

## DEPARTMENT OF SPORTS, ARTS AND CULTURE

NO. R. 1612

17 December 2021



## SOUTH AFRICAN HERITAGE RESOURCES AGENCY

**REGULATIONS IN ACCORDANCE WITH THE PROVISIONS OF SECTION 9 OF THE NATIONAL HERITAGE RESOURCES ACT, NO 25 OF 1999:**

Regulations in accordance with the provisions of section 9 of the National Heritage Resources Act, No. 25 of 1999 ("NHRA") that replaces the previous Regulations, **No. 40691 of 17 March 2017**, in terms of section 9(3)(a) of the NHRA. The main objective of these Regulations is to provide standards for conservation and maintenance of heritage resources that are in the control of all branches of the State and state supported bodies.

This notice on the updated/amended section 9 Regulations is for **public comment** from all interested and affected parties. The **commenting period will commence as soon as the notice is published until 18 February 2022**. Please forward all comments and inputs on the updated/amended Regulations to South African Heritage Resources Agency's contact person for this notice [lmofutsanyana@sahra.org.za](mailto:lmofutsanyana@sahra.org.za).

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## Chapter I

### 1. Definitions

In these Regulations any word or expression which has been defined in the NHRA and used in these Regulations shall have the meaning assigned to it in that Act, unless the context requires otherwise -

- 1.1 **“Adverse action”** shall mean any action that led to alienation, destruction, permanent modification, or deliberate negative exposure that may lead to deterioration or loss of the heritage resources in the custody or stewardship of the State-owned entity or supported body;
- 1.2 **“Competent Authority”** shall mean the South African Heritage Resources Agency or a Provincial Heritage Resources Authority, competent in line with section 8 of the NHRA;
- 1.3 **“Condition Assessment”** shall mean an assessment conducted by a person with necessary skills to describe the condition of the heritage object: poor, fair, good, damaged or delapidated state, taking into account the surrounding environment, as well as recommendations to mitigate the findings;
- 1.4 **“Conservation”** shall mean protection, maintenance, preservation and sustainable use of places or objects to safeguard their cultural significance;
- 1.5 **“Heritage resources”** shall mean any place or object of cultural significance;
- 1.6 **“Heritage objects”** shall mean any movable property of cultural significance which may be protected in terms of any provisions of the NHRA, including: any archaeological artefact, paleontological and rare geological specimens, meteorites, and other objects referred to in section 3(2)(i) of the NHRA;
- 1.7 **“Immovable heritage resources”** shall mean any structure that has been declared as a National or Provincial site in terms of the NHRA or any structure older than 60 years and any object affixed thereto;
- 1.8 **“National Estate”** may include places, buildings, structures, and equipment of cultural significance; places to which oral traditions are attached or which are associated with living heritage; historical settlements and townscapes; landscapes and natural features of cultural significance; geological sites of scientific or cultural importance; archaeological and palaeontological sites; sites of significance relating to the history of slavery in South Africa; movable objects;
- 1.9 **“Notification”** shall mean the State entity or state supported body or any of their selected representatives, notifying or informing SAHRA, of any proposed action that may adversely affect the heritage resources on SAHRIS in a prescribed manner;
- 1.10 **“Supported body”** shall mean a body funded or financially supported by the State and includes State-owned enterprises;
- 1.11 **“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 compiling and maintaining the inventory of the national estate or any other system that may replace the said system;
- 1.12 **“The Act”** means the National Heritage Resources Act, 1999 (Act No. 25 of 1999);

1.13 “**Under control**” shall mean or refer to heritage resources owned, managed, leased, or used by the State entities and supported bodies.

## 2. Purpose

2.1 The purpose of these Regulations is to regulate the procedure and criteria as contemplated in section 9 of the NHRA relating to the management of heritage resources in the custody of State or State supported bodies. The aim is to regulate the process by which decisions and comments are made on notifications for any proposed action that may adversely impact on heritage resources. Such decisions and comments must be made to avoid or mitigate detrimental impacts on heritage resources, and to optimise best available conservation and preservation procedures and standards for the management of heritage resources.

