



The South African Institute of Architectural Technologists  
Die Suid-Afrikaanse Instituut van Argitekstegnoloë



arts and culture

Department:  
Arts and Culture  
REPUBLIC OF SOUTH AFRICA

# NATIONAL HERITAGE RESOURCES ACT

Act 25 of 1999

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r e s o u r c e s a c t

## DID YOU KNOW?

# IF ALIENS LANDED THEY WOULD BE THE PROPERTY OF THE STATE!

According to the National Heritage Resources Act, all meteorites are considered protected property of the nation and there are rules regarding what can be done with them. Interestingly, because a meteorite is defined as “any naturally-occurring object of extra-terrestrial origin”, this means that if an alien landed in SA he/she/it would become the property of the State. Should an alien arrive and find that SA did not suit its disposition, it would not need a passport to leave but it would have to acquire an export permit from the South African Heritage Resources Agency (SAHRA).





## PREAMBLE:

This legislation aims to **promote good management of the national estate**, and to **enable and encourage communities to nurture and conserve their legacy** so that it may be bequeathed to future generations.

Our heritage is unique and precious and it cannot be renewed.

It helps us to define our cultural identity and therefore lies at the heart of our spiritual well-being and has the power to build our nation.

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It has the potential to affirm our diverse cultures, and in so doing shape our national character.

Our heritage celebrates our achievements and contributes to redressing past inequities.

It educates, it deepens our understanding of society and encourages us to empathise with the experience of others.

It facilitates healing and material and symbolic restitution and it promotes new and previously neglected research into our rich oral traditions and customs.

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## CHAPTER 1 SYSTEM FOR MANAGEMENT OF NATURAL HERITAGE RESOURCES

- Part 1: General principles
- Part 2: Constitution, functions, powers and duties of heritage authorities



## National estate

3. (1) For the purposes of this Act, those heritage resources of South Africa which are of cultural significance or other special value for the present community and for future generations must be considered part of the national estate and fall within the sphere of operations of heritage resources authorities.
- (2) Without limiting the generality of subsection (1), the national estate may include—
- (a) places, **buildings, structures** and equipment of cultural significance; ...

- (3) Without limiting the generality of subsections (1) and (2), a place or object is to be considered part of the national estate if it has cultural significance or other special value because of—
- (a) its importance in the community, or pattern of South Africa's history;
  - (b) its possession of uncommon, rare or endangered aspects of South Africa's natural or cultural heritage;
  - (c) its potential to yield information that will contribute to an understanding of South Africa's natural or cultural heritage;
  - (d) its importance in demonstrating the principal characteristics of a particular class of South Africa's natural or cultural places or objects;

- (e) its importance in exhibiting particular aesthetic characteristics valued by a community or cultural group;
- (f) its importance in demonstrating a high degree of creative or technical achievement at a particular period;
- (g) its strong or special association with a particular community or cultural group for social, cultural or spiritual reasons;
- (h) its strong or special association with the life or work of a person, group or organisation of importance in the history of South Africa; and
- (i) sites of significance relating to the history of slavery in South Africa.



## Application

4. This Chapter establishes the national system for the management of heritage resources which it applies throughout the Republic and—

(d) establishes the **South African Heritage Resources Agency** to manage the national estate and makes provision for the establishment of provincial heritage resources authorities to manage provincial and local heritage resources.



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## General principles for heritage resources management

5. (1) All authorities, bodies and persons performing functions and exercising powers in terms of this Act for the management of heritage resources must recognise the following principles:
- (a) Heritage resources have lasting value in their own right and provide evidence of the origins of South African society and as they are valuable, finite, non-renewable and irreplaceable they must be carefully managed to ensure their survival;
  - b) every generation has a moral responsibility to act as trustee of the national heritage for succeeding generations and the State has an obligation to manage heritage resources in the interests of all South Africans;

- (c) heritage resources have the capacity to promote reconciliation, understanding and respect, and contribute to the development of a unifying South African identity; and
- (d) heritage resources management must guard against the use of heritage for sectarian purposes or political gain.



