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GENERAL NOTICE

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DEPARTMENT OF ENVIRONMENTAL AFFAIRS AND TOURISM

WORLD HERITAGE CONVENTION DRAFT BILL, 1999

The World Heritage Convention Draft Bill, 1999 is hereby published for public comment in accordance with section 154(2) of the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996). Comments should be submitted in writing to:

The Director-General
Attention: Ms I Coetzee
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Comments may also be faxed to (021) 418 2582 or sent by e-mail to icoetzee@sfri.wcape.gov.za. Comments must be received by not later than 9 July 1999.

REPUBLIC OF SOUTH AFRICA

WORLD HERITAGE CONVENTION DRAFT BILL

(To be introduced in the National Assembly as a section 76 Bill)

(MINISTER OF ENVIRONMENTAL AFFAIRS AND TOURISM)

BILL

To provide for the incorporation of the World Heritage Convention into South African law; to provide for the enforcement and implementation of the World Heritage Convention in South Africa; to provide for the recognition and establishment of World Heritage Sites; to provide for the establishment of Authorities and the granting of additional powers to existing organs of State; to provide for the powers, functions and duties of such Authorities; to provide for the advisory boards and executive committees of the Authorities; to provide for management zone plans over World Heritage Sites; to provide for land matters in relation to World Heritage Sites; to provide for financial, auditing and reporting controls over the Authorities; and to provide for incidental matters.

Preamble

Recognising that the cultural heritage and the natural heritage are among the priceless and irreplaceable possessions, not only of the Republic, but of humankind as a whole;

Acknowledging the loss, through deterioration or disappearance of any of these most prized possessions constitutes an impoverishment of the heritage of all the peoples of the world, and in particular, the people of South Africa;

NOW BE IT THEREFORE ENACTED by the Parliament of the Republic of South Africa, as follows—

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CHAPTER I DEFINITIONS OBJECTIVES PRINCIPLES AND IMPLEMENTATION

Definitions

1. In this Act, unless inconsistent with the context—

- i. "**Advisory Board**" means the Advisory Board referred to in section 14;
- ii. "**Authority**" or "**Authorities**" means an Authority established in terms of section 6 or referred to in section 7;
- iii. "**cultural heritage**" has the meaning given to it in Article 1 of the World Heritage Convention;
- iv. "**Department**" means the Department of Environmental Affairs and Tourism;
- v. "**ecosystem**" has the meaning given to it in section 1 of the National Environmental Management Act, 1998 (Act No. 107 of 1998);
- vi. "**environment**" has the meaning given to it in section 1 of the National Environmental

Management Act, 1998;

- vii. "**establishment date**" means the date determined by the Minister in terms of section 6 or referred to in section 7;
- viii. "**Executive Committee**" has the meaning given to it in Chapter IV;
- ix. "**historically disadvantaged**" means persons or categories of persons that were unfairly discriminated against on the basis of past legislation, policies, prejudice and stereotypes;
- x. "**management zone plans**" has the meaning given to it in Chapter V;
- xi. "**MEC**" means the Member of the Executive Council responsible for environmental, cultural or heritage affairs, as the case may be, in the province concerned;
- xii. "**Minister**" means the Minister of Environmental Affairs and Tourism;
- xiii. "**natural heritage**" has the meaning given to it in Article 2 of the World Heritage Convention;
- xiv. "**Operational Guidelines**" means the operational guidelines for the implementation of the World Heritage Convention prepared by the World Heritage Committee;
- xv. "**pollution**" has the meaning given to it in section 1 of the National Environmental Management Act, 1998;
- xvi. "**prescribe**" means prescribed by regulation in terms of section 50,
- xvii. "**private land**" means any land that is not State land or provincial land;
- xviii. "**provincial land**" means land which by law vests in a provincial government;
- xix. "**regulation**" means a regulation made in terms of section 50,
- xx. "**State forest**" means a State forest as defined in section 2 of the National Forest Act, 1998 (Act Not 84 of 1998);
- xxi. "**State land**" means land which by law vests in the national government including —
 - a. land held by the Minister of Land Affairs;
 - b. provincial land unless the Premier of the relevant province or other person entrusted with that land in the relevant province consents to the particular purpose for which that land is to be used in terms of this Act; and
 - c. land held by the responsible person or authority holding tribal or similar land in trust,

but excludes land belonging to a local authority;
- xxii. "**sustainable development**" has the meaning given to it in section 4(2);
- xxiii. "**this Act**" includes the World Heritage Convention and regulations and any notice issued under the Act;
- xxiv. "**tourism**" means the provision and sustainable commercial development, in a responsible manner, of places of cultural and natural heritage, to attract tourists and which provides for the beneficial socio-economic involvement of local people;
- xxv. "**the World Heritage Committee**" means the World Heritage Committee established in terms of Article 8 of the World Heritage Convention;
- xxvi. "**World Heritage Fund**" means the World Heritage Fund established in terms of Article 15(1) of the World Heritage Convention;
- xxvii. "**World Heritage List**" means the World Heritage List established in terms of Article 11(2) of the World Heritage Convention;
- xxviii. "**World Heritage Site**" means any place in the Republic which-
 - a. has been included on —
 - i. the World Heritage List; or
 - ii. the tentative list of Republic referred to in Article 121(a)(i) of the Operational Guidelines; or
 - b. upon the recommendation of the Minister after consultation with the relevant Minister concerned, and subject to a resolution by Parliament, is identified as a place of cultural heritage or natural heritage and,

is proclaimed by the Minister by notice in the *Gazette* to be a World Heritage Site;

xxix. "**World Heritage Convention**" means the Convention Concerning the Protection of the World Cultural and Natural Heritage, adopted by the General Conference of UNESCO on 16 November 1972, ratified by the Republic on 10 July 1997, and set out in the Schedule.

Enactment of World Heritage Convention as part of South African law

2. The World Heritage Convention is enacted into law in the Republic.

Objectives of this Act

3. The objectives of this Act are to—

- a. provide for the culturally and environmentally responsible protection and development of, and related activities within, World Heritage Sites;
- b. make the World Heritage Convention part of South African domestic law and to create a framework to ensure that the World Heritage Convention and the Operational Guidelines are effectively implemented in the Republic, subject to the Constitution and the provisions of this Act;
- c. promote, manage, oversee, market and facilitate tourism and related development in World Heritage Sites in accordance with international best practice, the World Heritage Convention and the Operational Guidelines;
- d. ensure that everything done in terms of this Act conforms with the obligations of the Republic, in terms of the World Heritage Convention and the Operational Guidelines;
- e. ensure the identification and transmission to future generations of the cultural and natural heritage of the Republic;
- f. ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage of the Republic;
- g. encourage investment and innovation in World Heritage Sites;
- h. encourage job creation in World Heritage Sites;
- i. promote the development of culturally, environmentally and, if applicable, commercially sustainable projects in World Heritage Sites; and
- j. promote empowerment and advancement of historically disadvantaged persons in projects related to World Heritage Sites.

Fundamental principles

4. (1) For purposes of this Act, the following fundamental principles are recognised by the State and apply throughout the Republic in relation to World Heritage Sites, to the actions of all organs of State and Authorities, subject to applicable law:

- a. Cultural and natural heritage management must be sensitive to the people and their needs and must serve their physical, psychological, developmental, cultural and social interests equitably;
- b. development must be socially, culturally, environmentally and economically sustainable,
- c. equitable access to World Heritage Sites must be pursued and special measures must be taken to ensure access thereto by categories of the historically disadvantaged;
- d. the participation of all interested and affected parties in the governance of cultural and natural heritage must be promoted;
- e. all people must have the opportunity to develop the understanding, skills and capacity necessary for achieving equitable and effective participation;
- f. participation by vulnerable and historically disadvantaged persons must be ensured;
- g. decisions must take into account the interests, needs and values of all interested and affected parties;
- h. community well-being and empowerment must be promoted through cultural and natural heritage education, the raising of cultural and natural heritage awareness, the sharing of knowledge and experience and by any other appropriate means;

- i. the social, economic, cultural and natural heritage consequences of activities, including disadvantages and benefits, must be considered, assessed and evaluated.
- j. decisions must be taken in an open and transparent manner, and access to information must be provided in accordance with applicable law;
- k. there must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the cultural and natural heritage;
- l. actual or potential conflicts of interest between—
 - i. organs of State; or
 - ii. an organ of State and an Authority; or
 - iii. authorities,

should be resolved through appropriate conflict resolution procedures;

- m. policy, administrative practice and legislation and the interpretation of existing legislation relating to the cultural and natural heritage must promote the integration of these resources in provincial, urban and rural planning and social and economic development;
- n. global and international responsibilities relating to the cultural and natural heritage must be discharged in the national interest;
- o. the cultural and natural heritage is held in public trust for the people, the beneficial use of cultural and environmental resources must serve the public interest and the cultural and natural heritage must be protected as the common heritage of the people; and
- p. sensitive, vulnerable, highly dynamic or stressed ecosystems, such as coastal shores, estuaries, wetlands, and similar systems require specific attention in management and planning procedures, especially where they are subject to significant human resource usage and development pressure.