2.2 Noting that SAHRA is entrusted with such a responsibility as set out in the NHRA in relation to heritage resources, these Regulations are intended to clarify the manner in which State entities and supported bodies should maintain and conserve heritage resources under their control, in order to facilitate the effective execution of SAHRA's mandate.

2.3 It flows from the above that these Regulations set out standards and procedures for the maintenance and conservation of heritage resources under the control of State entities and supported bodies.

2.4 These Regulations outline the approach for State entities and supported bodies to preserve heritage resources.

2.5 All State entities and supported bodies must, on the request of a heritage resources authority, make available for its use and incorporation into its database, any information which it has on record on heritage resources under its control: provided that the body supplying such information may set out conditions regarding the disclosure and distribution of such information by the heritage resources authority.

## 3. Application

These Regulations apply to all State entities and supported bodies that have heritage resources in their control. Compliance with these regulations does not exempt any State or State supported body from compliance with any other provision of the Act.

## 4. Timeframes

4.1 A period of days must, in terms of these Regulations, be reckoned from or after a particular day. That period must be reckoned as from the start of the day following that particular day to the end of the last day of the period, but if the last day of the period falls on a Saturday, Sunday or public holiday, that period must be extended to the end of the next day which is not a Saturday, Sunday or public holiday.

4.2 For any action contemplated in terms of these regulations for which a timeframe is prescribed, the period of **15 December to 5 January** must be excluded in the reckoning of days or in terms of an announcement made by SAHRA.

4.3 Unless justified by exceptional circumstances, as agreed to by SAHRA, the State entity or state supported body must refrain from conducting any public consultation or engagement process during the period of 15 December to 5 January.

- 4.4 When a state department or any relevant stakeholder is requested to comment in terms of these Regulations, such State department or stakeholder must submit its comments in writing within 30 days from the date on which it was requested to submit comments and if such State department or relevant stakeholder fails to submit comments within such 30 days, it will be regarded that such State department or relevant stakeholder has no comments.
- 4.5 SAHRA must acknowledge receipt of all requests for comments and documents contemplated in these regulations within 14 days of receipt thereof.
- 4.6 SAHRA may designate an appropriate timeframe, at its discretion, regarding the need to conduct public participation, and such decision shall be communicated to the relevant parties.

## **Chapter II**

### **5. General requirements**

- 5.1 Each State entity and supported body must not take any action that will adversely affect a heritage resource unless the authority concerned is satisfied that there is no feasible and prudent alternative to the taking of that action and that all measures that can reasonably be taken to minimise the adverse effect will be taken.
- 5.2 Each State entity and supported body must notify SAHRA of the proposed action and give them a reasonable opportunity to consider and comment on it.
- 5.3 If the proposed action requires a permit or any form of authorisation in terms of the Act and the State entity and state supported body apply to a competent authority, such State entity or state supported body is exempted from informing SAHRA.
- 5.4 At the initiation stage of, or at least 90 days before (whichever is the longest period), taking any adverse action that may affect the heritage resources, a request for comment must be submitted to SAHRA.
- 5.5 All requests for comment in terms of these Regulations must be decided upon by SAHRA.
- 5.6 The notification shall include but is not limited to-
- (a) inventory and description of the heritage resource(s);
  - (b) historical background of the heritage resource(s);
  - (c) good quality images of the heritage resource(s);
  - (d) reason for proposed action;
  - (e) list of stakeholders consulted or intended to be consulted, and any other additional information requested by SAHRA.
- 5.7 Upon receipt of the notification, SAHRA must check whether the notice-
- (a) is properly completed and that it contains the information required;
  - (b) is accompanied by any other documents as required in terms of these Regulations; and
  - (c) conforms to the requirements of these Regulations.