## Heritage assessment criteria and grading

7. (1) SAHRA, in consultation with the Minister and the MEC of every province, must by regulation establish a system of grading of places and objects which form part of the national estate, and which distinguishes between at least the categories—

- (a) Grade I: Heritage resources with qualities so exceptional that they are of special national significance;
- (b) Grade II: Heritage resources which, although forming part of the national estate, can be considered to have special qualities which make them significant within the context of a province or a region; and
- (c) Grade III: Other heritage resources worthy of conservation,



## Responsibilities and competence of heritage resources authorities and local authorities for identification and management of national estate

8. (1) There is a **three-tier system** for heritage resources management, in which **national level functions are the responsibility of SAHRA**, **provincial level functions are the responsibility of provincial heritage resources authorities** and **local level functions are the responsibility of local authorities.**

Heritage resources authorities and local authorities are accountable for their actions and decisions and the performance of functions under this system.

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- (2) SAHRA is responsible for the identification and management of Grade I heritage resources and heritage resources in accordance with the applicable provisions of this Act, and shall co-ordinate and monitor the management of the national estate in the Republic.
- (3) A provincial heritage resources authority is responsible for the identification and management of Grade II heritage resources and heritage resources which are deemed to be a provincial competence in terms of this Act.

**Heritage KwaZulu Natal**  
Amafa AkwaZulu Natali  
Erfenis KwaZulu Natal



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- (4) A local authority is responsible for the identification and management of Grade III heritage resources and heritage resources which are deemed to fall within their competence in terms of this Act.



(6) (a) A provincial heritage resources authority or a local authority shall not perform any function in terms of this Act or any other law for the management of heritage resources unless it is competent to do so.

The capacity of a provincial heritage resources authority or local authority shall be assessed in terms of criteria prescribed by the Minister, including the availability of adequate staff, expertise, experience and administrative systems, to be applied—



- (i) by SAHRA, in the assessment of the capacity of provincial authorities to perform specific functions in relation to prescribed categories of heritage resources; and
- (ii) by provincial heritage resources authorities, to establish the capacity of local authorities to perform any function under this Act:





- (b) If an authority at provincial or local level does not have the capacity or is not competent to perform a specific function for which it is responsible under this section, that function shall be performed on an agency basis by an authority at a higher level or a competent authority on the same level.
- (c) A provincial heritage resources authority or a local authority shall apply to the relevant authority for the assessment of its competence under paragraph (a) ....
- (d) The assessing authority may at any time, and shall at least every two years, reassess the competence of a subordinate authority and review the assumption of functions and powers under this Act.



## Rights, duties and exemptions of State and supported bodies

9. (1) All branches of the State and supported bodies must give heritage resources authorities such assistance in the performance of their functions as is reasonably practicable.

## CHAPTER 1

# SYSTEM FOR MANAGEMENT OF NATURAL HERITAGE RESOURCES

- Part 1: General principles
- Part 2: Constitution, functions, powers and duties of heritage authorities

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## Functions, powers and duties of SAHRA

13. (1) The general functions of SAHRA are to—

- (a) establish national principles, standards and policy for the identification, recording and management of the national estate in terms of which heritage resources authorities and other relevant bodies must function with respect to South African heritage resources;
- (b) co-ordinate the management of the national estate by all agencies of the State and other bodies and monitor their activities to ensure that they comply with national principles, standards and policy for heritage resources management;

- (c) identify, record and manage nationally significant heritage resources and keep permanent records of such work;
- (d) advise, assist and provide professional expertise to any authority responsible for the management of the national estate at provincial or local level, and assist any other body concerned with heritage resources management;
- (e) promote and encourage public understanding and enjoyment of the national estate and public interest and involvement in the identification, assessment, recording and management of heritage resources;





- (f) promote education and training in fields related to the management of the national estate; and
- (g) perform any other functions assigned to it by this Act or as directed by the Minister.



## Establishment of provincial heritage resources authorities

**23.** An MEC may establish a provincial heritage resources authority which shall be responsible for the management of the relevant heritage resources within the province, which shall be a body corporate capable of suing and being sued in its corporate name and which shall be governed by a Council constituted as prescribed by regulations published in the *Provincial Gazette*: Provided that the members of the Council shall be appointed in a manner which applies the principles of transparency and representivity and takes into account special competence, experience and interest in the field of heritage resources.



