

PROVINCE OF MPUMALANGA

**MPUMALANGA MUSEUM AND HERITAGE SERVICES BILL,
2019**

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To provide for the establishment of the Mpumalanga Museum and Heritage Services; the powers and functions of the Mpumalanga Museum and Heritage Services; the establishment of the Mpumalanga Museum and Heritage Services Advisory Council; the powers and functions of the Mpumalanga Museum and Heritage Services Advisory Council; the appointment of the Head of Museum and Heritage Services; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of Mpumalanga, as follows:

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

“Accession register” means a permanent written or digital record or database in which all items forming part of a collection of a museum are recorded

“Chairperson” means a person appointed as Chairperson or acting Chairperson in terms of section 18(1);

“Committee” means a committee of the Council appointed in terms of section 29;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Council” means the Mpumalanga Museum and Heritage Services Advisory Council established by section 10;

“Collection” means a collection of specimens, objects, artefacts or documents acquired by or in the possession of an institution or museum for purposes of conservation, exhibition, display or research

“Department” means the Department of Culture, Sport and Recreation of the Mpumalanga Provincial Government, which is responsible for heritage affairs and more specifically for museum services

“Executive Council” means the Executive Council of the Province as referred to in section 132 of the Constitution;

“Financial year” means the period commencing on the first day of April in any year to the thirty-first day of March in the ensuing year, both days inclusive;

“Government” means the Mpumalanga Provincial Government;

“Governing body” means an authority legally responsible and accountable for setting policy, implementing policy, monitoring progress and evaluating performance in all aspects of operation. May be termed a board of trustees, museum council or management committee

“Head of the Department” means the Head of Department responsible for Museum and Heritage Services matters in the Province;

“Interpretation point” refers to signage which fulfils only the exhibition aspect of the museum function

“Intangible cultural heritage” means the practices, representations, expressions, knowledge and skills that communities, groups and, in some cases, individuals, recognise as part of their cultural heritage (Convention for the Safeguarding of the Intangible Cultural Heritage, UNESCO, 2003)

“Living heritage” means the intangible aspects of inherited culture, and may include:

- cultural tradition
- oral history
- performance
- ritual
- popular memory
- skills and techniques
- indigenous knowledge systems
- the holistic approach to nature, society and social relationships

“Member” means a member of the Council as contemplated in section 12(3) and includes a temporary member;

“Member of the Executive Council” means the Member of the Executive Council responsible for Museum and Heritage Services matters in the Province;

“Municipality” carries the meaning as defined in section 155(6) of the Constitution of the Republic of South Africa, 1996

“Museum” means a non-profit-making, permanent institution in the service of society and of its development, which is open to the public and acquires, conserves, researches, communicates and exhibits, for purposes of study, education and enjoyment, material evidence of people and their environment (ICOM code of ethics 2004)

“Museum services” include the coordination of museum activities; setting of museological standards; standardisation of professional practices; provision of training opportunities; undertaking on behalf of museums, heritage centres and interpretation points certain functions or activities, advising or assisting them, as agreed, in respect of these functions, and providing them with centralised specialist skills and facilities

“National Constitution” means the Constitution of the Republic of South Africa, Act 108 of 1996

“National museums” are museological institutions that are established in terms of legislation for national museums passed by the national Parliament

“Premier” means the Premier of the Province referred to in section 125 of the Constitution;

“Preservation” means the act or process of applying measures necessary to sustain the existing form, integrity and material of the artefact, object or place

“Prescribed” means prescribed by regulation in terms of this Act;

“Previously disadvantaged individuals” means persons who were previously disadvantaged by unfair discrimination and who, in terms of section 9(2) of the Constitution may be protected and advanced to achieve equality and, for the purposes of this Act, includes the following designated groups:

- (a) Men of African, Asian or Coloured descent;
- (b) Women, irrespective of descent; and
- (c) Disabled persons, irrespective of descent;

“Province” means the Province of Mpumalanga as referred to in section 103(1)(f) of the Constitution;

