

NATIONAL HERITAGE RESOURCES ACT

Act 25 of 1999.

SOUTH AFRICAN HERITAGE RESOURCES AGENCY (SAHRA) PERMIT REGULATIONS

[Updated to 8 July 2005]

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The South African Heritage Resources Agency has, in terms of section 25(2)(h) of the National Heritage Resources Act, 1999 (Act 25 of 1999), made the regulations in the Schedule.

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CHAPTER I

1. Definitions

In these Regulations any word or expression which has been defined in the National Heritage Resources Act, 1999 (Act 25 of 1999), shall have the meaning so assigned to it and, unless the context indicates otherwise—

“archaeologist” means a trained professional who uses scientific methods to excavate, record and study archaeological sites and deposits;

“artefact” means any object manufactured or modified by human beings;

“collaborating institution” means a museum or university or other institution approved by SAHRA, which has a written collections policy, a proven capacity to conserve and curate objects and the will to do so;

“collaboration” means that the collaborating institution supervises and advises on the recovery of objects, accepts objects as part of its collection and undertakes their curation and conservation;

“excavation” means the scientific excavation, recording and retrieval of archaeological deposit and objects through the use of accepted archaeological procedures and methods, and excavate has a corresponding meaning;

“guidelines” means official SAHRA documents that contain any additional information or requirements that SAHRA deems necessary;

“maritime archaeologist” means an archaeologist, as defined in this regulation, working in or on the underwater cultural environment;

“palaeontologist” means a trained professional who uses scientific methods to excavate, collect, record and study palaeontological sites and fossils;

“pre-disturbance survey” means a survey to record a site as it exists, with all the topographical and other information that can be collected, without excavation or other disturbance of the site;

“the Act” means the National Heritage Resources Act, 1999 (Act 25 of 1999).

CHAPTER II

PERMIT APPLICATIONS (SECTION 48(1)) AND GENERAL PROVISIONS FOR PERMIT APPLICATIONS

2. Application procedure and requirements

- (1) A permit application must be made to SAHRA on the applicable official form as set out in the following chapters of these Regulations, and must include the information required in terms of these Regulations and the applicable Guidelines.
- (2) SAHRA shall acknowledge receipt of the application and notify the applicant—
 - (a) whether the application is complete or additional information is required;
 - (b) of the approximate time it will take to process the application;
 - (c) if the application will be considered at a meeting, of the date, time and venue of the meeting;
and
 - (d) whether or not any fees are payable, in accordance with Guidelines.

- (3) An application fee may not exceed one per cent of the cost of the action/s for which application is made.
- (4) SAHRA may at its discretion refer an application to experts in the field for assessment and advice on the issuing of a permit and on any conditions that should be imposed.
- (5) A permit is not transferable.

3. Financial deposits

- (1) When deemed necessary to safeguard the heritage resource that is the subject of an application or to ensure satisfactory performance of authorised actions, SAHRA may require that a financial deposit be lodged with it, to be held in trust until satisfactory completion of the action/s for which a permit is issued.
- (2) The deposit shall be forfeited if permit conditions are not met, or if the authorised actions are not completed satisfactorily.

4. Minimum qualifications and standards of practice

- (1) SAHRA may specify minimum qualifications and standards of practice to be applied in any actions undertaken under authority of a permit.
- (2) A permit will be issued only for actions that are demonstrated to be in accordance with the general principles for heritage resources management set out in section 5 and any principles prescribed under section 6 of the Act.
- (3) SAHRA may cancel a permit at any time if it has reasonable grounds to believe the permit holder has not complied with the permit conditions.

5. Submission of reports

- (1) Within a maximum of 12 months of the completion of the authorised actions or expiry of a permit the permit holder must submit to SAHRA a report, conforming to the standards set out in the Guidelines, concerning the actions undertaken under authority of a permit.
- (2) Copies of published papers and / or theses or dissertations that include the information required in terms of the Guidelines may be accepted *in lieu* of a final report.
- (3) A copy of every publication on the work done in terms of a permit must be supplied to SAHRA.

- (4) If a permit holder does not publish a report submitted to SAHRA in terms of any regulations in this Part within two years, such report may be made available by SAHRA to researchers on request.
- (5) SAHRA may submit unpublished reports submitted in terms of these Regulations for peer review if it is not satisfied that the information has been adequately reported and, if the reviews are unfavourable, may withhold further permits from such permit holder until an adequate report is received.

6. Monitoring responsibility of SAHRA

A heritage inspector or other authorised representative of SAHRA may at any reasonable time inspect any site or object for which a permit has been issued or for which a permit is being applied.

