



HERITAGE WESTERN CAPE SECTION 14 MANUAL

In fulfillment of Section 14 of the Promotion of Access to Information Act, 2000 (Act 2 of 2000)

Date of last amendment: 18 March 2015

The Promotion of Access to Information Act (Act 2 of 2000), gives effect to the public's right to information from public and private bodies provided for in Section 32 of the Constitution in order to promote transparency and accountability and to advance the development of good governance.

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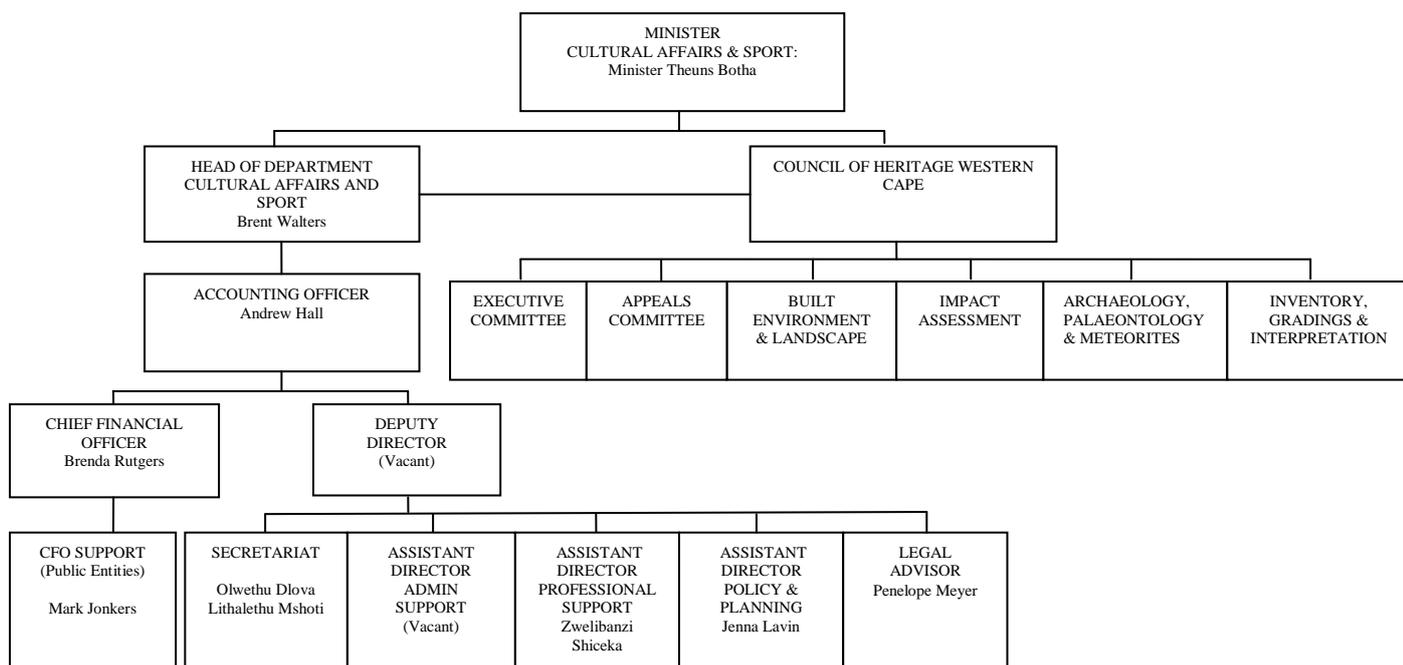
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1. **STRUCTURE AND FUNCTIONS OF HERITAGE WESTERN CAPE**



Heritage Western Cape is the provincial heritage resources authority for the Western Cape region established by the MEC for Arts, Culture and Sport in January 2003 in terms of the National Heritage Resources Act, No 25 of 1999.

The functions of Heritage Western Cape are as follows:

- Annually submit a report to the Minister regarding its activities during that year;
- Promote the systematic identification, recording and assessment of heritage resources, which form part of the national estate in the Western Cape;
- Protect and manage heritage resources in a province, which fulfil the heritage assessment criteria prescribed under section 7(10) for Grade II status;
- Notify the South African Heritage Resources Agency of the presence of any heritage resources in the Western Cape which it considers fulfils the heritage assessment criteria prescribed under section 7(1) for Grade I status, nominate such resource for national level protection and furnish SAHRA with the information in its possession relating to such resource;
- Maintain data bases on heritage resources in accordance with national standards, and at regular intervals furnish SAHRA with such data;
- Establish policy, objectives and strategy plans for heritage resources management in the Western Cape;
- Determine competence of local authorities to manage heritage resources in accordance with the national system for the heritage grading of local authorities prescribed under section 8(6);
- Furnish information, advice and assistance to enhance public sensitivity towards and awareness of the need for management of the national estate;

