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GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1160.

7 June 1989

No. 1160.

7 Junie 1989

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

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

No. 65 of 1989: Cultural Affairs Act (House of Assembly), 1989.

No. 65 van 1989: Wet op Kulturele Aangeleenthede (Volksraad), 1989.

ACT

To provide for the preservation, fostering and extension of culture in the Republic by the provision of certain services and facilities; for the establishment of regional councils for cultural affairs; and for determining the objects, powers and functions of such councils; to confer certain powers upon the Minister in order to achieve those objects; and to provide for matters connected therewith.

(English text signed by the State President.)
(Assented to 26 May 1989.)

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

Definitions

1. In this Act, unless the context otherwise indicates—
- (i) "Minister" means the Minister of Education and Culture: House of 5
Assembly; (ii)
 - (ii) "regional council" means a regional council for cultural affairs established
under section 4 (1); (iii)
 - (iii) "this Act" includes any regulation made under section 18. (i)

Application of Act

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2. The provisions of this Act shall, subject to the provisions of item 3 of Schedule 1 to the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), apply, in relation to matters referred to in this Act, in respect of persons who are members of the population group members of which comprise the House of 15
Assembly.

Powers of Minister

3. (1) In addition to the other powers assigned to the Minister by this Act, the Minister may out of moneys appropriated by the House of Assembly for such purpose in order to foster culture in the Republic—
- (a) acquire, develop and maintain movable and immovable property, or place 20
such movable and immovable property under the care of a regional council;
 - (b) make grants for the undertaking of tours to and from foreign countries;
 - (c) provide such services as he may deem necessary or expedient to give effect
to a recommendation of a regional council in terms of section 11 (1) (f),
whether or not in co-operation with a Department of State or any person; 25
and
 - (d) subsidize or finance the functions contemplated in section 11 or similar
functions which the Minister deems necessary or expedient.
- (2) A grant or the financing of a service in terms of subsection (1) shall be subject to such conditions as the Minister may determine, including conditions as to the 30
holding of inspections and the submission of reports.
- (3) The Minister may at his discretion convene and consult such members of the regional councils as he may deem suitable, with a view to the determination of his policy as contemplated in section 10.

Act No. 65, 1989

CULTURAL AFFAIRS ACT (HOUSE OF ASSEMBLY), 1989

Establishment of regional councils

4. (1) The Minister may for every region determined by him establish one or more regional councils for cultural affairs, and assign a name to such regional council.

(2) Every regional council established under subsection (1) shall be a body corporate.

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Constitution of regional councils

5. A regional council shall consist of the number of members determined by the Minister and appointed by him.

Chairman and vice-chairman of regional council

6. (1) The Minister shall designate a member of a regional council as chairman and another member as vice-chairman of the regional council.

(2) When the chairman of a regional council is absent or unable to perform his functions as chairman, the vice-chairman shall act as chairman and, when so acting, the vice-chairman shall have all the powers and perform all the functions of the chairman.

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(3) If the chairman or vice-chairman ceases to hold office as a member of a regional council, the Minister shall designate another member of the council as chairman or vice-chairman, as the case may be.

(4) If both the chairman and the vice-chairman of a regional council are absent from a meeting of the regional council, the members of the regional council present at the meeting shall elect one of their number to preside at that meeting.

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Rules for regional councils

7. A regional council shall frame rules for the convening of, the procedure at and the quorum for a meeting of the regional council and of a committee referred to in section 8, and the manner in which decisions at any such meeting shall be taken.

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Committees of regional councils

8. (1) A regional council may appoint committees to assist it in the performance of its functions.

(2) A committee referred to in subsection (1) shall consist of two or more members.

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(3) A regional council may assign any of its functions to a committee appointed in terms of subsection (1), but shall not be divested of any such function, and may amend or withdraw any decision of a committee.