CHAPTER III

APPLICATION FOR PERMIT: NATIONAL HERITAGE SITE, PROVINCIAL HERITAGE SITE, PROVISIONALLY PROTECTED PLACE, OR STRUCTURE OLDER THAN 60 YEARS (SECTIONS 27(18), 29(10) AND 34(1))

7. Applicability

- (1) The regulations in this Chapter apply to any person applying for a permit—
 - (a) to destroy, damage, deface, excavate, alter, remove from its original position, subdivide or change the planning status of a national heritage site or provincial heritage site under section 27(18) of the Act; or
 - (b) to damage, deface, excavate, alter, remove from its original position, subdivide or change the planning status of a place that has been provisionally protected by SAHRA under section 29 of the Act; or
 - (c) to alter or demolish any structure or part of a structure that is older than 60 years as protected under section 34 of the Act:

Provided that, unless SAHRA indicates otherwise, if the national heritage site, the provincial heritage site, the provisionally protected place or the structure is a meteorite or an archaeological or palaeontological site and the application is for scientific excavation for *bona fide* research purposes, the regulations in Chapter IV will apply in addition to these Regulations.

8. Application requirements and procedure

- (1) Permit applications must be made on the official form Application to destroy, damage, deface, excavate, alter, remove from its original position, subdivide or change the planning status of a national

heritage site, provincial heritage site, provisionally protected place or structure older than 60 years, available from SAHRA.

(2) The following information must be supplied—

- (a) The name and address, erf / stand / farm number or geographical coordinates of the place, and the magisterial district;
- (b) the name, address, telephone and / or fax number of the planning authority for the place;
- (c) the number and date of the notice of declaration or provisional protection in the *Gazette*;
- (d) a statement of conservation policy for the place;
- (e) an annotated recording of the place or parts of the place to be affected by the action(s) for which application is made, in accordance with SAHRA Guidelines;
- (f) details of the action(s) for which application is made, in accordance with SAHRA Guidelines;
- (g) motivation for the action(s), including supporting documentation and research, in accordance with Guidelines;
- (h) details of the cost of the action(s);
- (i) the name, identity number, address, telephone and / or fax numbers, qualifications, relevant experience and signature of the person who will be responsible for the action(s);
- (j) the name, identity number, address, telephone and / or fax numbers and signature of the owner;
- (k) the name, identity number, address, telephone and / or fax numbers and signature of the applicant, if the owner is not the applicant;
- (l) any other relevant information required by SAHRA.

9. Minimum qualifications and standards of practice

- (1) Permits for work on national heritage sites will be issued only for actions to be undertaken by persons who, in accordance with Guidelines, are suitably qualified and / or have suitable experience in terms of—
 - (a) the nature and cultural significance of the place concerned; and

- (b) the work to be undertaken.

CHAPTER IV
APPLICATION FOR PERMIT: ARCHAEOLOGICAL OR PALAEONTOLOGICAL SITE OR METEORITE
(SECTION 34(4))

10. Applicability

- (1) The regulations in this Chapter apply to any person applying for a permit to—
 - (a) destroy, damage, excavate, alter, deface or otherwise disturb any archaeological or palaeontological site or any meteorite;
 - (b) destroy, damage, excavate, remove from its original position, collect or own any archaeological or palaeontological material or object or any meteorite;
 - (c) bring onto or use at an archaeological or palaeontological site any excavation equipment or any equipment that assists in the detection or recovery of metals or archaeological and palaeontological material or objects, or use such equipment for the recovery of meteorites,when such site or meteorite is a national heritage site, provincial heritage site, is provisionally protected by SAHRA, or is included under the general protection provided for in section 35 of the Act.
- (2) The regulations in this Chapter do not apply to any person applying for a permit to trade in, sell for private gain, export or attempt to export from the Republic any category of archaeological or palaeontological material or object or any meteorite. Such applications must be made in terms of the regulations in Chapter VII of these Regulations.

11. Application requirements and procedure

- (1) Permit applications must be made on the official form Application for Permit: Archaeological and Palaeontological Sites and Meteorites, available from SAHRA.
- (2) The following information must be supplied—
 - (a) The number and date of the notice of declaration in the *Gazette*;
 - (b) the geographical position of the site, including latitude and longitude, farm or erf number, nearest town or city and magisterial district;
 - (c) a short description of the site, including the type and approximate date, in accordance with the Guidelines;

- (d) full details of the action(s) for which application is made;
- (e) a brief motivation for the actions;
- (f) if relevant, a brief motivation for the use of mechanical excavation equipment or any equipment that assists in the detection or recovery of metals or archaeological and palaeontological material or objects, or for the recovery of meteorites;
- (g) the period for which the permit is required;
- (h) the name, identity number, address, telephone and / or fax numbers, academic qualifications, relevant experience and signature of the applicant;
- (i) the name and address of the collaborating institution in the Republic;
- (j) the signature of the head of the department or institution where the applicant will be based while undertaking the project;
- (k) the name and address of the South African institution that will curate the material recovered;
- (l) the signature of the head of the department or institution that undertakes to store and curate the material and records; and
- (m) any other relevant information required by SAHRA.

12. Minimum qualifications

- (1) Permits for archaeological and palaeontological work will be issued only to persons whom SAHRA deems to be qualified archaeologists or palaeontologists, as the case may be, and / or who have the appropriate expertise.
- (2) Permits to destroy archaeological or palaeontological sites in the course of earthmoving or development will be issued only after a survey has been done by a qualified archaeologist or palaeontologist and sites have been sampled to the satisfaction of SAHRA.
- (3) Permits to destroy, damage, excavate, alter or remove meteorites will be given only to persons working in collaboration with an approved scientific institution.