5.8 Institutions that are required to obtain permission from the Minister in terms of section 4(6) of the Cultural Institutions Act 119 of 1998, must subsequently inform SAHRA and comply with the requirements of these Regulations.

#### **6. Criteria to be considered when assessing a notification and a request for comment.**

6.1 When considering the request, SAHRA must have regard to section 9(3)(e) and 3(3), read in conjunction with section 5 of the Act, the need for and desirability of the undertaking of the proposed activity, the requirements of these Regulations, expert advisers' opinion and other public interest in the matter.

6.2 SAHRA must consider and decide upon a request for comment in respect of a proposed action that may result in an adverse impact on the heritage resources. Before issuing a comment, the following will be taken into account-

- (a) the significance of the heritage resource;
- (b) the condition of the heritage resource;
- (c) the reason or motivation that led to the proposed action;
- (d) expert adviser that has knowledge of the heritage resource; and
- (e) any other relevant information.

### **Chapter III**

#### **7. General requirements for maintenance and conservation of heritage resources**

7.1 State entities and supported bodies shall-

- (a) ensure that heritage resources in their control are properly conserved and well maintained and any action required to be taken in respect of those resources is not taken in contravention of the Act;
- (b) before taking any action that may impact the heritage resources, consider principles of heritage management as contained in section 5 of the Act;
- (c) involve communities, and encourage the use and enjoyment of, as well as research and knowledge dissemination on, the heritage resources;
- (d) develop management plans that includes risk assessment of the heritage resources; and
- (e) inform SAHRA as soon as possible if one or more of the heritage resources is damaged, vandalized, or stolen.

### **SECTION A: MOVABLE HERITAGE RESOURCES (HERITAGE OBJECTS)**

#### **8. Standards and procedures for maintenance of heritage objects**

8.1 In addition to general requirements for the conservation and management of heritage resources, the following shall apply to heritage objects-

- (a) State entities and supported bodies must compile and submit inventories detailing the heritage resources under their control to SAHRA. Such inventories must be in accordance with the norms and standards established by SAHRA;
- (b) State entities and supported bodies must conduct a condition assessment of heritage objects, at least once in every three years, unless the objects require regular assessment, and submit said condition assessment to SAHRA;

- (c) The condition assessment must be compiled by a conservator in consultation with SAHRA;
- (d) State entities and supported bodies must provide appropriate storage that is suitable to house the heritage objects;
- (e) Depending on the type of the material of the object/s, the environment or storage area must comply with best practices and standards, taking into account the following-
  - (i) climate control: a temperature and humidity control system should be installed and maintained in a good working condition;
  - (ii) lighting should be monitored regularly, and appropriate action taken, when necessary. Excessive levels of UV radiation from direct sunlight should be minimised as far as possible;
  - (iii) a pest control programme in terms of the conservation standards should be in place to keep the environment pest free;
  - (iv) appropriate security measures that include working alarms, cameras, and physical security, should be implemented to minimise theft or vandalism;
  - (v) a fire detection and prevention system must be in place;
  - (vi) building maintenance must be carried out regularly;
  - (vii) objects shall not be stacked together to minimise damage. Therefore, proper care is required when packing objects in the storage area;
  - (viii) routine regular maintenance and cleaning of the heritage objects should be conducted. Only chemicals and cleaning products which do not damage the integrity of the fabric of the object may be used, and objects on display and in storage need to be maintained;
  - (ix) In addition, the archaeological and paleontological objects must comply with SAHRA guidelines on curatorial considerations for archaeological and paleontological materials;
- (f) If a state entity or state supported body houses large objects that are stored outside the building, they must ensure that-
  - (i) a condition assessment is undertaken to assess the impact of climatic condition on the object(s);
  - (ii) objects are adequately covered by the materials that do not cause more damage if necessary;
  - (iii) adequate security is implemented to minimise vandalism, damage, or theft.

8.2 A State entity or state supported body must ensure that they appoint or delegate an official to oversee the management and conservation of the objects.

