



Republic of Namibia
Annotated Statutes

Cultural Institutions Act 29 of 1969 (RSA)

(RSA GG 2344)

came into force in South Africa and South West Africa

on date of publication: 2 April 1969

(see section 18 of Act)

APPLICABILITY TO SOUTH WEST AFRICA: Section 18 states “This Act and any amendment thereof shall apply also in the territory of South West Africa, including that part of the said territory known as the Eastern Caprivi Zipfel and referred to in section 38(5) of the South West Africa Constitution Act, 1968 (Act No. 39 of 1968).”

TRANSFER TO SOUTH WEST AFRICA: The administration of this Act was transferred to South West Africa by the Executive Powers (National Education) Transfer Proclamation, AG 1 of 1978, dated 11 January 1978. As a result, neither of the amendments made to the Act in South Africa after the date of transfer and prior to Namibian Independence – the *Cultural and Education Laws Amendment Act 93 of 1974* (RSA GG 4524) and the *Education and Culture Laws Amendment Act 28 of 1983* (RSA GG 8628) – applied to South West Africa because neither was made expressly so applicable.

Section 3(2)(d) of the transfer proclamation excluded section 16 of the Act from the operation of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977.

as amended by

Cultural Institutions Amendment Act 93 of 1974 (RSA) (RSA GG 4524)

brought into force on 1 April 1975 by RSA Proc. 79/1975 (RSA GG 4637)

ACT

To provide for the payment of subsidies to certain institutions, for the establishment as declared cultural institutions under the control of councils, for the establishment of an Advisory Council for Declared Institutions and a Committee of Heads of Declared Institutions, and for incidental matters.

[long title substituted by Act 93 of 1974]

(Afrikaans text signed by the State President)

(Assented to 21st March, 1969)

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BE IT ENACTED by the State President, the Senate and the House of Assembly of the Republic of South Africa, as follows:-

Definitions

1. In this Act, unless the context otherwise indicates -

“Advisory Council” means the Advisory Council for Declared Institutions established in terms of section 12;

“Committee of Heads” means the Committee of Heads of Declared Institutions established by section 13;

“council” means a council referred to in section 6;

“declared institution” means an institution declared under section 3 to be subject to the provisions of this Act, or deemed in terms of section 5 to have been so declared;

“institution” means any library, museum, zoological or botanical gardens or other cultural institution deemed by the Minister to be of kindred character;

“Minister”, in any provision of this Act, means the Minister to whom, or the Minister to whom acting in consultation with another Minister, the administration of that provision has been assigned by proclamation issued under section 16;

“prescribed” means prescribed by regulation made and in force under this Act;

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“Secretary”, and “officer”, in any provision of this Act, mean, respectively, the head and any officer of the Department of State administered by the Minister to whom the administration of that provision has been assigned by proclamation issued under section 16.

Payments of subsidies to institutions

2. The Minister may, for such purposes, on such basis and subject to such conditions as he may in consultation with the Minister of Finance determine, out of moneys appropriated by Parliament for the purpose pay a subsidy to any institution.

[Section 2 is substituted by Act 93 of 1974. Section 1(2) of the amending Act provides the following transitional provision: “A grant-in-aid made to an institution under section 2 of the principal Act prior to the commencement of this Act, shall be deemed to be a subsidy paid under that section as substituted by this Act.”]

Application of Act

3. The Minister may by notice in the *Gazette* declare that any institution to which a subsidy is paid under section 2 shall, with effect from a date specified in that notice, be subject to the provisions of this Act.

[section 3 substituted by Act 93 of 1974]

Declared institution to be a corporate body

4. (1) A declared institution shall be known under the name mentioned in the notice under section 3 in regard to it, shall be a corporate body, shall in law be capable of suing and being sued in its own name and may, subject to the provisions of this Act, purchase or otherwise acquire, hold, hire, let, sell, exchange or otherwise alienate movable or immovable property, grant to any person any real right in or servitude over its property, invest, lend or borrow moneys and perform all such acts as are necessary for or incidental to the exercise of its powers and the performance of its functions.