(2) For the purposes of this Act, sustainable development of World Heritage Sites include that—

- a. the disturbance of ecosystems and loss of biological diversity are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
- b. pollution and degradation of the environment are avoided, or, where they cannot be altogether avoided, are minimised and remedied;
- c. the disturbance of landscapes and sites that constitute the cultural and natural heritage of the Republic is avoided, or where it cannot be altogether avoided, is minimised and remedied;
- d. waste is avoided, or where it cannot be altogether avoided, minimised and re-used or recycled where possible and otherwise disposed of in a responsible manner;
- e. the use and exploitation of non-renewable natural resources is responsible and equitable, and takes into account the consequences of the depletion of the resource;
- f. the development, use and exploitation of renewable resources and the ecosystems of which they are part do not exceed the level beyond which their integrity is jeopardised;
- g. a risk-averse and cautious approach is applied, which takes into account the limits of current knowledge about the consequences of decisions and actions;
- h. negative impacts on the environment and on the environmental rights of the people be anticipated and prevented, and where they cannot be altogether prevented, are minimised and remedied;
- i. cultural and natural heritage have the capacity to promote reconciliation, understanding and respect, and contribute to the development of a unifying South African identity; and
- j. cultural and natural heritage management must guard against the use of this heritage for sectarian purposes or political gain.

Enforcement and implementation of Convention

5. The Department is responsible for enforcing and implementing the World Heritage Convention in the Republic, including—

- a. after consultation with the relevant provinces and other organs of State concerned, submitting an inventory as described in Article 11 of the World Heritage Convention to the World Heritage Committee;
- b. publishing such particulars as may be prescribed of any new World Heritage Site in the *Gazette* within a reasonable period of time;
- c. applying to the World Heritage Committee for international assistance in terms of Article 13 and Part V of the World Heritage Convention;
- d. entering into agreements in terms of Article 13 of the World Heritage Convention;
- e. making applications to the World Heritage Fund and overseeing the proper use of any financing obtained in terms of the World Heritage Convention; and
- f. preparing reports as required by Article 29 of the World Heritage Convention after due consultation with the relevant provinces and organs of State concerned.

CHAPTER II AUTHORITIES

Establishment of Authorities

c6. The Minister may, by notice in the *Gazette*, establish an Authority which is a juristic person with the capacity to sue and be sued in its own name, with such powers, duties, functions and jurisdiction set out in this Act, as the Minister may determine.

Additional powers to existing organ of State

7. Where an existing organ of state is already by law managing or involved in a World Heritage Site, the Minister may grant by notice in the *Gazette* such additional powers referred to in section 13 to that organ of State in relation to that World Heritage Site, as the Minister may determine.

Consultation prior to establishment

8. (1) The Minister or his or her representative must consult with interested parties before acting in terms of sections 6 or 7, which consultation may be in the form of public hearings and may include consultation with representatives from the relevant affected—

- a. provinces;
- b. cultural authorities;
- c. conservation authorities;
- d. heritage authorities; and
- e. other organs of State.

(2) The Minister must notify, after consultation in terms of subsection (1), but before an Authority is established, if applicable

- a. the owner the area affected by such declaration;
- b. the mortgage holder, the occupier and any other person with a registered interest in the area affected by such declaration; and
- c. cultural, conservation and heritage bodies with an interest in the area affected by such declaration.

(3) The notification referred to in subsection (2) may be effected by the publication of a notice in the *Gazette*.

Organs of Authorities

9. An Authority established in terms of section 6 or referred to in section 7 may consist of an Advisory Board or an Executive Committee or both, with such powers and duties referred to in sections 13 and 15(1), as the Minister may determine.

Name of Authority

10. The Minister may determine by notice in the *Gazette* a name for an Authority.

Disestablishment and revocation of powers

11. (1) (a) An Authority established in terms of section 6 may only be disestablished in terms of a resolution by Parliament.

(b) In the case of such an Authority, the Minister may, in terms of a resolution of Parliament, amend, suspend, revoke and terminate such powers of that Authority by notice in the *Gazette*, with or without conditions, after giving the Authority concerned a hearing, where such amendment, suspension, revocation or termination is—

- i. necessary for compliance with the World Heritage Convention or the Operational Guidelines; or
- ii. in the public interest.

(2) In the case of an Authority referred to in section 7, the Minister may only revoke the additional powers granted by him or her to that Authority in terms of a resolution by Parliament.

Identification and Nomination

12. (1) The Department or a body prescribed by the Minister may identify places of potential cultural or natural heritage and investigate the desirability of nominating such places for inclusion on the World Heritage List.

(2) Any person may submit a proposal in writing to the Department, or if it is in existence, the body referred to in subsection (1), for a place in the Republic to be nominated for inclusion on the World Heritage List.

(3) The Minister may, upon recommendation of the Department, or if it is in existence, the body referred to in subsection (1), prescribe the format and procedures for—

- a. the proposal referred to in subsection (2),
- b. an investigation into such proposal; and
- c. the nomination of any place in the Republic for inclusion on the World Heritage List.

(4) A written motivation for the declaration of place as a World Heritage Site must be prepared and kept by the Department.

Powers and duties of Authorities

13. (1) The Minister may, by notice in the *Gazette*, give to an Authority established in terms of section 6 or referred to in section 7 some or all of the following powers and duties over one or more World Heritage Sites—

- a. overseeing and complying with the World Heritage Convention, including—
 - i. to ensure the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage; and
 - ii. to ensure that effective and active measures are taken for the effective protection, conservation and presentation of the cultural and natural

heritage;

- b. identifying new World Heritage Sites;
 - c. liaising with relevant cultural, nature conservation and similar authorities on a local, provincial and, with the consent of the Department, national and international level;
 - d. managing, promoting, facilitating and monitoring cultural and natural heritage;
 - e. being responsible for cultural and natural heritage in accordance with all applicable national and provincial legislation, policies and management plans;
 - f. negotiating, in consultation with the Department of Land Affairs, with claimants in terms of the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994) with claims over State Land, or in the case of private land, forming part of or affecting World Heritage Sites or land affecting World Heritage Sites with the consent of the owner, and with the approval of the Minister of Land Affairs or his or her delegate, settling any such claims;
 - g. granting by way of contract or licence, concessions and similar contractual rights over World Heritage Sites;
 - h. entering into contracts for anything directly or indirectly related to its powers, functions, objectives and matters incidental thereto, but the Minister may require by regulation that agreements of a specified class, nature, or magnitude require his or her prior written approval;
 - i. acquiring land by contract, donation or otherwise;
 - j. charging levies, fees, rent or other consideration for—
 - i. any function it fulfils; or
 - ii. any right it grants;
 - k. using for gain or reward any movable or immovable asset under its control, subject to all applicable law, where such asset is not immediately required by the Authority for the fulfilment of its functions;
 - l. undertaking, or cause to be undertaken, research or investigations relevant to a World Heritage Site;
 - m. co-ordinating with—
 - i. the relevant tribunals under the Development Facilitation Act, 1995 (Act No. 67 of 1995); or
 - ii. similar bodies or relevant planning authorities, on a national, provincial and local level,
- in order to expedite responsible development in World Heritage Sites and to ensure that development takes place in accordance with all applicable laws and procedures;
- n. initiating, assisting or facilitating any application under the Development Facilitation Act, 1995 or other applicable development, zoning or management law relating to or affecting a World Heritage Site;
 - o. performing any function, on contractually agreed terms and with the consent of the Minister, at the request of—
 - i. a national government department; or
 - ii. an institution or statutory body; or
 - iii. another country; or
 - iv. a province; or
 - v. a regional council; or
 - vi. a local government; or
 - vii. any other entity or person prescribed by the Minister;
 - p. employing persons or entities on a permanent or temporary basis;
 - q. delegating any of its powers, including the granting of rights regarding its powers

of cultural development or nature conservation to a competent national, provincial, or local government or private nature conservation entity, with the necessary administrative capacity and resources, in the following manner—

- i. contractually; and
 - ii. in an open and transparent manner;
- r. establishing committees, sub-committees and otherwise arrange its internal affairs in a manner it deems necessary; and
- s. doing all things incidental or reasonably necessary for the proper fulfilment of paragraphs (a) to (s).

(2) In granting the powers referred to in subsection (1), the Minister must specify the powers which must be exercised by either the Advisory Board or the Executive Committee, or both, as the case may be.

(3) (a) An Authority may make rules in connection with the World Heritage Site under its jurisdiction regarding such matters as the Minister may determine.

(b) The Minister may publish by notice in the Gazette model rules to be used as a guideline by Authorities.

CHAPTER III ADVISORY BOARD

Establishment of Advisory Board

14. (1) The Minister may, by notice in the *Gazette*, establish an Advisory Board for an Authority.