- Maintain a list of conservation bodies which have, in accordance with regulations by Heritage Western Cape, registered their interest in –
 - (i) a geographical area; or
 - (ii) a category of heritage resources;
- Regularly inspect heritage resources which are formally protected by Heritage Western Cape in terms of any provisions of Part I of Chapter II of the Act;
- Endeavour to assist any community or body of persons with an established interest in any heritage resource to obtain reasonable access to such heritage resource, should they request it, and may, for the purpose –
 - (i) enter into negotiations with the owner of such resource;
 - (ii) facilitate the making of arrangements as may be required of the achievement of such access, including the execution of a heritage agreement under section 42; and
 - (iii) if such negotiations are unsuccessful, refer the matter to the MEC,
- Make arrangements to ensure the protection and management of all heritage resources and property owned or controlled by it or vested in it;
- Promote and engage in research relating to the identification, assessment and management of the national estate as necessary for the performance of its functions;
- Publish, or by any other means make available or distribute in any form, or cause to be published or distributed, any knowledge and information relating to the national estate and any of its functions or activities;
- Inspect or document any heritage resource –
 - (i) which has the potential to become protected in terms of the Act;
 - (ii) which is, or which Heritage Western Cape has reason to believe may be, so protected; or
 - (iii) which it wishes to document for research purposes, for purposes of building up a public record of heritage resources or as part of an investigation into a suspected offence in terms of the Act; and must maintain a register of such inspections;
- Whenever it is investigating the desirability of protecting any place in terms of the Act, take such steps as it considers necessary –
 - (i) for erecting beacons on the corners of and surveying and preparing a diagram or plan of such place; or
 - (ii) for determining by survey the location of such place or object in relation to the beacons and boundaries of the land on which it is situated;
- Undertake or make arrangements for the presentation of any place under its control or, after consultation with the Department concerned, any heritage site which is owned by the State;
- By agreement with the authority or body concerned, co-operate in the management of any heritage resource which is owned or controlled by the State or a supported body;
- Co-ordinate and monitor the performance of local authorities in the implementation of their responsibilities in terms of the Act and provincial heritage legislation;

- Assist local authorities to manage heritage resources in the Western Cape; and
- Provide for any areas of responsibility in terms of the Act or any provincial heritage resources legislation when a local authority does not have competence, or has insufficient capacity, to perform a function in terms of the criteria prescribed under section 8(6) of the Act.
- Lend anything under its control to a museum or public institution, subject to such conditions as it deems necessary and appropriate;
- Subject to the provisions of section 59, make and from time to time amend regulations relating to any matter which Heritage Western Cape considers to be necessary or expedient to prescribe to fulfil its functions and implement its powers and duties under the Act;
- Create and where necessary register with the relevant authorities a badge, or an emblem for the authority, any of its projects or any category of protection provided for in terms of the Act;
- Where appropriate, affix to or otherwise display at any place protected in terms of the Act a badge or other sign indicating its status;
- Produce, acquire and market products relating to the national estate, or enter into arrangements for the production, acquisition and marketing of such products;
- Recover costs incurred by it and, where appropriate, charge for the provision of services rendered in terms of the Act;
- Arrange for the provision of insurance cover for
 - (i) itself against any loss, damage, risk or liability which it may suffer or incur regarding any property under its control
 - (ii) members of the council of Heritage Western Cape, co-opted members, members of committees and members of its staff, in respect of bodily injury, illness, disablement or death incurred wholly and directly in the course of the performance of their duties on behalf of the heritage resources authority concerned;
- Enter into contracts; and
- Employ consultants to assist in the performance of its functions.

2. CONTACT DETAILS OF THE INFORMATION OFFICER

Mr Andrew Hall
Chief Executive Officer: Heritage Western Cape
3rd Floor
Protea Assurance Building
Greenmarket Square
Cape Town
8001
or
Private Bag x9067
Cape Town
8000

Tel : 021- 483 5959

Fax : 021- 483 9845

Andrew.Hall@westerncape.gov.za

3. GUIDE ON THE USE OF THE ACT FROM THE SOUTH AFRICAN HUMAN RIGHTS COMMISSION

The guide will be available from the South African Human Rights Commission during 2007 and enquiries in this regard should be addressed to:

South African Human Rights Commission
Section responsible for the Act on Promotion of Access and Information.
Research and Documentation Department

Postal Address: Private Bag 2700
HOUGHTON
2041

Tel.: (011) 484-8300

Fax: (011) 484-1360

Website: www.sahrc.org.za

E-mail: PAIA@sahrc.org.za

4. RECORDS HELD BY HERITAGE WESTERN CAPE

It should be noted immediately that Heritage Western Cape does, in fact, not hold its own records: all of the records of Heritage Western Cape are held by the Human Resources Branch of the Department of Arts, Culture and Sport, PG: WC and are held on the 4th floor of the Protea Assurance Building, that is, one floor above Heritage Western Cape's offices on the 3rd floor of the same building.