“Provincial Gazette” means the *Provincial Gazette* of the Province;

“Provincial Museum Heritage Services Unit” means the Mpumalanga Museum and Heritage Services Unit established in terms of section 4;

“Provincial Legislature” means the Provincial Legislature of the Province as referred to in section 104 of the Constitution;

“Provincial organ of state” means –

- (a) any Provincial Department or Municipality in the Province; or
- (b) any other Provincial functionary or institution exercising a power or performing a function in terms of the Constitution or in terms of any Provincial legislation;

“Public Service” means the Public Service contemplated in Chapter III of the Public Service Act, 1994 (Proclamation No. 103 of 1994);

“Significance” means the aesthetic, architectural, historical, scientific, social, spiritual, linguistic or technological value or significance of an artefact, object, collection or place

“Subscriber organisation” or **“friends of the museum organisation”** means an organisation that aims to provide financial and other assistance and support to a specific museum, and whose members subscribe annually to the funds of the organisation a minimum amount fixed by the governing body of the organisation.

“Stakeholder” means an organisation, body or person with a direct and continuing interest in museum matters; and

“This Act” also means a regulation made under this Act.

2. Establishment. There is hereby established within the Department, and subject to the requirements of the Public Service Act, 1994, the Mpumalanga Museum and Heritage Services.

3. Objects and functions of Mpumalanga Museum and Heritage Services. The objects and functions of the Mpumalanga Museum and Heritage Services are to –

- (a) provide and facilitate sound Museum and Heritage Services to the Mpumalanga Provincial Government and all the people of the Province;
- (b) provide easy access to museum and heritage resources in order to promote a culture of heritage preservation;
- (c) ensure the sustainability, development and transformation of Museum and Heritage Services in the Province;
- (d) ensure integration of all Museum and Heritage Services activities and programmes;

(e) effect a system of Museum and Heritage Services provision and support which serves the needs and the interests of all the people of the Province;

(g) generally promote the use of Museum and Heritage Services in the Province.

4. Mpumalanga Museum and Heritage Services Unit

(1) There is hereby established, subject to the requirements of the Public Service Act, (1994) Proclamation No.103 1994, of the Mpumalanga Museum and Heritage Services Unit.

(2) The Provincial Museum and Heritage Services Unit –

(a) is a component within the Department, and

(b) is not a juristic person.

(3) The Member of the Executive Council must ensure that the Provincial Museum and Heritage Services Unit is provided with human resources, administrative resources and other resources necessary for its effective functioning.

5. Head of Museum and Heritage Services Unit and staff

(1) The Member of the Executive Council must, in terms of the Public Service Act, appoint a person as the Head of Museum and Heritage Services who has appropriate qualifications, knowledge or experience regarding Museum and Heritage matters and who holds office on such conditions as to the remuneration, allowances and benefits as is consistent with his or her appointment as a public servant.

(2) The Head of Museum and Heritage Services must manage the Mpumalanga Museum and Heritage Services under the direction and control of the Head of Department.

(3) The Head of Museum and Heritage Services must, in the exercise and performance of his or her powers and functions, be assisted by employees of the Department so designated, in writing, by the Head of Department.

(4)(a) The Head of Museum and Heritage Services may, subject to any conditions, delegate a power or assign a function to a member of the staff and may at any time cancel such delegation or assignment.

(b) A delegation or assignment does not divest the Head of Museum and Heritage Services of the power delegated or function assigned and he or she may at any time amend or set aside any decision made thereunder, or exercise the power or perform the function concerned, himself or herself.

(5) The Head of Museum and Heritage Services is a Member of the Council, *ex officio*, without voting powers.