(2) The Minister must ensure that the Advisory Board is broadly representative and multidisciplinary, with members qualified to make a substantial contribution towards the proper functioning of the Authority, and may include, without limitation, members from—

- a. national Government;
- b. adjacent communities directly affected;
- c. heritage bodies;
- d. organised business;
- e. adjacent tribal authorities affected;
- f. nature conservation bodies;
- g. cultural organisations;
- h. non-governmental organisations;
- i. independent cultural or nature conservation experts;
- j. provincial government departments,
- k. cultural or nature conservation authorities;
- l. local authorities; private land owners; and
- m. international cultural or nature conservation bodies.

(3) The Minister may appoint Advisory Board members for a period of five years.

(4) An Advisory Board must consist of not less than three and not more than 11 members.

(5) The Chief Executive Officer of an Authority established in terms of section 6 is an ex officio member of its Advisory Board.

Powers of Advisory Board

15. (1) An Advisory Board has the powers reasonably necessary to—

- a. be responsible for the policy of, and general oversight over, that Authority;
- b. provide directions to the Executive Committee of that Authority;
- c. monitor the activities of the Executive Committee of that Authority to ensure compliance with this Act; and
- d. co-ordinate with Advisory Boards of other Authorities.

(2) The Minister may grant to an Authority, in addition to the powers referred to in subsection (1), any of the powers referred to in section 13.

(3) The Minister may review such decisions, actions and policies of the Advisory Board as he or she may prescribe.

Vacation of Office

16. (1) A member of the Advisory Board must vacate his or her office if he or she

- a. becomes insolvent;
- b. becomes of unsound mind;
- c. fails to declare in advance and in writing a financial interest in—
 - i. any matter involving the Authority; or
 - ii. any other conflict of interest,

but where a financial interest or conflict of interest is properly declared, such Advisory Board member must not take no part in any action by the Advisory Board involving that matter;

- d. is convicted of an offence of which dishonesty is an element and is sentenced to imprisonment without the option of a fine; or
- e. is absent from three consecutive meetings of the Advisory Board without leave of the chairperson.

Resignation from Office

17. (1) A member of the Advisory Board may resign by giving three month written notice to the Minister.

(2) The Minister may accept a shorter notice period.

Removal from Office

18. (1) The Minister or his or her delegate may after a hearing remove an Advisory Board member from office if there are sufficient reasons in the opinion of the Minister for doing so, including, if that member—

- a. is guilty of misconduct;
- b. becomes incapacitated; or
- c. is inefficient.

Remuneration of Advisory Board

19. The Authority may pay to a member of the Advisory Board who is not in the full-time employment of an organ of State, the allowances which the Minister may determine with the concurrence of the Minister of Finance in general or in a specific case.

Advisory Board functioning

20. The Minister may determine matters relating to the functioning of the Advisory Board including—

- a. terms of office; service conditions and remuneration of Advisory Board members;
- b. vacancies on the Advisory Board;
- c. the number of Advisory Board members required to constitute a quorum at a meeting
- d. committees of the Advisory Board; and
- e. the delegation and assignment of Advisory Board functions.

CHAPTER IV EXECUTIVE COMMITTEE

Establishment of Executive Committee

21. (1) The Minister may, by notice in the *Gazette*, establish an Executive Committee for an Authority.

(2) The Minister may appoint not less than five and not more than 15 Executive Committee members for a renewable period not exceeding two years.

(3) The Executive Committee must consist of—

- a. a Chief Executive Officer, who is also the accounting Officer of the Authority;
- b. a Chief Financial Officer;
- c. a Chief Cultural or Environmental Officer;
- d. one *ex officio* Advisory Board member; and
- e. other additional members.

(4) The Minister must ensure that the Executive Committee is broadly representative and multidisciplinary, with members qualified to make a substantial contribution towards the effective day-to-day and long term functioning of the Authority, and may include members who are skilled in matters relating to—

- a. finances;
- b. business acumen;
- c. cultural heritage;
- d. natural heritage;
- e. tourism;
- f. project management;
- g. marketing;
- h. community involvement; and
- i. legal matters.

Powers of Executive Committee

22. In addition to any power referred to in section 13 granted to it by the Minister, an Executive Committee has all the necessary powers to be responsible for the effective day-to-day management and functioning of that Authority.

Vacation of Office

23. A member of the Executive Committee must vacate his or her office if he or she—

- a. becomes insolvent;
- b. becomes of unsound mind;
- c. fails to declare in advance and in writing a financial interest in—
 - i. any matter involving the Authority; or
 - ii. any other conflict of interest,

but that where a financial interest or conflict of interest is properly declared, such Executive Committee member must not take part in any action by the Executive Committee involving that matter;

- d. is convicted of an offence of which dishonesty is an element and is sentenced to imprisonment without the option of a fine;
- e. is absent from three consecutive meetings of the Executive Committee without leave of the chairperson.

Resignation from Office

24. (1) A member of the Executive Committee may resign by giving three months written notice to the Minister.

(2) The Minister may accept a shorter notice period.

Removal from Office

25. The Minister or his or her delegate may, after a hearing, remove an Executive Committee member from office if there are sufficient reasons in the opinion of the Minister for doing so, including, if that member—

- a. is guilty of misconduct;
- b. becomes incapacitated; or
- c. is inefficient.

Remuneration of Executive Committee

26. The Authority may pay to a member of the Executive Committee who is not in the full-time employment of an organ of State, the allowances which the Minister may determine with the concurrence of the Minister of Finance in general or in a specific case.

Executive Committee Functioning

27. The Minister may prescribe matters relating to the functioning of the Executive Committee including—

- a. terms of office, service conditions and remuneration of Executive Committee members,
- b. vacancies on the Executive Committee;
- c. the number of Executive Committee members required to constitute a quorum at a meeting;
- d. committees of the Executive Committee; and
- e. the delegation and assignment of Executive Committee functions.

CHAPTER V MANAGEMENT ZONE PLANS

Preparation and Implementation of Management Zone Plans

28. (1) Every Authority must prepare and implement a management zone plan for the World Heritage Site under its control and such surrounding buffer zones and areas to fulfil Articles 4 and 5 of the World Heritage Convention.

(2) An Authority must conduct its affairs in accordance with an management zone plan.

(3) In preparing a management zone plan an Authority must have due regard for, and seek to integrate and harmonise that management zone plan with the requirements of, the World Heritage Convention and the Operational Guidelines, and applicable—

- a. provincial planning and development plans;
- b. regional planning and development plans;
- c. local planning and development plans; and
- d. plans in terms of the National Environmental Management Act, 1998 (Act No. 107 of 1998), the Cultural Institutions Act, 1969 (Act No. 29 of 1969), the National Parks Act, 1976 (Act No. 57 of 1976) and the National Heritage Resources Act, 1999.

Objects of Management Zone Plan

29. (1) The object of every management zone plan must be to ensure and regulate the management of the World Heritage Site concerned subject to the objectives of this Act and thing into account the cultural or environmental sensitivity of the World Heritage Site concerned. in a manner that—

- a. is culturally and environmentally responsible,
- b. promotes responsible tourism in the case of a World Heritage Site open to a large number of visitors,
- c. promotes job creation, capacity building and skills transfer; and
- d. is mindful of the duty on the Authority to provide for reasonably affordable public access to World Heritage Sites.

(2) In addition to the objects in subsection (1), the management zone plan must conform to the World Heritage Convention, the Operational Guidelines and any prescription by the Minister stipulating additional objects or amplifying the objects in this Act.

Contents of Management Zone Plan

30 (1) In addition to the requirements of the World Heritage Convention, the Operational Guidelines and the prescriptions of the Minister for a plan of this nature, every management zone plan must contain, at least—

- a. a co-ordinated policy framework;
- b. such planning controls and performance criteria as may be prescribed;
- c. a programme for the implementation of the plan;
- d. procedures for public participation;
- e. procedures for participation by conservation, tourism and other relevant experts;
- f. cultural or nature-conservation components required by—
 - i. applicable law; and
 - ii. the prescriptions of the Minister;
- g. provisions regarding the—
 - i. activities allowed within the particular zone;
 - ii. terms and conditions of conducting activities;
 - iii. prohibition of activities prescribed by the Minister; and
 - iv. control over the frequency, size, impact or manner of conducting activities in particular zone.

Approval of Management Zone Plan

31. (1) An Authority must submit its first management zone plan to the Minister for approval within three months of its establishment.

(2) The World Heritage Site must be managed as prescribed by the Minister pending the approval by the Minister of the management zone plan.

(3) A management zone plan must be submitted to the Minister in thorns of subsection (1) after the Authority has consulted with the following:

- a. Surrounding communities adjacent to the World Heritage Site;
- b. owners of private land in, or adjacent to, the World Heritage Site; and
- c. claimants in terms of the Restitution of Land Rights Act, 1994 with claims over World Heritage Sites or land affecting World Heritage Sites.

