
GENERAL NOTICE

NOTICE 652 OF 2008

DEPARTMENT OF ARTS AND CULTURE

PUBLICATION FOR COMMENT: DRAFT CULTURAL LAWS THIRD AMENDMENT BILL

The above-mentioned draft Bill is hereby published for public comments. Interested parties are invited to submit written comments on the draft Bill on or before the 30 May 2008.

Enquiries as well as written comments must be received no later than 30 May 2008 and must be addressed to:

The Director-General
Attention: Mr Anil Singh
Department of Arts and Culture
481 Church Street
PRETORIA
0001

Tel No. (012) 441 3058/3579

Fax: (012) 441 3561

Email: anil.singh@dac.gov.za or trisha.ramsumair@dac.gov.za

REPUBLIC OF SOUTH AFRICA

CULTURAL LAWS THIRD AMENDMENT BILL

.....
(As introduced in the National Assembly (proposed section 76); explanatory summary of Bill published in Government Gazette No. of) (The English text is the official text of the Bill)

(MINISTER OF ARTS AND CULTURE)

[B - 2008]

2 No.

CULTURAL LAWS THIRD AMENDMENT BILL, 2008

GENERAL EXPLANATORY NOTE:

- [] Words in bold type in square brackets indicate omissions from existing enactment.
- _____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Culture Promotion Act, 35 of 1983, so as to delete the provisions for the establishment of regional councils for cultural affairs and to delete references for the provision of financing of cultural projects as they are in conflict with the PFMA and to provide that any projects for the promotion of culture approved by the Minister must comply with the Preferential Procurement Policy Framework Act and to provide for matter connected therewith.

To amend the Cultural Institutions Act, 119 of 1998 , so as to remove references to outdated institutions, obsolete legislation, to standardize terms of councils and boards of declared cultural institutions, to identify these institutions as listed Schedule 3A national public entities, to align the enabling legislation of such institutions with the Public Finance Management Act (PFMA)1999, to prescribe the composition of the councils of institutions, to standardize the term of office of councils/boards to four years, to provide for the payment of allowances to council/board members, to provide for the term of office of chief executive officers limited to five years, to provide for the conclusion of performance agreements between the Minister and the Councils and for performance agreements between the councils and its chief executive officers and to provide for matter connected therewith.

To amend the National Heritage Council Act, 11 of 1999, to prescribe the term of council for four years, to reduce the size of the council to a maximum of 15 members and to provide that in the event the provincial representatives are not nominated by the MEC's within three months, the Minister will be entitled to appoint other members to the council, to remove the function of repatriation and restitution, to provide that the Council must enter into a performance agreement with the Minister within 3 months of assumption of office and that the CEO must also sign a performance agreement with the council. To provide for the Councils and CEO to sign code of conduct and declaration of interest within 3 months of assumption of office; to provide that all reporting of financial statements and strategic plans and reports should be regulated by the PFMA to provide for the payment of allowances and remuneration to the Council members in accordance with criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council determined by the Ministers of Arts and Culture and Finance and to provide for matter connected therewith.

To amend the National Heritage Resources Agency Act, 25 of 1999, so as to extend the time period in the definition of archeological from 60 years to 100 years, to rationalize the size of the Council. to provide to provide that the Council must enter into a performance agreement with the Minister within 3 months of assumption of office and that the CEO's and Directors of Cultural Institutions must also sign a performance agreement with the council. To provide for the Councils and CEO's to sign code of conduct and declaration of interest within 3 months of assumption of office; to provide that all reporting of financial statements and strategic plans and reports should be regulated by the PFMA to provide for the payment of allowances and remuneration to the Council members in accordance with criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council determined by the Ministers of Arts and Culture and Finance and to provide for matter connected therewith.

To amend the South African Geographical Names Council Act, 118 of 1998, so as to provide for the establishment of Provincial Geographical Names Council, to regulate the process of public consultation for the name change process and to prohibit offensive place names and to provide for matter connected therewith..

To amend the National Library of South Africa Act, 92 of 1998, so as to align financial, auditing and reporting arrangements with the requirements of the PFMA that that the Council of the Institution is the accounting authority as prescribed in the PFMA; to provide that the Council must enter into a performance agreement with the Minister within 3 months of assumption of office and that the CEO's and Directors of Cultural Institutions must also sign a performance agreement with the council. To provide for the Councils and CEO's to sign code of conduct and declaration of interest within 3 months of assumption of office; to provide that all reporting of financial statements and strategic plans and reports should be regulated by the PFMA to provide for the payment of allowances and remuneration to the Council members in accordance with criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council determined by the Ministers of Arts and Culture and Finance and to provide for matter connected therewith..

To amend the South Africa Library for the Blind of South Africa Act, 91 of 1998, so as to align financial, auditing and reporting arrangements with the requirements of the PFMA to provide that the Council must enter into a performance agreement with the Minister within 3 months of assumption of office and that the CEO's and Directors of Cultural Institutions must also sign a performance agreement with the council. To provide for the Councils and CEO's to sign code of conduct and declaration of interest within 3 months of assumption of office; to provide that all reporting of financial statements and strategic plans and reports should be regulated by the PFMA to provide for the payment of allowances and remuneration to the Council members in accordance with criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council determined by the Ministers of Arts and Culture and Finance and to provide for matter connected therewith.

To amend the Legal Deposit Act, 54 of 1997, to provide that the South African Library for the Blind should be declared a place of Legal Deposit for alternative format publications and to delete references to outdated institutions and for the inclusion of the Director of the Library for the Blind as a member of the Legal Deposit Committee and to provide for matter connected therewith..

To amend the National Council for Library and Information Services Act 6 of 2001 to change the term of office of the council from three years to four years, to remove references to obsolete institutions and outdated legislation and to provide for matter connected therewith.

To amend the National Arts Council Act, 56 of 1997, so as to prescribe the term of office of council, to provide that the council is the accounting authority in terms of the PFMA, to align financial, auditing and reporting arrangements with the requirements of the PFMA to provide that the Council must enter into a performance agreement with the Minister within 3 months of assumption of office and that the CEO's and Directors of Cultural Institutions must also sign a performance agreement with the council. To provide for the Councils and CEO's to sign code of conduct and declaration of interest within 3 months of assumption of office; to provide that all reporting of financial statements and strategic plans and reports should be regulated by the PFMA to provide for the payment of allowances and remuneration to the Council members in accordance with criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council determined by the Ministers of Arts and Culture and Finance and to provide for matter connected therewith.

To amend the National Film and Video Foundation Act 73 of 1997, so as to prescribe the term of office of council, to provide that the council is the accounting authority in terms of the PFMA, to align financial, auditing and reporting arrangements with the requirements of the PFMA to provide that the Council must enter into a performance agreement with the Minister within 3 months of assumption of office and that the CEO's and Directors of Cultural Institutions must also sign a performance agreement with the council. To provide for the Councils and CEO's to sign code of conduct and declaration of interest within 3 months of assumption of office; to provide that all reporting of financial statements and strategic plans and reports should be regulated by the PFMA to provide for the payment of allowances and remuneration to the Council members in accordance with criteria for the allowances payable to and reimbursement of expenses incurred by members of the Council determined by the Ministers of Arts and Culture and Finance and to provide for matter connected therewith.

CULTURE PROMOTION ACT 35 OF 1983

To provide for the preservation, development, fostering and extension of culture in the Republic by planning, organizing, co-ordinating and providing facilities for the utilization of leisure and for non-formal education; for the development and promotion of cultural relations with other countries; **[and for the establishment of regional councils for cultural affairs]** to confer certain powers upon Ministers in order to achieve those objects; and to provide for matters connected therewith.
[Long title substituted by s. 2 of Act 59 of 1998.]

[s1]1 Definitions

In this Act, unless the context otherwise indicates-
'Minister'-

[(a) in so far as the administration of a provision of this Act has under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), been assigned to a competent authority within the jurisdiction of the government of a province and the provision is applied in or with reference to the province concerned, means that competent authority; or

(b) in so far as the administration of a provision of this Act has not been so assigned, means the Minister of Arts, Culture, Science and Technology;

[Definition of 'Minister' substituted by Proclamation R36 of 13 April 1995.]]

Minister means the Minister of Arts and Culture
'Minister of Finance', in so far as a provision of this Act is applied in or with reference to a particular province, means the member of the Executive Council of that province responsible for the budget in the province;

[Definition of 'Minister of Finance' inserted by Proclamation R36 of 13 April 1995.]

'officer' means an officer or employee as defined in section 1 of the Public Service Act, 1994 (Proclamation 103 of 1994);

[Definition of 'officer' substituted by Proclamation R36 of 13 April 1995.]

'province' means a province established in terms of section 124 of the Constitution of the Republic of South Africa, 1993;

[[Definition of 'province' inserted by Proclamation R36 of 13 April 1995.]

'regional council' means a regional council for cultural affairs established under section 3 (1)]

Provinces mean provinces as described in section 103 of the Constitution of the Republic of South Africa Act

[s2]2 Powers of Minister

(1) The Minister may-

(a) in order to develop and promote arts and culture in the Republic-

[Para. (a) substituted by s. 1 (a) of Act 59 of 1998.]

(i) acquire, develop and maintain movable and immovable property;

(ii) award bursaries and make grants for the undertaking of study tours to foreign countries;

(iii) develop pilot projects in order to further the work of the Department in promoting arts and culture throughout the country;
[Sub-para. (iii) added by s. 1 (b) of Act 59 of 1998.]

