



GOVERNMENT GAZETTE

OF THE

REPUBLIC OF NAMIBIA

N\$4.20

WINDHOEK - 1 September 2005

No. 3490

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Government Notices

MINISTRY OF YOUTH, NATIONAL SERVICE, SPORT AND CULTURE

No. 105 2005

COMMENCEMENT OF THE NATIONAL HERITAGE ACT, 2004 (ACT NO. 27 OF 2004)

Under section 70 of the National Heritage Act, 2004 (Act No. 27 of 2004), I determine that the said Act comes into operation on 1 September 2005.

J. MUTORWA
MINISTER OF YOUTH,
NATIONAL SERVICE, SPORT AND CULTURE

Windhoek, 16 August 2005

MINISTRY OF YOUTH, NATIONAL SERVICE, SPORT AND CULTURE

No. 106

2005

**NATIONAL HERITAGE REGULATIONS:
NATIONAL HERITAGE ACT, 2004**

The Minister has, under section 62 of the National Heritage Act, 2004 (Act No. 27 of 2004) and on the recommendation of the National Heritage Council, made the regulations set out in the Schedule.

SCHEDULE**Definitions**

1. In these regulations a word or expression to which a meaning has been assigned in the Act bears that meaning, and unless the context otherwise indicates -

“the Act” means the National Heritage Act, 2004 (Act No. 27 of 2004).

Notice of amendment to Registrar of Deeds

2. The Council must, when giving notice to the Registrar of Deeds of any matter contemplated in section 37(1) of the Act, lodge such notice in the form set out in Annexure A.

Certificate of status

3. (1) A person applying for a certificate under section 38(1) of the Act must make an application to the Council in the form set out in Annexure B.

(2) The certificate referred to in section 38(1) of the Act must be issued in the form set out in Annexure C.

Notice of proposed sale

4. An owner of a protected place or protected object who, in terms of section 39 of the Act, proposes to enter into a contract of sale of the whole or part of such place or such object must give written notice to the Council in the form set out in Annexure D.

Provisional protection order

5. The provisional protection order referred to in section 41(1) of the Act must be made in the form set out in Annexure E.

Application for permit

6. (1) A person applying, under section 48(1) of the Act, for a permit to carry out works or activities must -

- (a) complete the relevant portion of the application form set out in Annexure F; and
- (b) include, where the application is made by a person other than the owner of the protected place or protected object, the written consent of the owner stating that the works or activities may be carried out in relation to that place or that object.

(2) An application referred to in subregulation (1) must be accompanied by a fee of N\$150.00 and be submitted to the Council for processing.

Permit

7. The permit referred to in section 52(1) of the Act must be in the form set out in Annexure G.

Application for consent

8. (1) A person applying, in terms of section 53(7) of the Act, for consent must complete the relevant portion of the application form set out in Annexure H and submit such application –

- (a) in the case of a building situated within a local authority area, to the relevant local authority; and
- (b) in the case of a building situated outside a local authority area, to the Council.

(2) A person applying for a consent, referred to in section 55(8) of the Act, must complete the relevant portion of the application form set out in Annexure H and submit such application to the Council for processing.

(3) An application for a consent made under subregulation (2) must be accompanied by a fee of N\$150-00.

Consent

9. A consent referred to in section 55(9) of the Act must be in the form set out in Annexure I.

Appeals to the Minister

10. (1) A person who wishes to appeal as contemplated in section 61(1) of the Act must lodge an appeal in the manner provided for in this regulation.

- (2) An appeal referred to in terms of subregulation (1) must -
 - (a) be lodged with the Minister within 30 days of receipt of the decision made by the Council;
 - (b) be in the form approved by the Minister;
 - (c) indicate whether the appeal lies against the whole or only against part of the decision of the Council, and where the appeal lies against part of the decision made by the Council, that part must be indicated; and
 - (d) indicate the redress sought.

(3) Where an appeal is lodged with the Minister by way of electronic transmission the applicant must, within a period of 7 days after the date of the transmission, deliver or send a hard copy of the appeal together with any representations made in support thereof to the Minister.

- (4) The appellant must at the time of lodging a hard copy of the appeal with the

Minister also deliver or send a hard copy of that appeal to the Council.

(5) An appeal lodged in terms of subregulation (1) must indicate the grounds for appeal by –

- (a) citing the appropriate provision of the Act incorrectly applied by the Council; or
- (b) stating which findings or facts were incorrect and stating why such findings or facts were incorrect.

(6) The Minister must within 60 days from the date of receipt of the appeal make a determination referred to in subregulation (7).