(4) The Minister may, upon receipt of a management zone plan—

- a. approve that plan with or without conditions; or
- b. reject that plan.

(5) A management zone plan is only effective with the approval of the Minister.

Duration of Management Zone Plan

32. (1) Every management zone plan must cover a period of, at least, five years or such longer period as the Minister may determine.

(2) An Authority must submit a succeeding management zone plan to the Minister to be dealt with in accordance with section 31(4) before the end of the second last year of the operation of a current management zone plan.

Amendment to Management Zone Plan by Authority

33. An Authority may amend a management zone plan subject to the approval of the Minister in accordance with section 31(4).

Amendment or Termination of Management Zone Plan by Minister

34. (1) The Minister may amend or terminate a management zone plan if—

- a. that management zone plan is inefficient;
- b. (b) that management zone plan does not comply with the World Heritage Convention, the Operational Guidelines or applicable law, or
- c. (c) other good reasons exist to do so;

(2) The Minister must not amend or terminate a management zone plan if the effect of such amendment or termination may directly or indirectly have, or is likely to have, an adverse effect on the contractual rights or expectations of the rights-holder under a contract, licence grant or similar instrument, including—

- a. parties providing for the development of or on a World Heritage Site; or
- b. any financial institution providing financing to such a rights holder.

Model Management Zone Plan

35. The Minister may prescribe model management zone plans or sections thereof.

CHAPTER VI LAND

Purchase of Land for World Heritage Site purposes

36. The Minister may, with the concurrence of the Minister of Public Works, purchase any property and reserve it for purposes contemplated in this Act in relation to World Heritage Sites, if that purpose is a public purpose or is in the public interest.

Expropriation of Land for World Heritage Site purposes

37. The Expropriation Act, 1975 (Act No. 63 of 1975) applies to all expropriations under this Act

and any reference to the Minister of Public Works in that Act must be read as a reference to the Minister for purposes of such expropriations.

Land consolidation

38. (1) The Minister may, by notice in the *Gazette*, reserve or consolidate land and effect amendments to any servitude or other real right over land for World Heritage Site purposes in the case of—

- a. State forests, if the relevant Minister concerned concurs;
- b. tribal or similar land held in trust, if the responsible person or authority concerned concurs;
- c. State land other than land referred to in paragraph (a), if the relevant Minister concerned concurs,
- d. private land, if such land is leased by the Minister or an Authority on terms agreed with the the owner thereof or if such owner consents; or
- e. any land purchased by the Minister in terms of section 36 or expropriated by the Minister in terms of section 37.

(2) When the Minister acts in terms of subsection (1), the title deeds or other documents of title of the pieces of land must be superseded by a certificate of consolidated or uniform title, as the case may be, issued by the relevant registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937), upon the written consent of the relevant Minister or Authority referred to in subsection (1), notwithstanding the fact that the provisions of sections 40 and 41 of the Deeds Registries Act, 1937 have not been compiled with.

(3) Notwithstanding the provisions of the State Land Disposal Act, 1961 (Act No. 48 of 1961), the Minister may, by notice in the *Gazette*, in relation to any land reserved or consolidated, or any real right amended in terms of subsection (1)

- a. transfer ownership or user rights of such land to an Authority,
- b. amend or repeal any servitude or other real right, and
- c. name such reserved or consolidated land or cause it to be named by an Authority,

subject to such conditions as the Minister, in consultation with the Minister or Authority concerned in subsections (1)(a), (b) or (c), if applicable, may prescribe.

(4) Despite the provisions of section 5 of the State Land Disposal Act, 1961 and section 18 of the Deeds Registries Act, 1937, a registrar as defined in section 102 of the Deeds Registries Act, 1937, must, on submission to him or her of a certificate by the Minister of Public Works that State land has been transferred in terms of subsection (3)(a), free of charge make such entries and endorsements as he or she may deem necessary in or on any appropriate register, title deed or other document in that registrar's office or laid before that registrar in order to register the transfer of such land in the name of that Authority.

(5) A registrar referred to in subsection (2) must, on submission to him or her of a certificate by the Minister of Public Works that a servitude, other real right or lease has been transfer-red in teens of subsection (3)(b) or that a servitude exists over State land which has been transferred in terms of that subsection, free of charge make such entries and endorsements as he or she may deem necessary in or on any appropriate register, title deed or other document in that office of the registrar or laid before that registrar in order to-

- a. register the transfer of such servitude, other real right or lease in the name of the Authority;
- b. confirm the existence of the servitude over the State land so transferred in favour of any other person.

CHAPTER VII FINANCES AND REPORTS

Funding

39. (1) An Authority may receive or raise, as the case may be, moneys from any legal source, including—

- a. contract;
- b. loan;
- c. donor funding from inside or outside the Republic;
- d. interest;
- e. joint venture income;
- f. levies in consideration of rights granted or services provided;
- g. fees, including, without limitation, fees related to—
 - i. the grant of licences; and
 - ii. turnover;
- h. sale income;
- i. income from the development or leasing of its assets;
- j. concession payments;
- k. subsidies and loans from any organ of State; and
- l. appropriation by Parliament.

Security

40. Authority may use any of its unencumbered assets as security for debt or other obligations, with the consent of the Minister, and if the asset concerned is worth more than ten percent of the total assets of the Authority, also with the consent of the Minister of Finance.

Expenditure of moneys

41. (1) The moneys of an Authority received or raised in terms of section 39, will be used in accordance with the business and financial plan of the Authority as approved by the Minister.

(2) An Authority may establish and operate a reserve fund.

Budget

42. (1) (a) No later than 30 days before the end of each financial year an Authority must submit its budget for the following financial year to the Minister for approval.

(b) The budget for an Authority's first financial year must be submitted to the Minister for approval within 90 days after the establishment date.

(2) The budget must set out and explain an Authority's proposed operations, projects, activities and other objectives for the following financial year, as well as—

- a. the cost of those operations, projects, activities and other objectives;
- b. the manner in which it is proposed to finance them;
- c. the planned performance indicators applicable to them;
- d. a statement of an Authority's estimated income and expenditure for that financial year;
- e. any other information and particulars that may be prescribed; and
- f. any additional relevant information that may be requested by the Minister in writing from time to time.

Strategic Plan

43. (1) (a) An Authority must submit to the Minister for approval, not later than 30 days before the end of its first financial year and of every financial year thereafter, a five year strategic plan.

(b) A five year strategic plan must be annexed to the annual budget of an Authority

Financial regulations

44. (1) The following matters may be prescribed—

- a. the contents, format and structure of the budget and, if necessary, that of the strategic plan;
- b. the extent to, and manner in, which an Authority must consult with interested persons or members of the public in connection with any budget or any strategic plan.

(2) This Chapter does not prevent the Authority from undertaking any planning for a longer term.

Accounting

45. (1) An Authority must keep proper books and records of account for each financial year in accordance with generally accepted accounting practice, with regard to its income, expenditure and transactions during the financial year and the state of its assets and liabilities during, and as at the end of, the financial year.

(2) Annually, within six months of the end of the financial year, an Authority must have the following financial statements prepared for that year, which must accurately reflect an Authority's transactions and financial sources, position and state of affairs so as to comply with the requirements of the Companies Act, 1973 (Act No. 61 of 1973)—

- a. a statement of income and expenditure;
- b. a cash-flow statement; and
- c. a balance sheet.

Audit

46. (1) The books and records of account and financial statements of an Authority must be audited annually by the Auditor-General.

(2) The Chief Executive Officer must annually, within six months after the end of the financial year, submit an Authority's financial statements approved by the Executive Committee and the Advisory Board and certified to that effect by the Chief Executive Officer to the Auditor-General for auditing.

(3) Upon completion of the audit, the Auditor-General must furnish a report to the Minister through the chairperson of the Advisory Board.

Report by Auditor-General

47. (1) The Auditor-General must express an opinion in the report referred to in section 46(3) as to whether—

- a. the information contained in the financial statements of an Authority has been presented on a basis consistent with that of the previous financial year, where applicable;
- b. the transactions and activities of an Authority which had come to the Auditor-General's attention were authorised in terms of this Act; and
- c. there are adequate measures and procedures in place for the proper management of an Authority.

(2) The report of the Auditor-General must draw attention to any other matters arising from the auditing which, in the opinion of the Auditor-General must be brought to the notice of the Minister and Parliament in the interest of the public or the national interest.