(2) A declared institution shall not, without the prior approval of the Minister, granted in consultation with the Minister of Finance, purchase or otherwise acquire, hire, sell, let, exchange or otherwise alienate, hypothecate or encumber immovable property or invest, lend or borrow moneys, unless, in the case of the investment of moneys, such investment is made in accordance with directions issued by the Minister in consultation with the Minister of Finance.

[subsection (2) substituted by Act 93 of 1974]

(3) A declared institution may, unless the Minister otherwise provides, and subject to the provisions of the National Monuments Act, 1969 (Act No. 28 of 1969), let, sell, exchange or otherwise alienate any specimen, collection or other movable property belonging to it.

[Subsection (3) is substituted by Act 93 of 1974. The National Monuments Act 28 of 1969 has been replaced by the National Monuments Act 27 of 2004.]

(4) When an institution is under section 3 declared to be subject to the provisions of this Act, all assets and liabilities which are, at the time of such declaration, assets and liabilities of that institution or of its governing body, shall, upon such declaration, devolve upon that institution.

Existing declared institutions

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5. (1) Any institution which has before the commencement of this Act been declared, under section 1 of the State-aided Institutions Act, 1931 (Act No. 23 of 1931), to be subject to the provisions of that Act and which is in existence at such commencement, shall be deemed to have been declared, under section 3 of this Act, to be subject to the provisions of this Act.

(2) The institutions known as the National Cultural History and Open-Air Museum, Pretoria, and the Transvaal Museum, Pretoria-referred to in Government Notice No. 1291 of the twenty-first day of August, 1964-shall be deemed to have been declared under section 3 of this Act, with effect from the twenty-first day of August, 1964, to be subject to the provisions of this Act.

- (3) (a) The institution known as the South African National War Museum, Johannesburg, and referred to in section 1 of the State-aided Institutions Amendment Act, 1954 (Act No. 48 of 1954), shall be deemed to have been declared, under section 3 of this Act, to be subject to the provisions of this Act.
- (b) The institution referred to in paragraph (a) shall, from the commencement of the Cultural Institutions Amendment Act, 1974, be called the South African National Museum for Military History, Johannesburg.
- (c) Any reference in any law or document to the South African National War Museum, Johannesburg, shall be deemed to be a reference to the South African National Museum for Military History, Johannesburg.

[subsection (3) amended by Act 93 of 1974 to add paragraphs (b) and (c)]

(4) The board of any institution referred to in subsection (1), (2) or (3), as constituted or as purporting to have been constituted in terms of section 2 of the State-aided Institutions Act, 1931, and which is in existence at the commencement of this Act, shall be deemed to be the council of such institution and to have been constituted in terms of section 6(1) of this Act as from the date it was constituted or purports to have been constituted in terms of section 2 of the State-aided Institutions Act, 1931, but shall cease to exist upon the date on which a council of such institution is constituted in terms of section 6(1) of this Act.

Establishments of, and conditions of service, privileges, etc., of persons employed at, declared institutions

5A. (1) The Minister shall determine the establishment of any declared institution, the salaries, allowances and other benefits, privileges and conditions of service of persons appointed at or employed in any post included in such establishment, and, in consultation with the Minister of Finance, the salary scales and scales of other benefits attaching to such posts: Provided that a council may, with the prior approval of the Minister granted in consultation with the Minister of Finance, authorize the payment to a person so employed or appointed of a salary which exceeds the maximum of the salary scale applicable in respect of such person.

(2) The power to appoint any person to a post at a declared institution, or to transfer a person holding such post to another such post or from a division or office of the said institution to another such division or office, or to terminate the services of a person holding such post, shall vest in the council of such institution, and shall be exercised subject to the conditions prescribed by the Minister: Provided that the appointment of persons to such posts as the Minister may designate, shall be subject to his prior approval.

Assignment of powers and functions of Minister

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5B. The Minister may assign -

- (a) a power or function conferred on or entrusted to him in terms of subsection (1) of section 5A (in so far as it relates to the determination of establishments, salaries, allowances, other benefits, privileges and conditions of service), and in terms of the proviso to subsection (2) of that section, to a council, the Secretary or any other officer; and
- (b) the power entrusted to him in terms of the proviso to subsection (1) of section 5A, to the Secretary or any other officer.