**[(iv) establish, launch or finance any organisation or project whose objects are likely to have an impact throughout the country;
[Sub-para. (iv) added by s. 1 (b) of Act 59 of 1998.]]**

(v) confer honours and awards;
[Sub-para. (v) added by s. 1 (b) of Act 59 of 1998.]

(vi) assist non-formal or community-based arts education projects;
[Sub-para. (vi) added by s. 1 (b) of Act 59 of 1998.]

**[(vii) provide such other services as are necessary or expedient, or subsidise or finance the provision of services by any person.
[Sub-para. (vii) added by s. 1 (b) of Act 59 of 1998.]]**

(b) in order to develop and promote cultural relations with other countries-

(i) award bursaries to persons in other countries for the purposes of study or research in the Republic;

(ii) arrange for visits by persons from other countries to the Republic, and from the Republic to other countries;

(iii) arrange for the exhibition of art, books and other objects of culture from the Republic abroad and of art, books and other objects of culture from other countries in the Republic;

(iv) subsidize or finance a chair in a university, an association, a programme or a project in any other country having as its object the making known of the culture of the Republic;

(v) donate books and periodicals to libraries and similar institutions and to associations in other countries;

(vi) provide such other services as he may deem necessary or expedient, or subsidize or finance the provision of services by any person.

[Para. (b) amended by s. 1 (c) of Act 59 of 1998.]

(2) Any expenditure incurred by virtue of the provisions of subsection (1) shall be defrayed out of moneys appropriated by Parliament for the purpose.

(3) The Minister may-

(a) provide such services as he may deem necessary or expedient in connection with the preservation, development, fosterage or extension of culture on a country-wide basis, whether or not in co-operation with a Department of State or any person, but excluding instruction and training for an examination conducted in terms or by virtue of the provisions of any law; and

[(b) subsidize or finance such functions to preserve, develop, foster or extend culture as the Minister may deem necessary or expedient on a country-wide basis.

[Sub-s. (3) substituted by Proclamation R36 of 13 April 1995.]]

(4) Any expenditure incurred in terms of subsection (3) shall be defrayed out of moneys appropriated by Parliament for the purpose.

(5) A bursary or grant or a subsidy **[or the financing of a service in terms of subsection (1) or (3)]** shall be subject to such conditions as the Minister may determine, including conditions as to the holding of inspections and the submission of reports.

(6)

[Sub-s. (6) deleted by Proclamation R36 of 13 April 1995.]

By the insertion of a new 2A

Whenever the Minister exercises his powers to promote culture in the Republic or else where, the process for the appointment of service providers to execute such projects must be in accordance with a system which is fair, equitable, transparent, competitive and cost effective as stipulated in the Preferential Procurement Policy Framework Act 5 of 2000

By the deletion of section 3 in its entirety

[[s3]3 Establishment and functions of regional councils for cultural affairs

(1) The Minister may establish for every region determined by him one or more regional councils for cultural affairs.

(2) A regional council shall consist of a chairman and such other persons as the Minister may, subject to the provisions of subsection (4), appoint on such conditions as he may determine.

(3) A regional council shall frame rules for the convening of, the procedure at and the quorum for a meeting of a regional council.

(4) A member of a regional council not in the full-time service of the State may in respect of his attendance of a meeting of the regional council be paid such remunerative and other allowances as the Minister may with the concurrence of the Minister of Finance determine.

(5) The functions of a regional council shall be to preserve, develop, foster or extend culture as it finds expression in the region for which it has been established and to make recommendations, either of its own accord or at the request of the Minister, as to how culture, as it finds expression in the said region, may best be preserved, developed, fostered or extended, in particular by means of non-formal out-of-school education of adults and youthful persons in the following fields:

(a) The visual arts, music and the literary arts;

(b) the acquisition, in popular fashion, of knowledge of the applied, natural and human sciences;

(c) the utilization of leisure, including physical recreative activities which are of such a nature as not to be courses of training with a view to participating in competitions; and

(d) such other fields as the Minister may from time to time determine.

(6) The Minister may convoke such members of regional councils as he may deem suitable and consult them in connection with the advancement of the activities referred to in subsection (5).

[Sub-s. (6) amended by Proclamation R36 of 13 April 1995.]

(7) Any regional council established under subsection (1) before the assignment of the administration of a provision of this Act under section 235 (8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993), to a competent authority within the government of a province, shall cease to exist with effect from the date of such assignment

[Sub-s. (7) added by Proclamation R36 of 13 April 1995.]

(8) If one or more regional councils for cultural affairs have been established under section 4 (in so far as a provision thereof has been applied in or with reference to a particular province) of the Cultural Affairs Act (House of Assembly), 1989 (Act 65 of 1989), the provisions of this section shall not be applicable in respect of that province.

[Sub-s. (8) added by Proclamation R36 of 13 April 1995.]

[s4]4

[S. 4 repealed by Proclamation R36 of 13 April 1995.]]

[s5]5 Delegation of powers

(1) The Minister may delegate any power conferred upon him by this Act to an officer in the department administered by him.

(2) A delegation under subsection (1) shall not prevent the exercise of the relevant power by the Minister himself.

[s6]6 Regulations

(1) The Minister may make regulations as to the powers of regional councils and the performance of the secretarial work connected with the functions of a regional council.

[(2) Any regulation under subsection (1) relating to State revenue or expenditure shall be made only with the concurrence of the Minister of Finance.]

[s7]7 Repeal of laws

The laws mentioned in the Schedule are hereby repealed to the extent set out in the third column thereof.

[s8]8 Short title and commencement

This Act shall be called the Culture Promotion Act, 1983, and shall come into operation on a date fixed by the State President by proclamation in the Gazette.

CULTURAL INSTITUTIONS ACT

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:-

Amendment of section 1 of Act 119 of 1998

1. Section 1 of the Cultural Institutions Act, 1998, is hereby amended as follows:

‘council’ means a council referred to in section 5 (1) or (2) and also refers to a board as contemplated in the Public Finance Management Act 1 of 1999

Director General means the Director General of the National Department responsible for Arts and Culture.

by the deletion of the words “public library” and “zoological garden” and the substitution therefore of the words “performing arts institution or playhouse” and art gallery in the definition of the word institution to read as follows:

‘Institution’ means any **[public library]**, museum, **[zoological garden]** performing acts institution or playhouse, art gallery or any other public cultural institution **[regarded by the Minister to be of kindred character]** declared by the Minister.

2. By the insertion of a new definition of performing arts institution or playhouse as follows:

A performing arts institution or playhouse is an institution established for the advancement of the performing arts and refers to the institutions created in Schedule 3 of this Act.

3. Section 1 of the Cultural Institutions Act, 1998, is hereby amended -

(a) by the insertion of the following additional definitions

1. **“Accounting Authority”** means a body or person referred to in Section 49 of the Public Finance Management Act 1 of 1999.
2. **“Executive Authority”**, in relation to a National Department, means the Cabinet member who is accountable to Parliament for that department and in relation to a National Public Entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls as defined in Chapter 1 of the Public Finance Management Act 1 of 1999.
3. **“Financial Year”** means a year ending 31st March.
4. **“National Public Entity”** means
 - a) a National Government business enterprise, or
 - b) a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is
 - I) established in terms of national legislation:
 - II) fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation: and
 - III) accountable to Parliament;

5. “Ownership control”, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:
- a) To appoint or remove all, or the majority of, the members of that entity’s board of directors or equivalent governing body;
 - b) To appoint or remove that entity’s chief executive officer;
 - c) To cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or
 - d) To control all, or the majority of, the voting rights at a general meeting of that entity;

Amendment of section 3 of Act 119 of 1998

By the amendment of section 3(4) to provide that in the event that a declared institution or other institution is amalgamated with other declared institutions or other institutions to form a new flagship institution the Minister shall consult with all relevant stake holders and shall follow the notice and comment procedure as stipulated in the Promotion of Administrative Justice Act

Section 3(4) shall read as follows:

The Minister may by notice in the Gazette declare that a declared institution or other institution is amalgamated with other declared institutions or other institutions to form a new flagship institution provided that the Minister shall consult with all relevant stake holders and shall follow the notice and comment procedure as stipulated in the Promotion of Administrative Justice Act

Amendment of section 4 of Act 119 of 1998

4. Section 4 of the Cultural Institutions Act, 1998, is hereby amended by the insertion of a new subparagraph 1A as follows:

a) 1A. A declared institution is a schedule 3A national public entity and its council is its accounting authority responsible for its sound financial management. Its council must ensure that all revenue, expenditure, assets and liabilities of the institution are managed efficiently and effectively.

b) by the deletion in section 4(3) and (4) in its entirety

by the deletion of the reference to the National Monuments Act, 1969 (Act 28 of 1969) by the substitution thereof with the reference to the National Heritage Resources Act 1999 (Act 25 of 1999) to read as follows:

(5) A declared institution may, unless the Minister otherwise determines and subject to the [National Monuments Act, 1969 (Act 28 of 1969)] National Heritage Resources Act 1999 (Act 25 of 1999)

Amendment of section 5 of Act 119 of 1998

5. by the deletion of the reference to “Director” in section 5 (1B) and in 5 (1A) and the substitution thereof with Chief Executive Officer
 - (1) The affairs of a declared institution, other than a flagship institution, are under the control, management and direction of a council consisting of-
 - (a) at least seven members appointed by the Minister in the prescribed manner; and
 - (b) the **[director]** Chief Executive Officer of the declared institutions concerned.
 - (1A) The **[director]** Chief Executive Officer of a declared institution serves ex officio and has no voting powers
6. Section 5(7A) of the Cultural Institutions Act, 1998, is hereby amended –
 - (a) by the deletion of the words “three years” and the substitution therefore of the words “four years” to read as follows:
 - (7) (a) A member of a council is appointed for a period of **[three years]** four years,
[unless a shorter period is prescribed].
7. by the deletion of the reference in section 10(a) and (b) to the term honoraria and the substitution thereof with the term allowances
 - (7) (a) Subject to paragraph (b), a member of a council who is not in the full-time employment of the State may receive out of the funds of the council in question, in respect of his or her functions as a member, **[honoraria]** allowances and reimbursement for expenses as the council in question may determine.
 - (b) The Minister, with the concurrence of the Minister of Finance, must determine criteria for payment of the **[honoraria]** allowances and reimbursement of expenses contemplated in paragraph (a).
 - (a) by the insertion of a new subsection 10A as follows:
The council of a declared institution must conclude a performance agreement for the duration of its appointment and term of office with the Minister within three months of its assumption of duty as council. The members of the council must also sign a code of conduct including a declaration of interest within three months of assumption of duty.