6. Powers and functions of Museum and Heritage Services Unit

(1) The Museum and Heritage Services must –

;

(c) formulate policy, uniform norms and minimum standards, for the establishment and management of Mpumalanga museums and Heritage;

(d) provide museum resources through the procurement of museum material and render support services to affiliated museums;

(e) manage and maintain an electronic networking system in order to facilitate access to heritage resources;

(f) assist with and guide research as well as the development and implementation thereof;

(g) give due consideration to the demographic realities of the Province, in the course of the establishment, rendering and development of Museum and Heritage Services in the Province;

(h) liaise with museums and other institutions within the Province with regard to efficient delivery of Museum and Heritage Services;

(i) undertake the planning and coordination of the Mpumalanga Museum and Heritage Services in cooperation with other institutions rendering Museum services;

(j) generally, take such other steps and perform such other acts as may be necessary for or conducive to the achievement of the objects of the Mpumalanga Museum and Heritage Services.

7.Coordination of Mpumalanga Provincial Government Museum and Heritage Services. Subject to the direction of the Executive Council of

the Province, the Head of Museum and Heritage Services must coordinate the Museum and Heritage Services of Departments, boards and agencies of the Government of the Province, including -

- (a) the supply of professional advice, supervision and personnel; and
- (b) the provision of modern information storage and retrieval services,

8. Agreements in respect of Museum and Heritage Services.

- (1) The Head of Museum and Heritage Services may, on such terms and conditions as approved by the Head of Department, enter into agreements with Museum and Heritage Services and institutions within the Province in respect of Museum and Heritage Services, including the services referred to in section 6.
- (2) The Head of Museum and Heritage Services may, on such terms and conditions as approved by the Head of Department, enter into agreements with the Mpumalanga Departments and other institutions in respect of dual purpose Museum and Heritage Services.

9. Transfer of heritage objects. The Head of Department may direct that any heritage objects in the care or custody of any department, board or agency of the Mpumalanga Provincial Government be transferred from that department, board or agency and be placed in the care and custody of the Head of Museum and Heritage Services.

10. Establishment of Mpumalanga Museum and Heritage Services Advisory Councils. There is hereby established a Council to be known as the Mpumalanga Museum and Heritage Services Advisory Council.

11. Powers and functions of Councils.

- (1) The powers and functions of the Councils are to –
 - (a) advise the Member of the Executive Council and the Head of Department on any matter related to the operation of this Act;
 - (b) advise the Head of Museum and Heritage Services on exercising and performing the powers and functions of the Mpumalanga Museum and Heritage Services;
 - (c) furnish the Member of the Executive Council with such information as the Member of the Executive Council may require;
 - (d) implement measures aimed at redressing the imbalances of the past relating to the unequal provision of Museum and Heritage Services;

- (e) monitor the rendering of Museum and Heritage Services in the Province in terms of this Act and other related policies and advise the Member of Executive Council accordingly; and
- (f) annually, before 30 September, submit a business plan, in respect of the ensuing financial year, to the Member of the Executive Council for consideration and approval.

(2) The Councils must, in exercising and performing their powers and functions, actively promote, foster and develop heritage matters in the Province for the benefit of all, with specific emphasis on previously disadvantaged individuals and communities within the Province, by broadening the participation of such individuals and communities in respect of Museum and Heritage matters by liaising and consulting with all relevant stakeholders, including –

- (a) individuals and communities;
- (b) traditional leaders;
- (c) organs of state as contemplated in section 239 of the Constitution;
- (d) statutory bodies;
- (e) organized labour; and
- (f) organized business:

Provided that the Councils shall involve the Department in complying with its obligation to liaise and consult with all relevant stakeholders.

(3) In exercising and performing its powers and functions, the Councils must have due regard to all National legislation, policies, guidelines and directives pertaining to Museum and Heritage matters.

12. Composition of Council.

(1) The Council, as accounting authority, must exercise and perform the powers and functions as contemplated in section 49(2)(a) of the Public Finance Management Act, 1999, and must exercise and perform any other power or function conferred or imposed upon it by this Act or any other law.

(2) The Council is, in respect of the exercise and performance of its powers and function, accountable to the Member of the Executive Council.

(3) The Council consists of not fewer than five and not more than seven Members eligible to vote at Council meetings.

