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REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

STAATSKOERANT

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[No. 7017

KAAPSTAD, 23 MEI 1980

DEPARTMENT OF THE PRIME MINISTER

DEPARTEMENT VAN DIE EERSTE MINISTER

No. 995.

23 May 1980.

No. 995.

23 Mei 1980.

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

No. 63 of 1980: Heraldry Amendment Act, 1980.

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

No. 63 van 1980: Heraldiekwysigingswet, 1980.

HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

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 Heraldry Act, 1962, regarding the definitions; to authorize the bureau to give advice regarding heraldic matters; to authorize the Minister to remove from office any member of the board appointed by him; to provide for the establishment of a heraldry committee by this Act; to authorize the Minister to designate a chairman of the council and of the heraldry committee; to provide for the registration, amendment and deletion of heraldic representations of an official authority in a foreign country; and for the deletion of registered heraldic representations, names, special names and uniforms in certain circumstances; to grant to certain persons certain powers relating to the registration of family coats of arms; to authorize certain authorities, associations, institutions and persons to object to certain deletions; to provide for the furnishing of certain extracts from the register and the issue of certain duplicate certificates; to increase the penalties for certain offences; to render punishable in certain circumstances the use of registered names, special names and uniforms; and to render punishable the making of certain uncorroborated allegations in connection with the furnishing of family coats of arms; and to provide for incidental matters.

(Afrikaans text signed by the State President.)
(Assented to 5 May 1980.)

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

1. Section 1 of the Heraldry Act, 1962 (hereinafter referred to as the principal Act), is hereby amended—
- (a) by the substitution for the definition of “application” of the following definition:
- “‘application’ means an application **[for registration]** referred to in section 7 **[(3)]**; and ‘applicant’ has a corresponding meaning;”
- 10 (b) by the insertion after the definition of “applicant” of the following definition:
- “‘approve’ means approve under this Act; and ‘approval’ has a corresponding meaning;”
- 15 (c) by the substitution for the definition of “association” of the following definition:
- “‘association’ means any association of persons in the Republic, the territory or a foreign country formed

Amendment of section 1 of Act 18 of 1962, as substituted by section 1 of Act 54 of 1969.

HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

- for the promotion of sport or for any other lawful purpose, the pursuit of which in the opinion of the Minister is **[calculated to be in]** not contrary to the public interest”;
- 5 (d) by the insertion after the definition of “council” of the following definition:
 “‘deletion’ means the deletion in the register of
particulars of a registered heraldic representation, name, special name or uniform”;
- 10 (e) by the substitution for the definition of “differencing” of the following definition:
 “‘differencing’ means the incorporation of a brisure in a **[family coat of arms]** heraldic representation in conformity with the principles and rules of heraldry in order to distinguish between **[different members or branches of a family]** the different owners of such representation”;
- 15 (f) by the insertion after the definition of “other emblem” of the following definition:
 20 “‘owner’, in relation to any heraldic representation, name, special name or uniform, means the authority, association, institution or person in whose name such representation, name, special name or uniform has been registered”;
- 25 (g) by the substitution for the definition of “special name” of the following definition:
 “‘special name’ means any special name referred to in section 7 **[(2)]**”; and
- 30 (h) by the substitution for the definition of “uniform” of the following definition:
 “‘uniform’ means **[the design of]** any article or articles of wearing apparel, being distinctive in design and colour, but without a heraldic representation as part thereof, intended to be used by members of an association or institution which is not of a political or religious character”.
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2. Section 3 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

Amendment of section 3 of Act 18 of 1962, as substituted by section 3 of Act 54 of 1969.

- 40 (a) receive and examine applications for registration or deletion of, and objections against the registration or deletion of, heraldic representations, names, special names or uniforms;
- 45 (b) keep the register and the documents lodged in terms of this Act;
- (c) issue certificates of registration of heraldic representations, names, special names and uniforms; **[and]**
- (d) **[carry out such other duties as may be assigned to the bureau by the Minister or this Act.]** give advice, in so far as is possible, regarding heraldic representations, names, special names or uniforms, and render assistance with the design of heraldic representations and uniforms;
- 50 (e) carry out such other duties as may be assigned to the bureau by the Minister, council or committee in terms of this Act”.
- 55

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

Amendment of section 5 of Act 18 of 1962, as substituted by section 4 of Act 54 of 1969.

- (a) by the substitution for the words preceding paragraph (a) of the following words:
 60 “A register shall be kept in the bureau in which the bureau shall on application and in the manner determined by the state herald after consultation with the council enter the particulars **[determined by]** which **[the state herald]** he determines in respect of—”
- 65 (b) by the substitution for paragraphs (d) and (e) of the following paragraphs, respectively:
 “(d) any other heraldic representation, the application

HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

5 for registration of which has been approved **[under this Act]** and any approved amendment [of which the application therefor has been so approved, of a registered heraldic representation] thereof; and
 10 (e) any name, special name or uniform, the application for registration of which has been approved **[under this Act]** and any approved amendment [, of which the application therefor has been so approved of a registered name, special name or uniform] thereof.”