13. Standards of practice for excavation and removal

- (1) The permit holder is at all times responsible for the excavation work and the objects recovered and he / she or his / her authorised representative, whose name shall be furnished to SAHRA, must be present at all times during the work.
- (2) To safeguard meteorites and archaeological and palaeontological sites and artefacts, the permit holder must—
 - (a) supervise all excavations, castings, removals, sieving and sorting, and ensure that when sieving the smallest mesh suitable for the particular deposit is used;
 - (b) in the case of archaeological deposits, excavate or remove no more than half of the original deposit or objects, unless the site or object is likely to be destroyed by development, or unless special permission has been obtained from SAHRA;
 - (c) in the case of archaeological or palaeontological excavations, make a detailed photographic record of the site and work in progress and take photographs of any significant artefacts and / or fossils, trace fossils or trackways recovered *in situ*, using at least black and white film;
 - (d) draw an accurate measured drawing of the site on which the positions of all excavations and significant fossils, artefacts and features are marked;
 - (e) trace any rock paintings or engravings before removal in terms of a permit issued by SAHRA, including those superimposed on any other drawing, painting or engraving, as well as the positions, colours, dimensions and other features of the drawings, paintings or engravings;
 - (f) make a carbon rubbing or cast, in an acceptable material, of an engraving only if it is likely to be damaged or destroyed unavoidably;
 - (g) make a detailed record of any graffiti before removal from a painted or engraved surface or site;
 - (h) leave the site neat and tidy during and after an excavation and fill in the excavation or stabilise the sections, unless SAHRA grants written exemption;
 - (i) treat all human remains with respect; and
 - (j) remain aware of the non-renewable nature of archaeological and palaeontological sites and material and not remove them from their original position unnecessarily.

14. Standards of curation

- (1) The permit holder must enter into a prior agreement with a recognised museum or university department with an established archaeological or palaeontological archive and a collections management policy that is approved by SAHRA.
- (2) The material should preferably be curated and stored in a museum or other institution with proven capacity in the same province as the original site, unless an institution in another province already has a collection from the site and is willing to accept further material until such time as the province of origin acquires the capacity.
- (3) Institutions wishing to establish archaeological and palaeontological material and data archives and to curate and store such material must organise it in an accessible form that renders the data capable of critical examination. Such an archive requires a written collections management policy that covers in detail policy and procedures on acquisition, processing of finds, documentation, site recording, storage management, conservation and inventory control.
- (4) All the material so curated will become the property of the said institution: provided that the collector or excavator must have access to the material at all reasonable times.
- (5) At the initiation of an excavation or collecting project, formal agreement must be reached between researcher and collaborating institution as to financial and other requirements and responsibilities for curation and documentation. These issues should be addressed in the institution's collections management policy.
- (6) The item(s) must be accessioned as soon as possible in the collaborating institution specified by the permit and must be cross-referenced to the site report.
- (7) Any pictorial recording (photography, tracings, etc.) made as part of the survey must be marked and cross-referenced to the site report. Pictorial records must be properly curated by the collaborating institution and, if possible, a full set of such records must be lodged with the provincial recording centre.

15. Fees and financial deposits

A fee determined by the SAHRA may be charged for permits. Permits for urgent rescue work may, at the discretion of the SAHRA Chief Executive Officer, be exempted.

[Reg 15 subs by GoN 668 in G. 27759.]

16. Submission of reports

- (1) Every permit holder for archaeological work is required to submit to SAHRA an annual progress report with a diagram showing where material was collected or where excavations were placed at the site, a brief description of the work done during the year and the name of the institution curating the material.

- (2) Every permit holder for the collection of meteorites or palaeontological work is required to submit to SAHRA an annual report listing the name and geographical location of sites from which meteorites or fossils were collected during the year, together with a brief description of the specimens recovered and the name of the institution curating them.
- (3) Within one year of the expiry of a permit, the permit holder must submit to SAHRA a systematic report concerning the excavation or removal, containing the information and illustrations detailed in regulation 13, as well as—
 - (a) a copy of the relevant section of a 1:50 000 or larger scale map with the site marked on it;
 - (b) a detailed plan of the site on which the excavated or collected areas are clearly indicated;
 - (c) accurate scale drawings of the stratigraphy in each excavation or, in the case of palaeontological sites or meteorites, with notes detailing the position of the object(s) in relation to the stratigraphy;
 - (d) a description or table of the object(s) excavated or removed;
 - (e) a written summary of the work done and the conclusions reached, illustrated with photographs wherever possible;
 - (f) a statement that a site record form has been submitted to the relevant regional archaeological or palaeontological data recording centre;
 - (g) the name and address of the person or institution in whose possession or custody the objects and complete records have been placed and, if possible, a receipt furnished by such person or institution.

CHAPTER V

APPLICATION FOR PERMIT TO REPRODUCE A NATIONAL HERITAGE SITE (SECTION 27(23))

17. Applicability

- (1) These Regulations apply to any person applying for a permit to make a reproduction for profit of a national heritage site or part of a national heritage site under section 27(23) of the Act.
- (2) Reproduction for profit includes the making and use of an image either in two or three dimensions for the purposes of sale or lease, or advertising, promoting or decorating any product or service offered for sale or lease, or any activity for which a fee will be charged.

