

Government Gazette

Vol. 420, No. 21304, 23 June 2000

Regulation Gazette, No. 6834

No. R. 634

WORLD HERITAGE CONVENTION ACT, 1999

REGULATIONS IN CONNECTION WITH THE GREATER ST. LUCIA WETLANDS PARK

The Minister of Environmental Affairs and Tourism has, under section 44 of the World Heritage Convention Act, 1999 (Act 49 of 1999) made the regulations in the Schedule.

SCHEDULE

REGULATIONS IN TERMS OF THE WORLD HERITAGE CONVENTION ACT, 1999 IN CONNECTION WITH THE GREATER ST. LUCIA WETLANDS PARK

Definitions

1. Unless the context clearly dictates otherwise, terms defined in the Act and used in the Regulations shall have the same meaning as in the Act and the terms below shall have the following meaning:

"Act" means the World Heritage Convention Act, 1999;

"Authority" means the Authority for the GSLWP established by Government Notice No [] of [] 2000;

"Board" means the Board for the Authority established by Government Notice No [] of [] 2000;

"Chief Executive Officer" or **"CEO"** means the person referred to in regulation 11(1) who shall be in charge of the Executive Staff Component and responsible for the day-to-day management of the GSLWP;

"commercial activities" mean, subject to the provisions of the Management Agreement, all activities which are capable of being conducted within or in connection with the GSLWP and are of an income producing or commercial nature; and which shall include, but not be limited to tourism; provided that such activities are associated with the conservation of the GSLWP and

- a. do not cause the material permanent destruction of renewable or non-renewable resources within the GSLWP other than as permitted in the Management Agreement or the IDMP;
- b. where applicable, have been approved by the competent authority after an environmental impact assessment; and
- c. do not impact materially on the conservation status of the GSLWP;

"conservation" means the conservation and study of wild animals, flora and fauna and objects of geological, archaeological, historical, ethnological and other such interests, including, without limitation, on land, water and at sea, in a manner so that the GSLWP shall be retained as far as may be practical in its natural state and for the benefit and enjoyment of the community and visitors;

"GSLWP" means the Greater St. Lucia Wetland Park as proclaimed by the Minister to be a World Heritage Site by Government Notice [] of [] 2000;

"IDMP" or **"Integrated Development Management Plan"** means the integrated management plan in terms of Chapter IV of the Act;

"Management Agreement" means the agreement entered into pursuant to regulation 19;

"MEC" means the Member of the Executive Council in KwaZulu-Natal responsible for (a) economic development and tourism and (b) agriculture and environmental affairs, as the case may be;

"Regulating Committee" means the Regulating Committee established in Regulation 18;

"Service" means the Nature Conservation Service established by the KwaZulu Natal Nature Conservation Management Act 9 of 1997;

"Tourism Authority" means the KwaZulu-Natal Tourism Authority established by the KwaZulu-Natal Tourism Act 11 of 1996;

Objectives

2. (1) These Regulations recognise that-

- a. the Greater St. Lucia Wetlands Park is situated in one of the poorest areas of South Africa;
- b. there is a limited window of opportunity in which responsible development can be effected in the Greater St. Lucia Wetlands Park via tourism;
- c. tourism has the potential to contribute greatly to the fulfilment of the objectives of the Act and the well-being of the people of the Republic and KwaZulu-Natal; and
- d. the Act creates the framework to ensure that the Greater St. Lucia Wetlands Park be managed, protected and developed in a manner consistent with South Africa's obligations under the Convention and international best practice; and therefore,

(2) In accordance with the Act's commitment to balanced conservation and development, the primary objectives of the GSLWP are to-

- a. ensure that effective and active measures are taken for the protection, conservation and presentation of the World Heritage Convention values in the Greater St. Lucia Wetlands Park;
- b. promote the empowerment of historically disadvantaged adjacent communities;
- c. promote, manage, oversee, market and facilitate optimal tourism and related development in the Greater St. Lucia Wetlands Park; and
- d. encourage sustained investment and job creation.