4. The following section is hereby substituted for section 6 of the principal Act: Substitution of section 6 of Act 18 of 1962, as substituted by section 5 of Act 54 of 1969.

15 “Heraldry council and heraldry committee.

6. (1) There is hereby established a heraldry council which shall consist of the state herald and at least six other members **[to be]** appointed by the Minister on such conditions and for such period as he may determine: Provided that the Minister may at any time remove any member appointed by him from office if in his opinion sufficient reasons exist for doing so.

- (2) The functions of the council shall be to—
- 25 (a) determine **[the]** policy to be applied **[in approving an application]** as to heraldic matters;
 - (b) consider and decide upon such matters as the state herald or the committee may refer to it;
 - 30 **[(c) consider and approve for registration, or reject, applications referred to it in terms of this Act;**
 - (d)] (c)** consider appeals noted under section 9; and
 - [(e) consider objections lodged in terms of section 7B; and**
 - 35 **(f)] (d)** carry out such other duties as may be assigned to the council by the Minister.

(3) **[The Minister shall appoint]** There is hereby established a heraldry committee consisting of the chairman and the state herald and such number of other members of the council as the Minister may designate, to decide and to report to the state herald upon applications [referred to it by] which the state herald may refer to it, and to consider objections lodged in terms of section 7B.

- (4) (a) The Minister shall—
- 45 (i) designate one of the members of the council who was appointed as a member by him, as chairman to preside at a meeting of the council;
 - 50 (ii) designate one of the members of the committee who was appointed as a member by him, as chairman to preside at a meeting of the committee:

55 Provided that in the absence of the chairman of the council or the chairman of the committee from any meeting of the council or committee (as the case may be), the members present at such meeting shall elect one of their number to preside at such meeting.

60 (b) Subject to any directions by the Minister, the council and the committee shall determine when and where they shall meet and the procedure and quorum at their meetings, including the number of votes required for a decision.

65 (5) A member of the council or the committee who is not in the full-time employment of the State shall

HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

out of moneys appropriated by Parliament for the purpose, be paid in respect of his services as a member of the council or the committee such allowances as the Minister in consultation with the Minister of Finance may determine.

5 [(6) Such a member of the council who is also a member of the committee, shall in respect of his services as member of the committee similarly be paid additional allowances, so determined.]”.

10 5. The following section is hereby substituted for section 7 of the principal Act:

Substitution of section 7 of Act 18 of 1962, as substituted by section 6 of Act 54 of 1969.

“Applica-
tions and
appeals.

15 7. (1) Any official or municipal authority, association, institution or person may apply to the bureau for registration of a heraldic representation, or of any amendment or the deletion of a **registered** heraldic representation which has been registered in its or his name.

20 (2) Any official authority established in a foreign country may with the consent of the council apply to the bureau for the registration of a heraldic representation, or for an amendment of or the deletion of any heraldic representation registered in its name: Provided that the council's decision shall be final: Provided further that the provisions of section 19 shall not apply in respect of the exercise of the council's power under this subsection.

25 **[(2)]** (3) Any association or institution which is not of a political or religious character may apply to the bureau for registration of its name or of **one** a special name or designation used by the association or institution for its members or for the members of any organization constituted by the association or institution in accordance with its rules and regulations, or of any uniform used by the association or institution or of any amendment or deletion of any name, special name or uniform which has been registered in its name.

30 (4) The state herald may, subject to the provisions of section 19 and with the consent of the committee, delete any heraldic representation, name, special name or uniform if he is satisfied that the official or municipal authority, association or institution in whose name it has been registered no longer exists.

35 (5) Any person in whose name a family coat of arms has been registered may apply to the bureau for the registration, upon his death, with or without differencing, of that family coat of arms in the name of any of his descendants, or in the name of any other person who bears the same family name.

40 (6) Any descendant of any person who lawfully bears or bore a particular family coat of arms, or any adopted child, as defined in the Children's Act, 1960 (Act No. 33 of 1960), of such person bearing the same lawfully conferred family name as that person, may apply to the bureau for the registration, with or without differencing, of that family coat of arms in his name.

45 (7) Any person may apply to the bureau for the issue to him of a certificate by the state herald stating that the representation to which the certificate relates is a true representation of the family coat of arms lawfully borne by any person mentioned therein.

50 **[(3)]** (8) An application for registration of a heraldic representation, name, special name or uni-
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HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

form or **[of]** for any amendment or the deletion of a registered heraldic representation, name, special name or uniform or an appeal in terms of section 9 shall be made to the bureau in the form determined by the state herald and shall be accompanied by the documents and designs determined by the state herald and the **[prescribed]** fees determined by the Minister with the concurrence of the Minister of Finance.”

