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PROVINSIALE KENNISGEWING

[No. 195 van 2003]

REGULASIES RAKENDE DIE VRYSTAATSE ERFENISHULPBRONNE OWERHEID

Kragtens artikels 23, 26(1) en 49(1) van die Wet op Nasionale Erfenishulpbronne, 1999 (Wet Nr. 25 van 1999), stel ek, MW Mfebe, Lid van die Uitvoerende Raad verantwoordelik vir Sport, Kuns, Kultuur, Wetenskap en Tegnologie in hierdie Provinsie, hiermee 'n provinsiale erfenis hulpbronne owerheid, 'n regspersoon in, wat bekend sal staan as die Vrystaatse Erfenis Hulpbronne Owerheid en wat beheer sal word deur die Vrystaatse Erfenis Hulpbronowerheidsraad in ooreenstemming met die Wet, asook met die regulasies soos in die Bylae uiteengesit.

BYLAE

Woordomskrywing

1. In hierdie regulasies sal enige woord of uitdrukking wat in die Wet op Nasionale Erfenishulpbronne, 1999 (Wet Nr. 25 van 1999) omskryf word die betekenis hê wat in die Wet daaraan geheg word, tensy die samehang anders aandui, en

“**die Wet**” beteken die Wet op Nasionale Erfenishulpbronne, 1999 (Wet Nr. 25 van 1999);

“**Raad**” beteken die Vrystaatse Erfenis Hulpbronne Owerheidsraad; en

“**VSEHO**” beteken die Vrystaatse Erfenis Hulpbronne Owerheid, ingestel ingevolge artikel 23 van die Wet.

Aanstelling van Raadslede

2. (1) Die Raad moet bestaan uit die volgende lede wat deur die LUR aangestel word:
 - (a) minstens vyf lede uit benoemings wat ontvang word;
 - (b) twee bykomende lede wat na sy goeddunke aangestel word, om die nodige omvang in ervaring, kundigheid en verteenwoordigendheid soos in hierdie regulasies bepaal, te verseker; en

PROVINCIAL NOTICE

[No. 195 of 2003]

REGULATIONS REGARDING THE FREE STATE HERITAGE RESOURCES AUTHORITY

Under sections 23, 26(1) and 49(1) of the National Heritage Resources Act, 1999 (Act No. 25 of 1999), I, MW Mfebe, Member of the Executive Council responsible for Sport, Arts, Culture, Science and Technology in this Province hereby establish a provincial heritage resources authority, a body corporate, to be known as the Free State Heritage Resources Authority and which shall be governed by the Free State Heritage Resources Authority Council in accordance with the Act, as well as the regulations set out in the Schedule.

SCHEDULE

Definitions

1. In these regulations any word or expression which is defined in the National Heritage Resources Act, 1999 (Act No. 25 of 1999) shall have the meaning assigned to it in that Act, unless the context indicates otherwise, and

“**Council**” means the Free State Heritage Resources Authority Council;

“**FSHRA**” means the Free State Heritage Resources Authority, established in terms of Section 23 of the Act; and

“**the Act**” means the National Heritage Resources Act, 1999 (Act No. 25 of 1999).

Appointment of members of Council

2. (1) The Council must consist of the following members appointed by the MEC:
 - (a) at least five members appointed from nominations received;
 - (b) two additional members appointed as he or she deems fit, to ensure the necessary range of experience, expertise and representivity as prescribed in these regulation; and

- (c) die hoof uitvoerende beampte van die Vrystaatse Erfenis Hulpbronne Owerheid.
- (2) Die lede van die Raad soos beoog in subregulasie (1) moet aangestel word ooreenkomstig die beginsels van deursigtigheid en verteenwoordigheid en met inagneming van -
- (a) spesiale bevoegheid, ervaring en belangstelling op die gebied van erfenishulpbronne, met inbegrip van sosiale geskiedenis, argitektuur, argeologie, paleontologie, stadsbeplanning, lewende erfenis en slagoffers van konflik; en
- (b) dat ten minste een lid oor finansiële kennis moet beskik om die doeltreffende funksionering van die VSEHO te ondersteun.
- (3) Suid-Afrikaanse burgers wat normaalweg in die Vrystaat woon is benoembaar vir aanstelling op die Raad.
- (4) Ten minste 30 dae voor die datum van aanstelling van die Raad, moet die publiek en belanghebbendes, by wyse van kennisgewings in minstens twee nuusblaie wat in die Provinsie uitgegee word ooreenkomstig die beginsels beoog in subregulasies (2) en (3), uitgenooi word om lede te benoem soos beoog in subregulasie (1)(a) tot die Raad.
- (5) Benoemings soos beoog in subregulasie (4) moet minstens 14 dae voor die datum van aanstelling van die Raad ontvang word en moet deur die *curriculum vitae* en die instemming van die benoemde vergesel word.
- (6) Die LUR moet al die name van die lede wat aangestel word in die *Provinsiale Koerant* publiseer.
- (7) Onderhewig aan subregulasies (10) en (11) moet die LUR die tydperk van aanstelling van elke lid van die Raad spesifiseer in die kennisgewing beoog in subregulasie (6), met inagneming van die wenslikheid van 'n balans tussen kontinuïteit van ervaring van een termyn van die Raad tot die volgende, en 'n verandering in verteenwoordigheid.
- (8) 'n Lid van die Raad moet sy of haar amp ontruim indien die lid -
- (a) skriftelik bedank;
- (b) van drie agtereenvolgende vergaderings van die Raad afwesig is sonder toestemming van die Raad;
- (c) 'n ongerehabiliteerde insolvent is;