## CHAPTER 2 PROTECTION AND MANAGEMENT OF HERITAGE RESOURCES

- Part 1: Formal protections
- Part 2: General protections
- Part 3: Management



## National heritage sites and provincial heritage sites

- 27. (1)** SAHRA must identify those places with qualities so exceptional that they are of special national significance in terms of the heritage assessment criteria set out in section 3(2) and prescribed under section 6(1) and (2), and must investigate the desirability of their declaration as national heritage sites.
- (2) A provincial heritage resources authority must identify those places which have special qualities which make them significant in the context of the province or a region in terms of the heritage assessment criteria set out in section 3(2) and prescribed under section 6(1) and (2) and must investigate the desirability of their declaration as provincial heritage sites.

## Protected areas

28. (1) SAHRA may, ..., by notice in the *Gazette* designate as a protected area—

- (a) such area of land surrounding a national heritage site as is reasonably necessary to ensure the protection and reasonable enjoyment of such site, or to protect the view of and from such site; or
- (b) such area of land surrounding any wreck as is reasonably necessary to ensure its protection; or
- (c) such area of land covered by a mine dump.



- (2) A provincial heritage resources authority may, ..., by notice in the *Provincial Gazette* designate as a protected area—
- (a) such area of land surrounding a provincial heritage site as is reasonably necessary to ensure the protection and reasonable enjoyment of such site, or to protect the view of and from such site; or
  - (b) such area of land surrounding any archaeological or palaeontological site or meteorite as is reasonably necessary to ensure its protection.



- (3) No person may damage, disfigure, alter, subdivide or in any other way develop any part of a protected area unless, at least 60 days prior to the initiation of such changes, he or she has consulted the heritage resources authority which designated such area in accordance with a procedure prescribed by that authority.

## Heritage Registers

**30.** (1) A provincial heritage resources authority must compile and maintain a heritage register listing the heritage resources in the province which it considers to be conservation-worthy in terms of the heritage assessment criteria set out in section 3(3) and prescribed under section 7.

## Heritage areas

**31. (1)** A planning authority must at the time of revision of a town or regional planning scheme, or the compilation or revision of a spatial plan, or at the initiative of the provincial heritage resources authority where in the opinion of the provincial heritage resources authority the need exists, investigate the need for the designation of heritage areas to protect any place of environmental or cultural interest.



## CHAPTER 2 PROTECTION AND MANAGEMENT OF HERITAGE RESOURCES

- Part 1: Formal protections
- Part 2: General protections
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## Structures

**34. (1)** No person may **alter** or **demolish** any structure or part of a structure which is **older than 60 years** without a permit issued by the relevant provincial heritage resources authority.

*In this Act, unless the context requires otherwise—*

*(i) “alter” means any action affecting the structure, appearance or physical properties of a place or object, whether by way of structural or other works, by painting, plastering or other decoration or any other means;*



- (2) Within three months of the refusal of the provincial heritage resources authority to issue a permit, consideration must be given to the protection of the place concerned in terms of one of the formal designations provided for in Part 1 of this Chapter.
- (3) The provincial heritage resources authority may at its discretion, by notice in the *Provincial Gazette*, make an exemption from the requirements of subsection (1) within a defined geographical area, or for certain defined categories of site within a defined geographical area, provided that it is satisfied that heritage resources falling into the defined area or category have been identified and are adequately provided for in terms of the provisions of Part 1 of this Chapter.

## Heritage resources management

**38.** (1) Subject to the provisions of subsections (7), (8) and (9), any person who intends to undertake a development categorised as—

- (a) the construction of a road, wall, power line, pipeline, canal or other similar form of linear development or barrier exceeding 300m in length;
- (b) the construction of a bridge or similar structure exceeding 50 m in length;

- (c) any development or other activity which will change the character of a site—
- (i) exceeding 5 000 m<sup>2</sup> in extent; or
  - (ii) involving three or more existing erven or subdivisions thereof; or
  - (iii) involving three or more erven or divisions thereof which have been consolidated within the past five years; or
  - (iv) the costs of which will exceed a sum set in terms of regulations by SAHRA or a provincial heritage resources authority;

- (d) the re-zoning of a site exceeding 10 000 m<sup>2</sup> in extent; or
- (e) any other category of development provided for in regulations by SAHRA or a provincial heritage resources authority,

must at the very earliest stages of initiating such a development, notify the responsible heritage resources authority and furnish it with details regarding the location, nature and extent of the proposed development.





