
of the  
council.

2A. The object of the council shall be to preserve and protect the historical and cultural heritage, to encourage and to promote the preservation and protection of that heritage, and to co-ordinate all activities in connection with monuments in order that monuments will be retained as tokens of the past and may serve as an inspiration for the future.”

Amendment of  
section 5 of  
Act 28 of 1969.

3. Section 5 of the principal Act is hereby amended—

- (a) by the substitution in subsection (1) for the words preceding paragraph (a) of the following words:  
 “The council shall, subject to the provisions of this Act, have power, in addition to any other power conferred on it by this Act or any other Act—”;
- (b) by the substitution for paragraph (f) of subsection (1) of the following paragraph:  
 “(f) to preserve, repair or restore anything declared or provisionally declared under this Act to be a national monument, if it is under the control of the council, or, if it is not under the control of the council, if the owner consents thereto: Provided that if the owner fails to maintain properly any monument, the council may, with the concurrence of the Minister, after reasonable notice to such owner, take such steps as may be necessary for the maintenance thereof;”;
- (c) by the substitution for paragraph (g) of subsection (1) of the following paragraph:  
 “(g) (i) to take steps for the erection in suitable places of memorial tablets giving information in both official languages and, if the council considers it to be desirable, in any other language, about historical events relating to such places;  
 (ii) to affix to any monument the badge or a sign;”;

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(d) by the substitution for paragraph (j) of subsection (1) of the following paragraph:

“(j) **【with the approval of the Minister】** by means of the news media or in any other manner—

(i) to publish and distribute or to cause to be published and distributed any knowledge and information directly or indirectly relating to any monument;

(ii) to encourage and to promote the preservation of monuments.”; 10

(e) by the substitution for subsections (6) and (7) of the following subsections, respectively:

“(6) The Minister may, at the request of any person whose property has by notice under subsection (1) (c) been provisionally declared to be a national monument, after consultation with the council by notice in the *Gazette* withdraw such first-mentioned notice in so far as it relates to such property. 15

(7) The council shall keep a register of all monuments and shall record therein such particulars as the Minister may from time to time determine, and may make such register available for inspection by any person during the council's normal office hours.”; and 20

(f) by the addition of the following subsection:

“(8) (a) The council shall— 25

(i) endeavour to ensure that land surrounding or in the immediate vicinity of a monument is not developed in such a manner that the aspect of, or the view from, that monument is obstructed;

(ii) as far as may be practicable, mark each monument by affixing its badge or a sign thereto. 30

(b) The council may in order to comply with the provisions of paragraph (a) (i), enter into an agreement with the owner of the land in question.”. 35

Insertion of section 5A in Act 28 of 1969.

4. The following section is hereby inserted in the principal Act after section 5:

“Rendering of financial assistance to registered authority or body of persons. 5A. (1) Subject to the provisions of section 9 the council may with the approval of the Minister render financial assistance to any authority or body of persons which restores and preserves monuments and which has been registered under this section, for the purpose of the restoration and preservation by such authority or body of such monuments. 45

(2) Any authority or body of persons desirous of being registered under this section, shall apply to the council and shall in connection with the application furnish such particulars as may be required by the council.”. 50

Insertion of section 7A in Act 28 of 1969.

5. The following section is hereby inserted in the principal Act after section 7:

“Delegation of powers by Minister. 7A. The Minister may delegate any power, duty or function conferred or imposed upon or assigned to him by sections 5 (2), 5 (4) (a) and (b), 5 (7) and 8 (1) to the Secretary for National Education or the director of archives appointed under section 3 of the Archives Act, 1962 (Act No. 6 of 1962).” 55

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Amendment of  
section 8 of Act 28 of  
1969.

6. Section 8 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) (a) The council may from time to time appoint to such posts and on such conditions and at such remuneration as may be approved by the Minister in consultation with the Minister of Finance, such officers **or** employees as may be required to assist it in the performance of its functions and duties. 5
- (b) The council shall designate one of its officers or employees as director— 10
- (i) in addition to any other function or duty assigned to or imposed upon him in terms of this Act, to manage the affairs of the council and to carry out its decisions; and
- (ii) to furnish the council with an annual report on the activities and financial position of the council. 15
- (c) The council shall designate one of its officers or employees as acting director when the office of director is vacant or when the director is absent.”

Amendment of  
section 9 of  
Act 28 of 1969.

7. Section 9 of the principal Act is hereby amended— 20

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

“(1A) The Minister may with the concurrence of the Minister of Finance guarantee the repayment of any loan made by the council and of the interest payable thereon.”; and 25

- (b) by the substitution for subsections (2), (3) and (5) of the following subsections, respectively:

“(2) The council shall not incur any expenditure except in accordance with an estimate of expenditure approved in terms of subsection (3). 30

(3) Once during every financial year, at such time as the Minister may direct, the council shall submit to the Minister for his approval, with the concurrence of the Minister of Finance, estimates of the income and expenditure of the council during the ensuing financial year, and the council may also during the course of a financial year, submit to the Minister for his approval, with the concurrence of the Minister of Finance, supplementary estimates of expenditure for that financial year. 35

(5) The council shall, in such manner as the Secretary for **[Cultural Affairs]** National Education may direct, keep records of all property under its control and of all its financial transactions.” 40

Amendment of  
section 10 of  
Act 28 of 1969.