- (c) the chief executive officer of the Free State Heritage Resources Authority.
- (2) The members of the Council contemplated in subregulation (1) must be appointed in accordance with the principles of transparency and representivity and their appointment must take into account -
- (a) special competence, experience and interest in the field of heritage resources, which includes social history, architecture, archaeology, palaeontology, urban planning, living heritage and victims of conflict; and
 - (b) that at least one member must have financial knowledge to support the efficient functioning of the FSHRA.
- (3) South African citizens who are ordinarily residents of the Free State are eligible for appointment to the Council.
- (4) At least 30 days before the date of appointment of the Council, the public and interested parties must, by means of notices in at least two newspapers circulating in the Province in accordance with the principles envisaged in subregulations (2) and (3), be invited to nominate members contemplated in subregulation (1)(a) to the Council.
- (5) Nominations contemplated in subregulation (4) must be received at least 14 days before the date of appointment of the Council and must be accompanied by the *curriculum vitae* and the consent of the nominee.
- (6) The MEC must publish all the names of the members who were appointed in the *Provincial Gazette*.
- (7) Subject to subregulations (10) and (11) the MEC must specify the period of appointment of each member of the Council in the notice envisaged in subregulation (6), taking into account the desirability of a balance between continuity of experience from one term of the Councils office to the next, and change in representivity.
- (8) A member of the Council must vacate his or her office if the member -
- (a) resigns in writing;
 - (b) has been absent from three consecutive meetings of the Council without the leave of the Council;
 - (c) is an unrehabilitated insolvent;

- (d) deur 'n bevoegde hof as kranksinnig bevind word; of
 - (e) skuldig bevind word aan 'n oortreding waarby oneerlikheid of liggaamlike skade betrokke is en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen word.
- (9) Die LUR kan, na raadpleging met die Raad, 'n lid van die Raad uit die amp verwyder indien na die mening van die LUR grondige redes bestaan om so op te tree nadat hy die lid oor hierdie redes aangehoor het.
- (10) 'n Lid van die Raad word vir hoogstens drie jaar aangestel, en kan weer heraan gestel word.
- (11) Indien 'n lid van die Raad sterf of sy amp ontruim voor verstryking van die tydperk waarvoor die lid aangestel is, kan iemand anders aangestel word om die vakature vir die onverstreke deel van die tydperk waarvoor die lid aangestel is, te vul.

Voorsitter van die Raad

3. (1) Die voorsitter van die Raad word gekies uit die aangestelde lede van die Raad op 'n vergadering waar die LUR voorsit en beklee sy amp vir die tydperk of onverstreke deel van die tydperk waarvoor hy of sy as lid van die Raad aangestel is, tensy die Raad anders bepaal.
- (2) Indien die voorsitter van die Raad die amp van voorsitter ontruim voor verstryking van die tydperk waarvoor hy of sy aangestel is, word 'n ander lid van die Raad, onderworpe aan subregulasie (1), uit die aangestelde lede van die Raad as voorsitter van die Raad gekies .
- (3) Indien die voorsitter van die Raad afwesig is van 'n vergadering van die Raad of nie in staat is om by die vergadering voor te sit nie, kies die teenwoordige lede een van hul lede om by daardie vergadering voor te sit en daardie persoon kan tydens die vergadering en totdat die voorsitter sy of haar werksaamhede hervat, al daardie werksaamhede verrig.

Komitees van die Raad

4. Die Raad kan komitees stig om hom in die uitvoering van sy werksaamhede te help en benewens enige lede kan hy persone in die komitee aanstel wat die Raad bevoeg ag en wat oor bepaalde vaardighede en kundigheid beskik.

Delegering van werksaamhede

5. (1) Behoudens artikel 26 van die Wet, kan die VSEHO deur 'n besluit van die meerderheid van die Raad werksaamhede deleger aan persone of liggame genoem in artikel 26(1)(b) tot (e) en (g) van die Wet.