(4) The Head of Department or any other employee of the Department so designated by the Head of Department in writing is a Member of the Council, *ex officio*, without voting powers: Provided that the employee so designated must be an employee other than the Head of Museum and Heritage Services.

13. Qualifications for Membership of Council. The Members must be –

- (a) fit and proper persons;
- (b) South African citizens;
- (c) broadly representative of the population of the Province; and
- (d) persons who have sufficient knowledge of, or experience in Museum and Heritage matters.

14. Procedure for appointment.

(1) The Member of the Executive Council, in consultation with the Executive Council must, subject to the provisions of subsection (2) and the provisions of section 15, determine and appoint the Members of the Council.

(2) The Member of the Executive Council must invite, through public invitation, applications for appointment as Members of the Council, within 21 days of the publication of the said advertisement.

(3) The Member of the Executive Council may, in the event of a vacancy on the Council, and with due regard to section 13 and section 12 (3) appoint a temporary Member of the Council until such vacancy has been duly filled as contemplated in subsection (2): Provided that the term of office of any such temporary Member may not exceed a period of three months in respect of any specific vacancy on the Council.

(4) The Member of the Executive Council may, in the event of all the positions on the Council being vacant, and with due regard to section 13, appoint temporary Members to constitute an interim Council until such vacancies have been duly filled as contemplated in subsection (2): Provided that the term of office of such interim Council may not exceed a period of six months.

15. Disqualification. Notwithstanding the provisions of section 12, 13 or 14, a person is disqualified from being appointed or remaining a Member of the Council if such person –

- (a) is or becomes a Member of the National Assembly or National Council of Provinces, any provincial legislature, municipality or is in the full-time employ of an organ of State, other than the Council;
- (b) is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or agency of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;
- (c) is or becomes subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective; or
- (d) has been convicted of any offence in respect of which he or she was sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least ten years before the date of his or her appointment as Member.

16. Resignation and removal from office.

(1) A Member may at any time resign from the Council upon one month's written notice tendered to the Member of the Executive Council who must forthwith inform the Executive Council and the Council accordingly.

(2) Notwithstanding the provisions of section 19, but subject to the provisions of subsection (3) of this section, the appointment of any Member may, before the expiration of a Member's term of office, be terminated by the Member of the Executive Council, in consultation with the Executive Council -

- (a) on account of his or her improper conduct;
- (b) on account of unfitness for the functions of his or her office;
- (c) on the ground of a permanent infirmity of mind or body which renders him or her incapable of discharging the functions of his or her office or discharging them properly; or

(d) that he or she is or has become disqualified in terms of section 15.

(3) Notwithstanding the provisions of section 12, 13 or 14 and subsection (2) of this section, a person's appointment as Member of the Council may be terminated by the Member of the Executive Council, in consultation with the Executive Council, if such person has been absent from two consecutive meetings of the Council without prior consent of the Chairperson.

(4) The Member of the Executive Council may not terminate the appointment of a Member in terms of subsection (2) or (3) unless the Member of the Executive Council, after having afforded the relevant person an opportunity to state his or her case and having duly considered the matter, including any representations made, explanations given or evidence tendered by such person, is satisfied that the termination of his or her appointment is justified in the circumstances.

(5) For the purposes of subsection (2)(a), non-compliance by a Member with any provision of this Act, *inter alia*, constitutes improper conduct.

17. Vacancies on Council. (1) The office of an appointed Member becomes vacant -

- (a) when he or she dies;
- (b) when his or her written resignation tendered to the Member of the Executive Council in terms of section 16(1), becomes effective;
- (c) when his or her appointment is terminated in terms of section 16(2) or (3); or
- (d) if he or she is absent from three consecutive meetings of the Council without the prior consent of the Council.

(2) Subject to section 12(3), a vacancy on the Council must be filled in accordance with sections 12, 13 and 14 by the appointment of another Member as soon as may be reasonably practicable after the occurrence of such vacancy, and any Member so appointed remains in office for the unexpired portion of his or her predecessor's term of office.