- (3) The making of a unique, individual image by hand without the use of mechanical reproductive techniques is not deemed to be making a reproduction for profit, even if the image itself is offered for sale or lease.

18. Application requirements and procedure

- (1) Permit applications must be made on the official form Application to make a reproduction of a national heritage site, available from SAHRA.
- (2) The following information must be supplied—
- (a) The name and address and erf / stand / farm number or geographical coordinates of the site;
 - (b) the number and date of the notice of declaration in the *Gazette*;
 - (c) a full and accurate description of the proposed reproduction, including its size, colours, materials, any wording associated with it, methods of reproduction, and a scale drawing/model or sample;
 - (d) the purpose of the reproduction, estimated numbers to be made and methods of distribution;
 - (e) the name, identity number and contact details, including address, telephone and / or fax number, of the owner;
 - (f) the signed consent of the owner for the proposed reproduction;
 - (g) the name, identity number and contact details including address, telephone and / or fax number and signature of the applicant;
 - (h) the application fee, as stipulated in the Guidelines.
- (3) SAHRA may issue a permit subject to the payment of a fee per reproduction.

CHAPTER VI

APPLICATION FOR PERMIT: HERITAGE OBJECTS (SECTIONS 32(13) or 32(17))

19. Applicability

These Regulations apply to any person applying for a permit to—

- (a) destroy, damage, disfigure or alter a heritage object or disperse a collection of heritage objects that are listed in part II of the register; or

- (b) carry out any work of restoration or repair of a heritage object.

20. Application requirements and procedure

- (1) Permit applications must be made on the official form *Application for permit: Heritage objects*, available from SAHRA.
- (2) The following information must be supplied—
 - (a) The number and date of the notice of declaration in the *Gazette*;
 - (b) a precise description of the object, as listed in the register of heritage objects;
 - (c) the physical location of the object;
 - (d) full details of the action(s) for which application is made;
 - (e) motivation for the proposed action(s), including supporting documentation and research in accordance with the Guidelines;
 - (f) the name, identity number, address, telephone and / or fax number, qualifications, relevant experience and signature of the person who will be responsible for the action(s);
 - (g) the name, identity number, address, telephone and / or fax number and signature of the owner or custodian of the object or collection;
 - (h) the name, identity number, address, telephone and / or fax number and signature of the applicant, if the owner is not the applicant;
 - (i) any other relevant information required by SAHRA.

21. Minimum qualifications and standards of practice

- (1) A permit for physical work on a heritage object will be issued only if SAHRA deems the person responsible for the work to be suitably qualified to perform such actions.
- (2) In the case of dispersal of a collection, the applicant must provide SAHRA with the names, addresses and other contact details of new owners or custodians.

CHAPTER VII

APPLICATION FOR PERMIT TO EXPORT A HERITAGE OBJECT (SECTION 32(21))

22. Applicability

These Regulations apply to any person applying for a permit to—

- (a) export a heritage object listed in the register of heritage objects held by SAHRA; or
- (b) export a type of heritage object as listed in the register of heritage objects and provisionally declared in the *Gazette*; or
- (c) trade in, sell for private gain or export from the Republic—
 - (i) any category of wreck material or object; or
 - (ii) any other category of archaeological or palaeontological material or object, or any meteorite.

23. Application requirements and procedure

- (1) Permit applications must be made on the official form Application for permit: Heritage objects available from SAHRA.
- (2) The following information must be supplied—
 - (a) The number and date of the notice of declaration of the heritage object in the *Gazette*;
 - (b) the number of the object or type of object in the register of heritage objects;
 - (c) a precise description and scaled photographs and / or drawings of the object, including all information necessary to assess its significance, in accordance with the Guidelines;
 - (d) the physical location of the object at the time of application;
 - (e) the reason for export;
 - (f) the name and address of the recipient of the object;
 - (g) in the case of temporary export—
 - (i) the period during which the object will be outside the country;
 - (ii) the address at which the object(s) will be located; and

- (ii) the written undertaking of a South African cultural or scientific institution that the object will be returned in good condition;

[Editor Note: Numbering as per original *Gazette*.]

- (h) in the case of permanent export, information on similar objects housed in public institutions or in private ownership;
- (i) the name, identity number, address, telephone and / or fax number and signature of the owner or custodian of the object or collection;
- (j) any other relevant information required by SAHRA.

24. Conditions for temporary and permanent export of objects

- (1) Application for a temporary or permanent export permit must be made to SAHRA by the curator of the collection concerned.
- (2) Permits for the temporary export of objects may be issued for maximum period of two years, and may be renewed: Provided that application is made at least 45 days before expiry of the permit.
- (3) Objects on temporary loan must be returned to South Africa at the expense of the person or institution borrowing them or his / her heirs, as the case may be. SAHRA may, at its discretion, require the payment of a financial deposit by the borrower.
- (4) Permits for the temporary or permanent export of archaeological and palaeontological material and meteorites will normally be given only to qualified researchers and to institutions with established collections. No material thus temporarily exported may be sold or transferred to another institution without prior permission from SAHRA.
- (5) The permit holder must pack all objects for export carefully and in a manner approved by SAHRA to prevent damage, and must label all such material with the institutional accession number and mark all packets and boxes with the name of the site and the name and address of the institution to which the material belongs.
- (6) If an object is being sold with a view to its permanent exportation from the Republic, the seller must inform all potential purchasers in advance that a SAHRA permit is required before the object may be exported. SAHRA shall not be liable for any loss or damage incurred by either the seller or the purchaser in this regard.

