



Free State Heritage Resources Authority

INFORMATION LEAFLET PREPARED BY THE FREE STATE HERITAGE RESOURCES AUTHORITY

1. PURPOSE

Attempts by the Free State Heritage Resources Authority (the “FSHRA”) to stop the destruction of our heritage sites through law-enforcement have become expensive and time-consuming. This document will hopefully help to counter the continuous non-compliance with the stipulations of the National Heritage Resources Act, 1999 (Act No. 25 of 1999) (hereinafter referred to as the “Act”).

2. FUNCTIONS OF THE FREE STATE HERITAGE RESOURCES AUTHORITY

The FSHRA was established in terms of section 23 of the Act. It is a body corporate capable of suing and being sued in its corporate name. The FSHRA, as a provincial heritage resources authority, is responsible for the identification and management of heritage resources in the Free State, which, in a provincial context, have special significance.. A heritage resource is a place or object of cultural significance.

A heritage site can either be a national heritage site [if declared as such by the South African Heritage Resources Authority (the “SAHRA”)] or a provincial heritage site if so declared by a provincial heritage resources authority. Heritage resources have lasting value, are finite, non-renewable and irreplaceable. The FSHRA has the competence to grant or refuse permits.

3. OBJECTIVES OF THE ACT

This legislation wants to bring about proper control of our heritage resources and aims to provide communities with the means to look after them so that future generations can also enjoy them. Our heritage cannot be replaced. It tells us who we are, where we come from and lies at the heart of our spiritual well-being. It makes us aware of the different cultures in our land and can help build our nation and shape our national character.

4. RIGHTS AND DUTIES OF STATE AND SUPPORTED BODIES

Section 9 of the Act requires all State organs and institutions to support heritage resources authorities as far as practically possible. In terms of section 9 of the Act, 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. They must make available all information on heritage resources under their control.

Each State Department and supported body must:

- (a) Maintain and conserve the heritage resources under its control in accordance with standards and procedures set out in regulations by the SAHRA.
- (b) Annually submit a report to the SAHRA on the maintenance and development of such resources.
- (c) Not take any action that adversely affects such a resource unless the authority concerned is satisfied that there is no feasible and prudent alternative to the taking of that action and that all measures that can reasonably be taken to minimize the adverse effect will be taken.
- (d) Where the destruction of such heritage resources is permitted in terms of this Act, record such resources in accordance with standards set by the SAHRA.

The Registrar of Deeds must, in a notice as prescribed, inform the SAHRA or the relevant heritage resources authority within 14 days of the particulars regarding of the registration of transfer or subdivision of any place which is formally protected by such heritage resource authority, in terms of Part 1 of Chapter 2 of this Act.

5. ENFORCEMENT, APPEALS, OFFENCES AND PENALTIES

In terms of the Act no person or organ of state may:

- (a) destroy, damage, deface, excavate, alter, remove from its original position, subdivide or change the planning status of any heritage site without a permit issued by the heritage resources authority responsible for the protection of such site;
- (b) damage any fence, wall or gate constructed or sign erected by a heritage resources authority to conserve or improve any heritage site;
- (c) 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;
- (d) 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.

These are some of the offences under the Act. In order to perform any of the abovementioned activities, a person or an organ of state must be in possession of a permit issued by SAHRA or the FSHRA.

Applications for permits must be made in the prescribed format. The heritage resources authority may in its discretion issue a permit to perform such actions at such time and subject to such terms, conditions and restrictions or directions as may be specified in the permit.

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. 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.

Any person who contravenes any provision of this Act shall be guilty of an offence and liable to a fine or period of imprisonment or to both such fine and imprisonment.

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