(3) The objectives of these Regulations are to-

- a. provide for the environmental and cultural protection and sustainable development of, and related activities within and around the GSLWP;
- b. give effect to the values of the Convention in and around the GSLWP;
- c. ensure that the Convention and the Operational Guidelines are effectively implemented in and around the GSLWP, subject to the Constitution and the provisions of the Act and the Regulations;
- d. promote, manage, oversee, market and facilitate tourism and related development in connection with the GSLWP in accordance with applicable law, the Convention and the Operational Guidelines in such a way that the ecological and cultural integrity is maintained;
- e. ensure that everything done in terms of the Regulations conforms with the obligations of the Republic in terms of the Convention and the Operational Guidelines in relation to the GSLWP;
- f. ensure the identification and transmission to future generations of the cultural and natural heritage of the GSLWP;
- g. ensure that effective and active measures are taken for the protection, conservation and presentation of the natural and cultural heritage of the GSLWP;
- h. encourage investment and innovation in connection with the GSLWP;
- i. encourage job creation in connection with the GSLWP;
- j. promote the development of environmentally, culturally and, if applicable, economically sustainable projects in connection with the GSLWP; and
- k. promote empowerment and advancement of historically disadvantaged adjacent communities in projects related to the GSLWP.

Procedure for entering into agreements

3. Any agreement or series of agreements referred to in section 13(1)(g) of the Act to be entered into by an Authority-
 - a. in excess of Rand 10 million (annually adjusted for inflation, using 2000 as the basis year); and/or
 - b. for a term longer than 10 years

requires the prior written approval of the Minister;

Duties of Authority

4. In connection with the GSLWP and in addition to the duties in section 13(2) of the Act, the Authority shall have the duty to-
 - a. develop measures for the environmental and cultural protection and sustainable development of, and related activities within and in connection with the GSLWP and to ensure that the values of the Convention are given effect to, including, without limitation, in relation to harmful activities outside the GSLWP such as farming, forestry, pollution, harm to the catchment areas of the GSLWP and land degradation;
 - b. without limitation to the sources of funding available to the Authority and the GSLWP, take effective and active measures to be financially efficient and independent and commercially viable; and
 - c. establish and implement, in addition to the Integrated Development Management Plan, related subordinate plans, including, without limitation nodal development plans, wilderness areas and other appropriate designations;

Criteria for Appointments to the Board

5. The Board may include, without limitation, representatives from-
 - a. national Government;
 - b. provincial government departments and cultural or nature conservation authorities;
 - c. directly affected adjacent communities and tribal authorities;
 - d. tourism bodies;
 - e. organised business;
 - f. heritage bodies;
 - g. nature conservation bodies;
 - h. cultural organisations;
 - i. non-governmental organisations;
 - j. scientific or academic expert bodies;
 - k. local authorities;
 - l. private landowners; and
 - m. international cultural or nature conservation bodies.

Composition of Board

6. (1) The Chief Executive Officer shall be an *ex officio* Board member.
 - (2) Persons may be appointed or seconded to the Board by the Minister in accordance with the Act for a period of 3 years or such shorter period as the Minister may determine.
 - (3) Different periods of appointment may be determined for different appointments.
 - (4) On the expiry of a term of appointment, that person may be re-appointed by the Minister.
 - (5) Appointments may, at the discretion of the Minister, be made on a part time or agency basis.
 - (6) In the event of a vacancy on the Board for any reason, the Minister may, subject to the provisions of the Act, appoint a person or persons to fill such vacancy for a period determined by the Minister when making such appointment; provided that if such vacancy arises within six months from the invitation process set forth in section 14 of the Act, the Minister may fill such vacancy from the names presented to the Minister as part of that nomination process.

(7) A Board member may at any time and upon giving no less than 30 days notice to the Minister resign as a Board member.

(8) The Minister may remove a Board member if good cause exists to do so, including, without limitation-

- a. infirmity of mind or body preventing a Board member from discharging his or her duties properly;
- b. conduct which brings the Board and/or the Authority into disrepute;
- c. the existence of an undisclosed conflict of interest; and
- d. absence from three consecutive Board meetings without good cause shown.

Chairperson and vice-chairperson of Board

7. The Minister shall appoint the chairperson and vice-chairperson of the Board.

Meetings of Board

8. (1) Meetings of the Board shall be held on such dates and at such times and places as the Board may determine from time to time by resolution, but the Board shall meet at least once every three months and the first meeting of the Board shall be held at such place and time as the Minister in consultation with the chairperson designate may determine.

(2) The quorum for a meeting of the Board shall be a majority of the total number of Board members appointed at that time, but where no quorum is present for the second successive meeting of which proper notice was given, the number of members then present shall constitute a quorum even if that number is less than a majority of the total number of Board members at that time.

(3) In the event of the equality of votes of the Board, the chairperson shall have a casting vote.