Allowances of members of regional councils and committees

9. There shall be paid to a member of a regional council or of a committee of such council who is not in the full-time employment of the State, out of the funds of the regional council, in respect of the performance of his functions as such member, the remuneratory and other allowances determined by the Minister with the concurrence of the Minister of the Budget and Works.

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Objects of regional councils

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10. The objects of regional councils shall be to preserve, foster and extend culture in the region for which they are established in accordance with a policy determined by the Minister.

Powers and functions of regional councils

11. (1) In order to achieve the objects for which it has been established, a regional council may—

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- (a) control, manage, develop and maintain movable and immovable property which has been placed under its care in terms of section 3 (1) (a);
- (b) acquire, hire, let or otherwise dispose of any movable property;

Act No. 65, 1989

CULTURAL AFFAIRS ACT (HOUSE OF ASSEMBLY), 1989

- (c) determine tariffs for the letting of any movable or immovable property placed under its care;
- (d) erect, equip or alter any building or structure on the immovable property contemplated in paragraph (a);
- (e) subject to subsection (2) (b) (ii), receive money or property as a donation, a bequest or in trust, and may control, use, manage or otherwise deal with it subject to the conditions (if any) of the donation, bequest or trust which are consistent with the objects of regional councils; 5
- (f) of its own accord or at the request of the Minister make recommendations on how its objects may be best achieved in the following fields, namely— 10
- (i) the visual arts, music and the literary arts;
- (ii) technology and natural and human sciences;
- (iii) the utilization of leisure, including physical recreational activities which do not include participation in competitive sport; and
- (iv) such other fields as the Minister may from time to time determine. 15
- (2) A regional council shall not—
- (a) without the approval of the Minister erect any building or structure under subsection (1) (d);
- (b) without the approval of the Minister given with the concurrence of the Minister of the Budget and Works— 20
- (i) under subsection (1) (c) determine tariffs for the letting of movable or immovable property; and
- (ii) under subsection (1) (e) accept any donation, bequest or trust—
- (aa) of movable property subject to any condition; or
- (bb) of immovable property. 25
- (3) Any immovable property which is donated or bequeathed to a regional council and which is accepted with the approval contemplated in subsection (2) (b), shall vest in the State.

Hiring of immovable property by regional councils

12. (1) A regional council may for the purpose of achieving its objects and subject to the approval of the Minister given with the concurrence of the Minister of the Budget and Works, hire immovable property specified in such approval. 30
- (2) The approval referred to in subsection (1)—
- (a) shall only be given in respect of immovable property which is situated in the region of the regional council concerned; and 35
- (b) shall be subject to the conditions specified therein.
- (3) A regional council may in respect of immovable property hired in terms of this section exercise all the powers conferred upon it by this Act.

Performance of administrative work of regional councils

13. The administrative work incidental to the performance of the functions of regional councils shall be performed by officers and employees of the Department of Education and Culture: Administration: House of Assembly who are placed at the disposal of a regional council in terms of the provisions of the Public Service Act, 1984 (Act No. 111 of 1984). 40

Insurance

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14. A regional council may arrange with an insurer for the provision of insurance cover for the regional council against any loss, damage, risk or liability which it may suffer or incur, including cover in respect of all property under the care and control of the regional council.

Funds of regional councils

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15. (1) The funds of regional councils shall consist of—
- (a) moneys received from the letting of movable and immovable property;
- (b) interest derived from investments;

Act No. 65, 1989

CULTURAL AFFAIRS ACT (HOUSE OF ASSEMBLY), 1989

- (c) moneys received by way of a donation, bequest or in trust;
- (d) subsidies or moneys received by virtue of section 3 (1) (d); and
- (e) moneys received from any other source.