CHAPTER VIII

APPLICATION FOR PERMIT: WRECKS (SECTION 35(4))

25. Applicability

- (1) These Regulations apply to any person applying for a permit to—
 - (a) destroy, damage, excavate, alter, deface or otherwise disturb any wreck site;
 - (b) destroy, damage, excavate or remove from its original position, collect or own any wreck material or object;
 - (c) bring onto or use at a wreck site any excavation equipment or any equipment that assists in the detection or recovery of metals or wreck material or objects.
- (2) These Regulations do not apply to any person applying for a permit to trade in, sell for private gain, export or attempt to export from the Republic any category of wreck material or object. Such applications must be made in terms of the regulations in Chapter VII.

26. Application requirements and procedure

- (1) Permit applications must be made on the official form *Application for permit: Wrecks*, available from SAHRA.
- (2) The following information must be supplied—
 - (a) The presumed name of the vessel and date of the wreck, accurate geographical coordinates of the site and the name of the nearest port;
 - (b) the name, address, telephone and / or fax number of the collaborating institution;
 - (c) a signed undertaking to collaborate on the project from the head of the collaborating institution;
 - (d) a draft agreement between the applicant and the collaborating institution regarding the disposal of any objects recovered from the wreck and any proposed division of such objects between the applicant and the collaborating institution;
 - (e) a comprehensive written motivation for the project, including the research motivation and the information listed in the Guidelines;
 - (f) an estimate of the cost of the project;
 - (g) the source of funds for the project and the name and address of the person, company or agency providing the funding;

- (h) the address of the place where any objects will be housed and / or conserved upon recovery from the wreck;
 - (i) in the case of a wreck deemed by SAHRA to be significant or a wreck older than 1850, the name, identity number, address, telephone and / or fax number, qualifications and relevant experience and signature of the maritime archaeologist or archaeologist who will work on the project;
 - (j) the names and identity numbers of all divers taking part in the project;
 - (k) the name, identity number, address, telephone and / or fax number, qualifications, relevant experience and signature of the applicant;
 - (l) a copy of the applicant's salvage licence from the Department of Finance: Customs and Excise;
 - (m) the numbers and dates of any other wreck permits currently and previously issued to the applicant;
 - (n) any other relevant information requested in the Guidelines or by SAHRA.
- (3) SAHRA must circulate the application for comment to—
- (a) members of its review committee;
 - (b) the relevant SAHRA regional manager;
 - (c) the collaborating institution; and
 - (d) the Southern African Association of Archaeologists.
- (4) To safeguard the integrity of wreck sites and objects, when considering an application SAHRA must take into account—
- (a) archaeological principles and practice; and
 - (b) the benefits in terms of *bona fide* research.
- (5) An advertisement with the presumed name and date of the vessel and the port nearest to the wreck will be published in the *Gazette* and, at the discretion of SAHRA, in local newspapers, inviting comment from interested parties by the date specified in the advertisement.

- (6) If no objections are received and the application is approved, a permit may be issued three weeks after the date referred to in subregulation (5).
- (7) The area within a radius of 200 m from the geographical coordinates given in the application as the position of the wreck will, unless otherwise indicated in the permit, be deemed to be the wreck site for the purposes of the permit. If the dispersal area of the wreck is larger than 400 m in diameter, application can be made to SAHRA to increase the size of the permit area.
- (8) The applicant who has given coordinates closest to the true position of a wreck will be deemed to have priority for that wreck site. In cases of dispute regarding the position of a wreck SAHRA, in consultation with the parties involved, will decide the matter. The decision of SAHRA will be final.
- (9) If an application for a permit is granted for a wreck site closer than 400 m to an existing wreck site, the wreck site of the holder of the first permit issued will have a 200 m radius and any adjacent site will be correspondingly smaller.
- (10) The length of validity of a permit is subject to the discretion of SAHRA, but may not exceed three years.
- (11) Permits for wrecks may be issued in the following two phases—
 - (a) a pre-disturbance permit in terms of which the applicant is required to conduct a pre-disturbance survey of the wreck site; and
 - (b) an excavation permit.
- (12) When a pre-disturbance survey is required, the issuing of an excavation permit will be considered only on the satisfactory completion of such survey. The completion of a pre-disturbance survey does not guarantee that an excavation permit will be issued.
- (13) SAHRA may refuse to issue a permit or permit extension if it has reason to believe that the applicant is not qualified or experienced enough to do the work or if permit conditions are not met.