Amendment of section 6 of Act 119 of 1998

8. Section 6 of the Cultural Institutions Act, 1998, is hereby amended by the deletion in its entirety of section 6 (b)
 - “(b) the chief executive officer-

(i) serves for a renewable term of five years; and
(ii) must enter into a performance agreement with the relevant council **[before taking up]** within three months of the assumption of his or her post as chief executive officer.”

Amendment of section 8 of Act 119 of 1998

By the insertion of the provision in section 8 (1) (a) that the councils shall formulate the policy limited to its own institution and that such policy shall not be in conflict with national policy and legislation and by the deletions of sections 8 (6), (7) ,(8) and (9).

Section 8 (1) shall read as follow:

8. Functions of a council

(1) The functions of a council are-
(a) to formulate policy limited to its own institution provided that such policy shall not be in conflict with national policy and legislation

Section 8 of the Cultural Institutions Act, 1998, is hereby amended by the deletion in entirety of section 8 subsections (6),(7),(8) and (9)

Amendment of section 11 of Act 119 of 1998

Section 11 is deleted in its entirety

Amendment of section 12 of Act 119 of 1998

by the inclusion of the provision that the National Museums Division must be established as a National Heritage Sub-sector Structure and to provide for the inclusion of the Director General of the Department of Arts and Culture as the Chairperson of this body.

This section shall read as follows:

12. National Museums Division

- (1) A National Museums Division is hereby established as a National Heritage Sub-sector Structure consisting of-
- (a) The director general of the Department of Arts and Culture who shall chair the this forum
 - (b) chief executive officers of flagship institutions;
 - (c) **[heads of every institution contemplated in section 6 (1) and (2); and]**

(d) **[Directors]** chief executive officers of the declared institutions other than flagship institutions

[is hereby established]

Amendment of section 13 of Act 119 of 1998

By the insertion of the provision that the National Museums Division must meet at least four times per year and to include the additional functions that the National Museums Division must promote international norms and standards and best practices in the museum sector.

section 13 shall read as follows:

13. Functions of the National Museums Division

The National Museums Division must-

- (a) Meet at least four times per year;
- (b) determine the time and place of, the quorum for and the procedure at its meetings;
- (c) perform such duties as the Minister may assign to it; and
- (d) consider and make recommendations to the Minister **[or the Director General]** regarding matters which-
 - (i) the Minister **[or the Director General]** refers to it; or
 - (ii) it considers to be of common interest to the declared institutions
- (e) draft and adopt a code of ethics, based on international standards according to which councils must conduct the affairs of the declared institution.
- (f) must promote international norms and standards and best practices in the museum sector.

Amendment of section 14 of Act 119 of 1998

By the insertion of the term dissolution in place of the term abolition, the insertion of the requirement that prior to dissolution of any declared institution, the Minister must follow the notice and comment procedure prescribed by the Promotion of Administrative Justice Act 3 of 2000 and that upon dissolution of a declared institution that is listed as a public entity, that public entity must be delisted as a public entity with effect from the date of a dissolution

Section 14 shall read as follows:

14. **[Abolition]** Dissolution of declared institutions

- (1) The Minister may, after consultation with the council of the declared institution concerned and other relevant stake holders and after following the notice and commend procedure prescribed by the Promotion of Administrative Justice Act, by notice in the Gazette, withdraw, with effect from a date specified in that notice, the notice issued under section 3 in respect of that declared institution.
- (2) The declared institution ceases to exist as a declared institution and as a public entity from the date referred to in subsection (1).

New Schedule 3

Schedule 3

(Section 1)

State Theatre

Playhouse Company

ArtsCape

Market Theatre

Performing Arts Council of the Free State

Windybrow Theatre

NATIONAL HERITAGE COUNCIL ACT, 1999 (ACT 11 OF 1999)

Amendment of section 1 of Act 11 of 1999

1. Section 1 of the National Heritage Council Act, 1999, is hereby amended by the insertion of the following additional definitions

1. **“Accounting Authority”** means a body or person referred to in Section 49 of the Public Finance Management Act 1 of 1999.
2. **“Executive Authority”**, in relation to a National Department, means the Cabinet member who is accountable to Parliament for that department and in relation to a National Public Entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls as defined in Chapter 1 of the Public Finance Management Act 1 of 1999.
3. **“Financial Year”** means a year ending 31st March.
4. **“National Public Entity”** means
 - i. a National Government business enterprise, or

- ii. a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is
 - 1. established in terms of national legislation;
 - 2. fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation: and
 - 3. accountable to Parliament;

5. **“Ownership control”**, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:

- iii. To appoint or remove all, or the majority of, the members of that entity’s board of directors or equivalent governing body;
- iv. To appoint or remove that entity’s chief executive officer;
- v. To cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or
- vi. To control all, or the majority of, the voting rights at a general meeting of that entity;

Amendment of section 3 of Act 11 of 1999

Section 3 of the National Heritage Council Act, 1999, is hereby amended by the insertion of a new subsection 1A as follows:

- a) 1A. The National Heritage Council is a schedule 3A national public entity and its council is its accounting authority responsible for its sound financial management. Its council must ensure that all revenue, expenditure, assets and liabilities of the institution are managed efficiently and effectively.

Amendment of section 5 of Act 11 of 1999

Section 5 of the National Heritage Council Act, 1999, is amended as follows –

- (a) By the deletion in section 1(a) of the reference to five members and substitution thereof for three members, by the insertion of the proviso in subsection b that in the event of the MECs failing to nominate suitable candidates for inclusion in the council within a reasonable period of three months the Minister shall be at liberty to appoint other suitable candidates and by the deletion of the reference to the National Archives Commission and the substitution thereof the National Archives Advisory Council, and by the deletion of 1 (c) (v) and (vi) and the substitution thereof of at least two representatives from the National Museums Division

Subsection 5 shall read as follows:

- (1) The Council shall consists of not more than 15 members and shall include-

(a) **[at least five]** six members, appointed by the Minister who shall be the chairpersons of the National Museums Division and other relevant Cultural Heritage, Archives and Libraries Institutions that the Minister considers appropriate;

(b) a representative of each province to be nominated by the MEC concerned provided that should the MEC fail to provide the nomination within a reasonable period of three months, the Minister shall appoint a suitable replacement; and

[(c) the chairpersons of each of the council of-

[(i) the Council of] the South African Heritage Resources Agency;]

[(ii) the National Archives Commission]

[(iii) the Heraldry Council]

[(iv) the Board of the National Library]

[(v) the Council of the Northern Flagship Institution]

[(vi) the Council of the Southern Flagship Institution]

[and/or any other body or institution the Minister considers relevant.]

Amendment of section 6 of Act 11 of 1999

By the amendment of the term of office from three years to four years and by the insertion of a new section providing for performance agreement to be signed between the Minister and the councils and its top management.

(a) by the amendment of section 6(1) as follows:

(6) (1) Members of the Council **[other than those referred to in section 5 (1) (c)]** are appointed for a period of **[three years]** four years, and may be re-appointed for a further period of **[three years]** four years

b. by the insertion of a new subsection (6A) as follows:

The Council of National Heritage Council must conclude a performance agreement for the duration of its appointment with the Minister within three months of its assumption of duty. The members of the council must also sign a code of conduct including a declaration of interest within three months of assumption of duty. The council must enter into a performance agreement with the top management of the institution including the chief executive officer and chief financial officer

Amendment of section 9 of Act 11 of 1999

By the deletion of the word honoraria in subsection (1) and (2) and by the substitution thereof of the word allowances.

Section 9 shall read as follows:

(9) [Honoraria] allowances and reimbursement of expenses

- (1) Subject to subsection (2), a member of the council or of any committee thereof who is not in the full-time employment of the State may be paid **[honoraria] allowances**, and be reimbursed for expenses incurred for services performed by him or her as such a member, as the council may determine.
- (2) The Minister, with the concurrence of the Minister of Finance, must determine criteria for payment of the **[honoraria] allowances** and the reimbursement of expenses contemplated in subsection (1).

[S. 9 substituted by s. 8 of Act 69 of 2001.]