8.3 The person appointed or delegated must have appropriate knowledge in the conservation and preservation of heritage objects concerned, and the entity must provide regular training.

## **SECTION B: IMMOVABLE HERITAGE REOURCES (BUILDINGS/STRUCTURES)**

### **9. Standards and procedures for maintenance of immovable heritage resources**

9.1 State entities and supported bodies must conduct maintenance for the purposes of mainly providing care to the heritage resources and this shall include:

- (a) regular inspection and cleaning of a heritage resource, for instance mowing and pruning in a garden;

- (b) repair involving restoration, returning of dislodged or relocated fabric to its original location, for instance, loose roof gutters on a building or displaced rock in a stone wall;
- (c) repair involving reconstruction, replacing of decayed fabric with new fabric; and
- (d) scheduled maintenance of ancillary resources that ensure the sustainability of a heritage resource.

9.2 State entities and supported bodies must restore heritage resources as appropriate. Should there be a need to restore a heritage resource by using new material, this may include recycled material salvaged from other places. The restoration should not be to the detriment of a heritage resource and should maintain the authenticity of the heritage resource as much as possible. If a permit would ordinarily be required in terms of the Act, the State entity or the state supported body shall apply for same before commencing with any such restoration.

9.3 State entities and supported bodies may adapt heritage resources for re-use that will enhance the life span of resources and generate additional income to assist in conservation of the resources, but steps should be taken to ensure that that adaptive re-use does not negatively impact on the significance of the heritage resource.

9.4 State entities and supported bodies must prepare and submit maintenance plans for maintenance of a heritage resource. Yearly restoration and maintenance plans should be drafted and submitted to SAHRA.

9.5 In the event of redevelopment and/or refurbishments-

- (a) The State entities and supported bodies shall do as much as necessary to care for heritage resources under their control and in order to make them useable, but otherwise change them as little as possible so that their cultural significance is retained;
- (b) Any action taken shall be under the direction, permission, supervision, and implementation of a competent authority. Supervision should be maintained at all stages, and any changes should be implemented by people with appropriate knowledge and skills;
- (c) Any action taken shall require construction management plans that shall entail the specific process that will be implemented when an intervention takes place.

9.6 Conservation management plans ("CMP")-

- (a) The State entities and supported bodies must commission and prepare management plans for heritage resources in their control;
- (b) Should any State entity or a supported body commission one CMP for several heritage resources in its control then that State entity or state supported body shall prepare specific plans for each of its heritage resources;
- (c) A CMP should encompass developmental guidelines specific to the heritage resource to guide any form of developmental intervention;
- (d) Management plans should be live documents. All actions taken on the site once the management plan is in effect, should be adapted and included into the management plan;
- (e) Scheduled yearly restoration and maintenance interventions that occur on a yearly basis must be adapted into the conservation management plan as scheduled actions for ease of permitting.

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## **10. Manner of reporting on maintenance and development**

10.1 State entities and supported bodies shall report to SAHRA on development and maintenance of heritage resources in writing, annually. All reports must be captured on the South African Heritage Resources Information System (“SAHRIS”) or registered mail; however, this does not include applications for comments and permits which must be submitted on SAHRIS.

10.2 The reports referred to in 10.1 shall include the following-

- (a) an inventory of all heritage resources in the custody of the State entity or state supported body;
- (b) a discussion on the conditions which necessitated the need for maintenance including, but not limited to, wall collapse, vegetation growth, graffiti, vandalism, fire, accidental damage, general wear-and tear.
- (c) what the proposed maintenance entailed in terms of equipment and methods used;
- (d) a confirmation that a permit, if required by the Act, was issued;
- (e) details of the person(s) that conducted the maintenance work. This shall include their previous experience (if any), the number of people present on site and who was monitoring the maintenance work;
- (f) the period during which the maintenance was conducted (date initiated, and date completed);
- (g) a discussion of the measures in place (if any) to ensure future protection of the heritage resource;
- (h) a report on the number of objects or any other heritage resources disposed of as well as heritage resources that were saved from disposal. The report shall include their location and status; and
- (i) a list of all the qualified service providers that were contracted to undertake the maintenance action taken.

