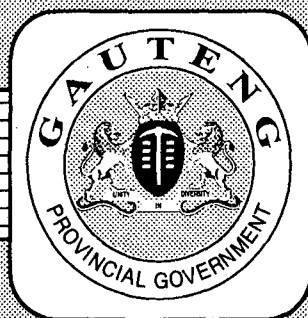


REGULATIONS

THE PROVINCE OF
GAUTENG



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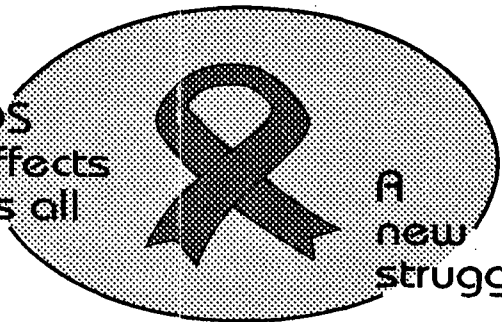
Vol. 9

PRETORIA, 10 JANUARY 2003
JANUARIE

No. 4

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

Prevention is the cure

AIDS
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DEPARTMENT OF HEALTH



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GENERAL NOTICE

NOTICE 103 OF 2003

DEPARTMENT OF SPORTS, RECREATION, ARTS AND CULTURE

NATURAL HERITAGE RESOURCES ACT, 1999

(ACT NO. 25 OF 1999)

GAUTENG HERITAGE RESOURCES AUTHORITY REGULATIONS, 2002

The Member of the Executive Council responsible for cultural matters in the Province of Gauteng has under sections 23, 26 and 49 of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) made the regulations in the Schedule.

SCHEDULE

Definition

1. In these regulations, a word or expression that has been defined in the Act has that meaning and, unless the context indicates otherwise-

"Chief Executive Officer" means the official of the Council contemplated in regulation 12;

"Council" means the Gauteng Heritage Resources Authority Council contemplated in regulation 3;

"Department" means the provincial department in Gauteng Province responsible for cultural matters;

"GHRA" means the heritage resources authority established for Gauteng Province under section 23 of the Act;

"officer" means an officer as defined in the Public Service Act, 1994 (Proclamation 103 published in Government Gazette 15791 of 3 June 1994);

"Province" means the Gauteng Province;

"Public Finance Management Act, 1999" means the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

"the Act" means the National Heritage Resources Act, 1999 (Act 25 of 1999).

Establishment of Gauteng Heritage Resources Authority

2. (1) There is hereby established a body corporate to be known as the Gauteng Heritage Resources Authority in terms of section 23 of the Act.
- (2) GHRA shall manage provincial and local heritage resources in the Province.
- (3) The affairs of the GHRA shall be governed by the Council.

Establishment of Council

3. (1) The Council shall consist of at least 8 (eight) but no more than 15 (fifteen) members appointed by the MEC in accordance with these regulations.
- (2) The members of the Council shall:
 - (a) be South African citizens;
 - (b) be permanently resident in the Province;
 - (c) have among them qualifications or special experience or interest in fields relevant to heritage resources and the financial knowledge needed for the efficient functioning of the GHRA;
 - (d) hold office for a period, determined by the MEC on the member's appointment, not exceeding 3 (three) years, and the member shall be eligible for re-appointment; and
 - (e) serve more than 2 (two) consecutive terms, if the MEC deems it appropriate.

Appointment of Members of the Council

4. (1) The MEC must through advertisement in 3 (three) widely read and circulated newspapers in the Province, invite members of the public to nominate persons for appointment as members of the Council.
- (2) Nominations must be submitted within 30 (thirty) days from the date of the earliest advertisement.
- (3) Nominations shall be sent to the Department, and the Department shall establish a panel of at least 3 (three) officers for the purpose of compiling a short list.
- (4) The short list shall consist of not less than 13 (thirteen) and not more than twenty (20) nominees.

(5) In the event that less than 13 (thirteen) nominations are received, the Department must extend the period of nominations for a further 30 (thirty) days in the same manner as prescribed in sub-regulation (1) to allow for further submissions of the nominations, until sufficient nominations are received.

(6) The Department shall submit the list to the MEC as the recommended nominees for appointment.

(7) The MEC must elect the required number from the list and shall appoint the elected number in accordance with the requirements stated in sub-regulation 3 (2) within 30 (thirty) days of receiving the short list from the Department.

Vacation of office

5. (1) Any member of the Council shall vacate the office if he or she:-

- (a) resigns;
- (b) is convicted of an offence involving dishonesty;
- (c) has been absent from 3 (three) consecutive meetings of the Council without the leave of the Council and without any reasonable or just explanation being rendered by the member; or
- (d) is found to be of unsound mind by a court.

(2) The MEC may, after consultation with Council, remove a member of the Council from office if in the opinion of the MEC there are sound reasons for doing so: Provided that the member must be given an opportunity to state reasons why he or she should not be removed before the MEC may remove him or her from office.

(3) If a member of the Council dies or vacates office before the expiration of the period for which the member was appointed, any other person may be appointed from the remainder of the recommended nominees to fill the vacancy for the unexpired portion of the period for which the member was appointed.

(4) If the remainder of the recommended nominees on the short list is unavailable, the procedure for nomination and appointment must be followed, with the necessary changes required by the context.

Chairperson of Council

6. (1) The Council shall elect a chairperson from among its members.