[section 5B inserted by Act 93 of 1974]

Establishment of councils

6. (1) Every declared institution shall be under the control, management and direction of a council consisting of not less than seven members who shall be appointed or elected in the manner prescribed.

(2) If any institution is at the date on which it is declared to be subject to the provisions of this Act controlled, managed and directed by a board or other body, such board or other body shall, until the appointment or election of a council in terms of subsection (1), continue in office and have all the rights and obligations and exercise all the functions of a council constituted in terms of subsection (1).

(3) A member of a council shall hold office for a period of three years, unless the Minister has, upon the appointment or election of the member, determined a shorter period.

[subsection (3) substituted by Act 93 of 1974]

(4) Whenever a member of a council vacates his office before the expiration of the said period of three years, or the said shorter period, as the case may be, the Minister may appoint a person to fill the vacancy for the unexpired portion of the period of office of such vacating member.

[subsection (4) substituted by Act 93 of 1974]

(5) Any person whose period of office as a member of a council has expired by effluxion of time shall be eligible for re-appointment or re-election as a member thereof.

(6) A member of a council who is not in the full-time service of the State shall receive, out of the funds of its declared institution, in respect of his services such allowances as may be prescribed.

(7) A member of a council shall vacate his office -

- (a) if he signifies in writing his wish to resign and his resignation is accepted by the Minister;
- (b) if he has been absent from three consecutive meetings of the council without its leave;
- (c) if he becomes insolvent or assigns his estate for the benefit of, or compounds with, his creditors;

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- (d) if he is declared by a competent court to be of unsound mind; or
- (e) if he is convicted of an offence and sentenced to a term of imprisonment without the option of a fine.

Chairman of a council

7. (1) The members of every newly constituted council shall at its first meeting out of their number elect a chairman of the council and the chairman shall hold office during the term of office of the council.

(2) If the chairman of a council vacates his office before the expiration of the period for which he was appointed or elected as a member of the council, another member of the council shall, subject to the provisions of subsection (1), be elected as chairman of the council.

(3) If the chairman is absent from any meeting of a council or not able to preside thereat, the members present shall elect one of their number to preside at that meeting and the person so elected to preside may, during that meeting and until the chairman resumes duty, perform all the duties of the chairman.

Functions of a council

8. (1) The functions of a council shall be -
- (a) to hold and preserve all movable property of whatever kind placed in the care of or loaned or belonging to its declared institution;
 - (b) to receive, hold and preserve all specimens, collections or other movable property placed under its care and management under section 10;
 - (c) to manage and control the moneys received by its declared institution and to utilize such moneys for defraying expenses in connection with the performance of its functions;
 - (d) to keep a proper record of the property of its declared institution, to submit to the Secretary any returns required by him in regard thereto and to cause proper books of account to be kept; and
 - (e) generally to carry out the purposes and objects of its declared institution.

(2) A council may, subject to the approval of the Minister, determine the hours during which and the conditions and restrictions subject to which the public or any group of persons or persons belonging to a particular race or class may visit its declared institution or portion thereof and the admission charges which shall be payable.

Placing of buildings at disposal of councils

9. The Minister may, on such basis and on such conditions as he may determine, make available to a council any land or building in order to enable it to carry out its functions in relation to its declared institution, and may provide for the maintenance of such building.

Minister may place property under care of a council

10. Any specimen, collection or other movable property which has been given or bequeathed to the Government or to the Republic or its inhabitants, or given or bequeathed on

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condition that the gift or bequest shall be for the use or benefit of the Republic and its inhabitants or any section of its inhabitants, or any portion of any such specimen, collection or other property, may, unless the donor or testator has made other provision for the care thereof, be placed by the Minister under the care and management of the council of any declared institution.

Auditing of accounts

11. The books and statements of account of a council shall be audited by the Controller and Auditor-General.

Advisory Council for Declared Insitutions

[The word "Institutions" is misspelt in the *Government Gazette*, as reproduced above.]

12. (1) The Minister shall establish a council to be known as the Advisory Council for Declared Institutions, which shall consist of so many members, but not less than three and not more than six, as the Minister may determine.