18. Chairperson and Deputy Chairperson.

(1) The Member of the Executive Council must, in consultation with the Executive Council and subject to the provisions of section 14, appoint any Member eligible to vote at Council meetings, as non-executive Chairperson and another Member as non-executive Deputy Chairperson of the Council.

(2) The Chairperson must exercise and perform the powers and functions assigned to him or her by this Act.

(3) The Chairperson must preside at all meetings of the Council.

(4) Whenever the Chairperson is absent, the powers and functions of the Chairperson must be exercised and performed by the Deputy Chairperson and in the absence of both the Chairperson and the Deputy Chairperson, by a Member designated for that purpose, from among its number, by the Council: Provided that if the office of Chairperson is vacant or the Chairperson refuses or fails to act, the Deputy Chairperson must exercise and perform the powers and functions of the Chairperson until a new Chairperson has been appointed as contemplated in subsection (1).

19. Terms and conditions of office of Member.

(1) The term of office of a Member eligible to vote at Council meetings is for a period not exceeding four years.

(2) Upon the expiration of the term of office of an appointed Member as contemplated in subsection (1), he or she is eligible for re-appointment: Provided that no term of office of a Member may be extended or a Member be reappointed without fully complying with the procedure for appointment as contemplated in section 14: Provided further that the total period of such terms of office of a Member may not exceed eight years.

(3)(a) A Member holds office on such conditions as to the remuneration, allowances and benefits as the Member of the Executive Council, in consultation with the Member of the Executive Council responsible for financial matters, may from time to time, subject to paragraph (b), determine by prior Notice in the *Provincial Gazette*.

(b) Subsequent to the consultation as contemplated in paragraph (a), the Member of the Executive Council must obtain Executive Council approval for the determination as contemplated in paragraph (a).

(4) The appointed Members are entitled to be reimbursed for any travelling and subsistence expenses reasonably incurred by them in connection with the exercise and performance of their powers and functions as such Members and may for that purpose be paid such allowances as determined by the Member of the Executive Council as contemplated in subsection (3).

20. Meetings of Council.

(1) Meetings of the Council are held on such dates and at such times and places as may be determined by resolution of the Council or, failing such a resolution, as may be determined by the Chairperson.

(2) The Chairperson –

(a) may at any time call for a special meeting of the Council if it is justified under the circumstances; and

(b) must, upon having been presented with a request for that purpose signed by at least two Members, or signed by the Member of the Executive Council, and stating the purpose for which a special meeting is to be convened, forthwith call for a special meeting of the Council, and if the Chairperson fails to convene a special meeting within seven days as from the date of such request, such two Members, or a Member on behalf of the Member of the Executive Council may, on the expiration of such seven days, convene a special meeting of the Council.

(3) Notice of every meeting of the Council must state the business to be addressed at such meeting and must be given to all the Members in such reasonable manner and form as the Council may from time to time determine.

(4) The quorum of the Council at a Council meeting is at least 51 per cent of the total number of Members.

21. Power of Council to make rules and determine procedures. The Council may make internal rules and determine procedures regarding the holding of meetings of the Council and the holding of meetings of committees of the Council.

22. Decisions of Council, and voting powers of Chairperson.

(1) A decision agreed upon by the majority of the Members eligible to vote at Council meetings present at any meeting of the Council, subject to section 20(4), constitutes a decision of the Council to be known as a resolution.

(2) In the event of an equality of votes regarding any matter put to the vote, the Chairperson has a casting vote in addition to his or her deliberative vote.

(3) No decision of the Council or an act on the authority of the Council, is invalid merely due to a vacancy in the Council or because any person who is not entitled to take a seat as Member, took a seat as a Member when

the decision was taken or the act was authorised, if such decision was taken or the act was authorised by the required majority of the Members eligible to vote at Council meetings who were then present and who were entitled to take seats as Members.

(4) The Council must cause a record to be kept of the proceedings of any meeting thereof and the Member of the Executive Council may at any reasonable time require that such record be submitted to him or her, for perusal.