Amendment of section 10 of Act 11 of 1999

By the insertion of the provision that the council must advise the Minister on policies relevant to the institution which shall be consistent with National Policies and Legislation and by the deletion of section 1 (c) in relation to repatriation and by the deletion in its entirety of subsection (2) and (3)

Section 10 shall read as follows:

Functions, powers and duties of Council

10. (1) The Council must—

(a) advise the Minister on—

(i) [national policies] policies relevant to the National Heritage Council which policies must be consistent with national policies [on heritage matters, including indigenous knowledge systems, living treasures, restitution and other relevant matters; and]

(ii) any other matter concerning heritage which the Minister may from time to time determine;

[(b) advise the Minister on the allocation of core funding to declared cultural institutions;]

[(c) investigate ways and means of effecting the repatriation of South African heritage objects presently being held by foreign governments, public and private institutions and individuals;]

(b) [(d)] make grants to any person, organisation or institution in order to promote and develop national heritage activities and resources;

(c) [(e)] co-ordinate the activities of public institutions involved in heritage management in an integrated manner to ensure optimum use of State resources;

(d) [(f)] monitor and co-ordinate the transformation of the heritage sector, with special emphasis on the development of living heritage projects;

(e) [(g)] consult and liaise with relevant stakeholders on heritage matters;

(f) [(h)] generally support, nurture and develop access to institutions and programmes that promote and bring equity to heritage management;

(g) [(i)] promote an awareness of the history of all our peoples, including the history of enslavement in South Africa;

(h) [(j)] lobby in order to secure funding for heritage management and to create a greater public awareness of the importance of our nation's heritage; and

(i) [(k)] perform such duties in respect of its objects as the Minister may assign to it.

[(2) The Council may on its own initiative advise the Minister on any matter concerning heritage.

6

5

10

15

20

25

30

35

40

45

50

(3) In respect of subsections (1) and (2), the Minister must—

(a) consider the advice of the Council; and

(b) provide reasons in writing to the Council if the Minister does not accept the advice.]

Amendment of section 11 of Act 11 of 1999

- (a) by the deletion of section 1 (b) (ii) in its entirety and the substitution thereof of a new subsection (ii)

section 11 (b) (ii) shall read as follow:

The chief executive officer must be appointed for a period of five years and must sign a performance agreement with the Council within three months of assumption of duty.

Amendment of section 12 of Act 11 of 1999

Section 12 of Act 11 of 1999 is amended by the deletion in its entirety of subsections (4) (5) and (6)

[(4) The Council may invest any unexpended portion of its funds in accordance with the directions determined by the Minister in consultation with the Minister of Finance.]

[(5) The Council may only lend or borrow moneys with the prior approval of the Minister in concurrence with the Minister of Finance.]

[(6) The Council may establish such reserve funds and deposit therein such amounts as the Minister may approve, with the concurrence of the Minister of Finance]

Amendment of section 13 of Act 11 of 1999

Section 13 of Act 11 of 1999 is amended by the deletion in its entirety of subsections (1),(2),(3) and (4)

NATIONAL HERITAGE RESOURCES ACT, 1999 (ACT 25 OF 1999)

Amendment of section 2 of Act 25 of 1999

By the amendment of the time period in respect of archaeological material from 60 years in subsection (c) to 100 years

Subsection 2 (c) shall read as follows:

‘archaeological’ means-

(c) wrecks, being any vessel or aircraft, or any part thereof, which was wrecked in South Africa, whether on land, in the internal waters, the territorial waters or in the maritime culture zone of the Republic, as defined respectively in sections 3, 4 and 6 of the Maritime Zones Act, 1994 (Act 15 of 1994), and any cargo, debris or artifacts found or associated therewith, which is older than [60] 100 years or which SAHRA considers to be worth of conservation; and

Section 2 of the National Heritage Resources Act, 1999, is hereby amended by the insertion of the following additional definitions from the Public Finance Management Act 1 of 1999.

5. “**Accounting Authority**” means a body or person referred to in Section 49 of the Public Finance Management Act 1 of 1999.
6. “**Executive Authority**”, in relation to a National Department, means the Cabinet member who is accountable to Parliament for that department and in relation to a National Public Entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls as defined in Chapter 1 of the Public Finance Management Act 1 of 1999.
7. “**Financial Year**” means a year ending 31st March.
8. “**National Public Entity**” means
 - i. a National Government business enterprise, or
 - ii. a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is
 1. established in terms of national legislation;
 2. fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation; and
 3. accountable to Parliament;

5. **“Ownership control”**, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:

- iii. To appoint or remove all, or the majority of, the members of that entity’s board of directors or equivalent governing body;
- iv. To appoint or remove that entity’s chief executive officer;
- v. To cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or
- vi. To control all, or the majority of, the voting rights at a general meeting of that entity;

Section 1 of the National Heritage Resources Act, 1999, is hereby amended by the insertion of the following additional definition from the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

“organ of state” means

- (a) any department of state or administration in the national, provincial or local sphere of government; or
- (b) any other functionary or institution-
 - (i) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (ii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

Amendment of section 11 of Act 25 of 1999

Section 11 of the National Heritage Resources Act, 1999, is hereby amended by the insertion of a new subparagraph 1A as follows:

- a) 11(1A). The South African Heritage Council is a schedule 3A national public entity and its council is its accounting authority responsible for its sound financial management. Its council must ensure that all revenue, expenditure, assets and liabilities of the institution are managed efficiently and effectively.

Amendment of section 13 of Act 25 of 1999

By the deletion in its entirety of section 13 (2) (a) (iv) in its entirety

- (iv) the repatriation of heritage resources which have been removed from South Africa and which SAHRA considers to be significant as part of the national estate;

Amendment of section 14 of Act 25 of 1999

Section 14 (5) of the National Heritage Resources Act, 1999, is amended as follows –

- 14 (5) A members of a Council holds office for a period not exceeding **[three years]** four years, and may be re-appointed for a further period of four years

b. by the insertion of a new subsection (7A) as follows:

The Council of the South African Heritage Resource Agency must conclude a performance agreement for the duration of its appointment with the Minister within three months of its assumption of duty. The members of the council must also sign a code of conduct including a declaration of interest within three months of assumption of duty.

Amendment of section 19 of Act 25 of 1999

By the insertion of a provision for the payment of allowances to council members

Section 19 shall read as follows:

(19) Payment of allowances and reimbursement of expenses incurred by members of Council and committees

(19) (1) Subject to subsection (2), a member of the Council or of any committee thereof who is not in the full-time employment of the State shall be paid allowances, and be reimbursed for expenses incurred for services performed by him or her as such a member.

(19) (2) The Minister may, with the concurrence of the Minister of Finance, determine the criteria for payment of allowances and the reimbursement of expenses incurred by members of the council and any committees it may establish who are not in the full time employ of the state.

Amendment of section 20 of Act 25 of 1999

By the deletion in its entirety of section 20 (1) (b) and the substitution thereof of a new 20 (1) (b) to delete the reference of the chief executive officer as the accounting officer and to provide for the term of office of the chief executive officer and for the signature of the performance agreement by the chief executive officer.

Section 20 (1) (b) shall read as follows:

[(b) be the accounting officer charged with the responsibility of accounting for all the money received and the utilization thereof and be responsible for the property of SAHRA.]

New (b) (ii) shall read as follows:

The chief executive officer must be appointed for a period of five years and must sign a performance agreement with the Council within three months of assumption of duty.

Amendment of section 21 of Act 25 of 1999

Section 21 of Act 25 of 1999 is amended by the deletion in its entirety of subsections (3) (4) and (5)

[(3) The Council may invest any money not required for immediate or a reasonable operating balance in accordance with the directions determined by the Minister in consultation with the Minister of Finance.]

[(4) The Council may establish and operate a reserve funds and deposit therein such amounts as become available from time to time.]

[(5) SAHRA, with the approval of the Council –

- (a) may not lend or borrow money without the consent of the Minister given with the concurrence of the Minister of Finance.**
- (b) may purchase or other wise acquire, hold, let, hire or receive in trust any real right in any immovable or movable property; and**
- (c) may not make over to any person to hold in trust or sell, exchange or otherwise alienate, or hypothecate, burden with a servitude or otherwise confer any real right in immovable property, without the approval of the Minister given with the concurrence of the Minister of Finance]**

[(6) Once during every financial year, at a time determined by the Minister, SAHRA must submit a statement of its estimated income and expenditure for the following financial year to the Minister for approval, granted with the concurrence of the Minister of Finance.]

[(7) SAHRA may during the course of a financial year submit supplementary estimates of its expenditure for that financial year to the Minister for approval, granted with the concurrence of the Minister of Finance.]

[(8) SAHRA must not incur any expenditure except in accordance with an estimate of expenditure approved under subsections (6) and (7).]

[(9) SAHRA must –

(a) keep full and correct accounts and records of all its financial transactions and affairs, including all its transactions in its capacity of trustee of any trust fund, and all properties under its control, and must ensure that all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its assets, or those in its custody, and the incurring of liabilities; and

(b) as soon as possible after the end of the financial year, draw up annual financial statements which must show money received and expenditure incurred and its assets and liabilities at the end of the financial year concerned.]

[(10) The financial year of SAHRA ends on 31 March each year.]

[(11) The accounts and annual financial statements referred to in subsection 99) (b) must be audited by the Auditor-General.]

[(12) The accounts and annual financial statements referred to in subsection (9) (b) must be available for public inspection.]