## **11. Non – compliance**

Failure to comply with these Regulations shall have the same results and consequences as set out in the Act on contraventions. In certain instances, the Intergovernmental Relations Framework Act, 13 of 2005 will be applied where appropriate.

## **APPENDIX I**

### **MINIMUM STANDARDS FOR THE MANAGEMENT AND CONSERVATION OF OBJECTS AND COLLECTIONS AT MUSEUMS, UNIVERSITIES, STATE DEPARTMENTS AND SUPPORTED BODIES OR OTHER ORGANISATIONS THAT SAHRA IDENTIFIES AS FORMING PART OF THE NATIONAL ESTATE**

#### **INTRODUCTION**

The South African Heritage Resources Agency (SAHRA), established in terms of the National Heritage Resources Act, No. 25 of 1999 (NHRA) is responsible for the identification, assessment, conservation, management, and promotion of heritage resources that form part of the national estate. Heritage objects form part of the heritage resources and SAHRA regulates their movement outside of South Africa. Heritage Objects may be publicly or privately owned.

Heritage Objects and Collections that SAHRA identifies as forming part of the national estate because they are special and unique, are declared as Specifically Declared Heritage Objects or Collections. Often, identified objects and collections are stored, archived, or displayed at a university, or other organisation where the conservation of objects and collections is not the core function of the institution concerned. In addition, the staff responsible for these heritage objects and collections may not be trained professionals, and the spaces in which the object/s or collections are housed, may be inadequate and temporary, thus placing them at considerable risk. Therefore, this document serves to guide owners and custodians on the minimum standards required to preserve heritage objects and collections for future generations.

The SAHRA has created the South African Heritage Resources Information System (SAHRIS) as a tool for heritage resources management. The objects management functionality complies with the Object ID standards, as developed by Interpol. SAHRIS incorporates a free, fully featured objects management workflow that can be utilised for complete inventory management.

#### **MANAGEMENT OF THE COLLECTION**

A management committee should be established, comprising owner/custodian, or an appointed representative, dedicated staff, and representatives from departments such as Facilities, Finance, Institutional Planning, etc., as well as outside stakeholders. Regular meetings should be held to discuss and address, conservation strategies, and possible risks to the collections. If professional staff do not have the skills and expertise, the necessary and appropriate training programmes should be put in place as soon as possible. Partnerships should be established, wherever possible, with museums that have the expertise and capacity to guide and assist with caring for the collections. Funding will have to be found for the proper care of the object/s or collections and should remain the responsibility of the owner or custodian. If there is no management committee, the relevant department/staff member must take full responsibility for the collection and it must be on the agenda of the department, as well as determining and addressing the risks, conservation needs and procurement of resources.

Guidelines describing terms and conditions under which donations are accepted or refused, must be in place and a register of donations must be maintained together with the associated documentation, including receipts for objects, signed by donors.

Museums should seek to consolidate collection policies, in a meaningful way, to avoid duplication, as well as competition for rare collections. However, change should be encouraged when appropriate.

It may be necessary to limit access to specific collections, e.g. culturally sensitive material, but this should be guided by informed policy. Programmes of cleaning and maintenance of collections, in storage and on exhibition, must be developed and implemented, to keep them free of particulate (dust) and gaseous (from the atmosphere) pollution, insect pests and rodents. The cleaning and maintenance programme should make provision for compliance testing and should be subject to an annual audit.