(7) The Minister may -

- (a) refer the matter back to the Council for reconsideration in accordance with any directions, which he or she may give;
- (b) confirm the decision of the Council;
- (c) set aside the decision of the Council;
- (d) vary the decision of the Council; or
- (e) make such other determination which the Council could have made.

(8) Where the Minister makes a determination under subregulation (7), he or she must inform the appellant and the Council of that determination.

Appeals to the Council

11. (1) A person who wishes to appeal as contemplated in section 61(2) of the Act must lodge the appeal in the manner provided for in this regulation.

(2) An appeal referred to in terms of subregulation (1) must -

- (a) be lodged with the Council within 30 days of receipt of the decision made by the local authority concerned;
- (b) be in the form approved by the Council;
- (c) indicate whether the appeal lies against the whole or only against part of the decision of that local authority, and where the appeal lies against part of the decision made by that local authority, that part must be indicated; and
- (d) indicate the redress sought.

(3) Where an appeal is lodged with the Council by way of electronic transmission the applicant must, within a period of 7 days after the date of the transmission, deliver or send a hard copy of the appeal together with any representations made in support thereof to the Council.

(4) The appellant must at the time of lodging a hard copy of the appeal with the Council also deliver or send a hard copy of that appeal to the local authority concerned.

(5) An appeal lodged in terms of subregulation (1) must indicate the grounds for appeal by –

- (a) citing the appropriate provision of the Act incorrectly applied by the local authority concerned; or
- (b) stating that the findings or facts were incorrect and stating why such findings or facts were incorrect.

(6) The Council must within 60 days from the date of receipt of the appeal make a determination referred to in subregulation (7).

(7) The Council may -

- (a) confirm the appeal; or
- (b) refuse the appeal.

(8) Where the Council makes a determination under subregulation (7), the Council must inform the appellant and the local authority concerned of its determination.

(9) A person aggrieved by a determination made by the Council under subregulation (7) may lodge an appeal with the Minister against such determination and such appeal must, with the necessary changes, be in accordance with regulation 10.

ANNEXURE A
National Heritage Council of Namibia

52 Robert Mugabe Avenue
 Private Bag 12043, Ausspannplatz
 Windhoek - Namibia



Tel: (061) 244 3752
 Fax: (061) 246 872
 Email: nmc@iway.na

The Registrar of Deeds
 Private Bag 13256
 45 Robert Mugabe Avenue
 Windhoek
 Namibia

**NOTICE OF INCLUSION IN, REMOVAL FROM OR AMENDMENT
 TO THE HERITAGE REGISTER**

(section 37(1) of the National Heritage Act, 2004 (Act No. 27 of 2004))

Notes to the Registrar of Deeds:

1. Endorsements or recordings are to be made in the appropriate documents and registers of the Deeds Registry, including any affected title deed or other document submitted to the Registrar, necessary to reflect the subject matter of this notice lodged in terms of section 37(1) of the National Heritage Act, 2004 (Act No. 27 of 2004).
2. Further information may be obtained from the Director of the National Heritage Council.

Kindly be informed, in terms of section 37(1) of the National Heritage Act, 2004 (Act No. 27 of 2004) that the Minister of Youth, National Service, Sport and Culture approved, by way of *Gazette* No. _____ of _____, the inclusion in, removal from or amendment to the Register relating to the property described below:

A. DESCRIPTION OF PROPERTY:

Certain: (*erf no., farm no.*) _____

Situate: _____

Measuring: (*square meters, hectares*) _____

Held by Deed of Transfer No.: _____

Region: _____

**B. DESCRIPTION OF INCLUSION IN, REMOVAL FROM OR AMENDMENT
 TO THE REGISTER:**

C. SUBJECT TO FOLLOWING CONDITIONS:
(Conditions if any imposed by the Council)

Director:
National Heritage Council

ANNEXURE B

National Heritage Council of Namibia

52 Robert Mugabe Avenue
Private Bag 12043, Ausspannplatz
Windhoek - Namibia



Tel: (061) 244 3752
Fax: (061) 246 872
Email: nmc@iway.na

**APPLICATION FOR A CERTIFICATE RELATING TO THE STATUS OF
PROTECTION OF A PLACE OR AN OBJECT**

(section 38(1) of the National Heritage Act, 2004 (Act No. 27 of 2004))

NOTES:

1. The receipt issued serves as a reference when making enquiries.
2. Allow for processing time of at least 7days.
3. This application is subject to a fee of N\$ _____ determined by the Council, with the approval of the Minister of Youth, National Service, Sport and Culture.