(5) Whenever any matter to be dealt with by the Council is of such a nature that it requires the immediate and urgent attention of the Council and it is not possible for the Council to meet in order to attend to such matter, all relevant documentation pertaining to such matter must forthwith be made available to each Member for consideration.

(6) Any matter as referred to in subsection (5) and agreed upon in writing by a simple majority of the Council Members will, subject to subsection (7), be a resolution of the Council.

(7) Any resolution as contemplated in subsection (6) must be ratified by the Council at its next ensuing meeting and must be so recorded.

23. Duty of Members to disclose interest.

(1) A Member who has or acquires any direct or indirect financial interest in Museum and Heritage Services matters, must forthwith disclose to the Council, in writing, full particulars relating to the nature and extent of his or her interest in Museum and Heritage matters and such Member must further recuse himself or herself from any deliberation during a meeting of the Council from which he or she may potentially derive any direct or indirect financial benefit and he or she may not vote as a Member of the Council on any such matter.

(2) A Member who is interested in a proposed contract which the Council considers recommending the entering into or becomes interested in a contract after it has been entered into by or on behalf of the Council or Mpumalanga Museum and Heritage Services, must disclose to the Council full particulars relating to the nature and extent of his or her interest in accordance with the provisions of subsection (3) or (5), as the case may be.

(3) A Member referred to in subsection (2) who is interested in such a proposed contract must -

- (a) if the proposed contract is or is to be considered at a meeting of the Council, disclose his or her interest prior to such meeting by way of a written notice to the Council or otherwise table such a notice at the meeting; or
- (b) if the proposed contract is not to be considered at a meeting referred to in paragraph (a), disclose his or her interest by way of a written notice to the Council within seven days as from the day on which he or she first became aware of the proposed contract or, if it has already been entered into, of the contract:

Provided that a written notice given by a Member to the Council thereof to the effect that he or she has an interest in a particular undertaking and is to be regarded as interested in every contract which may be entered into with such undertaking during a period specified in the notice, is for the purposes of this subsection deemed to be sufficient disclosure of interest with respect to all contracts entered into by or on behalf of the Council or Mpumalanga Museum and Heritage Services with such undertaking during the specified period: Provided further that -

- (i) full particulars relating to the nature and extent of such a Member's interest in such undertaking are set out in the notice; and
- (ii) the extent of such a Member's interest in such undertaking is at the time when a contract is entered into by or on behalf of the Council or Mpumalanga Museum and Heritage Services with the undertaking, not greater than is set out in the notice.

(4) A Member referred to in subsection (2) must recuse himself or herself from the meeting of the Council during the discussion of the contract in which he or she has an interest and may not take part in any vote in connection with any such discussion or contract or influence or seek to influence any Member as regards such Member's vote or participation in discussions in respect of such contract.

(5) A Member who becomes interested in a contract after it has been entered into by or on behalf of the Council or Mpumalanga Museum and Heritage Services must disclose his or her interest by way of a written notice to the Council within seven days as from the day on which he or she became so interested.

(6) A contract as referred to in subsection (2), (3), (4) or (5), which was entered into by or on behalf of the Council or the Mpumalanga Museum and Heritage Services and in respect of which a Member did not comply with any of the provisions of subsection (2), (3), (4) or (5) may on good cause shown, be declared null and void, either partially or in full, and such

Member may be held personally liable for any losses or damage suffered by the Council or Mpumalanga Museum and Heritage Services, resulting from such Member's non-compliance with subsection (2), (3), (4) or (5).

(7) A disclosure of interest referred to in subsection (1), (2) or (3) must, as soon as possible be recorded in the minutes of the appropriate meeting of the Council.

(8) No loan may be made out of the funds of the Council or the Mpumalanga Museum and Heritage Services, or from any other funds administered by the Council or the Mpumalanga Museum and Heritage Services, to a Member of the Council, or to an employee of Mpumalanga Museum and Heritage Services.

(9) Any disclosure as contemplated in either subsection (1), (2) or (3) must forthwith be reported by the Chairperson to the Member of the Executive Council, in writing.