Amendment of section 22 of Act 25 of 1999

Section 21 of Act 25 of 1999 is amended by the deletion in its entirety of subsections (1) (2) and (3)

[(1) As soon as practicable after the end of the financial year, SAHRA must compile and submit to the Minister a report on all its activities during that financial year, including a balance sheet and statement of income and expenditure certified by the Auditor-General.]

[(2) The report referred to in subsection (1) must include a description of the condition of the national estate during the period to which the report relates, including destruction and other losses incurred, threats to specific heritage resources or categories of heritage resources, and an account of offences and prosecutions and the results thereof.]

[(3) The Minister must table the report referred to in subsection (1) in Parliament within 14 days after receipt thereof if Parliament is in ordinary session or, if Parliament is not in ordinary session, within 14 days after the commencement of its next ordinary session.]

SOUTH AFRICAN GEOGRAPHICAL NAMES COUNCIL ACT 118 of 1998

To establish a permanent advisory body known as the South African Geographical Names Council to advise the Minister responsible for arts and culture on the transformation and standardization of geographical names in South Africa for official purposes; to determine its objects, functions and methods of work; to establish provincial geographical names committees to advise the relevant MEC's in the province and to provide for matters connected therewith.

Amendment of section 1 of Act 118 of 1998

Amendment of section 1 by the deletion of the definition of municipality and the insertion thereof of the definition of MEC and local competence as follows:

“MEC” means the member of the executive council in the Provinces responsible for geographical names;

Local competence means the jurisdiction provided for in sections 12(3)(d) and 16(1)(b) of the Municipal Structures Act, 1998;

Amendment of section 2 by the insertion of a new section 2A as follows:

2A Establishment and objects of Committees

- (1) The MEC shall establish a body to be known as the Provincial Geographical Names Committee.
- (2) The MEC shall by regulations in the provincial gazette prescribe the composition and functions of the committee.
- (3) The objects of the Committee are-
 - (a) to facilitate the establishment of local Geographical Names Committees, in collaboration with of the relevant municipal Council;
 - (b) to promote the standardisation of geographical names;
 - (c) to facilitate the transformation process for geographical names;
 - (d) to promote the use of standardised South African geographical names at local and provincial level;
 - (e) to ensure the implementation of standardised geographical names in the province; and
 - (f) to promote awareness of the economic and social benefits of the standardisation of geographical names.

Amendment of section 3 of Act 118 of 1998

By the reduction of the size of the council to a maximum of 15 members

Section 3 shall read as follows:

(1) The Council shall consist[s] of **[no fewer than 15 and no more than 15 members]** a maximum of 15 members appointed by the Minister, of whom-

(a) nine must be nominated by the relevant MECs from the provinces provided that should the MECs fail to provide nominations within a reasonable period of three months, the Minister shall appoint other suitable replacements ;

(b) one must be nominated by each of the following:

(i) The South African Post Office;

(ii) the Chief Directorate: Surveys and Mapping;

(iii) the Pan South African Language Board,

or any other organization, body or institution the Minister considers relevant.

Amendment of section 4 of Act 118 of 1998

By the deletion of the period of three years and the substitution thereof of the period of four years and by the deletion of the term dies or resigns and the substitution thereof of the vacates office and by the insertion in subsection 8 of the provision that the Minister must follow the notice and comment procedure as prescribed in the Promotion of Administrative Justice Act 3 of 2000.

Section 4 shall read as follows:

4. Term of office

(1) A member of the Council is appointed for a period of **[three]** four years

- (2) A member of the Council may be reappointed for a further period of [**three**] four years.
- (3) If a member [**dies or resigns**] vacates office, the Minister must appoint another person to fill that vacancy for the remaining portion of the term of office of that members.
- (4) The Minister must, in consultation with the Council, appoint one of the members as chairperson of the Council to serve for a renewable term of [**three**] four years.
- (5) If the chairperson [**dies or resigns**] vacates office, the Minister must appoint another person as chairperson for the remaining portion of the term of the first-mentioned chairperson.
- (8) The Minister may dissolve the Council on any reasonable grounds, after following notice and comment procedure as prescribed by the Promotion of Administrative Justice Act 3 of 2000.

Amendment of section 6 of Act 118 of 1998

By the deletion of the word section and substitution thereof of the word SAGNC secretariat

Section 6 shall read as follows:

6 Executive functions of Council

(1) The executive functions of the Council must be performed by [**a section**] SAGNC secretariat established by the Director-General in terms of the Public Service Act, 1994 (Proclamation 103 of 1994) which must be adequately capacitated in terms of human resource and financial capacity to fully support the council

(2) The functions of the section are to-

- (a) perform administrative, communication and secretarial services; and

- (b) establish and maintain a research section and the necessary infrastructure, incorporating a computerized database, a library, reference material and document archives.

Amendment of section 8 of Act 118 of 1998

By the deletion of the word honoraria and the substitution thereof of the word allowances

Section 8 shall read as follows:

8. Allowances of members of Council and subcommittees

- (1) Subject to subsection (2), a member of the Council and of any subcommittee who is not in the full-time employment of the State may receive, out of the funds of the Council, in respect of his or her functions as a member, such **[honoraria]** allowances and reimbursement for expenses as the Council may determine.
- (2) The Minister, with the concurrence of the Minister of Finance, must determine criteria for payment of the **[honoraria]** allowances and reimbursement of expenses contemplated in subsection (1)

9 Powers and duties of Council

- (1) The Council must-
 - (a) **[set guidelines]** establish regulations for the entire process of change of Geographical Names including those for the operation of the Provincial Geographical Names Committees.
 - (b) **[set]** prescribe norms and standards [and guidelines] for provincial and local competent authorities in their respective areas of jurisdiction, for the processes of evaluation, public consultation processes and recommendation of a geographical name to the Council;

- (c) receive proposed geographical names submitted by State departments, statutory bodies, provincial governments, municipalities and other bodies or individuals **as prescribed;**
- (d) recommend geographical names falling within the national competence to the Minister for approval;
- (e) advise the Minister on-
 - (i) the standardisation of proposed new geographical names;
 - (ii) existing geographical names not yet standardised;
 - (iii) the changing, removing or replacing of geographical names; and
 - (iv) geographical names and their orthography;
- (f) in consultation with [**provincial governments**] provincial and local competent authorities, identify existing geographical names in need of revision, and co-ordinate requests for advice on geographical names and standardisation;
- (g) communicate decisions and relevant information on geographical names approved in terms of section 10 (1) effectively to the various State departments, the public, and all other users of geographical names at national and international level by means of gazetteers, lists, maps and other published and electronic media;
- (h) liaise with-
 - (i) national and international organisations concerned with geographical names; and

- (ii) cultural, historical and linguistic organisations;
- (i) in consultation with the Minister and the Provincial Geographical Names Committees, formulate policies, principles and procedures, taking cognisance of the United Nations resolutions and international practice with reference to the standardisation of geographical names;
- (j) perform any other duty imposed on it by this Act or any other law; and
- (k) not later than one month before the commencement of each financial year, submit a business plan containing such information as may be prescribed to the Minister for his or her approval.

[Para. (k) added by s. 34 of Act 36 of 2001.]

(2) The Council may-

- (a) exercise any power conferred on it by this Act or any other law; and
- (b) generally, do everything which is necessary to perform its duties referred to in subsection (1).

10 Approval and revision of geographical names

By the deletion in its entirety of sections 10 (3), (4) and (5)

~~[(3) Any person or body dissatisfied with a geographical name approved by the Minister may, within one month from the date of publication of the geographical name in the Gazette, lodge a complaint in writing to the Minister.]~~

~~[(4) The Minister may refer the complaint to the Council for advice whether or not to reject or amend a geographical name so approved.]~~

~~[(5) The Minister must inform the complainant of the decision on the complaint and the reasons for the decision.]~~

12 Regulations

By the insertion of a new 12A providing for the enforcement of the act and 12B for offences and penalties

The new section 12A shall read as follows:

12A Enforcement of Act

- (1) This Act shall take precedence over any legislation conferring the authority for the standardisation and transformation of geographical names.
- (2) An application to any competent court may be made concerning any alleged violation or threatened violation of the Act resulting from the non-compliance or compliance with the obligations contained in this Act.
- (3) A competent Court, in proceedings under this section, may grant any such remedy as it considers appropriate and just in the circumstances.
- (4) No person may register, publish, propagate, advocate or communicate geographical names based on one or more of the prohibited grounds that the name(s) could reasonably be construed to demonstrate a clear intention to-

(a) be hurtful;

(b) be harmful or to incite harm;

(c) promote or propagate hatred.

12B Offences

(1) Any person who violates a provision of the Act resulting from the non-compliance or compliance with the obligations contained in this Act is guilty of an offence and liable to a maximum fine of R10 000.00 or imprisonment for a period not exceeding twelve months or both such fine and imprisonment.

THE NATIONAL LIBRARY OF SOUTH AFRICA , 1998 (ACT 92 OF 1998)

Amendment of section 1 of Act 92 of 1998

1. Section 1 of the National Library of South Africa Act, 1998, is hereby amended by the insertion of the following additional definitions from the Public Finance Management Act 1 of 1999.