(2) The members of the Advisory Council shall be appointed by the Minister and shall hold office for such period and subject to such conditions as he may determine.

(3) The filling of casual vacancies on the Advisory Council shall, subject to the provisions of subsection (1), be in the discretion of the Minister.

(4) A person appointed by the Minister to fill any such vacancy, shall do so for the unexpired portion of the period for which the vacating member concerned was appointed.

(5) One of the members of the Advisory Council shall be designated by the Minister as the chairman thereof.

(6) If the chairman is absent from any meeting of the Advisory Council or is not able to preside thereat, the members present shall elect one of their number to preside at that meeting, and the person so elected to preside may, during that meeting and until the chairman resumes duty, perform all the duties of the chairman.

(7) The Advisory Council shall meet at least once in every year upon written notice of its chairman, and at a time and place to be determined by the chairman.

(8) The Advisory Council may determine the procedure at and the quorum for its meetings.

(9) With the approval of the Minister the Advisory Council may co-opt during its pleasure so many persons as the Minister may determine, in an advisory capacity as members of the Advisory Council.

(10) The members co-opted under subsection (9) may take part in the proceedings at any meeting of the Advisory Council but shall not be entitled to vote at such meeting.

(11) With the approval of the Minister the Advisory Council may from time to time appoint an *ad hoc* committee to advise it on any matter which the Advisory Council may refer to it.

(12) A member and a co-opted member of the Advisory Council and a member of a committee referred to in subsection (11), who is not in the full-time service of the State, shall

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receive in respect of his services such allowances as the Minister acting in consultation with the Minister of Finance may from time to time determine.

(13) The secretarial and administrative work connected with the performance of their functions and the exercise of their powers by the Advisory Council and a committee referred to in subsection (11), shall be performed by officers designated by the Secretary.

[subsection (13) substituted by Act 93 of 1974]

- (14) The Advisory Council shall have power to advise the Minister -
- (a) at his request, on general questions of policy arising out of or connected with the administration of the provisions of this Act;
 - (b) on such other matters relating to institutions and declared institutions as the Minister may refer to it.

Committee of Heads of Declared Institutions

13. (1) There shall be a committee, to be known as the Committee of Heads of Declared Institutions, consisting of the persons in charge of the declared institutions.

(2) If the post of any such person is vacant or he is unable to attend any meeting of the Committee of Heads, the council of the declared institution concerned may nominate another person to represent that declared institution at such meeting.

(3) The Committee of Heads may determine the calling of and the procedure and the quorum at its meetings.

- (4) The Committee of Heads shall -
- (a) perform such duties as the Minister may from time to time assign to it;
 - (b) consider and make recommendations to the Minister or the Secretary regarding any matter which may be referred to it by the Minister or the Secretary or which it considers to be of common interest to the declared institutions.

Abolition of declared institution

14. (1) The Minister may, after consultation with the council of any declared institution, by notice in the *Gazette* withdraw, with effect from a date specified in such notice, the notice issued under section 3 in regard to that declared institution.

(2) With effect from such date that institution shall cease to exist.

(3) All the assets, rights, liabilities and obligations of that institution, immediately prior to such date, shall devolve, as from a date fixed by the Minister, upon the declared institution or person or persons determined by the Minister, acting in consultation with the persons who immediately prior to the date mentioned in subsection (1) were members of the council referred to in that subsection.

(4) With effect from the date mentioned in subsection (1) any reference in any law or document to a declared institution mentioned in that subsection shall be deemed to be a reference to such other declared institution, person, officer of any Department of State or Minister as may be prescribed.

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(5) The registrar of deeds concerned shall cause all such notes and endorsements to be made in his registers and on the title deeds relating to any land owned by a declared institution mentioned in subsection (1) immediately prior to the date mentioned in that subsection, as may be necessary to give effect to the provisions of this section.

(6) All property referred to in section 8(1)(a) or (b) which is held by the council of a declared institution mentioned in subsection (1) of this section immediately prior to the date mentioned in that subsection, shall as from such date be dealt with as the Minister may determine.