(4) The Board may allow, in its discretion, members of the public to attend a meeting of the Board.

Conflicts of Interest of Board

9. (1) Where in relation to a matter being investigated, acted, considered or voted upon by the Board, a member of the Board has any interest which precludes or could preclude that member from performing his or her functions as a member in a fair, unbiased and proper manner, that member shall not participate in such investigation, action, consideration or vote and shall take no further part in that matter.

(2) Any disclosure of a conflict of interest shall be recorded in writing.

(3) If a member fails to comply with the preceding two sub-Regulations, the relevant actions of the Board shall be null and void, except if such failure did not alter the action of the Board in any manner.

Conditions of service and remuneration of Board

10. The conditions of service and the remuneration of the members of the Board are as set out in Annexure 1.

Executive Staff Component

11. (1) The Executive Staff Component shall be under the control and supervision of the Chief Executive Officer..

(2) Persons shall be appointed to the Executive Staff Component by the Board upon the recommendation of the Chief Executive Officer in accordance with the Act for such period as the Chief Executive Officer may determine, including, without limitation, on a temporary basis or pursuant to an agency or secondment arrangement.

(3) Different periods of appointment may be determined for different appointments.

(4) On the expiry of a term of appointment, that person may be re-appointed by the Chief Executive Officer..

(5) Appointments may, at the discretion of the Chief Executive Officer, be made on a full time or a part time basis, but where a person is appointed on a full time basis, he or she may not, without the prior written permission of the Chief Executive Officer engage in or perform remunerative work outside the duties of his or her office as Executive Staff Component member.

(6) The provisions of and the directives, rules and policies made under the Public Service Act, 1994 (Proclamation 103 of 1994) shall not apply to the Executive Staff Component, but the conditions of employment and remuneration of the members shall be as set out in Annexure 2.

(7) The Chief Executive Officer may remove an Executive Staff Component member if good cause exists to do so, including, without limitation-

- a. infirmity of mind or body preventing an Executive Staff Component member from discharging his or her duties properly;
- b. conduct which brings the Executive Staff Component and/or the Authority into disrepute;
- c. the existence of an undisclosed conflict of interest;
- d. dereliction of duties; and absence from three consecutive Executive Staff Component meetings without good cause shown.

Conflicts of Interest of Executive Staff Component

12. The provisions of Regulation 9 shall apply *mutatis mutandis* to the Executive Staff Component.

Executive Staff Component functioning

13. Meetings of the Executive Staff Component shall be held on such dates and at such times and places as the Chief Executive Officer may determine from time to time.

Interim management Regulations pending approval of the integrated management plan

14. All applicable law and measures shall remain in force until the Integrated Development Management Plan for the GSLWP becomes effective in accordance with the Act.

Sources of funding of Authority

15. Subject to applicable law, the Authority may receive and raise monies from-

- a. contract for goods and services;
- b. loan;
- c. donor funding from inside or outside the Republic;
- d. interest;
- e. joint venture income;
- f. fees, including, without limitation, fees related to -
 - i. turnover; or
 - ii. rights granted by the Authority; or
 - iii. services provided by the Authority;
- g. sale income;
- h. income from the development or lease of the assets under the control of the Authority;
- i. subsidies from any organ of state; or
- j. appropriation by Parliament or a provincial legislature.

Financial Regulations -

16. (1) Without limiting any duty under the Act or the Regulations, financial statements required to be prepared and/or submitted in terms of the Act or the Regulations shall be compiled and presented in sufficient detail to afford a clear and complete understanding of the affairs and financial position of the Authority and, where applicable and practicable, shall comply with the

relevant provisions of the Companies Act and generally accepted accounting practice.

(2) The annual financial plan pursuant to section 36 of the Act must include, without limitation, details regarding the-

- a. projects and activities for the ensuing financial year and their estimated cost, sources of funding and performance indicators; and
- b. budgeted financial statements for each quarter of the ensuing year comprising-
 - i. an income and expenditure budget;
 - ii. a cash flow budget;
 - iii. a budgeted balance sheet;
 - iv. notes explaining data in the foregoing; and
 - v. other information reasonably necessary to impart a clear understanding of the annual financial plan and the key assumptions on which it is premised

(3) The strategic plan pursuant to section 37 of the Act must include, without limitation, details regarding the-

- a. nature, extent, mission and objectives of the Authority;
- b. identity and qualifications of the members of the Board and the Executive Staff Component;
- c. staffing plan, organisational chart and divisional functions and responsibilities;
- d. significant projects and their estimated cost, sources of funding and performance indicators; and
- e. financial projections for each of the ensuing five years.