- (2) The responsible heritage resources authority must, within 14 days of receipt of a notification in terms of subsection (1)—
- (a) if there is reason to believe that heritage resources will be affected by such development, notify the person who intends to undertake the development to submit an impact assessment report. Such report must be compiled at the cost of the person proposing the development, by a person or persons approved by the responsible heritage resources authority with relevant qualifications and experience and professional standing in heritage resources management; or
  - (b) notify the person concerned that this section does not apply.



## CHAPTER 2 PROTECTION AND MANAGEMENT OF HERITAGE RESOURCES

- Part 1: Formal protections
- Part 2: General protections
- Part 3: Management

## Compulsory repair order

45. (1) When the heritage resources authority responsible for the protection of a heritage site considers that such site—
- (a) has been allowed to fall into disrepair for the purpose of—
    - (i) effecting or enabling its destruction or demolition;
    - (ii) enabling the development of the designated land;or
  - (iii) enabling the development of any land adjoining the designated land; or
  - (b) is neglected to such an extent that it will lose its potential for conservation,



the heritage resources authority may serve on the owner an order to repair or maintain such site, to the satisfaction of the heritage resources authority, within a reasonable period of time as specified in the order:

Provided that the heritage resources authority must specify only such work as, in its opinion, is necessary to prevent any further deterioration in the condition of the place.



## CHAPTER 3 GENERAL PROVISIONS

- Part 1: Enforcement, appeals, offences and penalties
- Part 2: Miscellaneous



## Permits

**48. (1)** A heritage resources authority may prescribe the manner in which an application is made to it for any permit in terms of this Act and other requirements for permit applications, including—

- (a)* any particulars or information to be furnished in the application and any documents, drawings, plans, photographs and fees which should accompany the application;
- (b)* minimum qualifications and standards of practice required of persons making application for a permit to perform specified actions in relation to particular categories of protected heritage resources;...

## Appointment and powers of heritage inspectors

50. (1) SAHRA or a provincial heritage resources authority may, in writing, appoint heritage inspectors: Provided that if a heritage inspector is a staff member of a government department or supported body, such appointment must only be made by agreement with the Minister or other person in charge of the administration of such department or body.
- (2) By force of this section, each member of the **South African Police Services** and each **customs and excise officer** is deemed to be a heritage inspector.





(8) A heritage inspector may at any time inspect work being done under a permit issued in terms of this Act and may for that purpose at all reasonable times enter any place protected in terms of this Act.

## Offences and penalties

**51.** (1) Notwithstanding the provisions of any other law, any person who contravenes—

(a) – (f) sections ... is guilty of an offence and liable to a fine or imprisonment or both such fine and imprisonment as set out in item 1 - 6 of the Schedule;



1. A fine or imprisonment for a period not exceeding five years or to both such fine and imprisonment.
2. A fine or imprisonment for a period not exceeding three years or to both such fine and imprisonment.
3. A fine or imprisonment for a period not exceeding two years or to both such fine and imprisonment.
4. A fine or imprisonment for a period not exceeding one year or to both such fine and imprisonment.
5. A fine or imprisonment for a period not exceeding six months or to both such fine and imprisonment.
6. A fine or imprisonment for a period not exceeding three months or to both such fine and imprisonment.





- (6) Any person who believes that there has been an infringement of any provision of this Act, may lay a charge with the South African Police Services or notify a heritage resources authority.
- (7) A magistrate's court shall, notwithstanding the provisions of any other law, be competent to impose any penalty under this Act.



## CHAPTER 3 GENERAL PROVISIONS

- Part 1: Enforcement, appeals, offences and penalties
- Part 2: Miscellaneous

54. (1) A local authority may, with the approval of the provincial heritage resources authority, make by-laws...

### **Limitation of liability**

55. No person is liable in respect of anything done in terms of this Act in good faith and without negligence.



## Applicability of provincial legislation

- 57.** Without prejudice to the provisions of this Act, in any province which has enacted legislation for the establishment of a provincial heritage resources authority and the management of heritage resources at provincial level, the provisions of such legislation must, as far as they relate to provincial areas of competence, take precedence over the equivalent provisions of this Act.



## Regulations

59. The Minister may, by notice in the *Gazette* make regulations regarding—
- (a) any matter which may or shall be prescribed in terms of this Act;
  - (b) any other matter which may be necessary or expedient in order to achieve the objects of this Act.

**THE END - THANK YOU**