Annual Report

48. An Authority must submit to the Minister, within six months after the end of each financial year, an annual report that includes—

- a. In connection with the management zone plan—
 - i. compliance with the management zone plan, including compliance with applicable performance indicators.
 - ii. the efficiency of the management zone plan;
 - iii. possible improvements to the management zone plan; and
 - iv. other matters in connection with the management zone plan the Authority wants to draw the attention of the Minister to;
- b. connection with its finances and audits for the past financial year in terms of this chapter—
 - i. a summary of the business, operations, projects, finances, transactions and activities of an Authority during the financial year and its financial position as at the end of that year;
 - ii. the audited financial statements of an Authority for the financial year covered by the annual report;
 - iii. the report of the auditor;
 - iv. a synopsis by the Advisory Board which, in broad terms, outlines an Authority's business, operations, projects and activities during that financial year and gives the necessary background information, explanations or reasons for anything dealt with in the financial statements, and—
 - setting out the extent to which an Authority has succeeded in achieving or advancing its various detailed objectives set out in its annual budget for that financial year and in its then current strategic plan; and
 - containing all relevant information about an Authority's performance with a view to determining how far an Authority has succeeded in applying its resources effectively, efficiently and economically during that financial year, as well as a comparison between the planned performance indicators for that financial year set out in that year's business and financial plan, and the actual performance indicators as at the end of that year.
- c. The extent to which the Authority succeeded or failed to fulfil its obligations in terms of the World Heritage Convention, the Operating Guidelines and this Act, including—
 - i. if applicable, an independent cultural audit;
 - ii. if applicable, an independent environmental audit;
 - iii. fulfilment of an Authority's performance indicators; and
 - iv. the result of a five yearly independent review of the overall performance of an Authority.

CHAPTER VIII GENERAL

Delegation

49. (1) The Minister may, by notice in the *Gazette*, delegate to the Director-General of the Department, an Authority, province, local government or organ of State, any power, duty or function vested in him or her in terms of this Act, excluding the power to make regulations.

(2) No delegation of any power, duty or function in terms of this section prevents the exercise or performance of such power, duty or function by the Minister.

(3) The Director-General may delegate any of his or her duties or functions vested in him or her by or under this Act to any of, or a combination of, —

- a. an Authority, to the extent that an Authority does not already have such powers in terms of section 13;
- b. a provincial authority, after consultation with the MEC; or
- c. a statutory body that is primarily involved in cultural matters or nature conservation provided that no such delegation will affect the Department's obligations under the World Heritage Convention.

Regulations

50. (1) The Minister may, subject to the objectives and fundamental principles, including principles of co-operative government, of this Act, make regulations that are not inconsistent with the Act with regard—

- a. to anything which in terms of this Act may or must be prescribed, described, governed or determined by regulation or which, in terms of this Act, may or must be provided for by regulation;
- b. generally, to all matters which are reasonably necessary to be prescribed in order to achieve the objects of this Act.

(2) The Minister may make regulations regarding—

- a. the conditions of service, employment, transfer, promotion and continued employment of employees of an Authority—
 - i. transferred from an organ of State to an Authority or
 - ii. newly appointed;
- b. the management and administration of an Authority;
- c. the determination of criteria for the making of appointments to an Advisory Board, including criteria for the determination of the rights of any interested parties;
- d. the financial and accounting activities of an Authority;
- e. the identification, investigation, and nomination of a future World Heritage Site;
- f. the management and control of a World Heritage Site;
- g. the administration, management and control of movable and immovable assets of an Authority;
- h. the establishment of consultative forums or bodies that may include, without limitation, representatives from—
 - i. provinces;
 - ii. Authorities;
 - iii. inter-departmental committees; and
 - iv. organs of State;
- i. the time, manner and form of complying with any administrative, technical or reporting requirements of the World Heritage Convention.

(3) The Minister may—

- a. prescribe norms and standards for cultural or natural heritage that are consistent with the provisions of this Act;
- b. publish, for general information, national policy relating to the management of cultural or natural heritage in addition to, but not inconsistent with, the objectives and principles set out in this Act;
- c. by regulation, incorporate so many or all of the Operational Guidelines as may be necessary, with the necessary changes, where appropriate, for their effective implementation in the Republic.

Short Title and Commencement

51. This Act is called the World Heritage Convention Act, 1999 and comes into operation on a date to be fixed by the President by proclamation in the *Gazette*.

Schedule

CONVENTION FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

The General Conference of the United Nations Education, Scientific and Cultural Organisation meeting in Paris from 17 October to 21 November 1972, at its seventeenth session,

Noting that the cultural heritage and the natural heritage are increasingly threatened with destruction not only by the traditional causes of decay, but also by changing social and economic conditions which aggravate the situation with even more formidable phenomena of damage or destruction,

Considering that deterioration or disappearance of any item of the cultural or natural heritage constitutes a harmful impoverishment of the heritage of all the nations of the world,

Considering that protection of this heritage at the national level often remains incomplete because of the scale of the resources which it requires and of the insufficient economic, scientific, and technological resources of the country where the property to be protected is situated,

Recalling that the Constitution of the Organisation provides that it will maintain, increase, and diffuse knowledge by assuring the conservation and protection of the world's heritage, and recommending to the nations concerned the necessary international conventions,

Considering that the existing international conventions, recommendations and resolutions concerning cultural and natural property demonstrate the importance, for all the peoples of the world of safeguarding this unique and irreplaceable property, to whatever people it may belong,

Considering that parts of the cultural or natural heritage are of outstanding interest and therefore need to be preserved as part of the world heritage of mankind as a whole,

Considering that in view of the magnitude and gravity of the new dangers threatening them, it is incumbent on the international community as a whole to participate in the protection of the cultural and natural heritage of outstanding universal value, by the granting of collective assistance which, although not taking the place of action by the State concerned, will serve as an efficient complement thereto,

Considering that it is essential for this purpose to adopt new provisions in the form of a convention establishing an effective system of collective protection of the cultural and natural heritage of outstanding universal value, organised on a permanent basis and in accordance with modern scientific methods,

Having decided, at its sixteenth session, that this question should be made the subject of an international convention,

Adopts this sixteenth day of November 1972 this Convention.

I. DEFINITION OF THE CULTURAL AND NATURAL HERITAGE

Article 1

For the purpose of this Convention, the following shall be considered as "cultural heritage": monuments, architectural works, works of monumental sculpture and painting, elements or structures of an archaeological nature, inscriptions, cave dwellings and combinations of features, which are outstanding universal value from the point of view of history, art or science, groups of buildings, groups of separate or connected buildings which, because of their architecture, their homogeneity or their place in the landscape, are of outstanding universal value from the point of view of history, art or science, sites, works of man or the combined works of nature and man, and areas including archaeological sites which are of outstanding universal value from the historical, aesthetic, ethnological or anthropological point of view.

Article 2

For the purposes of this Convention, the following shall be considered as "natural heritage": natural features consisting of physical and biological formations or groups of such formations, which are of outstanding universal value from the aesthetic or scientific point of view, geological and physiographical formations and precisely delineated areas which constitute the habitat of threatened species of animals and plants of outstanding universal value from the point of view of science or conservation, natural sites or precisely delineated natural areas of outstanding universal value from the point of view of science, conservation or natural beauty.

Article 3

It is for each State Party to this Convention to identify and delineate the different properties situated on its territory mentioned in Articles 1 and 2 above.

II. NATIONAL PROTECTION AND INTERNATIONAL PROTECTION OF THE CULTURAL AND NATURAL HERITAGE

Article 4

Each State Party to this Convention recognises that the duty of ensuring the identification, protection, conservation, presentation and transmission to future generations of the cultural and natural heritage referred to in Articles 1 and 2 and situated on its territory, belongs primarily to that

State. It will do all it can to this end, to the utmost of its own resources and, where appropriate, with any international assistance and co-operation, in particular, financial, artistic, scientific and technical, which it may be able to obtain.

Article 5

To ensure that effective and active measures are taken for the protection, conservation and presentation of the cultural and natural heritage situated on its territory, each State Party to this Convention shall endeavour, in so far as possible, and as appropriate for each country—

- a. to adopt a general policy which aims to give the cultural and natural heritage a function in the life of the community and to integrate the protection of that heritage into comprehensive planning programmes;
- b. to set up within its territories, where such services do not exist, one or more services for the protection, conservation and presentation of the cultural and natural heritage with an appropriate staff and possessing the means to discharge their functions;
- c. to develop scientific and technical studies and research and to work out such operating methods as will make the State capable of counteracting the dangers that threaten its cultural or natural heritage;

- d. to take the appropriate legal, scientific, technical, administrative and financial measures necessary for the identification, protection, conservation, presentation and rehabilitation of this heritage; and
- e. to foster the establishment or development of national or regional centres for training in the protection, conservation and presentation of the cultural and natural heritage and to encourage scientific research in this field.

Article 6

1. Whilst fully respecting the sovereignty of the States on whose territory the cultural and natural heritage mentioned in Articles 1 and 2 is situated, and without prejudice to property right provided by national legislation, the States Parties to this Convention recognise that such heritage constitutes a world heritage for whose protection it is the duty of the international community as a whole to co-operate.
2. The States Parties undertake, in accordance with the provisions of this Convention, to give their help in the identification, protection, conservation and presentation of the cultural and natural heritage referred to in paragraphs 2 and 4 of Article 11 if the States on whose territory it is situated so request.
3. Each State Party to this Convention undertakes not to take any deliberate measures which might damage directly or indirectly the cultural and natural heritage referred to in Articles 1 and 2 situated on the territory of other States Parties to this Convention.