9. **“Accounting Authority”** means a body or person referred to in Section 49 of the Public Finance Management Act 1 of 1999.
10. **“Executive Authority”**, in relation to a National Department, means the Cabinet member who is accountable to Parliament for that department and in relation to a National Public Entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls as defined in Chapter 1 of the Public Finance Management Act 1 of 1999.
11. **“Financial Year”** means a year ending 31st March.
12. **“National Public Entity”** means
 - i. a National Government business enterprise, or
 - ii. a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is
 1. established in terms of national legislation:
 2. fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation: and
 3. accountable to Parliament;
5. **“Ownership control”**, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:
 - iii. To appoint or remove all, or the majority of, the members of that entity’s board of directors or equivalent governing body;
 - iv. To appoint or remove that entity’s chief executive officer;
 - v. To cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or
 - vi. To control all, or the majority of, the voting rights at a general meeting of that entity;

Section 1 of the National Library of South Africa Act, 1998, is hereby amended by the insertion of the following additional definition from the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

“organ of state” means

- (c) any department of state or administration in the national, provincial or local sphere of government; or

- (d) any other functionary or institution-
 - (iii) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (iv) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

Section 1 of the National Library of South Africa Act, 1998, is hereby amended by the insertion of the following additional definition from the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

“information officer” of, or in relation to, a public body –

(c) in the case of any other public body, means the chief executive officer, or equivalent officer, of that public body or the person who is acting as such;

“record” of, or in relation to, a public or private body, means any recorded information –

- (a) regardless of form or medium;
- (b) in the possession or under the control of that public or private body, respectively; and
- (c) whether or not it was created by that public or private body, respectively;

Amendment of section 2 of Act 92 of 1998

Section 2 of the National Library of South Africa Act, 1998, is hereby amended by the insertion of a new subparagraph 2(1A) as follows:

- a) 2(1A). The National Library of South Africa is a schedule 3A national public entity and its council is its accounting authority responsible for its sound financial management. Its council must ensure that all revenue, expenditure, assets and liabilities of the institution are managed efficiently and effectively.

Amendment of section 6 of Act 92 of 1998

Section 6 (5) of the National Library of South Africa Act, 1998 is amended as follows –

6 (5) (a) A members of the Board holds office for a period not exceeding four years, and may be re-appointed for a further period of four years

Amendment of section 6(5) of Act 92 of 1998

by the amendment of section 6(5)(a) as follows:

(6) (5) Members of the Council other than those referred to in section 5 (1) (c) are appointed for a period of **[three years]** four years, and may be re-appointed for a further period of **[three years]** four years

b. by the insertion of a new subsection (5A) as follows:

The Council of the National Library of South Africa must conclude a performance agreement for the duration of its appointment with the Minister within three months of its assumption of duty. The members of the council must also sign a

code of conduct including a declaration of interest within three months of assumption of duty.

Amendment of section 9 of Act 92 of 1998

by the deletion of section 9(1)(b)(ii) in its entirety and the insertion of a new 9 (1) (b) (ii)

[(ii) The chief executive officer is also the accounting officer charged with the responsibility of accounting for all money received and the utilization thereof and is responsible for the property of the National Library.]

The new section (9) (1) (b) (ii) shall read as follows:

The chief executive officer must be appointed for a period of five years and must sign a performance agreement with the Council within three months of assumption of duty.

Amendment of section 13 of Act 92 of 1998

Section 13 of Act 92 of 1998 is amended by the deletion in its entirety of subsections (3) (4) and (5)

[(3) The Board may invest any money not required for immediate use as a reasonable operating balance with the Public Investment Commissioners or in such other manner as the Minister with the concurrence of the Minister of Finance may determine.]

[(4) The Board may establish and operate a reserve funds and deposit therein such amounts as become available from time to time.]

[(5) (a) The National Library -

(i) must in each financial year, at a time determined by the Minister, submit a statement of its estimated income and expenditure projected over the following three financial years for the approval of the Minister;

(ii) may in any financial year at any time submit supplementary statements of its estimated expenditure for that financial year to the Minister for the Minister's approval.

(b) The National Library may not enter into any financial commitment beyond its approved budgets and its accumulated reserved.]

Amendment of section 14 of Act 92 of 1998

By the deletion of section 14 in its entirety as this section is inconsistent and in conflict with the Public Finance Management Act

[Auditing and annual report

[(1) The financial year of the National Library ends on 31 March]

[(2) The National Library must keep a proper record of its assets and financial transactions.]

[(3) The accounts of the National Library must be audited annually by the Auditor-General.]

[(4)(a) The National Library must furnish to the Minister such information in connection with the functions of the financial position of the National Library as the Minister may require, and must within three months of the end and expenditure in respect of the financial year, certified by the Auditor-General, as well as such other particulars as the Minister may require

(b) The Minister must table the report in Parliament within 14 days after receipt thereof if Parliament is in ordinary session or, if Parliament is not in ordinary sessions, within 14 days after the commencement of its next ordinary session.]

LIBRARY FOR THE BLIND, 1998 (ACT 91 OF 1998)

Amendment of section 1 of Act 91 of 1998

1. Section 1 of the Library for the Blind, 1998, is hereby amended by the insertion of the following additional definitions from the Public Finance Management Act 1 of 1999.

13. **“Accounting Authority”** means a body or person referred to in Section 49 of the Public Finance Management Act 1 of 1999.
14. **“Executive Authority”**, in relation to a National Department, means the Cabinet member who is accountable to Parliament for that department and in relation to a National Public Entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls as defined in Chapter 1 of the Public Finance Management Act 1 of 1999.
15. **“Financial Year”** means a year ending 31st March.
16. **“National Public Entity”** means
 - i. a National Government business enterprise, or
 - ii. a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is
 1. established in terms of national legislation:
 2. fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation: and
 3. accountable to Parliament;
5. **“Ownership control”**, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:
 - iii. To appoint or remove all, or the majority of, the members of that entity’s board of directors or equivalent governing body;
 - iv. To appoint or remove that entity’s chief executive officer;
 - v. To cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or
 - vi. To control all, or the majority of, the voting rights at a general meeting of that entity;

Section 1 of the Library for the Blind, 1998, is hereby amended by the insertion of the following additional definition from the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

“organ of state” means

- (e) any department of state or administration in the national, provincial or local sphere of government; or

- (f) any other functionary or institution-
 - (v) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (vi) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

Section 1 of the Library for the Blind, 1998, is hereby amended by the insertion of the following additional definition from the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

“information officer” of, or in relation to, a public body –

(c) in the case of any other public body, means the chief executive officer, or equivalent officer, of that public body or the person who is acting as such;

“record” of, or in relation to, a public or private body, means any recorded information –

- (d) regardless of form or medium;
- (e) in the possession or under the control of that public or private body, respectively; and
- (f) whether or not it was created by that public or private body, respectively;

Amendment of section 2 of Act 91 of 1998

Section 2 of the National Library of South Africa Act, 1998, is hereby amended by the insertion of a new subparagraph (2A) as follows:

- a) (2A). The South African Library for the Blind, is a schedule 3A national public entity and its council is its accounting authority responsible for its sound financial management. Its council must ensure that all revenue, expenditure, assets and liabilities of the institution are managed efficiently and effectively.

Amendment of section 6(5) of Act 91 of 1998

(a) by the amendment of section 6(5)(a) as follows:

(6) (5) Members of the Council other than those referred to in section 5 (1) (c) are appointed for a period of **[three years]** four years, and may be re-appointed for a further period of **[three years]** four years

b. by the insertion of a new subsection (5A) as follows:

The Council of the South African Library for the Blind must conclude a performance agreement for the duration of its appointment with the Minister within three months of its assumption of duty. The members of the council must also sign a code of conduct including a declaration of interest within three months of assumption of duty.

Amendment of section 7 of Act 91 of 1998

Section 7 (2) is amended as follows:

(2) The Board shall pay to a member of than Board who is not in the fulltime employ of the State or who is not in the employ of the Library for the Blind such allowances and reimbursement for reasonable expenses as the Minister with the concurrence of the Minister of Finance may determine.

Amendment of section 9 of Act 91 of 1998

by the deletion of section 9 (1) (b) (ii) in its entirety

[(ii) The chief executive officer is also the accounting officer charged with the responsibility of accounting for all money received and the utilization thereof and is responsible for the property of the Library for the Blind.]

by the insertion of a new (9) (1) (b)(ii)

The chief executive officer must be appointed for a period of five years and must sign a performance agreement with the Council within three months of assumption of duty.

by the deletion of section 9(b)(iii) in its entirety

[(iii) The chief executive officer of the Library for the Blind is known as the Director.]

by the deletion of section 9(b)(iv) in its entirety

[(iv) The person who is the director at the commencement of this Act is deemed to be appointed by the Board.]

Amendment of section 13 of Act 91 of 1998

Section 13 of Act 91 of 1998 is amended by the deletion in its entirety of subsections (3) (4) and (5)

[(3) The Board may invest any money not required for immediate use as a reasonable operating balance with the Public Investment Commissioners or in such other manner as the Minister with the concurrence of the Minister of Finance may determine.]

[(4) The Board may establish and operate a reserve funds and deposit therein such amounts as become available from time to time.]

[(5) (a) The National Library -

(i) must in each financial year, at a time determined by the Minister, submit a statement of its estimated income and expenditure projected over the following three financial years for the approval of the Minister;

(ii) may in any financial year at any time submit supplementary statements of its estimated expenditure for that financial year to the Minister for the Minister's approval.

(b) The National Library may not enter into any financial commitment beyond its approved budgets and its accumulated reserved.

Amendment of section 14 of Act 91 of 1998

By the deletion of section 14 in its entirety

[(1) The financial year of the National Library ends on 31 March]

[(2) The National Library must keep a proper record of its assets and financial transactions.]

[(3) The accounts of the National Library must be audited annually by the Auditor-General.]