Name of Applicant _____

Address of Applicant _____

Applicant's Signature _____ dated _____

Application for a certificate stating if the place or object described below is *(please tick appropriate box)*:

- | | |
|--|--------------------------|
| 1. Included in the Register and if so under what category. | <input type="checkbox"/> |
| 2. Being considered for inclusion in the Register | <input type="checkbox"/> |
| 3. Subject to any provisional protection order and if so the date of such order. | <input type="checkbox"/> |
| 4. Subject to nomination for inclusion in the Register. | <input type="checkbox"/> |
| 5. A listed building. | <input type="checkbox"/> |

ANNEXURE C

National Heritage Council of Namibia

52 Robert Mugabe Avenue
Private Bag 12043, Ausspannplatz
Windhoek - Namibia



Tel: (061) 244 3752
Fax: (061) 246 872
Email: nmc@iway.na

Certificate No. (*consecutive number & year of issue*) _____

CERTIFICATE OF STATUS

(section 38(1) of the National Heritage Act, 2004 (Act No. 27 of 2004))

To: (applicant's name) _____

Of: (applicant's address) _____

Issued in respect of object/place: (description of place or object)

Name of place or object:

Please provide the following details relating to the location of the place or object

Region: _____

Constituency: _____

Town/Village/Settlement/Farm: _____

Global Positioning System coordinates where place or object is located: (where necessary)

Road/map reference: _____

Currently owned by: (*ownership details contained in Deeds Registry*)

Status: (indicate the status of the place or object as indicated by points 1 – 6 below, providing further information where necessary)

- Included in the Register as a _____ under Gazette No. _____ and dated _____ .

2. Currently nominated for inclusion in the Register.
 3. Currently being considered for inclusion.
 4. Subject to a provisional protection order dated _____.
 5. A listed building.
 6. Not included in, nominated for inclusion in the Register, subject to any provisional protection order or listed as a protected building.
-

Issued without prejudice by

Director:
National Heritage Council

OFFICIAL DATE STAMP

ANNEXURE D

National Heritage Council of Namibia

52 Robert Mugabe Avenue
Private Bag 12043, Ausspannplatz
Windhoek - Namibia



Tel: (061) 244 3752
Fax: (061) 246 872
Email: nmc@iway.na

NOTICE OF SALE OF PROTECTED PLACE OR OBJECT
(section 39 of the National Heritage Act, 2004 (Act No. 27 of 2004))

Note:

This notice must be delivered to the Council at least 30 days before the contemplated date of conclusion of the contract.

Details relating to the current owner:

Name of owner and full contact details:

Proposed date of sale: _____

Details relating to the current location of the place or object to which the proposed sale relates:

Certain: (*erf no., farm no.*)

Situate: _____

Measuring: (*square meters, hectares*) _____

Held by Deed of Transfer No.: _____

Region: _____

Constituency: _____

Global Positioning System coordinates: (*where necessary*) _____

Date of proclamation: _____

Gazette No.: _____

Details of the intended purchaser:**Name and address of the intended purchaser, including full contact details:**

Details relating to the proposed new location of the place or object of sale (if movable) as from the date of sale:**Certain:** (*erf no., farm no.*) _____**Situate:** _____**Measuring:** (*square meters, hectares*) _____**Held by Deed of Transfer No.:** _____**Region:** _____**Constituency:** _____**Global Positioning System coordinates:** (*where necessary*) _____

ANNEXURE E**PROVISIONAL PROTECTION ORDER**

(section 41(1) of the National Heritage Act, 2004 (Act No. 27 of 2004))

The Minister, on the recommendation of the Council, makes the following provisional protection order in relation to the place or the object described below:

FULL DESCRIPTION OF PLACE OR OBJECT:**Name:** _____**Certain:** _____**Situate:** _____**Global Positioning System coordinates:** (*where necessary*) _____**Road/map reference:** _____**Currently owned by:** (*Deeds Records*) _____**Any legal status:** _____**Notes to the owner, occupier or person in charge of the place or object:**

The following provisions apply to this provisional protection order:

1. This order takes effect on service and continues to be in force for a period of 6 months or until such place or object is declared to be a heritage place or heritage object and included in the Namibian Heritage Register, whichever first occurs.
2. The Minister may, at his or her discretion, extend the period for which the provisional protection order continues to be in force.
3. Should the Minister extend the period for which this order continues to be in force you will, as the owner, occupier or person in charge, be served with such notice of extension.
4. You, as the owner, occupier or person in charge, must cause a notice, in the form approved by the Council, of the existence of this order to be continuously displayed in a conspicuous position on the place for the period for which the order is in force.
5. The Council may authorise the carrying out of any reasonable works or activities on the place or object which may assist the Council in determining the heritage significance in the consideration of the place or object for declaration as a heritage place or heritage object and for inclusion in the Namibian Heritage Register.