8. Section 10 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection: 45

“(1) Whenever the Minister considers it to be in the national interest that any immovable or movable property of aesthetic, historical **[archaeological, palaeontological]** or scientific interest be preserved, protected and maintained he may, subject to the provisions of subsection (3), on the recommendation of the council, by notice in the *Gazette* declare any such property described in the notice to be a national monument.” 50

Insertion of  
section 10A in  
Act 28 of 1969.

9. The following section is hereby inserted in the principal Act after section 10: 55

“Declaration of wreck to be monument. 10A. (1) The council may in respect of any wreck in the Republic, including the ‘sea’, as defined in section 1 of the Sea-shore Act, 1935 (Act No. 21 of 1935), which is fifty years old or older or which the council upon reasonable grounds believes to be fifty years old or older, perform or carry out any power, function or duty assigned to or imposed upon it in terms of this Act: Provided that the council shall not exercise any power in relation to any wreck on the ‘sea-shore’, as defined in section 1 of the Sea-shore Act, 1935, or in the ‘sea’, as so defined, unless the 60 65



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council has consulted with the Minister of Agriculture.

(2) The declaration of any wreck to be a monument in terms of subsection (1) does not preclude the exercise in respect of that wreck of any power referred to in section 304A of the Merchant Shipping Act, 1951 (Act No. 57 of 1951), or in paragraph (26) of section 2 of the Railways and Harbours Control and Management (Consolidation) Act, 1957 (Act No. 70 of 1957).

(3) The council may in order to enable it to decide whether any wreck is suitable to be declared or provisionally declared to be a national monument, require any person whom the council is satisfied possesses information relating to such wreck, to furnish the council with such information.

(4) Any abandoned wreck which in terms of this Act has been declared or is about to be declared to be a national monument, may in such manner and subject to such conditions, including the payment of compensation (if any), as may be determined by the Secretary for Customs and Excise, be placed at the disposal of the council or a declared institution referred to in section 1 of the Cultural Institutions Act, 1969 (Act No. 29 of 1969)."

Amendment of  
section 11 of  
Act 28 of 1969.

10. Section 11 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

"(1) Whenever any notice under section 5 (5) (b) or 10 (3) (a) has been served in respect of any property, such property shall for the purpose of the application of section 12 in respect of any person who is aware of such notice, be deemed to be a monument from the date of service of such notice, for a period of **[three]** six months or for the period expiring on the date of cancellation of the notice under subsection (2), or on the date on which such property may under this Act be declared or provisionally declared to be a national monument, whichever may be the shorter period."

Amendment of  
section 12 of  
Act 28 of 1969.

11. Section 12 of the principal Act is hereby amended—

(a) by the substitution for subsection (2) of the following subsection:

"(2) **[Subject to the provisions of subsection (3) no ]** No person shall—

(a) destroy, damage, excavate, alter, remove from its original site or export from the Republic any monument **[or any meteorite or fossil or any drawing or painting on stone or petroglyph known or commonly believed to have been executed before the advent of the Europeans by Bushmen or other aborigines of any portion of the Republic or by any people who inhabited or visited any part of the Republic, or any implement or ornament known or commonly believed to have been used by them, or any anthropological or archaeological contents of the graves, caves, rock shelters, middens, shell mounds or other sites used by them or any other archaeological or palaeontological material or object]**, except under the authority of and in accordance with a permit issued under this section; or

(b) disfigure, destroy, remove, alter or damage any memorial tablet, the badge or a sign erected or