24. Delegation of powers.

(1) The Council may, subject to such conditions as it may determine, in writing, delegate any power or function conferred or imposed upon it under this Act, except the powers or functions conferred or imposed upon it under section 11(1) or this section, to –

- (a) the Head of Museum and Heritage Services;
- (b) the Chairperson;
- (c) a committee of Members; or
- (d) a committee of Members and personnel.

(2) A delegation under subsection (1) does not prevent the Council itself from exercising the power or performing the function concerned.

25. Secretary and staff of Council. The administrative and secretarial functions of the Council must be performed by employees of the Department so designated, in writing, by the Head of Department.

26. Funding of Council. The Council is funded by the Government with such moneys as may be appropriated by the Provincial Legislature, after consideration of a strategic business plan and a proposed budget of estimated revenue and expenditure, duly submitted by the Council to the Member of the Executive Council, before or on 30 September of every year in

respect of the ensuing financial year, as contemplated in section 52 of the Public Finance Management Act, 1999.

27. Revenue of Council. (1) For the purposes of exercising its powers and performing its functions, the Council must utilise as its revenue -

- (a) fees and other moneys received or raised by it under the provisions of this Act or any other law;
- (b) penalties, fines, and proceeds from sales of forfeited items received or recovered and allocated to the Council under the provisions of this Act or any other law;
- (c) such moneys as may be appropriated by the Provincial Legislature for the exercise of the powers and the performance of the functions conferred or imposed upon the Council in terms of this Act or any other law;
- (d) donations, grants and bequests received by it from the public: Provided that conditional donations, grants or bequests may be accepted by the Council, only after having obtained prior written approval from the Member of the Executive Council;
- (e) any other money which may accrue or be appropriated to it, or which may be placed at its disposal from any other source whatsoever.

(3) The Council must, subject to section 7 of the Public Finance Management Act, 1999, open and maintain, with a bank registered in South Africa in terms of the Banks Act, 1990 (Act No. 94 of 1990), an account to be known as the Mpumalanga Museum and Heritage Services Advisory Council Account, into which account shall be deposited all the moneys received by the Council as contemplated in subsection (1), read with section 22(5) of the Public Finance Management Act, 1999.

(3) The Council may, subject to any other law -

- (a) solicit donations, grants or bequests referred to in subsection (1)(d); and
- (b) subject to the terms and conditions relating to such donations, grants and bequests, utilise the moneys concerned in such manner as it may determine.

(4) Any surplus funds which, at any time, stand to the credit of the Mpumalanga Museum and Heritage Services Advisory Council Account

must, in accordance with the investment policy of the Council, be invested with the Corporation for Public Deposits, as contemplated in Treasury Regulation 31.3.

28. Procurement. When procuring any supply or service, or hiring or letting anything or acquiring or granting any right or acquiring or disposing of any asset for or on behalf of the Council, the Head of Museum and Heritage Services must ensure that such procurement is effected through the utilisation of the established Departmental procurement system.

29. Committees of Council.

(1) The Council may establish committees, with the power to co-opt other persons, for the purpose of assisting it with the due and proper exercise and performance of any of its powers and functions in terms of this Act, and may likewise dissolve, extend, enlarge or limit any committee so established.

(2)(a) A committee established under subsection (1), consists of no fewer than three Members designated by the Council, being suitable and appropriately qualified or experienced regarding matters relating to the powers and functions of the committee in question.

(b) The Council must designate a Council Member serving on a committee as the chairperson of such committee

(3) A co-opted member of a committee serves in an advisory capacity, and may not vote at any meeting of such committee.

30. Bookkeeping and auditing.

(1) The Council must cause proper records to be kept of all moneys received or expended by the Council, of all its assets and liabilities and of all financial transactions entered into by the Council.

(2) The Council must establish an Audit Committee consisting of at least three persons in accordance with Treasury Regulation 27.

(3) The Audit Committee must prepare, sign and submit to the Council, within 15 days of the end of each quarter, a report in respect of the operations, including the income and expenditure, of the Council in respect of the preceding quarter.