27. Permit extensions

- (1) An application for the extension of the period of validity of a permit must be submitted at least 45 days before the expiry of the permit.
- (2) Such application will be evaluated by the SAHRA review committee which will take into account—
 - (a) the extent to which the permit holder has complied with the conditions on this and previous applications;

- (b) whether the reports and copies of publications required in terms of the permit conditions have been submitted regularly and on time;
- (c) whether the work carried out has been of a suitable standard; and
- (d) the extent to which the permit holder has cooperated satisfactorily with the collaborating institution and archaeologist.

28. Minimum qualifications

- (1) Permits for wrecks will be issued only to persons working with an approved collaborating institution.
- (2) Applicants will be required to demonstrate a knowledge and understanding of, and commitment to, the use of underwater archaeological recording and excavation procedures and methods as set out in the Guidelines.
- (3) If a wreck is older than 1850 or deemed to be significant by SAHRA, a suitably qualified maritime archaeologist, approved by SAHRA and preferably employed at a recognised institution, must be included as a full member of the team: Provided that if a maritime archaeologist is not available, a suitably qualified approved archaeologist may be included in the team, on condition that he / she remain in regular contact with SAHRA during the work. If there is no archaeologist available at the collaborating institution, arrangements for the inclusion of a suitable archaeologist on the team must be made in consultation with SAHRA.

29. Standards of practice

- (1) Prior to any work taking place under authority of a permit, the permit holder must arrange a meeting with SAHRA's maritime archaeologist or other designated representative to discuss the proposed work programme and mutually agree on liaison methods during the project.
- (2) The permit holder must, in accordance with methods agreed with the collaborating institution and / or project archaeologist—
 - (a) conduct a satisfactory pre-disturbance survey of the wreck site;
 - (b) record and excavate the wreck site;
 - (c) recover and conserve wreck objects;
 - (d) catalogue and number objects removed from the wreck;

- (e) treat wrecks as non-renewable archaeological sites and not remove objects and material from their original position unnecessarily;
 - (f) treat all human remains with respect;
 - (g) leave the site neat and tidy during and after an excavation and fill in the excavation or stabilise the sections, unless SAHRA grants written exemption; and
 - (h) write up the results of the project.
- (3) Permit holders must inform the collaborating institution and / or project archaeologist at least 24 hrs in advance whenever they intend working on a wreck site. The information to be given should include the names of all the people to be involved, the boat registration, the working area, time and place of departure from and expected time and place of return to shore.
 - (4) While working on the wreck, the permit holder must, if conditions permit, place a buoy with the SAHRA permit number clearly displayed on it at the centre of the wreck site, as close as possible to the geographic coordinates of the wreck site. Smaller buoys may be placed around the perimeter of the wreck site.
 - (5) The team archaeologist referred to in regulation 28(3) is not obliged to dive with the team, but may do so at his / her discretion.
 - (6) No explosives, cranes or other equipment designed to move large quantities of overburden or obstructions may be used without advance permission in writing from SAHRA.
 - (7) SAHRA will provide each permit holder with a bound accession register with prenumbered pages, which remains the property of SAHRA. Each page of the accession register must be clearly marked with the name of the wreck site. At the end of the permit period the accession register must be returned to SAHRA and a copy lodged with the collaborating institution.
 - (8) Each object removed from a wreck site must be marked with an accession number. The accession number and a description of every object, including the material of which it is made, the grid reference and measurements to datum points, the name of the collector, and date of collection the object must be entered into the accession register as soon as possible.
 - (9) Every object recovered must be declared at the nearest office of the Department of Finance: Customs and Excise within seven days of landing. The material must be placed in bond at the collaborating institution or other place that is approved by the relevant Controller of Customs and Excise and that has adequate conservation facilities, until the duty is paid.

- (10) No wood, ivory, other organic materials or ferrous metals may be removed from a wreck site before special facilities for their conservation have been organised to the satisfaction of SAHRA. If in doubt, the object must be left underwater until SAHRA, the project archaeologist or collaborating institution has been consulted.
- (11) The permit holder is at all times responsible for the excavation work and the objects recovered and he / she or his / her authorised representative, whose name shall be furnished to SAHRA, must be present at all times during the work.
- (12) No other divers other than those listed in the application may take part in the project without the prior permission of SAHRA.
- (13) Whenever work takes place on the site the permit holder must be able to produce the original SAHRA permit for inspection by SAHRA or its authorised representative.
- (14) A permit holder must keep a log of all dives on the wreck sites during the period of validity of a permit. The log must record the date, times, names of persons involved, weather and sea conditions, work done, and any other information set out in the Guidelines. The log must be available for inspection by SAHRA and must be submitted with the reports required in terms of the permit.
- (15) The permit holder is responsible for—
 - (a) all costs involved in the excavation, including duties, royalties and surcharges payable to the Department of Finance: Customs and Excise; and
 - (b) the cost of the transportation of recovered material to the collaborating institution and the conservation thereof:

Provided that in cases where the collaborating institution has made a special request for an object that the permit holder would not otherwise have recovered, the institution will be responsible for any additional costs involved.

30. Standards of curation

- (1) The permit holder and the collaborating institution must enter into a formal agreement—
 - (a) to ensure the proper management of wreck objects and data, including accessioning, conserving, storing and maintaining the condition of objects;
 - (b) setting out the financial implications and responsibilities of each party with regard to the conservation, documentation and curation of the objects.

