GOVERNMENT NOTICES

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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.
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.

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.

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

The Council may -

(a) confirm the appeal; or

(b) refuse the appeal.

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

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

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:

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

____________________________________________________________________

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:

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

_______________________
Director:
National Heritage Council
ANNEXURE B

National Heritage Council of Namibia

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 7 days.
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.  
2. Being considered for inclusion in the Register
3. Subject to any provisional protection order and if so the date of such order.
4. Subject to nomination for inclusion in the Register.
5. A listed building.
ANNEXURE C

National Heritage Council of Namibia

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: (applicants 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)
____________________________________________________________________________

1. 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
ANNEXURE D

National Heritage Council of Namibia

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

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.)
____________________________________________________________________

Situat: __________________________________________________________________

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
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 pro-
tected 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 sur-
    face site etc.) or geological formation from which the protected place or pro-
    tected object originates:

_____________________________________________________________

_____________________________________________________________

_____________________________________________________________

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

_____________________________________________________________

_____________________________________________________________

_____________________________________________________________

14. Reason for transportation of the protected place or protected object (identifica-
    tion, 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 ___________________________
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
ANNEXURE II
National Heritage Council of Namibia

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:

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<th>Temporary Export</th>
<th>Permanent Export</th>
<th>Local Transportation</th>
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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 the __________________________________________________________________ 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

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