

REPUBLIC
OF
SOUTH AFRICA



REPUBLIEK
VAN
SUID-AFRIKA

**NORTH-WEST
NOORDWES**

**PROVINCIAL GAZETTE
PROVINSIALE KOERANT**

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Vol.

No.

NOTICE NO.

It is hereby notified that the Premier has
assented to the following Act which
is hereby published for general information:

Act No. 8 : North West Arts & Culture Council Act, 2000

Hierby word bekend gemaak dat die Premier
sy goedkeuring geheg het aan die
Onderstaande Wet wat hierby ter algemene
inligting gepubliseer word:-

Wet No. 8 : Noordwes Kuns en Kultuur, Raad Wet, 2000

ACT

To establish the Arts and Culture Council for the North West Province for purposes of promoting and developing arts and culture in the Province; to determine the objects of that Council and accordingly its powers and duties to provide for the composition of that Council, and to provide for matters connected therewith. (English text signed by the Premier on 31st October 2000)

BE IT ENACTED BY the Provincial Legislature as follows:

1. **DEFINITIONS** – In this Act, unless the context indicates otherwise:

“**arts**” means all forms of music, dance, drama, theatre, craft, visual art, creative writing and community art;

“**chairperson**” means a member of the Council designated as such in terms of the provisions of this Act;

“**Council**” means the North West Provincial Arts and Culture Council established under this Act;

“**Constitution**” means the Constitution of the Republic of South Africa 1996; (Act 108 of 1996);

“**culture**” means a dynamic system of values, expressions, actions, knowledge and articulations of a community that may denote the lifestyle of an entire society or particular ethnic communities, including their language and religion;

“**department**” means the North West Provincial Department of Social Services, Arts, Culture and Sport;

“**financial year**” means the period of twelve months commencing on the first day of April in any calendar year and ending on the thirty-first day of March the following year, both days inclusive;

“**head of department**” means the head of the North West Department of Social Services, Arts, Culture and Sport;

“**Legislature**” means the Provincial Legislature of the North West as contemplated under section 132 of the Constitution;

“**Republic**” means the Republic of South Africa as stipulated in the Constitution;

“**Responsible Member**” means the member of the Executive Council responsible for Social Services, Arts, Culture and Sport in the North West Province;

2. **ESTABLISHMENT AND OBJECTS OF THE PROVINCIAL ARTS AND CULTURE COUNCIL**

- (1) There is hereby established the North West Provincial Arts and Culture Council which will under that name be a body corporate, and for purposes of exercising and performing its powers, functions and duties under this Act, be capable in law of suing and being sued, of purchasing or otherwise acquiring and holding and alienating movable and immovable property and other real rights or other rights or interests, of entering into contracts and concluding agreements and, generally, of performing such other acts and doing such other things as bodies corporate may by law perform and do, subject to the provisions of this Act.
- (2) The objects of the North West Provincial Arts and Culture Council are to:
 - (i) promote the development of arts and culture in the Province to the advantage of all the people of the Province, taking the historical imbalances in the development of arts and culture into account;
 - (ii) report to the responsible Member on the actual disbursement of grants to artists, students, cultural organisations, and other worthy concerns in the field of arts and culture;
 - (iii) ensure equitable allocation of funds to arts and culture activities throughout the Province;
 - (iv) promote the appreciation, understanding and enjoyment of the arts;
 - (v) foster the expression of a national identity and consciousness by means of the arts;
 - (vi) provide, and encourage the provision of opportunities for persons to practice the arts;
 - (vii) address historical imbalances in the provision of infrastructure for the promotion of the arts;
 - (viii) promote and facilitate national and international liaison between individuals and institutions in respect of the arts;
 - (ix) encourage excellence in regards to the arts, and
 - (x) any such other object as may from time to time be reasonably necessary or incidental to the promotion and development of arts and culture in the province.