- affixed in terms of section 5 (1) (g), except with the written authority of the council.”;
- (b) by the insertion after subsection (2) of the following subsection:
- “(2A) No person shall destroy, damage, excavate, alter, remove from its original site or export from the Republic—
- (a) any meteorite or fossil; or
  - (b) any drawing or painting on stone or a petroglyph known or commonly believed to have been executed by Bushmen; or
  - (c) any drawing or painting on stone or a petroglyph known or commonly believed to have been executed by any other people who inhabited or visited the Republic before the settlement of the Europeans at the Cape; or
  - (d) any implement, ornament or structure known or commonly believed to have been made, used or erected by people referred to in paragraphs (b) and (c); or
  - (e) the anthropological or archaeological contents of graves, caves, rock shelters, middens, shell mounds or other sites used by such people; or
  - (f) any other archaeological or palaeontological finds, material or object,
- except under the authority of and in accordance with a permit issued under this section.”;
- (c) by the substitution for subsection (3) of the following subsection:
- “(3) (a) The provisions of subsection [(2)] (2A) shall not apply to the removal of anything other than deposits in any cave or midden, in the normal course of mining, engineering or agricultural activities: Provided that if anything referred to in section (2A) is found in the normal course of the said activities, the finder thereof or the owner of the land where it is found or the person who performs such activities, shall report that fact immediately to an institution referred to in the Cultural Institutions Act, 1969 (Act No. 29 of 1969).
- (b) The council or any person in the employment of the State authorized thereto by the Minister may enter into an agreement with such finder, owner or other person in connection with the removal and safe custody of such thing: Provided that the council and the State shall not be liable in respect of any loss arising out of such removal or custody unless with the consent of the Minister it is otherwise agreed.”;
- (d) by the substitution for subsection (4) of the following subsection:
- “(4) On application by any person in the manner prescribed by regulation under this Act, the council may in its discretion, but subject to the directions of the Minister, issue to such person free of charge a permit to destroy, damage, excavate, alter or remove from its original site or export from the Republic any monument or any other object referred to in subsection (2) or (2A), specified in the permit, at such time or within such period and subject to such terms, conditions and restrictions or directions as may be so specified.”;
- (e) by the substitution in subsection (6) for the words preceding paragraph (a) of the following words:
- “(6) Whenever any person has been convicted of damaging or altering anything in contravention of subsection (2) or (2A), the council may—”; and

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- (f) by the addition thereto of the following subsection:  
 “(7) Whenever any person has been convicted of disfiguring, destroying, removing, altering or damaging any memorial tablet, the badge or sign in contravention of subparagraph (b) of subsection (2), the council may repair or replace or cause to be repaired or replaced any such tablet, badge or sign and recover the cost thereof from such person.”.

Substitution of  
section 16 of  
Act 28 of 1969.

12. The following section is hereby substituted for section 16 of the principal Act: 10

- “Offences and penalties and jurisdiction of magistrate’s court.”
16. (1) Any person who—
- (a) contravenes or fails to comply with any provision of section 12 (1), [or] (2), (2A) or (3);
  - (b) for the purpose of obtaining, whether for himself or for any other person, any permit or authority under this Act, makes any statement or representation knowing it to be false or not knowing or believing it to be true;
  - (c) fails to comply with or performs any act contrary to the terms, conditions, restrictions or directions subject to which any permit has been issued to him under this Act;
  - (d) hinders or obstructs any person in the exercise of his powers under section 14,
- shall be guilty of an offence and liable on conviction to a fine not exceeding [one] five thousand rand or to imprisonment for a period not exceeding [six] twelve months or to both such fine and such imprisonment.
- (2) A magistrate’s court shall, notwithstanding the provisions of any other Act, be competent to impose any punishment referred to in this section.”.

Amendment of  
section 18 of  
Act 28 of 1969.

13. (1) Section 18 of the principal Act is hereby amended—

- (a) by the insertion in subsection (1) after paragraph (d) of the following paragraphs: 35
  - “(e) regulating the conditions of use by any person of any area of land which has been declared to be a monument and which is under the control of the council;
  - (f) regulating the conditions for the erection of any building structure on any area of land declared to be a monument.”;
- (b) by the substitution in subsection (2) for the words preceding paragraph (a) of the following words:
  - “(2) Any local authority may with the approval of the Minister and of the council make by-laws—”; and 45
- (c) by the insertion in subsection (2) after paragraph (d) of the following paragraphs, the existing paragraph (e) becoming paragraph (g):
  - “(e) regulating the conditions of use by any person 50
    - of any area of land which is under the control of the local authority and which has been declared to be a monument;
    - (f) regulating the procedure and conditions for the erection of any building structure on any such 55
      - area of land declared to be a monument.”.

(2) Any by-law made before the commencement of the National Monuments Amendment Act, 1979, by a local authority in terms of section 18 of the principal Act, shall remain in force until repealed or amended by the local authority in terms of that 60 section.



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Amendment of  
section 21 of  
Act 65 of 1976.

14. (1) Section 21 of the Financial Relations Act, 1976, is hereby amended by the addition of the following subsection:  
“(3) A provincial council may provide for the payment from the provincial revenue fund of amounts for the purchase, restoration, maintenance or protection of any immovable property which in terms of the National Monuments Act, 1969 (Act No. 28 of 1969), has been or is about to be declared to be a national monument.”

(2) Subsection (1) shall be deemed to have come into operation on 1 March 1979.

Substitution of  
long title of  
Act 28 of 1969.

15. The following long title is hereby substituted for the long title of the principal Act:  
“To provide for the preservation of certain immovable or movable property as national monuments and for that purpose to establish the National Monuments Council and to define its powers, functions and duties; to empower provincial councils to make ordinances for the payment of money in connection with certain national monuments; to repeal certain laws relating to natural and historical monuments, relics and antiques; and to provide for incidental matters.”

Short title.

16. This Act shall be called the National Monuments Amendment Act, 1979.