(4) The Authority shall open and keep a bank account or accounts with reputable financial institutions registered as a bank under the Banks Act of 1991.

Transfer of employees

17. Any person may be transferred or seconded to the Authority on contractually agreed terms, including, without limitation, by way of any agency or similar agreement.

GSLWP Regulating Committee

18. (1) In order to assist the Authority, the Authority may establish the GSLWP Regulating Committee comprising of-
- a. the Chief Executive Officer of the Authority who shall also be the chairperson of the Regulating Committee and have a casting vote in case of a deadlock;
 - b. the chief executive officer of the Service on behalf of the MEC for agricultural and environmental affairs and the Service;
 - c. the chief executive officer of the Tourism Authority on behalf of the MEC for economic development and tourism and the Tourism Authority; and
 - d. another representative appointed from time to time at the discretion of the Minister.

(2) The Regulating Committee shall be responsible for-

- a. the negotiation and execution of the Management Agreement; and
- b. ruling finally on any disagreement, dispute, question of interpretation or similar matter that may arise from the Management Agreement.

(3) The Management Agreement shall provide, without limitation, in relation to the roles and responsibilities of the members of the Regulating Committee in connection with the GSLWP-

- a. an appropriate mechanism to deal with the ongoing interaction between the members of the Regulating Committee;
- b. the quick and final settlement of all disputes that may arise in connection with the Management Agreement; provided that any dispute that can not be so resolved will be referred to the MEC and the Minister for final resolution;
- c. the time, manner and place of meetings of the Regulating Committee;
- d. funding of the Regulating Committee; and

- e. standing delegation to and by the Regulating Committee.

Management Agreement

19. (1) In order to avoid institutional overlap and ensure the optimal use of resources and qualified institutions, the Regulating Committee members shall execute a legally binding Management Agreement within [2] months of the effective date which shall clearly specify the roles and responsibilities of the Regulating Committee members in relation to the GSLWP; Provided that if the members of the Regulating Committee fail to reach consensus on the terms of the Management Agreement, the Minister shall determine the terms thereof after considering representations from the Regulating Committee.

(2) Without derogating from the scope of the Management Agreement set forth elsewhere in the Regulations, and subject to the principles set forth in sub-regulation (3), the Management Agreement shall deal, without limitation, with:-

- a. matters to give effect to the Regulations;
- b. the transfer of assets and obligations to and from the Authority;
- c. implementation and execution of the Integrated Development Management Plan for the GSLWP; and
- d. assistance with regulatory processes and approvals in connection with the development of the GSLWP.

(3) The division of institutional responsibility pursuant to the Management Agreement shall be pursuant to the following principles-

- a. the Service shall be responsible for-
 - i. conservation management; arid
 - ii. regulatory enforcement related to conservation;
- b. the MEC shall be responsible for regulatory policy related to conservation and oversight; and
- c. the Authority shall be exclusively responsible for commercial activities and related planning and zoning, including, but not limited to:
 - i. the provision of accommodation and activities for visitors to the GSLWP;
 - ii. carrying on business or trade primarily for the convenience of visitors to the GSLWP;
 - iii. construction and erection of such roads, bridges, buildings, structures, fences and related work as may be necessary in connection with commercial activities;
 - iv. making such charges as it may determine in connection with its activities;
 - v. authorising any person to carry on, subject to such conditions and the payment of such charges as it may thin fit, any activity in connection with commercial activities in the GSLWP;
 - vi. marketing;
 - vii. research and development; and
 - viii. local economic empowerment;

and may do all things which are necessary to ensure that the Regulations and the Management Agreement are complied with.

(4) The Management Agreement shall be subject to such policy and norms and standards as the Minister may prescribe from time to time pursuant to section 44(3) of the Act.

Time, manner and form of complying with technical, administrative and reporting requirement of the Convention

20. The Authority shall provide an annual written report to the Minister within 90 days of the end of each financial year in which detail is provided on how the Authority has assisted the Department in a timely manner to comply with technical, administrative and reporting requirements of the Convention in connection with the GSLWP.

Date of commencement of Regulations

21. These Regulations shall commence on [the date of commencement of the Act/publication], as determined in terms of section 45 of the Act.