Article 7

For the purpose of this Convention, international protection of the world cultural and natural heritage shall be understood to mean the establishment of a system of international co-operation and assistance designed to support States Parties to the Convention in their efforts to conserve and identify that heritage.

III. INTERGOVERNMENTAL COMMITTEE FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 8

1. An Intergovernmental Committee for the Protection of the Cultural and Natural Heritage of Outstanding Universal Value, called "the World Heritage Committee", is hereby established within the United Nations Education, Scientific and Cultural Organisation. It shall be composed of 15 States Parties to the Convention, elected by States Parties to the Convention meeting in general assembly during the ordinary session of the General Conference of the United Nations Educational, Scientific and Cultural Organisation. The number of States members of the Committee shall be increased to 21 as from the date of the ordinary session of the General Conference following the entry into force of this Convention for at least 40 States.
2. Election of members of the Committee shall ensure an equitable representation of the different regions and cultures of the world.
3. A representative of the International Centre for the Study of the Preservation and Restoration of Cultural Property (Rome Centre), a representative of the International Council of Monuments and Sites (ICOMOS) and a representative of the International Union for Conservation of Nature and Natural Resources (IUCN), to whom may be added, at the request of States Parties to the Convention meeting in general assembly during the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organisation, representatives of other intergovernmental or non-governmental organisations, with similar objectives, may attend the meetings of the Committee in an advisory capacity.

Article 9

1. The term of office of States members of the World Heritage Committee shall extend from the end of the ordinary session of the General Conference during which they are elected until the end of its third subsequent ordinary session.
2. The term of office of one-third of the members designated at the time of the first election shall,

however, cease at the end of the first ordinary session of the General Conference following that at which they were elected; and the term of office of a further third of the members designated at the same time shall cease at the end of the second ordinary session of the General Conference following that at which they were elected. The names of these members shall be chosen by lot by the President of the General Conference of the United Nations Education, Scientific and Cultural Organisation after the first election.

3. States members of the Committee shall choose as their representatives persons qualified in the field of the cultural or natural heritage.

Article 10

1. The World Heritage Committee shall adopt its Rules of Procedure.
2. The Committee may at any time invite public or private organisations or individuals to participate in its meetings for consultation on particular problems.
3. The Committee may create such consultative bodies as it deems necessary for the performance of its functions.

Article 11

1. Every State Party to this Convention shall, in so far as possible, submit to the World Heritage Committee an inventory of property forming part of the cultural and natural heritage, situated in its territory and suitable for inclusion in the list provided for in paragraph 2 of this Article. This inventory, which shall not be considered exhaustive, shall include documentation about the location of the property in question and its significance.
2. On the basis of the inventories submitted by States in accordance with paragraph 1, the Committee shall establish, keep up to date and publish, under the title of "World Heritage List," a list of properties forming part of the cultural heritage and natural heritage, as defined in Articles 1 and 2 of this Convention, which it considers as having outstanding universal value in terms of such criteria as it shall have established. An updated list shall be distributed at least every two years.
3. The inclusion of a property in the World Heritage List requires the consent of the State concerned. The inclusion of a property situated in a territory, sovereignty or jurisdiction over which is claimed by more than one State shall in no way prejudice the rights of the parties to the dispute.
4. The Committee shall establish, keep up to date and publish, whenever circumstances shall so require, under the title of "list of World Heritage in Danger", a list of the property appearing in the World Heritage List for the conservation of which major operations are necessary and for which assistance has been requested under this Convention. This list shall contain an estimate of the cost of such operations. The list may include only such property forming part of the cultural and natural heritage as is threatened by serious and specific dangers, such as the threat of disappearance caused by accelerated deterioration, large-scale public or private projects or rapid urban or tourist development projects; destruction caused by changes in the use or ownership of the land; major alterations due to unknown causes; abandonment for any reason whatsoever; the outbreak or the threat of an armed conflict, calamities and cataclysms; serious fires, earthquakes, landslides; volcanic eruptions; changes in water level, floods and tidal waves. The Committee may at any time, in case of urgent need, make a new entry in the List of World Heritage in Danger and publicise such entry immediately.
5. The Committee shall define the criteria on the basis of which a property belonging to the cultural or natural heritage may be included in either of the lists mentioned in paragraphs 2 and 4 of this article.
6. Before refusing a request for inclusion in one of the two lists mentioned in paragraphs 2 and 4 of this article, the Committee shall consult the State Party in whose territory the cultural or natural property in question is situated.
7. The Committee shall, with the agreement of the States concerned, co-ordinate and encourage the studies and research needed for the drawing up of the lists referred to in paragraphs 2 and 4 of this article.

Article 12

The fact that a property belonging to the cultural or natural heritage has not been included in either of the two lists mentioned in paragraphs 2 and 4 of Article 11 shall in no way be construed to mean that it does not have an outstanding universal value for purposes other than those resulting from inclusion in these lists

Article 13

1. The World Heritage Committee shall receive and study requests for international assistance formulated by States Parties to this Convention with respect to property forming part of the cultural or natural heritage, situated in their territories, and included or potentially suitable for inclusion in the lists mentioned referred to in paragraphs 2 and 4 of Article 11. The purpose of such requests may be to secure the protection, conservation, presentation or rehabilitation of such property.
2. Requests for international assistance under paragraph 1 of this article may also be concerned with identification of cultural or natural property defined in Articles 1 and 2, when preliminary investigations have shown that further inquiries would be justified
3. The Committee shall decide on the action to be taken with regard to these requests, determine where appropriate, the nature and extent of its assistance, and authorise the conclusion, on its behalf, of the necessary arrangements with the government concerned
4. The Committee shall determine an order of priorities for its operations. It shall in so doing bear in mind the respective importance for the world cultural and natural heritage of the property requiring protection, the need to give international assistance to the property most representative of a natural environment or of the genius and the history of the peoples of the world, the urgency of the work to be done, the resources available to the States on whose territory the threatened property is situated and in particular the extent to which they are able to safeguard such property by their own means.
5. The Committee shall draw up, keep up to date and publicise a list of property for which international assistance has been granted.
6. The Committee shall decide on the use of the resources of the Fund established under Article 15 of this Convention. It shall seek ways of increasing these resources and shall take all useful steps to this end.
7. The Committee shall co-operate with international and national governmental and non-governmental organisations having objectives similar to those of this Convention. For the implementation of its programmes and projects, the Committee may call on such organisations, particularly the International Centre for the Study of the Preservation and Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN), as well as on public and private bodies and individuals.
8. Decisions of the Committee shall be taken by a majority of two-thirds of its members present and voting. A majority of the members of the Committee shall constitute a quorum.

Article 14

1. The World Heritage Committee shall be assisted by a Secretariat appointed by the Director-General of the United Nations Educational, Scientific and Cultural Organisation.
2. The Director-General of the United Nations Educational, Scientific and Cultural Organisation, utilising to the fullest extent possible the services of the international Centre for the Study of the Preservation and the Restoration of Cultural Property (the Rome Centre), the International Council of Monuments and Sites (ICOMOS) and the International Union for Conservation of Nature and Natural Resources (IUCN) in their respective areas of competence and capability, shall prepare the Committee's documentation and the agenda of its meetings and shall have the responsibility for the implementation of its decisions.

IV. FUND FOR THE PROTECTION OF THE WORLD CULTURAL AND NATURAL HERITAGE

Article 15

1. A Fund for the Protection of the World Cultural and Natural Heritage of Outstanding

Universal Value, called "the World Heritage Fund", is hereby established.

2. The Fund shall constitute a trust fund, in conformity with the provisions of the Financial Regulations of the United Nations Educational, Scientific and Cultural Organisation.
3. The resources of the Fund shall consist of—
 - a. compulsory and voluntary contributions made by States Parties to this Convention,
 - b. Contributions, gifts or bequests which may be made by
 - i. other States;
 - ii. the United Nations Educational, Scientific and Cultural Organisation, other organisations of the United Nations system, particularly the United Nations Development Programme or other intergovernmental organisations;
 - iii. public or private bodies or individuals:
 - c. any interest due on the resources of the Fund.
 - d. funds raised by collections and receipts from events organised for the benefit of the fund; and
 - e. all other resources authorised by the Fund's regulations, as drawn up by the World Heritage Committee.
4. Contributions to the Fund and other forms of assistance made available to the Committee may be used only for such purposes as the Committee shall define. The Committee may accept contributions to be used only for a certain programme or project, provided that the Committee shall have decided on the implementation of such programme or project. No political conditions may be attached to contributions made to the Fund.