[(4)(a) The National Library must furnish to the Minister such information in connection with the functions of the financial position of the National Library as the Minister may require, and must within three months of the end and expenditure in respect of the financial year, certified by the Auditor-General, as well as such other particulars as the Minister may require

(b) The Minister must table the report in Parliament within 14 days after receipt thereof if Parliament is in ordinary session or, if Parliament is not in ordinary sessions, within 14 days after the commencement of its next ordinary session.]

NATIONAL COUNCIL FOR LIBRARY AND INFORMATION SERVICES ACT 6 OF 2001

Amendment of section 1 of Act 6 of 2001

‘department’ means the Department of Arts and Culture [**Science and Technology**]

‘Director-General’ means the Director-General: for the national department of Arts and Culture [**Science and Technology or any officer of the department acting on the authority of the Director-General**]

‘Minister’ means the Minister: for the national department of Arts and Culture [**Science and Technology**]

Amendment of section 7 of Act 6 of 2001

Section 7 (2) (a) shall be amended as follows:

(2) (a) The Minister must appoint a panel, after the composition was approved by the Portfolio Committee on Arts and Culture [**Science and Technology**] consisting of persons with experience or expertise in library and information services to compile a short list of not more than 15 candidates from the persons nominated in terms of subsection (1) (a)

Amendment of section 9 of Act 6 of 2001

Section 9 (1) is amended as follows:

(1) A member of the council other than officers of the department and the Department of Education, holds office for such period, not exceeding [**three**] four years, as the Minister may determine at the time of the member’s appointment.

Amendment of section 10 of Act 6 of 2001

Section 10 (6) is amended as follows:

(6) **[No remuneration is]** Members of the council, its working groups and committees shall be paid allowances and reimbursement for reasonable expenses **[payable to any member of the council, its committees or working groups except for reasonable travel, accommodation and subsistence costs]** as determined by the Minister with the concurrence of the Minister of Finance.

LEGAL DEPOSIT ACT 54 OF 1997

Amendment of section 1 of Act 54 of 1997

- 1 .(ii) 'department' means the Department of Arts and Culture [**Science and Technology**]
- (v) 'Minister' means the Minister: for the national department of Arts and Culture [**Science and Technology**]
- (vi) "official publication" means a document published by an Organ of State [**of national, provincial or local government**], a parastatal organization or any other institution listed as a public entity in terms of section [3 of the **Reporting by Public Entity Act, 1992 (Act no 93 of 1992)**] in terms of section 1 of the Public Finance Management Act 1999 (Act 1 of 1999)

Amendment of section 6 of Act 54 of 1997

Section 6 (1) (g) shall be amended as follows:

Places of legal deposit

6. (1) The places of legal deposit shall be-
 - (a) the [**City Library Services**] Mangaung Library Bloemfontein
 - (b) the Library of Parliament, Cape Town;
 - (c) the [**Natal Society Library**] Msunduzi Library Pietermaritzburg;
 - (d) the [**South African Library;**] Center for the Book Cape Town
 - (e) the [**State Library,**] National Library of South Africa Pretoria
 - (f) the National Film, Video and Sound Archives, Pretoria for purposes of certain categories of documents as prescribed;
 - (g) the South African Library for the Blind, for purposes of certain categories of documents as prescribed

(h) any other library or institution prescribed by the Minister for purposes of certain prescribed categories of documents.

Amendment of section 7 of Act 54 of 1997

Section 7 (4) (a) is amended as follows:

(4) An official publications depository shall-

(a) serve as a centre for promoting public awareness of and access to , official publications and information held by the government and the institutions listed as Public Entities in terms of section [3 of the Reporting by Public Entity Act, 1992 (Act no 93 of 1992)] in terms of section 1 of the Public Finance Management Act 1999 (Act 1 of 1999)

Amendment of section 8 of Act 54 of 1997

Section 8 (1) (e) is amended as follows:

Legal Deposit Committee

8. (1) There is hereby established a committee called the Legal Deposit Committee, consisting of-

- (a) the heads of the places of legal deposit referred to in section 6(1);
- (b) the head of the Government Printing Works;
- (c) one representative for all provincial official publications depositories, designated by the Minister in the prescribed manner; and
- (d) two representatives of the publishing industry, designated by the Minister in the prescribed manner;
- (e) the chief executive officer of the South African Library for the Blind or his or her representatives

Section 8 (5) (f) is amended as follows:

(f) report to Parliament on the activities and financial affairs of the places of legal deposit **[in accordance with the provisions of the Reporting by Public Entities Act, 1992 (Act No. 93 of 1992)]**

Section 8 (6) is amended as follows:

(6) **[No remuneration is]** Members of the Committee, its working groups and subcommittees shall be paid allowances and reimbursement for reasonable expenses **[shall be payable to any member of the Committee or the members of its subcommittees or working groups other than reasonable travel and subsistence costs]** as the Minister with the concurrence of the Minister of Finance may determine.

Insertion of a new section 8 6A

6A Executive functions of Committee

(1) The executive functions of the Committee must be performed by Legal Deposit Committee secretariat established by the Director-General in terms of the Public Service Act, 1994 (Proclamation 103 of 1994) which must be adequately capacitated in terms of human resource and financial capacity to fully support the Legal Deposit Committee.

(2) The functions of the secretariat are to-

- (a) perform administrative, communication and secretarial services; and
- (c) establish and maintain a research section and the necessary infrastructure, incorporating a computerized database, a library, reference material and document archives.

NATIONAL ARTS COUNCIL ACT, 1997 (ACT 56 OF 1997)

Amendment of section 1 of Act 56 of 1997

1. Section 1 of the National Arts Council Act, 1997, is hereby amended by the amendment of the following definitions:

1. **“Director-General”** means the Director-General: [Arts, Culture, Science and Technology;]

the Director-General of the Department of the Minister

[Definition of ‘Director-General’ inserted by section 1(b) of Act 10 of 1999.]

2. **“Minister”** means the Minister responsible for [arts and culture;] the administration of this Act

[Definition of ‘Minister’ inserted by section 1(c) of Act 10 of 1999.]

3. Section 1 of the National Arts Council Act, 1997, is hereby amended by the insertion of the following additional definitions from the Public Finance Management Act 1 of 1999.

17. **“Accounting Authority”** means a body or person referred to in Section 49 of the Public Finance Management Act 1 of 1999.

18. **“Executive Authority”**, in relation to a National Department, means the Cabinet member who is accountable to Parliament for that department and in relation to a National Public Entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls as defined in Chapter 1 of the Public Finance Management Act 1 of 1999.

19. **“Financial Year”** means a year ending 31st March.

20. **“National Public Entity”** means

- i. a National Government business enterprise, or
- ii. a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is
 - 1. established in terms of national legislation;
 - 2. fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation: and
 - 3. accountable to Parliament;

5. **“Ownership control”**, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:

- iii. To appoint or remove all, or the majority of, the members of that entity’s board of directors or equivalent governing body;
- iv. To appoint or remove that entity’s chief executive officer;
- v. To cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or

- vi. To control all, or the majority of, the voting rights at a general meeting of that entity;

Section 1 of the National Arts Council Act, 1997 is hereby amended by the insertion of the following additional definition from the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

“organ of state” means

- (g) any department of state or administration in the national, provincial or local sphere of government; or
- (h) any other functionary or institution-
 - (vii) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (viii) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

Section 1 of the Library for the Blind, 1998, is hereby amended by the insertion of the following additional definition from the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

“information officer” of, or in relation to, a public body –

- (c) in the case of any other public body, means the chief executive officer, or equivalent officer, of that public body or the person who is acting as such;

“record” of, or in relation to, a public or private body, means any recorded information –

- (g) regardless of form or medium;
- (h) in the possession or under the control of that public or private body, respectively; and
- (i) whether or not it was created by that public or private body, respectively;

Amendment of section 2 of Act 56 of 1997

Section 2 of the National Arts Council Act, 1997, is hereby amended by the insertion of a new subparagraph (2A) as follows:

- a) (2A). National Arts Council Act, is a schedule 3A national public entity and its council is its accounting authority responsible for its sound financial management. Its council must ensure that all revenue, expenditure, assets and liabilities of the institution are managed efficiently and effectively.

Amendment of section 4 of Act 56 of 1997

Section 4(1) of the National Arts Council Act is amended as follows:

- (1) Subject to section 20(1)(a), the Council shall consist of nine provincial representatives **[and no fewer than nine other persons and no more than 18 other persons]** and six other persons appointed by the Minister.

(2) Every province shall be represented by a representative who shall within the province in question be elected by a public and transparent process which shall be determined and overseen by the responsible member, provided that should the responsible member fail to nominate an appropriate representative within three months of the request by the Minister, the Minister shall be entitled to appoint such representatives at his own discretion.

(3) (a) The other persons referred to in subsection (1) shall be appointed by the Minister from a short list of no more than [22] 10 names.

Amendment of section 4 of Act 56 of 1997

by the amendment of section 4 (6)(a) as follows:

(6) (a) Subject to paragraph (b), a members of the Council shall hold office for a period not exceeding [~~three~~] four years, and shall be eligible for re-appointment after a further [~~three~~] four years have elapsed.

b. by the insertion of a new subsection (10A) as follows:

The Board of the National Arts Council must conclude a performance agreement for the duration of its appointment with the Minister within three months of its assumption of duty. The members of the council must also sign a code of conduct including a declaration of interest within three months of assumption of duty.