**MINISTER OF YOUTH,
 NATIONAL SERVICE, SPORT AND CULTURE**

OFFICIAL DATE STAMP
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ANNEXURE F
National Heritage Council of Namibia

52 Robert Mugabe Avenue
 Private Bag 12043, Ausspanplatz
 Windhoek - Namibia



Tel: (061) 244 3752
 Fax: (061) 246 872
 Email: nmc@iway.na

APPLICATION FOR PERMIT TO CARRY OUT WORKS OR ACTIVITIES

(section 48(1) of the National Heritage Act, 2004 (Act No.27 of 2004))

CONDITIONS AND INSTRUCTIONS

1. The receipt issued serves as a reference when making enquiries.
2. Allow for processing time of at least 7 days.
3. Works and activities applied for under section C, of this application, is subject to an environmental impact assessment at the applicant's expense.
4. Instructions for completion of this application:
 - Section A – All applicants
 - Section B – ONLY applications for export & transportation of protected place or protected object
 - Section C – ONLY applications for works, leisure and other activities
 - Section D – All applicants – relevant sections only

A. APPLICANT'S DETAILS

1. Name and address of applicant

2. Full name and designation of the person in charge of undertaking the works or activities:

3. Full name and personal details of researcher, contractor or person in charge of the proposed works or activities:

4. Academic qualifications, skills, occupation and competencies of the person in charge mentioned under A2 above.

5. Previous permits issued in Namibia:

6. Period for which permit is required: From _____
to _____

7. Date by which permit is required: _____

B. EXPORT AND TRANSPORTATION

8. Indicate whether this is an Application for:

Temporary Export

Permanent Export

Local Transportation

9. Name and address of Namibian institutions, if any, presently housing the protected place or protected object:

10. Name and address of local or foreign institution, if any, to which the protected place or protected object will be exported:

11. Description of the protected place or the protected object to be exported or transported. Indicate the number of items and, if applicable, the accession numbers given by the Namibian institution, if any, from which the place or object is on loan:

12. Description of the site (cave, rock shelter, grave, structure, midden, open surface site etc.) or geological formation from which the protected place or protected object originates:

13. Geographic location (farm, village, settlement, town, region, magisterial district, constituency, Global Positioning System coordinates) of the protected place or protected object:

14. Reason for transportation of the protected place or protected object (identification, exhibition etc.):

C: WORKS OR ACTIVITIES

15. Geographic location and address (farm, village, settlement, town, region, magisterial district, constituency, Global Positioning System coordinates) of the site, protected place or protected object where works or activities are proposed:

16. Detailed description of the nature of works or activities for which the permit is applied for: (e.g. excavation, construction, filming etc.) (*Attach additional and supporting information if the space on the form is insufficient.*)

D: UNDERTAKING BY APPLICANT

17. I _____ (the person in charge of undertaking the works or activities) and (where applicable) being head of the _____ institute, hereby undertake to strictly observe the terms and conditions under which the National Heritage Council may issue the permit.

Signature _____ dated _____

18. I _____ the person in charge of _____ institute where the protected place or protected object to be exported or transported is currently housed, do hereby state that I support / do not support the application. (Note: Please strike out the statement, which is not applicable to this declaration) (*If applicable for purposes of the application.*)

Signature _____ dated _____

19. I _____ the person in charge of the _____ institute to which the protected place or protected object will be exported do hereby undertake that the protected place or protected object will be returned to Namibia during the period indicated in point A6 above. (*If applicable for purposes of the application.*)

Signature _____ dated _____

ANNEXURE G

National Heritage Council of Namibia

52 Robert Mugabe Avenue
Private Bag 12043, Ausspännplatz
Windhoek - Namibia



Tel: (061) 244 3752
Fax: (061) 246 872
Email: nmc@iway.na

Permit No. (*consecutive number & year of issue*)

PERMIT FOR CARRYING OUT WORKS OR ACTIVITIES
(section 52(1) of the National Heritage Act, 2004 (Act No. 27 of 2004))

A permit is hereby given to:

Name of applicant: _____
(*title and full name of the applicant*)

address of applicant: _____
(*address of the applicant and of the applying institution (if applicable)*)

for: _____
(*type of activity applied for*)

of: _____
(*description of protected place or protected object (charcoal, bone fragments, ostrich egg fragments etc) or further description of the nature of activity*)

from: _____
(*description of the site, location as in the application*)

in accordance with: _____
(*specify relevant documentation and permit application date*)