Regulations

15. (1) The Minister may make regulations as to -
- (a) any matters which by this Act are required or permitted to be prescribed;
 - (b) the appointment or election of the members of a council, or the appointment of some of the members of a council and the election of the other members thereof and the method of such election;
 - (c) the calling of and procedure and quorum at meetings of a council, including the manner of voting and the number of votes required for a decision of the council;
 - (d) the safety and good custody and preservation of the property of any declared institution;
 - (e)
- [paragraph (e) deleted by Act 93 of 1974]**
- (f) the investigation of charges of misconduct or inefficiency against any person employed by any declared institution, or of any alleged irregularity in connection with the affairs of any declared institution, the procedure to be followed and the summoning and attendance of witnesses to give evidence thereat, and the punishment to be imposed on or other steps to be taken against such person against whom such a charge has been established, and the meaning of misconduct for the purposes of such regulations;
 - (g) the control, management, utilization and disposal of all moneys received by councils or by any council;
 - (h) the keeping of records and the times when and forms in which, and the persons to whom, financial accounts and reports shall be rendered in respect of declared institutions; and
 - (i) generally, all matters for which he deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

[Section 8(2) of the amending Act provides the following transitional provision:

“Anything done under a regulation made, or purporting to have been made, in terms of section 15(1) of the principal Act as it existed immediately prior to the amendment thereof by subsection (1) of this section, and which could be done under section 5A of the principal Act, shall be deemed to have been done under the last-mentioned section.”]

- (2) Different regulations may be made in respect of different declared institutions.

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(3) Any regulation under paragraph (g) of subsection (1), or in respect of the allowances referred to in section 6 (6), shall be made after consultation with the Minister of Finance.

[subsection (3) substituted by Act 93 of 1974]

(4) Any regulations made under this section may prescribe penalties for any contravention thereof or failure to comply therewith, not exceeding a fine of one hundred rand.

Administration of Act

16. (1) The State President may by proclamation in the *Gazette* assign the administration of the provisions of this Act to any Minister, or partly to one Minister and partly to another Minister or other Ministers, or any part thereof for certain purposes to one Minister and for other purposes to another Minister, or assign to different Ministers the administration of any of the said provisions in so far as they relate to different declared institutions, and may in such proclamation prescribe the powers and functions which shall be exercised and performed by the several Ministers; and may further prescribe that any power or duty conferred or imposed by this Act upon the Minister shall be exercised or performed by one Minister acting in consultation with another Minister.

(2) The State President may from time to time vary or amend any such proclamation.

[Section 3(2)(d) of the Executive Powers (National Education) Transfer Proclamation, AG 1 of 1978, excluded section 16 of the Act from the operation of section 3(1) of the Executive Powers Transfer (General Provisions) Proclamation, AG 7 of 1977. Therefore, prior to Namibian independence, the terms "Minister", "State President" and "Gazette" in this section retained the meaning they had in respect of South Africa and were not to be construed in accordance with AG 7 of 1977.]

Repeal of laws

17. (1) Subject to the provisions of section 5 and subsection (2) of this section, and except in so far as they relate to any person who has not elected to become a member of and to contribute to the pension fund referred to in section 2(1)(b) of the Associated Institutions Pension Fund Act, 1963 (Act No. 41 of 1963), the State-aided Institutions Act, 1931 (Act No. 23 of 1931), the State-aided Institutions Amendment Act, 1954 (Act No. 48 of 1954), the State-aided Institutions Amendment Act, 1957 (Act No. 46 of 1957), and the State-aided Institutions Amendment Act, 1966 (Act No. 35 of 1966), are hereby repealed.

(2) Any regulation made or, subject to the provisions of this Act, any other thing done under a provision of a law repealed by subsection (1), shall be deemed to have been made or done under the corresponding provision of this Act.

Application of Act to South-West Africa

18. This Act and any amendment thereof shall apply also in the territory of South-West Africa, including that part of the said territory known as the Eastern Caprivi Zipfel and referred to in section 38(5) of the South-West Africa Constitution Act, 1968 (Act No. 39 of 1968).

Short title

19. This Act shall be called the Cultural Institutions Act, 1969.