6. The following section is hereby substituted for section 7B of the principal Act:

Substitution of section 7B of Act 18 of 1962, as inserted by section 7 of Act 54 of 1969.

“Objections. **7B.** Any official or municipal authority, association, institution or person wishing to object to the registration of any heraldic representation, name, special name or uniform or to the amendment or deletion of a registered heraldic representation, name, special name or uniform on the grounds that such registration, **[or]** amendment or deletion would encroach upon rights to which it or he is legally entitled, shall lodge such objection with the bureau in such manner and within such period as the bureau may by notice in the *Gazette* determine.”

7. Section 8 of the principal Act is hereby amended—

Amendment of section 8 of Act 18 of 1962, as substituted by section 8 of Act 54 of 1969.

(a) by the substitution for subsection (1) of the following subsection:

“(1) If an application is in the form determined by the state herald under section 7, **[the state herald]** he may, subject to the provisions of section 19, approve or reject the application, or may refer it to the committee: Provided that if any objection is lodged against the registration of the heraldic representation, name, special name or uniform concerned, or against the amendment or deletion concerned of any registered heraldic representation, name, special name or uniform, he shall refer the application to the **[council]** committee.”;

(b) by the deletion of subsections (2) and (3); and

(c) by the substitution for subsection (4) of the following subsection:

“(4) (a) An application for registration or amendment may be rejected by the state herald if—

[(a)] (i) **[the design of]** the heraldic representation (except a family coat of arms) **[be]** is similar to a **[design]** heraldic representation, name, special name or uniform or any material part **[of a design]** thereof protected by copyright, **[or]** this Act or any other law **[and permission in writing for the use of such design or such material part has not been obtained from the owner thereof;**

(b)] (ii) the design of the heraldic representation does not accord with the principles and rules of heraldry;

[(c)] (iii) the application does not comply with the provisions of this Act or is defective in other respects; or

[(d)] (iv) the further information or particulars referred to in section 8B are not furnished.

(b) When considering an application referred to in section 7 (7)—

(i) the state herald may require the applicant to submit proof of the correctness of the allegation to which the application applies;

HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

(ii) the state herald shall take into consideration the fact (if it is proved) that the representation concerned is a representation of a family coat of arms which was granted by a competent authority to a person with the family name in question or which was lawfully borne by any such person."

8. The following section is hereby substituted for section 8A of the principal Act:

Substitution of section 8A of Act 18 of 1962, as inserted by section 9 of Act 54 of 1969.

10 "Consideration of applications by committee.

8A. (1) Whenever an application or an application together with an objection is referred to the committee **[or the council]** by the state herald, the committee **[or the council]** may, subject to the provisions of section 19, approve the application or uphold the objection and reject **[it]** the application.

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[(2) If the committee is of opinion that an application so referred to it ought not to be approved, it may refer the application to the council.

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(3) The council may, subject to the provisions of section 19, approve such application or reject it.

(4). (2) The provisions of section 8 (4) shall apply to the consideration of an application by the committee **[or the council].**

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[(5) If the committee or the council approves an application, the bureau shall enter in the register the particulars determined by the state herald, in respect of the heraldic representation, name, special name or uniform concerned, and the bureau shall give notice in the Gazette of the registration and issue to the applicant concerned a certificate of registration.]

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9. The following section is hereby substituted for section 9 of the principal Act:

Substitution of section 9 of Act 18 of 1962, as substituted by section 10 of Act 54 of 1969.

35 "Appeal against decision of state herald or committee.

9. (1) If an application—
(a) is rejected by the state herald or the committee, the applicant,
(b) is approved by the committee, any person who in terms of section 7B lodged an objection,

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may within six weeks after the bureau has informed him thereof, appeal to the council in writing and specifying **[to the satisfaction of the council]** the grounds of appeal against the rejection of his application or objection, and the council may subject to the provisions of section 19 uphold the appeal and, in the case of an appeal—

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(i) by such applicant, approve the application concerned;

(ii) by such objector, refuse the application concerned, or

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may reject the appeal.

(2) At the hearing of any such appeal against the rejection **[by the state herald] of an application or objection, **[he shall recuse himself]** the state herald shall not take part in the decision.**

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[(3) If an application is approved by the council on appeal, the bureau shall enter in the register the particulars determined by the state herald, in respect of the heraldic representation, name, special name or uniform concerned or the amendment thereof, and the bureau shall give notice, in the Gazette, of the registration and issue to the appellant a certificate of registration.]"

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HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

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

Insertion of section 10 in Act 18 of 1962.

“Regis-
tration,
amendment
5 or deletion
of heraldic
representa-
tion,
name, spe-
cial name or
10 uniform.”