- (2) SAHRA may inspect the premises where the finds are to be conserved and / or housed at any reasonable time to evaluate the conservation measures adopted.
- (3) The permit holder must consult the collaborating institution on a regular basis with regard to the delivery of the finds to the collaborating institution.
- (4) No object recovered from a wreck may be disposed of except to the collaborating institution without the prior agreement of SAHRA.
- (5) Objects recovered from wrecks older than 1850 or deemed to be significant by SAHRA will be regarded as a study collection and may not be dispersed, sold or otherwise disposed of without the special permission of SAHRA.
- (6) In the event that an agreement regarding the division of wreck material between the collaborating institution and the permit holder is approved by SAHRA, such division may take place at any time mutually acceptable to both parties: Provided that the permit holder must notify SAHRA of the division at least seven days in advance, and SAHRA has the right to attend.

31. Fees and financial deposits

- (1) A fee determined by the SAHRA may be charged for permits. Permits for urgent rescue work may, at the discretion of the SAHRA Chief Executive Officer, be exempted.

[Reg 31(1) subs by GoN 668 in G. 27759.]

- (2) Any applicant who is not a South African citizen or permanent resident must, unless SAHRA decides otherwise, lodge a financial deposit with SAHRA against the satisfactory completion of the project and / or compliance with SAHRA permit conditions. The deposit will be forfeited if these conditions are not met to the satisfaction of SAHRA.

32. Submission of reports

- (1) Every permit holder must, by 31 December of any given year, submit to SAHRA—
 - (a) an annual progress report, in accordance with Guidelines, which must include a description of the work done during the year, an accurate site plan with the positions of all objects excavated or collected clearly marked, and a list of all objects removed from the site and their current whereabouts;
 - (b) the diving log referred to in regulation 29(14); and
 - (c) a copy of their valid salvage licence from the Department of Finance: Customs and Excise.

- (2) A final report, conforming to the standards set out in the Guidelines, must be submitted to SAHRA within six months of the date of expiry of the permit.

CHAPTER IX

APPLICATION FOR PERMIT: BURIAL GROUNDS AND GRAVES (SECTION 36(3))

33. Applicability

This Chapter applies to any person applying for a permit to—

- (a) destroy, damage, alter, exhume or remove from its original position or otherwise disturb the grave of a victim of conflict, or any burial ground or part thereof that contains such graves;
- (b) destroy, damage, alter, exhume or remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority;
- (c) bring into use at a burial ground or grave referred to in paragraph (a) or (b) any excavation equipment, or any equipment that assists in the detection or recovery of metals.

34. Application requirements and procedure

- (1) Permit applications must be made on the official form *Application for permit: Burial Grounds and Graves*, available from SAHRA or any provincial heritage resources authority.
- (2) Permit applications must be submitted to SAHRA or the relevant provincial heritage resources authority.
- (3) The following information must be supplied with the application—
 - (a) The name and address, erf / stand / farm number or geographical coordinates of the grave or burial ground and the magisterial district;
 - (b) the name, address, telephone and / or fax numbers of the planning authority for the place;
 - (c) details of the action(s) for which application is made, in accordance with the Guidelines;
 - (d) motivation for the proposed action(s), including supporting documentation and research, in accordance with the Guidelines;
 - (e) details of the cost of the action(s);

- (f) the name, identity number, address, telephone and / or fax number, qualifications, relevant experience and signature of the person who will be responsible for the action(s);
 - (g) the name, identity number, address, telephone and / or fax number and signature of the owner of the land on which the grave or burial ground is situated;
 - (h) in the case of the exhumation or removal of a grave, the name, identity number, address, telephone and / or fax number, qualifications, relevant experience and signature of the archaeologist who will supervise the work;
 - (i) in the case of destruction or damage of any burial ground or grave referred to in regulation 33(a), details of arrangements for the exhumation and re-interment of the contents of such graves;
 - (j) in the case of any activity under regulation 33(b) of these Regulations—
 - (i) details of efforts made to contact and consult communities and individuals who by tradition have an interest in such grave or burial ground; and
 - (ii) copies of agreements reached with such communities or individuals regarding the future of such grave or burial ground;
 - (k) the name, identity number, address, telephone and / or fax number and signature of the applicant, if the owner is not the applicant;
 - (l) any other relevant information required by the provincial heritage resources authority.
- (4) The provincial heritage resources authority may at its discretion refer an application to SAHRA or to experts in the field for comment and advice on any conditions that should be imposed in the permit.

35. Minimum qualifications and standards of practice

A permit will be issued only for exhumation or removal that is to be done—

- (a) under the supervision of a qualified archaeologist or person approved by the relevant heritage resources authority;
- (b) with due respect for any human remains and the customs and beliefs of any person or community concerned with such grave or burial ground and, when requested, in the presence of such person or community representative;

- (c) after arrangements have been made for the re-interment of any human remains and the re-interment or curation of any other contents of such grave or burial ground, to the satisfaction of SAHRA or the relevant heritage resources authority,

in accordance with Guidelines.