3. POWERS, FUNCTIONS AND DUTIES OF THE COUNCIL

The Council must:

- (a) advise the responsible Member on policy matters relating to the development of arts and culture in the Province;
- (b) at the request of the responsible Member, undertake or procure the undertaking of such investigations and research concerning its objects and or any other problems preventing proper development of arts and culture in the Province;
- (c) with the approval of the responsible Member, raise loans and engage in fund raising activities for purposes relating to the objects of the Council;
- (d) give advice and relevant arts and culture information to individuals and corporate persons involved in arts and culture;
- (e) give financial support – under the political directives of the responsible Member – to individuals, organisations and institutions concerned with promotion of arts and culture in the Province;
- (f) publish and provide information relating to the Council's functions to all interested parties who seek it;
- (g) assist in the promotion and marketing of arts and culture of the Province;
- (h) establish a provincial data base of individuals, organisations and institutions involved in arts and culture;
- (i) organise and run competitions related to arts and culture;
- (j) manage and administer funds allocated for attainment of the objects of the Council;
- (k) provide the responsible Member with a report, on an annual basis, detailing activities, programmes, and projects achieved in terms of this Act, and setting out, in respect or the next ensuing year, the programmes, projects and priorities which the Council intends to pursue;
- (l) perform its functions consistently with the National Arts Act 997 (Act 56 of 1997); and

- (m) not establish, acquire or operate any organisation or institution connected with the arts, but may initiate projects which it considers necessary in pursuit of its objects, provided that such projects are undertaken in partnership with existing organisations or institutions which have the capacity to undertake such projects.

4. COMPOSITION OF COUNCIL

- (1) The Council must consist of no more than (7) members to be appointed by a public and transparent process as contemplated by section 5, and which shall be determined and overseen by the responsible Member.
- (2) The responsible Member must designate one of the appointed members as the chairperson of the Council.
- (3) The members of the Council must elect a vice-chairperson from among all the members.

5. NOMINATIONS AND APPOINTMENT TO THE COUNCIL

- (1) Nominations for appointment to the Council shall be obtained from the public in the prescribed manner, by notice in the provincial *gazette* as well as in various newspapers circulating in different regions in the province, the cut-off date being 28 days after publication.
- (2) An independent panel, appointed by the responsible Member, from a broad representation of the Province, must compile a short list from the nominations, after interviewing each nominee in public.
- (3) Any member of the public may object in writing to the nomination of any person.
- (4) The responsible Member must appoint the members from a shortlist of not less than twelve (12) nominees: provided that amongst the appointees appointed are included persons with the necessary skills and knowledge representing each of the following disciplines, which must include:
 - a) dance;
 - b) music;
 - c) theatre (including film, poetry and writing);
 - d) visual arts and crafts;
 - e) business, accounting or legal profession.
- (5) The Council must be constituted in a manner that no discrimination on the grounds of age, race, religion, sex or any other arbitrary grounds shall be permissible in appointing such nominees.

- (6) The term of office for members of the Council will be three (3) years and members may be re-appointed.

6. QUALIFICATIONS FOR MEMBERSHIP OF THE COUNCIL

- (1) Persons eligible for the membership of the Council must –
- (i) be residents of the Province;
 - (ii) have knowledge or experience in the field of arts and culture education and or management;
 - (iii) possess such other specialist skills which are not directly related to the arts but which are necessary for the smooth administration of the Council.
- (2) No person may be appointed or nominated to the membership of the Council if that person –
- (i) is an unrehabilitated insolvent;
 - (ii) has been convicted of any offence, excluding political offences, in respect of which a sentence of imprisonment without the option of a fine for a period of more than six months was imposed unless the period of such imprisonment has expired at least ten (10) years before the date of nomination or appointment.
 - (iii) is subject to an order of a competent court declaring that person to be of unsound mind or mentally disordered or defective.

7. DISQUALIFICATION AND VACATION OF OFFICE

- (1) A member of the Council must vacate office if that member:
- (i) resigns by a written notice addressed to the responsible Member;
 - (ii) takes up residence outside the Province;
 - (iii) is considered to have interests of a personal nature which are inconsistent with the functions of a Council member;
 - (iv) is absent from two consecutive meetings without proper cause;
 - (v) is deemed to have behaved in a manner that brings the council into disrepute; or

- (vi) becomes a member of the Provincial Legislature, Executive Council or corresponding offices in the sphere of national government.
- (2) Disqualification in terms of subsection (1) (iii) and (v) may only be effected after due regard to the provisions of section 33 of the Constitution of South Africa 1996 (Act 108 of 1996)