Article 16

1. Without prejudice to any supplementary voluntary contribution, the States Parties to this Convention undertake to pay regularly, every two years, to the World Heritage Fund, contributions, the amount of which, in the form of a uniform percentage applicable to all States, shall be determined by the General Assembly of States Parties to the Convention, meeting during the sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organisation. This decision of the General Assembly requires the majority of the States Parties present and voting, which have not made the declaration referred to in paragraph 2 of this Article. In no case shall the compulsory contribution of States Parties to the Convention exceed 1% of the contribution to the regular budget of the United Nations Educational, Scientific and Cultural Organisation.
2. However, each State referred to in Article 31 or in Article 32 of this Convention may declare, at the time of the deposit of its instrument of ratification, acceptance or accession, that it shall not be bound by the provisions of paragraph 1 of this Article.
3. A State Party to the Convention which has made the declaration referred to in paragraph 2 of this Article may at any time withdraw the said declaration by notifying the Director-General of the United Nations Educational, Scientific and Cultural Organisation. However, the withdrawal of the declaration shall not take effect in regard to the compulsory contribution due by the State until the date of the subsequent General Assembly of States parties to the Convention.
4. In order that the Committee may be able to plan its operations effectively, the contributions of States Parties to this Convention which have made the declaration referred to in paragraph 2 of this Article, shall be paid on a regular basis, at least every two years, and should not be less than the contributions which they should have paid if they had been bound by the provisions of paragraph 1 of this Article.
5. Any State Party to the Convention which is in arrears with the payment of its compulsory or voluntary contribution for the current year and the calendar year immediately preceding it shall not be eligible as a Member of the World Heritage Committee, although this provision shall

not apply to the first election. The terms of office of any such State which is already a member of the Committee shall terminate at the time of the elections provided for in Article 8, paragraph 1 of this Convention.

Article 17

The States Parties to this Convention shall consider or encourage the establishment of national public and private foundations or associations whose purpose is to invite donations for the protection of the cultural and natural heritage as defined in Articles 1 and 2 of this Convention.

Article 18

The States Parties to this Convention shall give their assistance to international fund-raising campaigns organised for the World Heritage Fund under the auspices of the United Nations Educational Scientific and Cultural Organisation. They shall facilitate collections made by the bodies mentioned in paragraph 3 of Article 15 for this purpose.

V. CONDITIONS AND ARRANGEMENTS FOR INTERNATIONAL ASSISTANCE

Article 19

Any State Party to this Convention may request international assistance for property forming part of the cultural or natural heritage of outstanding universal value situated within its territory. It shall submit with its request such information and documentation provided for in Article 21 as it has in its possession and as will enable the Committee to come to a decision.

Article 20

Subject to the provisions of paragraph 2 of Article 13, sub-paragraph (c) of Article 22 and Article 23, international assistance provided for by this Convention may be granted only to property forming part of the cultural and natural heritage which the World Heritage Committee has decided, or may decide, to enter in one of the lists mentioned in paragraphs 2 and 4 of Article 11.

Article 21

1. The World Heritage Committee shall define the procedure by which requests to it for international assistance shall be considered and shall specify the content of the request, which should define the operation contemplated, the work that is necessary, the expected cost thereof, the degree of urgency and the reasons why the resources of the State requesting assistance do not allow it to meet all the expenses. Such requests shall be supported by experts' reports whenever possible
2. Requests based upon disasters or natural calamities should, by reasons of the urgent work which they may involve, be given immediate, priority consideration by the Committee, which should have a reserve fund at its disposal against such contingencies.
3. Before coming to a decision the Committee shall carry out such studies and consultations as it deems necessary.

Article 22

Assistance granted by the World Heritage Fund may take the following forms—

- a. studies concerning the artistic, scientific and technical problems raised by the protection, conservation presentation and rehabilitation of the cultural and natural heritage, as defined in paragraphs 2 and 4 of Article 11 of this Convention;
- b. provisions of experts, technicians and skilled labour to ensure that the approved work is correctly carried out;
- c. training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage;
- d. supply of equipment which the State concerned does not possess or is not in a position to

- acquire;
- e. low-interest or interest-free loans which might be repayable on a long-term basis;
 - f. the granting, in exceptional cases and for special reasons, of non-repayable subsidies.

Article 23

The World Heritage Committee may also provide international assistance to national or regional centres for the training of staff and specialists at all levels in the field of identification, protection, conservation, presentation and rehabilitation of the cultural and natural heritage.

Article 24

International assistance on a large scale shall be preceded by detailed scientific, economic and technical studies. These studies shall draw upon the most advanced techniques for the protection, conservation, presentation and rehabilitation of the natural and cultural heritage and shall be consistent with the objectives of this Convention. The studies shall also seek means of making rational use of the resources available in the State concerned.

Article 25

As a general rule, only part of the cost of work necessary shall be borne by the international community. The contribution of the State benefiting from international assistance shall constitute a substantial share of the resources devoted to each programme or project, unless its resources do not permit this.

Article 26

The World Heritage Committee and the recipient State shall define in the agreement they conclude the conditions in which a programme or project for which international assistance under the terms of this Convention is provided, shall be carried out. It shall be the responsibility of the State receiving such international assistance to continue to protect, conserve and present the property so safeguarded, in observance of the conditions laid down by the agreement.

VI. EDUCATIONAL PROGRAMMES

Article 27

1. The States Parties to this Convention shall endeavour by all appropriate means, and in particular by educational and information programmes, to strengthen appreciation and respect by their peoples of the cultural and natural heritage defined in Articles 1 and 2 of the Convention.
2. They shall undertake to keep the public broadly informed of the dangers threatening this heritage and of the activities carried on in pursuance of this Convention

Article 28

States Parties to this Convention which receive international assistance under the Convention shall take appropriate measures to make known the importance of the property for which assistance has been received and the role played by such assistance.

VII. REPORTS

Article 29

1. The States Parties to this Convention shall, in the reports which they submit to the General Conference of the United Nations Educational, Scientific and Cultural Organisation on dates and in a manner to be determined by it, give information on the legislative and administrative provisions which they have adopted and other action which they have taken for the application

- of this Convention, together with details of the experience acquired in this field.
2. These reports shall be brought to the attention of the World Heritage Committee.
 3. The Committee shall submit a report on its activities at each of the ordinary sessions of the General Conference of the United Nations Educational, Scientific and Cultural Organisation.

VIII. FINAL CLAUSES

Article 30

This Convention is drawn up in Arabic, English, French, Russian and Spanish, the five texts being equally authoritative.

1. This Convention shall be subject to ratification or acceptance by States members of the United Nations Educational, Scientific and Cultural Organisation in accordance with their respective constitutional procedures.
2. The instruments of ratification or acceptance shall be deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organisation.

Article 32

1. This Convention shall be open to accession by all States not members of the United Nations Educational, Scientific and Cultural Organisation which are invited by the General Conference of the Organisation to accede to it.
2. Accession shall be effected by the deposit of an instrument of accession with the Director-General of the United Nations Educational, Scientific and Cultural Organisation.

Article 33

This Convention shall enter into force three months after the date of the deposit of the twentieth instrument of ratification, acceptance or accession, but only with respect to those States which have deposited their respective instruments of ratification, acceptance or accession on or before that date. It shall enter into force with respect to any other State three months after the deposit of its instrument of ratification, acceptance or accession.

Article 34

The following provisions shall apply to those States Parties to this Convention which have a federal or non-unitary constitutional system—

- a. with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of the federal or central legislative power, the obligations of the federal or central government shall be the same as for those States parties which are not federal States;
- b. with regard to the provisions of this Convention, the implementation of which comes under the legal jurisdiction of individual constituent States, countries, provinces or cantons that are not obliged by the constitutional system of the federation to take legislative measures, the federal government shall inform the competent authorities of such States, countries, provinces or cantons of the said provisions, with its recommendation for their adoption.

Article 35

1. Each State Party to this Convention may denounce the Convention.
2. The denunciation shall be notified by an instrument in writing, deposited with the Director-General of the United Nations Educational, Scientific and Cultural Organisation.
3. The denunciation shall take effect twelve months after the receipt of the instrument of denunciation. It shall not affect the financial obligations of the denouncing State until the date on which the withdrawal takes effect.

Article 36

The Director-General of the United Nations Educational, Scientific and Cultural Organisation shall inform the States members of the Organisation, the States not members of the Organisation which are referred to in Article 32, as well as the United Nations, of the deposit of all the instruments of ratification, acceptance, or accession provided for in Articles 31 and 32, and of the denunciations Provided for in Article 35.

Article 37

1. This Convention may be revised by the General Conference of the United Nations Educational, Scientific and Cultural Organisation. Any such revision shall, however, bind only the States which shall become Parties to the revising convention.
2. If the General Conference should adopt a new convention revising this Convention in whole or in part, then, unless the new convention otherwise provides, this Convention shall cease to be open to ratification, acceptance or accession, as from the date on which the new revising convention enters into force.