Storage facilities for heritage collections must meet the following minimum standards:

- Collections must be protected from the damaging effects of sunlight, or visible light (heat) and invisible (UV) radiation. The recommended lighting levels for the various materials in heritage collections should be used.
- There should be some measure of climate control for heritage collections, particularly with regard to temperature and humidity. Extremes in relative humidity (RH) and temperature cause problems with most materials, but the most serious damage is caused by rapid, continual fluctuations of RH, in association with temperature. The recommended average levels of temperature are between 19° - 21° C, and RH, between 50 – 55%.
- In order to stabilise and control temperature and RH levels, in stores and on exhibition, regular monitoring and recording must take place. Records must be retained for reference and inspection purposes.
- It is important to follow correct and safe procedures when storing heritage collections, in order to protect the variety of materials that make up objects, from deterioration. Deterioration and damage is caused mainly by fire, floods, air pollution, insect pests, physical damage (storage methods), as well as unstable levels of temperature/RH, light and UV.

Minimum standards for collections on exhibition

The same principles apply, as for collections in storage, when exhibiting heritage collections, i.e. continuous monitoring to achieve stable temperature and RH levels; producing suitably low lighting levels, helping to control heat and UV damage; and setting up regular cleaning and maintenance programmes.

The procedures to follow are:

- Preparation of material includes, a conservation assessment of objects selected for exhibition, to determine their suitability for display;
- Any basic conservation work should be done at this point, and it is critical to make safe and secure mounts and supports for the objects where necessary, together with the relevant documentation;

### Facilities

Buildings in which the object/s or collections are housed, should comply with the following basic requirements:

- The buildings should be structurally sound, externally and internally, regarding roofs, walls, floors, windows;
- Protecting the object/s or collections from damp, leaks, visible (sunlight) and invisible (UV) radiation, as well as fire (see point 6) and flooding;
- Suitable width and height of entrance/exits to move large objects in and out, for the purposes of storage and exhibition.
- The storage facility must take into account, storage furniture (cupboards, shelving, drawers) that is suitable for the variety of materials object/s or collections are made from. If the storage space is temporary, a timeframe should be given, indicating when a permanent space will be made available;
- Movement of object/s or collections includes handling, packing, unpacking, storing and exhibiting. It is important to follow the general guidelines for handling/moving object/s or collections, to avoid any damage to them; and
- Be aware of, and check carefully, all security measures in place, for example, who has keys and access to storage areas?; if there's an intruder alarm, is it monitored internally or externally?; visitors and researchers to the collections must be accompanied and supervised; At least basic fire detection should be installed; the appropriate types of fire extinguishers should be mounted where they are easily accessible; A fire detection system also requires smoke detectors to be installed.

### Documentation of the object/s or collections

- New acquisitions are entered in permanent ink, in a bound register. The register is kept in a safe/vault when not in use.
- No erasures may be made in the registers, and changes must be signed. A pen line can be drawn through the incorrect word or phrase, so the correction remains clearly visible.
- Descriptions of the object/s or collections must be done and should include the following details: a physical description noting materials, and particular features that may be significant; an assessment of the object/s or collection's condition; cultural affinity if appropriate; use/function; history; seller/owner details; measurements and a photographic record.
- Information recorded in the accessions register, includes; the category of object, the cultural origin & importance, the locality (provenance), how, or from whom obtained, and the date of acquisition. If there is not cataloguing system, a short description of the object may be made in the register.
- Each object is given a unique number, and if written directly on it, should be as permanent as possible without damaging it.
- The number must be clearly visible, and in a place that is not immediately obvious.
- If the number is marked directly on the object, it must be in the same place on each category of object, using an archival marking pen. If it's not possible to mark the object directly, attach tie-on card labels, or paper tags, with the number written on both sides of the card/tag.

- Guidelines regarding donations should be in place, for example, conditions under which they are accepted or refused.; and documentation associated with the object/s or collection donated.
- The Management Committee should monitor and implement any agreements entered. Make sure that the agreements are made accessible to the relevant internal stakeholders.
- Archival collections that are continuously used for research purposes, should be copied, to prevent damage to the original documents.

## REFERENCES

1. Hosford, J. 2012: Preventive Conservation Procedures Manual
2. South African Heritage Resources Information System: <https://sahris.sahra.org.za/>
3. South African Museums Association. 2006. Professional Standards and Transformation Indicators.

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