8. MEETINGS OF THE COUNCIL

- (1) The first meeting of the Council must be held at such time and place as the responsible Member may determine, and all subsequent meetings of the Council will be at such times and places as the chairperson of the Council may determine.
- (2) The chairperson may at any time convene a special meeting of the Council to be held at such time and place as may be determined by the chairperson.
- (3) The quorum for a meeting of the Council shall be a majority of the total number of members of the Council.
- (4) The decision of a majority of the members present at a meeting of the Council, shall be the decision of the Council, and in the event of an equality of votes, the person presiding at the meeting will have a casting vote in addition to a deliberative vote.
- (5) The Council may make rules in relation to the holding of, and procedure at, meetings of the Council.
- (6) The administrative and secretarial work incidental to the performance of the functions of the Council must be performed by officers in the Department designated for such purpose by the Head of Department.

9. TRAVELLING AND SUBSISTENCE EXPENSES OF COUNCIL MEMBERS

The members of the Council are entitled to reimbursement for travelling and subsistence expenses (excluding civil servants) reasonably incurred by them in connection with the performance of their functions and duties, and may for that purpose be paid such allowances as the responsible Member may from time to time determine.

10. FINANCING OF THE COUNCIL AND BANKING OF MONEYS

- (1) The Council are to be financed and be provided with working capital out of:
 - (i) such moneys as may from time to time be voted for by the Department for purposes of the objects of the Council;

- (ii) any proceeds deriving from the operations of the Council which are income-generating;
 - (iii) grants from the National Arts Council in terms of the provisions of the National Arts Council Act (Act 56 of 1997);
 - (iv) donations or contributions from any source; and
 - (v) interest on investments.
- (2) In applying the provisions of subsection 1, the Council must open and maintain a banking account, with a registered commercial or other bank in the Republic, or with any other financial institution approved by the responsible Member, to be known as the Provincial Arts and Culture Council Current Account into which all moneys contemplated in subsection (1) must be deposited, and from which all payments for operations of the Council must be made.
- (3) Any moneys which are not immediately required to meet the current expenditure may, upon special resolution of the Council, be invested on a call at any bank or other financial institution registered in the Republic : Provided that the responsible Member, after consultation with the Member of Executive Council responsible for Finance, give approval in writing, for this purpose.

11. FINANCIAL ACCOUNTABILITY OF THE COUNCIL

- (1) The Council must cause proper books and records of account be kept, in accordance with established accounting practice, principles and procedures, in respect of all moneys received and expended in terms of this Act.
- (2) The books and records and financial statements contemplated by subsection (1) must be audited annually by the Auditor-General or any practising public accountant and/or auditor appointed by the Auditor-General for that purpose, at the conclusion of which audit the auditor concerned shall furnish a report to the Council.
- (3) The chairperson of the Council must, not later than thirty (30) days after receipt of the auditor's report referred to in subsection (2), submit a copy of its audited financial statement to the responsible Member.
- (4) The responsible Member must, within fourteen (14) days after receipt of the report referred to in subsection (3), present it to the Provincial Legislature if the Legislature is in session, or if the Legislature is not in session, within fourteen (14) days after the commencement of its next ensuing session.

12. **COMMITTEES OF THE COUNCIL**

- (1) The Council may set up one or more committees to assist it in the performance of functions and duties under this Act, and the actions of such committee must be deemed to be the actions of the Council.
- (2) The Council must not include any outside consultant in the committees without prior consultation and approval by the responsible Member.
- (3) The remuneration and allowances of a consultant serving on a committee must be determined by the responsible Member in consultation with the Member of the Executive Council responsible for Finance and Provincial Expenditure.

13. **REGULATIONS**

- (1) The responsible Member may make regulations as to:
 - (i) the criteria and procedure to be followed in making grants;
 - (ii) the criteria and procedure to be followed in awarding bursaries;
 - (iii) the appeals against decisions of the Council;
 - (iv) any matter which may be prescribed by Regulation under this Act, and
 - (v) any other matter which the responsible Member may deem necessary for the furtherance of the purpose of this Act or expectent to prescribe in order to achieve the objects of this Act.

14. **Short Title and Commencement** – This Act shall be called the North West Arts and Culture Council Act 2000, and shall come into operation on a date to be determined by the responsible Member by notice in the Provincial *Gazette*, which date may be retrospective.