10. If an application for the registration, amend-
ment or deletion of a heraldic representation, name,
special name or uniform is approved by the state
herald, committee or council—

(a) the bureau shall, in the case of an application for
registration, enter in the register the particulars
determined by the state herald in respect of that
heraldic representation, name, special name or
uniform, and the bureau shall give notice in the
Gazette of the registration and issue to the
applicant a certificate of registration in the form
determined by the state herald;

15 (b) the bureau shall, in the case of an application for
deletion, delete the particulars concerned and
give notice thereof in the *Gazette*:

20 Provided that in the case of the approval of any such
application by the state herald or committee, such
entry shall not be made or such deletion shall not be
effected and such notice shall not be given if an
appeal has been lodged in terms of section 9 and such
appeal has not yet been disposed of.”

11. Section 14 of the principal Act is hereby repealed.

Repeal of
section 14 of
Act 18 of 1962,
as substituted by
section 12 of Act 54
of 1969.

25 12. The following section is hereby substituted for section 17 of
the principal Act:

Substitution of
section 17 of
Act 18 of 1962,
as substituted by
section 13 of
Act 54 of 1969.

“Informa-
tion from re-
gister.”

17. The bureau may at the request of —

30 (a) any person and on payment of the fees **[fixed]**
determined by the Minister in consultation
with the Minister of Finance, furnish such person
with an extract from the register or a reproduc-
tion of a registered heraldic representation,
name, special name or uniform;

35 (b) the owner of any heraldic representation, name,
special name or uniform, and with the approval
of the council, issue to such person a duplicate of
the certificate of registration concerned, on
payment of the fees determined by the Minister
in consultation with the Minister of Finance.”

40 13. Section 21 of the principal Act is hereby amended by the
substitution for paragraph (i) of the following paragraph:

Amendment of
section 21 of
Act 18 of 1962,
as substituted by
section 18 of
Act 54 of 1969.

45 “(i) an amount not exceeding one **[hundred]** thousand
rand, and such court may without proof of any damages,
and in addition to the cost of the action, award such
amount, not exceeding the said amount, as may in the
circumstances of the case appear to it to be reasonable;
or”.

14. The following section is hereby substituted for section 22 of
the principal Act:

Substitution of
section 22 of
Act 18 of 1962,
as substituted by
section 19 of
Act 54 of 1969.

50 “Penalties
for misuse
of registered
representa-
tions,
names, spe-
cial names
55 or uniforms.”

22. Any person who—

(a) without the written permission of the official or
municipal authority in whose name any official
or municipal heraldic representation has been
registered, or without any other lawful reason,
sells, barter or uses for gain or trades in such
heraldic representation or any material part

HERALDRY AMENDMENT ACT, 1980

Act No. 63, 1980

thereof or any replica or reproduction thereof or any imitation thereof which might reasonably be confused therewith; or

5 (b) uses a registered name, special name or an abbreviation thereof or a uniform in such a manner that it could reasonably be inferred that he is the owner or lawful user thereof or that he is a member of an association or institution, while in fact he is not such owner, user or

10 member,

shall be guilty of an offence and liable on conviction to a fine not exceeding **【five hundred】** one thousand rand.”.

15 15. The following section is hereby substituted for section 23 of the principal Act: Substitution of section 23 of Act 18 of 1962.

“Penalty for false entries.

23. Any person who, knowing the same to be false—

20 (a) makes or causes to be made a false entry in the register;

(b) makes or causes to be made any document falsely purporting to be a copy of an entry in the register;

25 (c) produces or tenders or causes to be produced or tendered as evidence any such entry or copy thereof; or

(d) makes any false statement or representation for the purpose of deceiving the state herald, the committee or the council in the execution of the provisions of this Act,

30 shall be guilty of an offence, and liable on conviction to a fine not exceeding **【two hundred】** one thousand rand or in default of payment to imprisonment for a period not exceeding one year.”.

35 16. The following section is hereby inserted in the principal Act after section 23: Insertion of section 23A in Act 18 of 1962.

“Penalty for making certain allegations in connection with family coats of arms.

40 23A. Any person who in connection with the furnishing by him of any representation alleges it to be a true representation of a family coat of arms which was or could have been lawfully borne by any person with a particular family name, while he does not have at his disposal a certificate as contemplated in section 7 (7) corroborating his allegation, shall be guilty of an offence, and liable on conviction to a fine not exceeding one thousand rand or in default of payment to imprisonment for a period not exceeding one year or to both such fine and such imprisonment.”.

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50 17. Section 25 of the principal Act is hereby amended—

(a) by the deletion of paragraph (a) of subsection (1); and

(b) by the deletion of subsection (3). Amendment of section 25 of Act 18 of 1962, as substituted by section 20 of Act 54 of 1969.

18. This Act shall be called the Heraldry Amendment Act, 1980. Short title.