

REPUBLIC OF SOUTH AFRICA

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**PORTFOLIO COMMITTEE AMENDMENTS  
TO  
CULTURAL INSTITUTIONS  
BILL**

[B 126—98]

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*(As agreed to by the Portfolio Committee on Arts, Culture and Language, Science and  
Technology (National Assembly))*

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[B 126A—98]

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REPUBLIEK VAN SUID-AFRIKA

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**PORTEFEULJEKOMITEE-AMENDEMENTE  
OP  
WETSONTWERP OP  
KULTURELE INSTELLINGS**

[W 126—98]

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*(Soos goedgekeur deur die Portefeuljekomitee oor Kuns, Kultuur en Taal, Wetenskap en  
Tegnologie (Nasionale Vergadering))*

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[W 126A—98]

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**AMENDMENTS AGREED TO**  


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**CULTURAL INSTITUTIONS BILL**  
**[B 126—98]**

CLAUSE 1

1. On page 2, in line 5, to omit “, or 7(2) or (4)”.
2. On page 2, in line 6, after “3” to insert “or 7(3)”.
3. On page 2, in line 11, after “any” to insert “public”.
4. On page 2, in line 11, to omit “or botanical”.
5. On page 2, in line 12, after “other” to insert “public”.

CLAUSE 2

1. On page 2, in line 18, after “to” to insert “declared”.
2. On page 2, in line 20, to omit “may” and to substitute “must”.
3. On page 2, in line 21, to omit “any” and to substitute “a declared”.

CLAUSE 3

Clause rejected.

NEW CLAUSE

1. That the following be a new Clause to follow Clause 2:

**Application of Act, establishment and amalgamation of declared institutions**

3. (1) The Minister may by notice in the *Gazette* declare any institution as from a date specified in that notice to be subject to this Act.

(2) The Minister may establish an institution and may declare that institution subject to the Act in terms of subsection (1).

(3) The Minister may by notice in the *Gazette* declare that an institution must be amalgamated with a flagship institution established by section 7(1) or (2).

CLAUSE 4

1. On page 4, in line 6, to omit “let, sell, exchange or otherwise alienate” and to substitute “let or exchange”.
2. On page 4, after line 9, to insert the following subsection:
  - (6) A declared institution may not, without the prior approval of the Minister, sell or otherwise alienate any specimen, collection or other movable property.

## CLAUSE 5

Clause rejected.

## CLAUSE 6

1. On page 4, in line 33, to omit all the words after “council” up to and including “members”.
2. On page 4, from line 34, to omit subsection (1) and to substitute:
  - (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 of the declared institution concerned.
  - (2) The affairs of 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 chief executive officer of the flagship institution concerned.
  - (3) The members of a council contemplated in subsections (1) and (2) must be appointed in accordance with the principles of transparency and representivity.
  - (4) At least one of the members appointed to a council contemplated in subsections (1) and (2) must have experience in financial matters.
  - (5) The members of a council contemplated in subsection (2) must be appointed with a view to geographic representivity.
3. On page 4, in line 54, to omit paragraph (d) and to substitute:
  - (d) is found to be of unsound mind by a competent court;
4. On page 4, in line 55, to omit paragraph (e) and to substitute:
  - (e) is convicted of an offence involving dishonesty or bodily harm and is sentenced to imprisonment without the option of a fine; or
5. On page 4, after line 56, to add the following paragraph:
  - (f) materially breaches the code of ethics of the institution.
6. On page 4, in line 57, to omit “must” and to substitute “may”.
7. On page 6, in line 1, to omit “remuneration and”.

## CLAUSE 7

Clause rejected.

## NEW CLAUSE

1. That the following be a new Clause to follow Clause 6:

### Establishment of Flagship institutions

7. (1) The Northern Flagship institution is hereby established, comprising the—

- (a) National Cultural History Museum;
- (b) South African National Museum for Military History; and
- (c) Transvaal Museum.

(2) The Southern Flagship institution is hereby established, comprising the—

- (a) Michaelis Collection;
- (b) South African Cultural History Museum;
- (c) South African Museum;
- (d) South African National Gallery; and
- (e) William Fehr Collection.