31. Quarterly reports.

(1) The Council must submit to the Member of the Executive Council quarterly reports, in strict compliance with the relevant provisions of the Public Finance Management Act, 1999 and the Treasury Regulations, and which reports must deal with the state of affairs, the activities, the operations, and the financial position of the Council, including -

- (a) the extent to which the Council has exercised and performed its powers and functions during the financial quarter concerned;
- (b) the relevant performance information regarding the economic, efficient and effective utilisation of resources; and
- (c) the amount of money, if any, received from the Government or any other source and any other financial commitment furnished to the Council.

(2) The Member of the Executive Council must cause copies of the quarterly report submitted to him or her in terms of subsection (1), to be tabled in the Provincial Legislature within 14 days of receipt thereof if the Provincial Legislature is in session, or if the Provincial Legislature is not in session, within 14 days after commencement of its ensuing session.

(3) Notwithstanding the provisions of subsection (1), the Member of the Executive Council may, at any time, request the Council to submit to him or her, an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Council or pertaining to any specific matter identified by the Member of the Executive Council, and must be submitted to the Member of the Executive Council within 14 days after such request.

32. Annual report and financial statements.

(1) The Council must ensure that, in preparing and submitting its annual report and financial statements, it complies fully with section 55 of the Public Finance Management Act, 1999 and the Treasury Regulations.

(2) The Council must, in its annual report, as far as the exercise and performance of its powers and functions during the year being reported on, are concerned, also include reference to –

- (a) its achievements;
- (b) its failures;
- (c) the financial implications of all such achievements and failures;

(d) any recommendations pertaining to its powers and functions, for consideration.

(3) As soon as practicable after the end of each financial year, the Head of Museum and Heritage Services must compile a report on all the activities of the Mpumalanga Museum and Heritage Services during the preceding financial year.

(4) The annual report of the Council and the annual report of the Head of Museum and Heritage Services together with the audited annual financial statements pertaining to the funds of the Council, must be submitted to the Member of the Executive Council, and the Member of the Executive Council must table such annual reports in the Provincial Legislature within 14 days after receipt thereof if the Provincial Legislature is in session, or if the Provincial Legislature is not in session, within 14 days after commencement of its ensuing session.

33. Offences and penalties. (1) Any person who -

- (a) wilfully damages any Museum and Heritage Services materials in the control of a governmental body;
- (b) otherwise than in accordance with this Act or any other law, removes, alters, destroys or erases such materials; or
- (c) fails to comply with any provision of this Act,

is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding two years or both such fine and imprisonment.

(2) The Head of Museum and Heritage Services may refuse to allow any person convicted of an offence in terms of subsection (1) access to a Museum and Heritage Services for such reasonable period, subject to an appeal to the Head of Department.

34. Regulations.

(1) The Member of the Executive Council may, after consultation with the Council and in consultation with the Executive Council, make regulations regarding any requirements to be complied with and any other matter in respect of which the Member of the Executive Council may make regulations, in terms of this Act.

(2) The Member of the Executive Council must, within a year after the coming into operation of this Act, make regulations pertaining to all matters that may be prescribed in terms of this Act.

(3) Regulations made in terms of subsection (1), will be effective from the date of publication thereof in the *Provincial Gazette*, by the Member of the Executive Council.

35. Repeal of Laws. The laws mentioned in the Schedule are hereby repealed to the extent indicated in the third column of the said Schedule, insofar as the said laws have been assigned to the Province.

36. Short title and commencement

(1) This Act is called the Mpumalanga Provincial Museum and Heritage Services Act, 2019, and comes into operation on a date fixed by the Premier by notice in the *Provincial Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

SCHEDULE

Act/Ordinance Number & Year	Title	Extent of repeal
Ordinance No. 20 of 1982	Transvaal Library and Museum Service Ordinance	The whole
Act No. 2 of 1981	Kangwane National Library Service Act	The whole
Act No. 8 of 1978	Bophuthatswana National Library Services Act	The whole