The following conditions apply to this permit: _____

(*list any conditions that the Council may see fit to impose in terms of section 52(2) of the Act.*)

This permit will be valid from _____ **to** _____

Director:
National Heritage Council

OFFICIAL
DATE
STAMP

ANNEXURE H
National Heritage Council of Namibia

52 Robert Mugabe Avenue
 Private Bag 12043, Ausspannplatz
 Windhoek - Namibia



Tel: (061) 244 3752
 Fax: (061) 246 872
 Email: nmc@iway.na

APPLICATION FOR CONSENT

(sections 53(7) and 55(8) of the National Heritage Act, 2004 (Act No.27 of 2004))

CONDITIONS AND INSTRUCTIONS

1. The receipt issued serves as a reference when making enquiries.
2. Works and activities applied for under section C, of this application, is subject to an environmental impact assessment at the applicant's expense.
3. Instructions for completion:
Applicants must complete the relevant parts of this application.

A. APPLICANT'S DETAILS

1. Name and address of applicant

2. Full name and designation of the person in charge of undertaking the works or activities:

3. Full name and personal details of researcher, contractor or person in charge of the proposed works or activities:

4. Academic qualifications, skills, occupation and competencies of the person in charge mentioned under A2 above.

5. Previous permits issued in Namibia:

6. Period for which permit is required: From _____
to _____

7. Date by which permit is required: _____

B. EXPORT AND TRANSPORTATION

8. Indicate whether this is an Application for:

Temporary Export

Permanent Export

Local Transportation

9. Name and address of Namibian institutions, if any, presently housing the protected place or protected object:

10. Name and address of local or foreign institution, if any, to which the protected place or protected object will be exported:

11. Description of the protected place or the protected object to be exported or transported. Indicate the number of items and, if applicable, the accession numbers given by the Namibian institution, if any, from which the place or object is on loan:

12. Description of the site (cave, rock shelter, grave, structure, midden, open surface site etc.) or geological formation from which the protected place or protected object originates:

13. Geographic location (farm, village, settlement, town, region, magisterial district, constituency, Global Positioning System coordinates) of the protected place or protected object:

14. Reason for transportation of the protected place or protected object (identification, exhibition etc.):

C: WORKS OR ACTIVITIES

15. Geographic location and address (farm, village, settlement, town, region, magisterial district, constituency, Global Positioning System coordinates) of the site, protected place or protected object where works or activities are proposed:

16. Detailed description of the nature of works or activities for which the permit is applied for: (e.g. excavation, construction, filming etc) (*Attach additional and supporting information if the space on the form is insufficient.*)

D: UNDERTAKING BY APPLICANT

17. I _____ (the person in charge of undertaking the works or activities) and (where applicable) being head of the _____ institute, hereby undertake to strictly observe the terms and conditions under which the National Heritage Council may issue the permit.

Signature _____ dated _____

18. I _____ the person in charge of _____ institute where the protected place or protected object to be exported or transported is currently housed, do hereby state that I support / do not support the application. (Note: Please strike out the statement, which is not applicable to this declaration) (*If applicable for purposes of the application.*)

Signature _____ dated _____

19. I _____ the person in charge of the _____ institute to which the protected place or protected object will be exported do hereby undertake that the protected place or protected object will be returned to Namibia during the period indicated in point A6 above. (*If applicable for purposes of the application.*)

Signature _____ dated _____

ANNEXURE I

National Heritage Council of Namibia

52 Robert Mugabe Avenue
Private Bag 12043, Ausspansplatz
Windhoek - Namibia



Tel: (061) 244 3752
Fax: (061) 246 872
Email: nmc@iway.na

Permit No. (*consecutive number & year of issue*)

CONSENT

(section 55(9) of the National Heritage Act, 2004 (Act No. 27 of 2004))

Consent is hereby given to:

Name of applicant: _____
(*title and full name of the applicant*)

address of applicant: _____
(*address of the applicant and of the applying institution (if applicable)*)

for: _____
(*type of activity applied for*)

of: _____
(*description of heritage resources*)

from: _____
(*description of the site, location as in the application*)

in accordance with: _____
(*specify relevant documentation and permit application date*)

The following conditions apply to this permit: _____

(*list any conditions that the Council may see fit to impose in terms of section 55(9) of the Act.*)

This permit will be valid from _____ **to** _____

Director:
National Heritage Council

OFFICIAL
DATE
STAMP