(3) The Flagship institutions contemplated in subsections (1) and (2) are hereby declared to be subject to the Act.

(4) (a) The members of a council of a flagship institution must, in consultation with the Minister, appoint a chief executive officer who must be responsible for the management of the flagship institution and who must report to the council on management affairs as the council may require.

(b) The chief executive officer is the accounting officer of a flagship institution.

### CLAUSE 8

1. On page 6, in line 25, to omit subsection (1) and to substitute:

(1) The chairperson of a council is elected from the appointed members of the council and holds office for the period or the unexpired portion of the period for which he or she has been appointed as member of the council, unless the council otherwise determines.

2. On page 6, in line 28, to omit subsection (2) and to substitute:

(2) If the chairperson of a council vacates the office as chairperson before the expiration of the period for which he or she was appointed, another member of the council must, subject to subsection (1), be elected as chairperson of the council from the appointed members of the council.

### CLAUSE 9

1. On page 6, after line 37, to insert the following paragraph:

(a) to formulate policy;

2. On page 6, in line 38, to omit paragraph (a) and to substitute:

(b) to hold, preserve and safeguard all movable and immovable property of whatever kind placed in the care of or loaned or belonging to the declared institution concerned;

3. On page 6, in line 40, to omit “and preserve” and to substitute “, preserve and safeguard”.

4. On page 6, after line 41, to insert the following paragraph:

(d) to raise funds for the institution;

5. On page 6, in line 49, to omit “and functions”.

6. On page 6, after line 53, to insert the following subsections:

(3) A council may appoint such persons as it considers necessary to perform the functions of the declared institution concerned.

(4) The determination of the remuneration and other conditions of service of persons appointed under subsection (3) must be in accordance with a scheme approved by the Minister in consultation with the Minister of Finance.

7. On page 8, in line 1, to omit “and functions”.

#### CLAUSE 10

1. On page 8, in line 4, after “Finance” to insert “and the council of the declared institution concerned”.

#### CLAUSE 11

1. On page 8, in line 21, after “may” to insert “in consultation with the council of the declared institution concerned”.

#### CLAUSE 13

Clause rejected.

#### CLAUSE 14

1. On page 8, in line 46, to omit subsection (1) and to substitute:

(1) A National Museums Division consisting of the—

- (a) chief executive officers of the flagship institutions;
  - (b) heads of every institution contemplated in section 7(1) and (2);
  - and
  - (c) directors of the declared institutions other than flagship institutions,
- is hereby established.

2. On page 8, in line 48, to omit subsection (2) and to substitute:

(2) If the office of any person contemplated in subsection (1) is vacant, or he or she is unable to attend any meeting of the National Museums Division the declared institution concerned may nominate another person to represent that institution at that meeting.

#### CLAUSE 15

1. On page 10, after line 9, to insert the following paragraph:

(d) draft and adopt a code of ethics, based on international standards, according to which councils must conduct the affairs of the declared institution.

#### CLAUSE 18

1. On page 10, in line 45, to omit paragraph (d).
2. On page 12, in line 17, to omit subsection (4).

CLAUSE 19

1. On page 12, in line 20, after “institutions” to insert “listed in Schedule 1”.
2. On page 12, in line 28, to omit “7(3) or (5)” and to substitute “6(1) or (2)”.
3. On page 12, after line 46, to insert the following subsections:

(6) Any person who was in the employment of an institution immediately before the institution is, under section 3, declared to be subject to this Act, is regarded to have been appointed under section 9(3) on that declaration as an employee of that institution.

(7) The remuneration and other conditions of service of an employee contemplated in subsection (6) may not be less favourable than the remuneration and other conditions of service to which that employee was entitled to immediately before the declaration contemplated in that subsection.

NEW SCHEDULE

**SCHEDULE 1**

**(Section 19)**

Afrikaans Language Museum and Language Monument.  
Engelenburghuis Art Collection.  
Foundation for Education, Science and Technology.  
JLB Smith Institute for Ichthyology.  
Natal Museum.  
National English Literary Museum.  
National Museum.  
National Zoological Gardens of South Africa.  
Robben Island Museum.  
Voortrekker Museum.  
War Museum of the Boer Republics.  
William Humphreys Art Gallery.