(2) The chairperson holds office for the duration for which he would have held office as a member.

(3) If the chairperson vacates the office as chairperson before the expiration of the period for which he or she was elected, another member of the Council must be elected from the Council members.

(4) The chairperson of the Council presides over the Council meetings.

(5) If the chairperson is absent from a meeting of the Council, the members must elect from among the members present, a temporary chairperson to preside over the meeting and such person must, during that meeting and until the chairperson resumes his or her functions, perform all functions normally performed by the chairperson.

(6) The chairperson of the Council may not serve for more than 2 (two) consecutive terms as chairperson of the Council.

Committees of GHRA Council

7 (1) 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 it considers competent or who possess specific skills and expertise.

(2) Any person appointed in terms of sub-regulation (1) ceases to be a committee member if he or she has been absent for 3 (three) consecutive meetings without the leave of the Council.

Declaration of interest by the GHRA Council members and its committees

8. (1) Should a member of the Council or of any of its committees have an interest in any matter being considered by the Council or its committees, he or she must declare such interest and may not participate in the discussion of and the recommendations or decisions concerning that matter.

(2) Members of the Council or its committees are obliged to reveal any conflict of interest regarding any matter before the Council or its committees, and must act in the best interest of the GHRA and the Council.

(3) For the purposes of this regulation "conflict of interest" includes pecuniary or personal interest of a member, his or her spouse, friend, family member or business partner or associate.

(4) A Council member that contravenes sub-regulation (2) may be removed from office as envisaged in regulation 5 (2).

(5) The Council may set aside the decision affected by the contravention of sub-regulation (2).

Meetings of Council and its committees

9. (1) The Council must meet as often as necessary, but at least twice a year.

(2) The majority of members present at the meeting shall constitute a quorum.

(3) Any decision of the Council shall be taken by the resolution of the majority of the members present at any meeting of the Council, and in the event of an equality of votes, the chairperson has a casting vote in addition to his or her deliberative vote as a member of the Council.

(4) The Council must determine its own internal arrangements, proceedings and procedure and those of its committees, by drafting rules for:-

- (a) the convening of meetings;
- (b) the procedure at meetings; and
- (c) the frequency of meetings, subject to sub-regulation (1).

Finances

10. (1) The Department shall provide funds to GHRA from moneys appropriated by the Gauteng Provincial Legislature for heritage resources management to enable the Council to perform its functions and duties, and execute its powers as prescribed in the Act.

(2) The financial arrangements of GHRA must be consistent with the requirements of the Public Finance Management Act, 1999.

Reimbursement of expenses incurred by, and payment of allowances to members of Council and its committees

11. (1) The MEC may, with the concurrence of the MEC for Finance and Economic Affairs, determine the reimbursement of expenses incurred by members of the Council and any committee it may establish.

Appointment of the Chief Executive Officer

- 12.** (1) The Council appoints the Chief Executive Officer.
 (2) The CEO shall, among others, perform the following key functions:-
 (a) furnish the Council with an annual report on the financial affairs of the GHRA;
 (b) be responsible for the appointment and management of staff;
 (c) perform any other activities and duties assigned to the CEO from time to time by the Council; and
 (d) the Council must, in consultation with the CEO, determine staff needs and staffing policies of GHRA and the posts, conditions of service, remuneration, allowances, subsidies and other benefits of the staff in accordance with a system approved by the MEC with the concurrence of the MEC for Finance and Economic Affairs.

Delegation of functions and powers of GHRA

13. (1) The GHRA may delegate any of its functions or powers to any of its functionaries as prescribed in section 26 of the Act by a resolution.

Appeals under Section 49 of the Act

- 14.** (1) An appeal as contemplated in section 49 (1) of the Act must be in writing and be delivered to the Council within 14 (fourteen) days after becoming aware of the decision.
 (2) The Council shall investigate the matter, call for evidence, where it deems necessary.
 (3) Upon proper assessment and evaluation of the merits of appeal, the Council must make a decision.
 (4) The Council must notify the parties to the appeal of the decision and reasons within 14 (fourteen) days thereof.
 (5) In the event that the decision of the Council is not satisfactory, a matter may be referred to the independent tribunal.
 (6) All proceedings on appeal must be recorded.

Appeal to Independent Tribunal under Section 49 of the Act

- 15.** (1) Any person who wishes to appeal against a decision of the Council as contemplated in Section 49 (2) of the Act must lodge an appeal with the MEC in writing within 30 (thirty) days of notification of the decision.
- (2) An appeal must consist of:-
- (a) a notice of appeal;
 - (b) grounds of appeal; and
 - (c) submissions of the grounds of appeal.
- (3) The MEC must forward the appeal to the Council, and the Council may respond to the appeal by furnishing a written response to the MEC within 14 (fourteen) days.
- (4) Any documents in possession of the Council shall be delivered to the tribunal.
- (5) The tribunal may request any evidence which was not produced before the Council which it reasonably believes may assist it in its decision.
- (6) When considering appeals, the tribunal:-
- (a) may inspect places or objects relating to the appeal;
 - (b) may conduct audit or investigation relating to the appeal; and
 - (c) must convey its decision in writing to all the parties within 7 (seven) days after the decision was taken.

Short Title

- 16.** These regulations are called the Gauteng Heritage Resources Authority Regulations, 2002.