Amendment of section 13 (1) of Act 56 of 1997

(1) The Council shall appoint a full-time chief executive officer for the Council for a period of five years and the Council must sign a performance agreement with the CEO for the duration of his appointment within three months of his or her assumption of duty.

Amendment of section 14 of Act 56 of 1997

by the deletion of section 14 in its entirety

[(1) In addition to the other functions entrusted to the chief executive officer by or under this Act, he or she shall be the accounting officer charged with the responsibility of accounting for all money received and the utilization thereof and be responsible for the property of the Council.]

[(2) (a) The accounting officer may –

(i) Delegate to an employee of the Council a power conferred upon the accounting officer by or under this Act; or

(ii) Authorize such employee to perform a duty assigned by or under this Act to the accounting officer.

(b) A delegation under paragraph (a) shall not prohibit the exercise of the power in question or the performance of the duty in question by the accounting officer.]

Amendment of section 16 (5) and (6) of Act 56 of 1997

Section 16(5) and (6) Act 56 of 1997 is amended by the deletion in its entirety of subsections (5) and (6)

[(5) The Council may invest any unexpended portion of its funds with the Corporation for Public Deposits.]

[(6) The Council may establish such reserve funds and deposit therein such amounts as the Minister may approve, with the concurrence of the Minister of Finance.]

Amendment of section 17 of Act 56 of 1997

Section 17 is deleted in its entirety.

17. Audit, annual and financial report

[(1) The Auditor-General shall audit the accounts and balance sheet of the Council.]

[(2) The Council shall-

(a) furnish to the Minister such information as he or she may call for in connection with the activities and financial position of the Council;]

[(b) submit to the Minister an annual report containing a balance sheet, a statement of income and expenditure certified by the Auditor-General and such other particulars as the Minister may require.]

[(3) The Minister shall table the report referred to in subsection (2) (b) in Parliament within 14 days after receipt thereof if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ordinary session.]

NATIONAL FILM AND VIDEO FOUNDATION ACT , 1997 (ACT 73 OF 1997)

Amendment of section 1 of Act 73 of 1997

1. Section 1 of Act 73 of 1997 is hereby amended by the amendment of the following definitions:

1. **“Director-General”** means the Director-General: [Arts, Culture, Science and Technology;]

the Director-General of the Department of the Minister

[Definition of ‘Director-General’ inserted by section 1(b) of Act 10 of 1999.]

2. **“Minister”** means the Minister responsible for [arts and culture;] the administration of this Act

[Definition of ‘Minister’ inserted by section 1(c) of Act 10 of 1999.]

3. Section 1 Act 73 of 1997, is hereby amended by the insertion of the following additional definitions from the Public Finance Management Act 1 of 1999.

21. **“Accounting Authority”** means a body or person referred to in Section 49 of the Public Finance Management Act 1 of 1999.

22. **“Executive Authority”**, in relation to a National Department, means the Cabinet member who is accountable to Parliament for that department and in relation to a National Public Entity, means the Cabinet member who is accountable to Parliament for that public entity or in whose portfolio it falls as defined in Chapter 1 of the Public Finance Management Act 1 of 1999.

23. **“Financial Year”** means a year ending 31st March.

24. **“National Public Entity”** means

- i. a National Government business enterprise, or
- ii. a board, commission, company, corporation, fund or other entity (other than a national government business enterprise) which is
 - 1. established in terms of national legislation;
 - 2. fully or substantially funded either from the National Revenue Fund, or by way of a tax, levy or other money imposed in terms of national legislation: and
 - 3. accountable to Parliament;

5. **“Ownership control”**, in relation to an entity, means the ability to exercise any of the following powers to govern the financial and operating policies of the entity in order to obtain benefits from its activities:

- iii. To appoint or remove all, or the majority of, the members of that entity’s board of directors or equivalent governing body;
- iv. To appoint or remove that entity’s chief executive officer;

- v. To cast all, or the majority of, the votes at meetings of that board of directors or equivalent governing body; or
- vi. To control all, or the majority of, the voting rights at a general meeting of that entity;

Section 1 of Act 73 of 1997 is hereby amended by the insertion of the following additional definition from the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996).

“organ of state” means

- (i) any department of state or administration in the national, provincial or local sphere of government; or
- (j) any other functionary or institution-
 - (ix) exercising a power or performing a function in terms of the Constitution or a provincial constitution; or
 - (x) exercising a public power or performing a public function in terms of any legislation, but does not include a court or a judicial officer;

Section 1 of the Act 73 of 1997 is hereby amended by the insertion of the following additional definition from the Promotion of Access to Information Act, 2000 (Act 2 of 2000).

“information officer” of, or in relation to, a public body –

- (c) in the case of any other public body, means the chief executive officer, or equivalent officer, of that public body or the person who is acting as such;

“record” of, or in relation to, a public or private body, means any recorded information –

- (j) regardless of form or medium;
- (k) in the possession or under the control of that public or private body, respectively; and
- (l) whether or not it was created by that public or private body, respectively;

Amendment of section 2 of Act 73 of 1997

Section 2 of the National Film and Video Foundation, 1997,, is hereby amended by the insertion of a new subparagraph (2A) as follows:

- a) (2A). National Film and Video Foundation, is a schedule 3A national public entity and its council is its accounting authority responsible for its sound financial management. Its council must ensure that all revenue, expenditure, assets and liabilities of the institution are managed efficiently and effectively.

Amendment of section 6 of Act 73 of 1997

Section 6 (1) is amended as follows:

- (1) The Foundation shall act through a Council consisting of no fewer than nine and no more than [14] 15 members appointed by the Minister.

- (2) The members shall be appointed by the Minister from a short list of no more than [22] 10

Amendment of section 6 of Act 73 of 1997

by the amendment of section 6 (5)(a) as follows:

(6)(5)(a) Subject to paragraph (b), a members of the Council shall hold office for a period not exceeding [three] four years, and shall be eligible for re-appointment after a further [three] four years have elapsed.

(6)(5)(b) At the end of the members' term of office, three members shall be re-elected by the Council to serve for a further [three] four years, after which they shall not be eligible for reappointment until a further [three] four years have elapsed.

b. by the insertion of a new subsection (10A) as follows:

The Board of the National Film and Video Foundation must conclude a performance agreement for the duration of its appointment with the Minister within three months of its assumption of duty. The members of the council must also sign a code of conduct including a declaration of interest within three months of assumption of duty.

by the amendment of section 6 (10) as follows

(10) The Minister may dissolve the Council on any reasonable grounds after consultation with the Council and other relevant stake holders and after following the notice and comment procedure as prescribed in the Promotion of Administrative Justice Act

Amendment of section 13 (1) of Act 73 of 1997

- (2) The Council shall appoint a full-time chief executive officer for the Council for a period of five years and the Council must sign a performance agreement with the CEO for the duration of his appointment within three months of his or her assumption of duty.

Amendment of section 14 of Act 73 of 1997

by the deletion of section 14 in its entirety

[(1) In addition to the other functions entrusted to the chief executive officer by or under this Act, he or she shall be the accounting officer charged with the

responsibility of accounting for all money received and the utilization thereof and be responsible for the property of the Council.]

[(2) (a) The accounting officer may –

(i) delegate to an employee of the Council a power conferred upon the accounting officer by or under this Act; or

(ii) authorize such employee to perform a duty assigned by or under this Act to the accounting officer.

(c) a delegation under paragraph (a) shall not prohibit the exercise of the power in question or the performance of the duty in question by the accounting officer.]

Amendment of section 16 of Act 73 of 1997

Section 16 Act 56 of 1997 is amended by the deletion in its entirety of subsections (4), (5) and (6)

[(4) The Foundation may invest any unexpended portion of its funds with the Corporation for Public Deposits.]

[(5) The Council may establish such reserve funds and deposit therein such amounts as the Minister may approve, with the concurrence of the Minister of Finance.]

[(6) (a) The Foundation shall in each financial year, at such time as the Minister may direct, submit a statement of the Foundation's estimated income and expenditure during the following financial year, and the Foundation may also during the course of a financial year submit supplementary statements of the Foundation's estimated expenditure for that financial year, to the Minister for approval, granted with the concurrence of the Minister of Finance.

(b) The Foundation shall not incur any expenditure in excess of the total amount approved under paragraph (a).]

Amendment of section 17 of Act 73 of 1997

Section 17 is deleted in its entirety.

17. Audit, annual and financial report

[(1) The Auditor-General shall audit the accounts and balance sheet of the Foundation.]

[(2) The Foundation shall-

(a) furnish to the Minister such information as he or she may call for in connection with the activities and financial position of the Foundation;]

[(b) submit to the Minister an annual report containing a balance sheet, a statement of income and expenditure certified by the Auditor-General and such other particulars as the Minister may require.]

[(3) The Minister shall table the report referred to in subsection (2) (b) in Parliament within 14 days after receipt thereof if Parliament is then in ordinary session or, if Parliament is not then in ordinary session, within 14 days after the commencement of its next ordinary session.]

[(4) Within five months after the report has been tabled, a delegation consisting of the chairperson of the council and at least two other council members must brief the Portfolio Committee of Arts, Culture, Science and Technology on the annual report.]

Amendment of section 18 of Act 73 of 1997

Section 18 (6) is deleted in its entirety.

(6) The Council shall open separate accounts with a bank as defined in section 1 of the Banks Act, 1990 (Act 94 of 1990), in which the money of the respective Funds is to be kept.