4.1 Description of the Subjects and Categories or Records

- Legislation, regulations and policies
- Financial records
- Annual Reports and strategic plans
- Minutes and agendas
- Individual property files including detailed information relating to heritage resources and applications relating to those heritage resources
- Heritage registers of provincial heritage sites and other heritage resources

4.2 Records Automatically Available

- All legislation, regulations and policies
- All annual reports and strategic plans
- All minutes and agendas, recordings and transcripts, excluding sections of meetings specifically decided to be confidential by the committee concerned
- All individual property files and applications, excluding legal opinions written for Heritage Western Cape or for any applicant or interested and affected party and excluding any document where a copyright may be infringed
- Heritage registers of provincial heritage sites and other heritage resources

Any copies requested shall be paid for by the requester at the standard rate charged by the Department of Arts, Culture and Sport for copies.

4.3 Requesting Procedures

A requester must be given access to a record of a public body if the requester complies with the following:

The requester complies with all the procedural requirements in the Act relating to the request for access to that record; and

Access to that record is not refused on any ground of refusal mentioned in the Act.

Nature/form of the request:

If the record requested is *a record automatically available* (see above) the requester must make the request using the HWC PAIA form attached to this document as Annexure A.

If the record requested is *not a record automatically available* the requester must make the request using the form that has been printed in the Government Gazette [Govt. Notice R187- 15 February 2002, Form A].

The requester must also indicate if the request is for a copy of the record and/or if the requester wants to look at the record at the offices of Heritage Western Cape.

Alternatively, if the record is not a document, the requester must indicate where it can be viewed/heard and in what form [s 29(2)].

If a person asks for access in a particular form then the requester should get access in the manner that has been requested.

This is unless doing so would interfere unreasonably with the running of the public body concerned, or damage the record, or infringe a copyright not owned by the state.

If, for practical reasons, access cannot be given in the required form but in an alternate manner, then the fee must be calculated according to the way that the requester first asked for it [s 29(3) and (4)].

If, in addition to a written reply to their request for the record, the requester wants to be told about the decision in any other way, for example, by telephone, this must be indicated [s 18(2)(e)].

If a requester is asking for the information on behalf of somebody else, the capacity in which the request is being made should be indicated [s 18(2)(f)].

If a requester is unable to read or write, or has a disability, then they can make the request for the record orally. The information officer must then fill in the form on behalf of such a requester and give them a copy [s 18(3)].

There are two types of fees required to be paid in terms of the Act, being the request fee and the access fee s22:

A requester who seeks access to a record containing personal information about that requester himself/herself is not required to pay the request fee.

Every other requester, who is not a personal requester, must pay the required request fee.

The information officer must notify the requester (other than a personal requester) by notice, requiring the requester to pay the prescribed fee (if any) before further processing the request.

The request fee payable to public bodies is R35. The requester may lodge an internal appeal, where appropriate, or an application to the court against the tender or payment of the request fee.

After the information officer has made a decision on the request the requester must be notified of such a decision in the way in which the requester wanted to be notified in.

If the request is granted then a further access fee must be paid for the search, preparation, reproduction and for any time that has exceeded the prescribed hours to search and prepare the record for disclosure.

5. SERVICES AVAILABLE TO THE PUBLIC

Deliver services regarding the powers and duties of Heritage Werstern Cape determined by the Provincial Notice P.N. 336 dated 25 October 2002 and published in the *Provincial Gazette* No. 5937 dated 25 October 2002;

Provides information through the website of Heritage Western Cape, through the wide distribution of annual reports, brochures, and pamphlets, and when contacted through the Heritage Western Cape.

6. ARRANGEMENTS ALLOWING FOR PUBLIC INVOLVEMENT IN THE FORMULATION OF POLICY AND THE EXERCISE OF POWER OF HWC

Legislation determines that the members of Heritage Werstern Cape be nominated every three years through a public process.

When a policy is formulated by Heritage Western Cape, each step of the draft document is distributed to interested parties like local municipalities, registered heritage organisations and provincial government departments and institutions.

Individuals and/or organisations are always encouraged to forward heritage related queries and advise on improvement on service delivery to the Heritage Western Cape.

7. THE REMEDIES AVAILABLE IF THE PROVISIONS OF THIS ACT ARE NOT COMPLIED WITH ARTICLE 14(1)(h)

Relevant legislation can make provision for internal review or appeal procedures. A court can also be approached for the applicable order if required.