(2) A regional council shall open an account with a banking institution approved by the Minister and shall deposit in such account all moneys received by the regional council in terms of this Act. 5

(3) Any moneys standing to the credit of the account referred to in subsection (2) and which are not required for immediate use or as a reasonable operating balance shall be invested with the Public Investment Commissioners, or shall be invested or utilized in such other manner as may be determined by the Minister with the concurrence of the Minister of the Budget and Works. 10

Financial year and estimates

16. (1) The financial year of a regional council shall terminate on 31 March in each year.

(2) A regional council shall annually submit in the form and at the time determined by the Minister, its estimates of revenue and expenditure for the ensuing financial year for approval to the Minister, and may during the course of the financial year submit to the Minister for approval supplementary estimates of expenditure for that year. 15

(3) A regional council shall, if the Minister at any time so directs, amend its estimates of revenue and expenditure in accordance with such direction. 20

(4) A regional council shall restrict its expenditure for any financial year to the amounts shown in its estimates of expenditure and which have been approved by the Minister for that financial year.

Accounts and auditing

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17. (1) A regional council shall keep complete and accurate accounts of all moneys received and expended by the regional council, and of all its assets, liabilities and financial transactions.

(2) A regional council shall once every financial year and at the time and in the manner determined by the Minister, submit to the Minister in respect of the previous financial year, a statement of revenue and expenditure and a balance sheet, and shall provide the Minister with any additional information required by him. 30

(3) The accounts of a regional council shall be audited by the Auditor-General.

Delegation of powers and transfer of duties

18. (1) The Minister may, subject to such conditions as he may determine, delegate any of his powers under this Act, except the power to make regulations, and transfer any of his duties under this Act, to any officer of the Department of Education and Culture: Administration: House of Assembly. 35

(2) A delegation or transfer under subsection (1) shall not prevent the Minister from exercising such power or carrying out such duty himself. 40

Regulations

19. (1) The Minister may make regulations regarding—

- (a) the qualifications for appointment as and the term of office of, and the vacation of their offices by, members of a regional council, and the filling of casual vacancies on a regional council; 45
- (b) the system of accounting for and control of the moneys, stores and equipment of regional councils;
- (c) the procedure for inviting and accepting tenders for the execution of work on behalf of a regional council or in connection with the supply of goods and material to a regional council; and 50

Act No. 65, 1989

CULTURAL AFFAIRS ACT (HOUSE OF ASSEMBLY), 1989

(d) in general, any matter which the Minister may deem necessary or expedient to prescribe in order to achieve the objects of this Act, and the generality of this paragraph shall not be limited by the preceding paragraphs.

(2) A regulation under subsection (1) relating to State revenue or expenditure shall, subject to the provisions of any other applicable law, only be made with the concurrence of the Minister of the Budget and Works. 5

Repeal of laws, and savings

20. (1) Subject to the provisions of section 2 and subsections (2) and (3) of this section, those provisions of the Cultural Promotion Act, 1983 (Act No. 35 of 1983), which entrusted to the Minister of National Education powers, duties or functions and which were with effect from 17 September 1984 assigned under section 26 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), to the Minister of Education and Culture: House of Assembly shall at the commencement of this Act cease to apply in so far as this Act is applicable. 10

(2) (a) A regional council for cultural affairs established under a provision of the Cultural Promotion Act, 1983, referred to in subsection (1), and existing immediately prior to the commencement of this Act, shall be deemed to have been established under section 4 (1) of this Act, and shall on such commencement be a body corporate. 15

(b) The assets, liabilities, rights and obligations of any such regional council shall on such commencement vest in the regional council which is so deemed to have been established, as a body corporate. 20

(c) A member of any such regional council who held his office immediately prior to such commencement, shall after such commencement remain in office until the expiration of his period of office. 25

(3) Subject to subsection (2) anything done under or by virtue of a provision of the Cultural Promotion Act, 1983, referred to in subsection (1), shall be deemed to have been done under or by virtue of the corresponding provision of this Act.

Short title and commencement

21. This Act shall be called the Cultural Affairs Act (House of Assembly), 1989, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*. 30