



# Government Gazette

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## THE PRESIDENCY

No. 1316 7 December 2001

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

**No. 69 of 2001: Cultural Laws  
Second Amendment Act, 2001**



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**GENERAL EXPLANATORY NOTE:**

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

                     Words underlined with a solid line indicate insertions in existing enactments.

*(English text signed by the President.)*  
*(Assented to 4 December 2001.)*

**ACT**

To amend the Cultural Institutions Act, 1998, so as to further regulate the amalgamation of declared institutions; to provide that a declared institution may in certain circumstances without prior approval of the Minister sell or otherwise alienate any specimen, collection or other movable property; to further regulate the constitution of a council; to further regulate the vacation of office by members of a council; to provide for the dissolution of a council; to empower the Minister to determine criteria for the allowances payable to and reimbursement of expenses incurred by members of the council; to empower the Minister to appoint the chairperson of a council; to provide for the submission by a council of a business plan and an annual report to the Minister; and to provide for the tabling of the annual report in Parliament by the Minister; to amend the National Heritage Council Act, 1999, so as to empower the Minister to appoint a chairperson for the Council; to provide for the dissolution of the Council; to empower the Minister to determine criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council; and to provide for the submission by the Council of a business plan to the Minister; and to provide for matters connected therewith.

**B**E IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

**Amendment of section 3 of Act 119 of 1998**

1. Section 3 of the Cultural Institutions Act, 1998, is hereby amended—

(a) by the substitution for subsection (3) of the following subsection: 5

“(3) The Minister may by notice in the *Gazette* declare that **[an] a declared institution or any other institution** must be amalgamated with a flagship institution established by section 6(1) or (2).”; and

(b) by the addition of the following subsections:

“(4) The Minister may by notice in the *Gazette* declare that a declared institution or other institution must be amalgamated with other declared institutions or other institutions to form a new flagship institution. 10

(5) A flagship institution declared under subsection (4) is subject to section 6(4).”.

**Amendment of section 4 of Act 119 of 1998**

2. Section 4 of the Cultural Institutions Act, 1998, is hereby amended by the substitution for subsection (6) of the following subsection:

“(6) (a) A declared institution may not [, **without prior approval of the Minister,**] sell or otherwise alienate any specimen, collection or other movable property. 5

(b) The Minister may in a particular case exempt a declared institution from the prohibition referred to in paragraph (a).”.

**Amendment of section 5 of Act 119 of 1998**

3. Section 5 of the Cultural Institutions Act, 1998, is hereby amended— 10

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

“(1A) The director of a declared institution serves *ex officio* and has no voting powers.”;

(b) by the insertion of the following subsection after subsection (2):

“(2A) The chief executive officer of a flagship institution serves *ex officio* and has no voting powers.”;

(c) by the substitution for subsection (9) of the following subsection:

“(9) A member of a council must vacate [the] office if [the member]—

(a) that member resigns in writing;

(b) that member has been absent from three consecutive meetings of the council without its leave; 20

(c) that member is an unrehabilitated insolvent;

(d) that member is found to be of unsound mind by a court of law;

(e) that member is convicted of an offence involving dishonesty or bodily harm and is sentenced to imprisonment without the option of a fine; [or] 25

(f) that member materially breaches the code of ethics of the institution; or

(g) on reasonable grounds, the majority of the council so recommends and the recommendation is accepted by the Minister.”;

(d) by the insertion after subsection (9) of the following subsection:

“(9A) The Minister may dissolve a council on any reasonable grounds.”;

and

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

“(10)(a) Subject to paragraph (b), a member of a council who is not in the full-time employment of the State may receive out of the funds of the council in question, in respect of his or her functions as a member, honoraria and reimbursement for expenses as the council in question may determine. 35

(b) The Minister, with the concurrence of the Minister of Finance, must determine criteria for payment of the honoraria and reimbursement of expenses contemplated in paragraph (a).” 40

**Amendment of section 6 of Act 119 of 1998**

4. Section 6 of the Cultural Institutions Act, 1998, is hereby amended by the addition to subsection (4) of the following paragraph: 45

“(c) The chief executive officer—

(i) serves for a renewable term of five years; and

(ii) must enter into a performance agreement with the relevant council before taking up his or her post as chief executive officer.”.

**Amendment of section 7 of Act 119 of 1998** 50

5. Section 7 of the Cultural Institutions Act, 1998, is hereby amended by the substitution for subsections (1) and (2) of the following subsections, respectively:

“(1) The chairperson of a council is [**elected**] appointed by the Minister from the appointed members of the council and holds office for the period or the unexpired portion of the period for which he or she has been appointed as member of the council [, **unless the council otherwise determines**]. 55

(2) If the chairperson of a council vacates the office as chairperson before the expiration of the period for which he or she was appointed, another member of the council must, subject to subsection (1), be **[elected]** appointed by the Minister as chairperson of the council from the appointed members of council.”.

#### Amendment of section 8 of Act 119 of 1998

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6. Section 8 of the Cultural Institutions Act, 1998, is hereby amended by the addition of the following subsections:

“(6) A council must not later than one month before the commencement of each financial year, submit a business plan covering the next three years and containing such information as may be prescribed by the Minister for his or her approval.

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(7) A council must submit an annual report to the Minister which must contain such information regarding the activities and financial position of the council as may be prescribed.

(8) The Minister must table the report referred to in subsection (7) in Parliament within 14 days of receipt thereof if Parliament is then sitting, and if Parliament is not sitting, within 14 days after the commencement of the next sitting.

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(9) Within five months after the report has been tabled, a delegation consisting of the chairperson of the relevant council and at least two other council members must brief the relevant committees of Parliament on the annual report.”.

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#### Amendment of section 6 of Act 11 of 1999

7. Section 6 of the National Heritage Council Act, 1999, is hereby amended—

(a) by the substitution for subsection (3) of the following subsection:

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“(3) (a) The Minister shall appoint a chairperson from among the members who are appointed in terms of section 5(1)(a).

(b) The members of the Council shall, as the occasion arises, elect—

(a) a chairperson from among the members who are appointed in terms of section 5(1)(a); and

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(b) a vice-chairperson from among all the members.”; and

(b) by the insertion after subsection (5) of the following subsection:

“(5A) The Minister may dissolve the Council on any reasonable grounds.”.

#### Substitution of section 9 of Act 11 of 1999

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

#### “Honoraria and reimbursement of expenses

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

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

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#### Amendment of section 10 of Act 11 of 1999

9. Section 10 of the National Heritage Council Act, 1999, is hereby amended by the deletion in subsection (1) of the word “and” at the end of paragraph (j) and the insertion of the following paragraph after paragraph (j):

“(jA) not later than one month before the commencement of each financial year, submit a business plan covering the next three years and containing such information as may be prescribed to the Minister for his or her approval; and”.

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Act No. 69, 2001 CULTURAL LAWS SECOND AMENDMENT ACT, 2001

**Amendment of section 13 of Act 11 of 1999**

10. Section 13 of the National Heritage Council Act, 1999, is hereby amended by the addition of the following subsection:

“(4) Within five months after the report has been tabled, a delegation consisting of the chairperson of the Council and at least two other members of the Council must brief the relevant committees of Parliament on the annual report.”.

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**Short title and commencement**

11. This Act is called the Cultural Laws Second Amendment Act, 2001, and comes into operation on a date determined by the President by proclamation in the *Gazette*.