- (d) is found to be of unsound mind by a competent court; or
 - (e) is convicted of an offence involving dishonesty or bodily harm and is sentenced to imprisonment without the option of a fine.
- (9) The MEC may, after consultation with the Council, remove a member of the Council from office if in the opinion of the MEC there are sound reasons for doing so after hearing the member on those reasons.
- (10) A member of the Council holds office for a period not exceeding three years, and may be reappointed.
- (11) If a member of the Council dies or vacates the office before the expiration of the period for which the member has been appointed, another person may be appointed to fill the vacancy for the unexpired portion of the period for which the member was appointed.

Chairperson of Council

3. (1) The chairperson of the Council is elected, at a meeting chaired by the MEC, from the appointed members of the Council and holds office for the period or the unexpired portion of the period for which he or she has been appointed as member of the Council, unless the Council otherwise determines.
- (2) If the chairperson of the Council vacates the office as chairperson before the expiration of the period for which he or she was appointed, another member of the Council must, subject to subregulation (1), be elected as a chairperson of the Council from the appointed members of the Council.
- (3) If the chairperson of the Council is absent from a meeting of the Council or not able to preside at that meeting, the members present must elect one of their members to preside at that meeting and that person may, during that meeting and until the chairperson resumes his or her functions, perform all those functions.

Committees of Council

4. The Council may establish committees to assist it in the performance of its functions and, in addition to any members, it may appoint to such committees persons whom the Council considers competent or who possess specific skills and expertise.

Delegation of Functions

5. (1) Subject to section 26 of the Act, the FSHRA may by majority decision of the Council delegate functions to persons or bodies referred to in section 26(1)(b) to (e) and (g) of the Act.

- (2) Die delegasie moet op skrif wees en moet die gedelegeerde werksaamhede, enige voorwaardes verbonde aan die delegasie, die gedelegeerde en die tydperk van delegasie duidelik uiteensit.
- (3) 'n Delegasie kan slegs skriftelik teruggetrek word.

Appèlproses

6. (1) Persone en liggame met 'n belang by of wat geraak word deur 'n besluit van 'n komitee of ander gedelegeerde verteenwoordiger van die VSEHO kan by die Raad teen so 'n besluit appelleer.
- (2) So 'n appèl moet op skrif geskied binne 14 dae nadat die notule waarin die besluit aangeteken is, uitgereik is en so 'n appèl moet die redes waarop die appèl gegrond is asook 'n motivering insluit.
- (3) Die Raad moet 'n appèl binne 21 dae oorweeg.
- (4) By ontvangs van 'n appèl teen 'n besluit van 'n gedelegeerde of 'n komitee om 'n aansoek vir 'n permit te verleen, moet die Raad die aansoeker in kennis stel, waarop so 'n permit opgeskort word en geen handeling mag onder gesag van so 'n permit uitgevoer word totdat die appèl oorweeg is en 'n besluit geneem is om die permit te bevestig of terug te trek nie.
- (5) Die Raad kan 'n komitee kundiges aanstel, wat minstens twee van sy lede wat nie teenwoordig was toe die oorspronklike besluit geneem is nie, moet insluit, om die appèl te oorweeg. Die besluit van so 'n komitee is finaal.
- (6) By oorweging van 'n appèl moet die komitee behoorlike oorweging skenk aan –
 - (a) die kulturele belang van die bepaalde erfenisbron;
 - (b) die beginsels uiteengesit in artikel 5 en voorgeskryf kragtens artikel 6(2) van die Wet;
 - (c) enige ander toepaslike faktor wat onder sy aandag gebring word deur die appellant, enigiemand anders wat regstreeks deur die besluit geraak word of die gedelegeerde verteenwoordiger van die VSEHO.

- (2) The delegation must be in writing and must clearly state the functions delegated, any conditions attached to the delegation, the delegatee and the period of delegation.
- (3) A delegation may only be revoked in writing.

Appeal process

6. (1) Persons and bodies with an interest in, or who are affected by, a decision of a committee or other delegated representative of the FSHRA may appeal to the Council against such decision.
- (2) Such appeal must be made in writing within 14 days after the minutes, in which the decision was recorded, have been issued and such appeal must include the grounds on which the appeal is based together with a motivation.
- (3) The Council must consider an appeal within 21 days.
- (4) On receipt of an appeal against a decision of a delegatee or a committee to grant an application for a permit, the Council shall notify the applicant, whereupon such permit shall be suspended and no action may be taken under authority of such permit until the appeal has been considered and a decision has been made to confirm or withdraw the permit.
- (5) The Council may appoint a committee of experts, which must include at least two of its members who were not present when the original decision was made, to consider the appeal. The decision of such committee is final.
- (6) In considering an appeal, the Council must have due regard to -
 - (a) the cultural significance of the heritage resource in question;
 - (b) the principles set out in section 5 and prescribed under section 6 (2) of the Act;
 - (c) any other relevant factor which is brought to its attention by the appellant, any other person directly affected by the decision, or the delegated representative of the FSHRA.