Article 38

In conformity with Article 102 of the Charter of the United Nations, this Convention shall be registered with the Secretariat of the United Nations at the request of the Director-General of the United Nations Educational, Scientific and Cultural Organisation.

Done in Paris, this twenty-third day of November 1972, in two authentic copies bearing the signature of the President of the seventeenth session of the General Conference and of the Director-General of the United Nations Educational, Scientific and Cultural Organisation, which shall be deposited in the archives of the United Nations Educational, Scientific and Cultural Organisation, and certified true copies of which shall be delivered to all the States referred to in Articles 31 and 32 as well as to the United Nations."

MEMORANDUM OF OBJECTS OF THE WORLD HERITAGE CONVENTION BILL

General Background and Overview

1. The Department of Environmental Affairs and Tourism is proposing to introduce the World Heritage Convention Bill ("the Bill) into Parliament during the first session following the 1999 election.
2. The Bill seeks to:
 - 2.1 incorporate the Convention Concerning the Protection of the World Cultural and Natural Heritage ("the World Heritage Convention" or "Convention") into South African domestic law and to ensure that everything done in terms of this Act conforms with the Convention and its Operational Guidelines;
 - 2.2 create a legal framework for the establishment of Authorities designed to oversee the management and development in a culturally and environmentally responsible manner of World Heritage Sites or, if appropriate, to strengthen the powers of existing bodies looking after these Sites;
 - 2.3 create an Advisory Board and/or an Executive Committee for each Authority that will oversee and manage the Authority;
 - 2.4 ensure that effective measures are taken for the protection, conservation and presentation of World Heritage Sites in the Republic and provide for the preparation of management zone plans;

- 2.5 promote, manage, oversee, market and facilitate tourism and related development in World Heritage Sites in accordance with international best practice, the Convention and its Operational Guidelines. and
- 2.6 provide for proper financial and auditing controls over each Authority and the preparation of an annual report outlining the activities of each Authority.
3. The World Heritage Convention recognises cultural and natural properties of outstanding universal value and provides for their protection and conservation. South Africa deposited its ratification of the World Heritage Convention in July 1997, and submitted its first three nominations (Robben Island, the Greater St Lucia Wetland Park and the Sterkfontein Caves) for listing as World Heritage Sites in May 1998.
 4. In terms of Section 231(4) of the Constitution, Act No. 108 of 1996, a treaty such as the World Heritage Convention becomes law in South Africa when it is enacted into law by national legislation. The Convention imposes an obligation on the national Government to, *inter alia*, guarantee its implementation and ensure that legal protection is provided, management plans are developed and implemented, appropriate institutional structures are in place, periodic monitoring occurs and adequate resources, particularly finances, are provided to discharge South Africa's obligations under the Convention.
 5. The incorporation of the World Heritage Convention into South Africa's domestic law is a clear signal to the World Heritage Committee of our full commitment to the World Heritage Convention. The Committee decides whether South Africa's nominations qualify for this coveted status or not.
 6. The Bill ensures that the principles of the Convention are given genuine, substantive, application over South Africa's World Heritage Sites and ensures that these Sites - many of which have significant tourism potential - are developed in ways that also meet the social and economic needs of our people.

Chapter by Chapter Analysis

7. Section 1 of Chapter I, "Definitions, Objectives, Principles and Implementation", contains the customary definitions section, including the definition of a "World Heritage Site". Section 2 enacts the World Heritage Convention as part of South African law and Section 3 spells out the objectives of the Act. These include making provision for the culturally and environmentally responsible protection and development of, and related activities within, World Heritage Sites; ensuring the identification and transmission of this heritage to future generations; and promoting the development of culturally, environmentally and, if applicable, commercially sustainable projects in World Heritage Sites. Section 4 contains the fundamental principles of the Act that will apply throughout South Africa in relation to World Heritage Sites, to the actions of all organs of state and Authorities subject to applicable law. The principles include that cultural and natural heritage management must be sensitive to the South African people and their needs and must serve the physical, psychological, developmental, cultural and social interests equitably; that development must be socially, culturally, environmentally and economically sustainable; that participation by vulnerable and historically disadvantaged persons must be ensured; that there must be inter-governmental co-ordination and harmonisation of policies, legislation and actions relating to the cultural and natural heritage; and that actual or potential conflicts of interest between organs of state or organs of state and an Authority or Authorities should be resolved through appropriate conflict resolution procedures. Section 5 deals with the enforcement and implementation of the Convention and states that the (national) Department of Environmental Affairs and Tourism is primarily responsible for enforcing and implementing the World Heritage Convention in South Africa. The Department's responsibilities include submitting the required inventory to the World Heritage Committee after consultation with the relevant provinces and other organs of state; publishing particulars of new World Heritage Sites in the Government Gazette; applying to the World Heritage Committee for international assistance in terms of the Convention; making applications to the World Heritage Fund and overseeing the proper use of

any financing obtained in terms of the World Heritage Convention; and preparing reports as required by the Convention.

8. Chapter II, "Authorities", provides for the establishment of two types of Authorities. Section 6 empowers the (national) Minister of Environmental Affairs and Tourism to establish a new Authority to manage a World Heritage Site, and Section 7 empowers the Minister to add to the powers of an existing organ of state that is already managing a World Heritage Site. Section 8 provides for extensive consultation prior to the establishment of Authorities. The Chapter further specifies the two organs through which Authorities can act (namely, an Advisory Board and/or an Executive Committee). and that the Minister may determine a name for an Authority. Section 11 deals with the revocation of the Authority's powers and states that an Authority may only be disestablished by Parliament, Section 12 describes the process for identifying and nominating areas as World Heritage Sites. The powers and duties of Authorities are set out in Section 13.
9. Chapter III provides for the establishment of an Advisory Board for an Authority and describes the Board's composition and certain administrative issues related to its functioning and its members. The Board's powers are set out in Section 15 including responsibility for, and general oversight over, the Authority.
10. Chapter IV provides for the establishment of an Executive Committee. It describes the powers and functioning of this Committee and a range of administrative issues.
11. Chapter V requires that each Authority must prepare and implement a management zone plan for the World Heritage Site under its control. The Minister must approve the management zone plan. The object of a management zone plan is to regulate the management of World Heritage Sites in a culturally and environmentally responsible manner, with due regard to the Authority's duty to provide for reasonably affordable public access to the World Heritage Site. The contents of a management zone plan are set out in section 30.
12. Chapter IV deals with the purchase, expropriation and consolidation of land for World Heritage Site purposes. Section 38 provides for different parcels of land to be consolidated and spells out the procedure to be followed.
13. Chapter VII, "Finances and Reports", spells out the possible sources of funding for Authorities. It contains comprehensive measures to ensure proper accounting and bookkeeping of the financial activities of an Authority. This is done via an annual budget and a five year strategic plan to be approved by the Minister, and an annual audit by the Auditor General. Section 48 requires that an Authority must submit an annual report to the Minister. The Authority must report on the efficiency of the management zone plan; the finances and the audits of the Authority for the past financial year; and the extent to which the Authority succeeded or failed to fulfil obligations of the Convention including, if applicable, independent cultural and environmental audits, an indication of the fulfilment of an Authority's performance indicators and the result of a five yearly independent review of the overall performance of the Authority.
14. Chapter VIII deals with delegation and regulation making powers of the Minister.

Effect on the Provinces and Local Government

15. The Bill will have the following implications for the provinces and local government:
 - 15.1 An Authority has the power to liaise with relevant cultural and nature conservation bodies on a local, provincial, and with the consent of the Department of Environmental Affairs and Tourism, a national and international level.
 - 15.2 Subject to it being so empowered by the Minister, an Authority may manage, promote, facilitate and monitor cultural development and nature conservation and related tourism activities over the World Heritage Site under its control. If appropriate, an Authority may be of assistance to a province, regional council or local government in the discharge of duties related to the World Heritage Convention or a World Heritage

Site.

15.3 At the request of a province, a regional council or a local government, and with the consent of the Minister, an Authority may perform functions on contractually agreed terms. An Authority may also enter into contracts with a province, regional council or a local government regarding any matter that concerns the World Heritage Convention or a World Heritage Site.

15.4 In preparing a management zone plan an Authority must have due regard for, and seek to integrate and harmonise that management zone plan with applicable provincial, regional and local planning and development plans.

Other Departments and Bodies Consulted

16. Relevant government departments were consulted, notably the Department of Water Affairs and Forestry, the Department of Land Affairs and the Department of Trade and Industry. The South African World Heritage Convention Committee was also consulted. Further consultations are ongoing.
17. The draft Bill is hereby published in the Government Gazette in terms of Section 154(2) of the Constitution
18. The Department of Environmental Affairs and Tourism and the State Law Advisors are of the opinion that the Bill should be dealt with in accordance with Section 76 of the Constitution, as it falls within a functional area Listed in Schedule 4 of the Constitution, namely, the environment.