CHAPTER X

PROCEDURE FOR CONSULTATION REGARDING PROTECTED AREA (SECTION 28(3))

36. Applicability

- (1) This Chapter applies to any person with the intention to damage, disfigure, alter, subdivide or in any other way develop any part of an area designated as a protected area by SAHRA.
- (2) The person in subregulation (1) is hereafter referred to as the applicant.

37. Consultation procedure

- (1) The applicant must consult SAHRA at the earliest possible stage, and at least 60 days before the initiation of any activity at the protected area.
- (2) The following information must be supplied—
 - (a) The name and location of the national heritage site, wreck, or mine dump to be covered by the protected area;
 - (b) the number and date of the notice of designation of the protected area in the *Gazette*;
 - (c) the number and date of any regulations for the protection of the area in the *Gazette*;
 - (d) details of the proposed actions or development, accompanied by sufficient plans, drawings and photographs to illustrate the effect on the protected area;
 - (e) the name, identity number and contact details, including the address, telephone and / or fax numbers of the owner;
 - (f) the signed consent of the owner for the proposed actions or development;
 - (g) the comments of the local authority regarding the proposed actions or development;

- (h) the name, identity number and contact details, including address, telephone and / or fax numbers, and signature of the person who will be responsible for the proposed actions or development;
 - (i) any other relevant information requested by SAHRA.
- (3) SAHRA will consider the proposals, and may consult any other person or authority it deems appropriate.
 - (4) SAHRA must make its final comments and recommendations within 45 days of receipt of the information listed in regulation 37(2).

CHAPTER XI

PROCEDURE FOR CONSULTATION REGARDING BURIAL GROUNDS AND GRAVES (SECTION 36(5))

38. Applicability

- (1) This Chapter applies to any person with the intention to destroy, damage, alter, remove from its original position or otherwise disturb any grave or burial ground older than 60 years which is situated outside a formal cemetery administered by a local authority.
- (2) The person in subregulation (1) is hereafter referred to as the applicant.

39. Identification procedure

- (1) The applicant must make a concerted effort to identify the descendants and family members of the persons buried in and / or any other person or community by tradition concerned with such grave or burial ground by—
 - (a) archival and documentary research regarding the origin of the grave or burial ground;
 - (b) direct consultation with local community organisations and / or members;
 - (c) the erection for at least 60 days of a notice at the grave or burial ground, displaying, in all the official languages of the province concerned, information about the proposals affecting the site, the telephone number and address at which the applicant can be contacted by any interested person and the date by which contact must be made, which must be at least seven days after the end of the period of erection of the notice; and
 - (d) advertising in the local press.

- (2) The applicant must keep records of the actions undertaken under subregulation (1), including the names and contact details of all persons and organisations contacted and their response, and a copy of such records must be submitted to the provincial heritage resources authority with the application.

40. Consultation and agreement

- (1) The applicant must consult any interested parties identified through the process in regulation 39 regarding the effect of the proposals on the grave or burial ground, with the aim of reaching agreement about the future of such grave or burial ground.
- (2) Unless otherwise agreed by the interested parties, the applicant is responsible for the cost of any remedial action required in terms of an agreement under subregulation (1), whether modification of any proposals to retain the grave or burial ground, or excavation and re-interment of any grave, or any other reasonable action required by the interested parties.
- (3) If the consultation under subregulation (1) fails to result in agreement, the applicant must submit records of the consultation and the comments of all interested parties as part of the application to the provincial heritage resources authority.

CHAPTER XII

DISCOVERY OF PREVIOUSLY UNKNOWN GRAVES (SECTION 36(6))

41. Applicability

- (1) This Chapter applies when a grave, the existence of which was previously unknown, is discovered in the course of development or any other activity.
- (2) Such grave must not be disturbed in any way after it is discovered except under authority of the provincial heritage resources authority.

42. Investigation

- (1) As soon as possible after notification of the discovery of the grave, the provincial heritage resources authority or its delegated representative must, in cooperation with the South African Police Service, inspect such grave and decide whether or not there is reason to believe—
 - (a) that the grave is likely to be older than 60 years or otherwise protected in terms of the Act; and
 - (b) that any further graves exist in the vicinity.
- (2) If it is decided that the grave is likely to be so protected, no activity referred to in regulation 41(1) may be resumed in the immediate vicinity of such grave or in the area in which additional graves are likely

to be found, unless an investigation is undertaken by a person and in a manner approved by the provincial heritage resources authority to establish the facts of the matter.

- (3) If the investigation in regulation 42(2) confirms that any grave is protected, the Act and the provisions in regulations 38, 39 and 40 shall apply in respect of any person who intends to disturb such grave: provided that the heritage resources authority may at its discretion modify such provisions in order to expedite the satisfactory resolution of the matter.

43. Grading system and criteria

The criteria to be applied in assessing the significance of a heritage resource are as follows—

- (1) Grade 1: Heritage resources with qualities so exceptional that they are of special national significance should be applied to any heritage resource which is—
- (a) of outstanding significance in terms of one or more of the criteria set out in section 3(3) of the Act; and
 - (b) authentic in terms design, materials, workmanship or setting; and such universal value and symbolic importance that it can promote human understanding and contribute to nation building, and its loss would significantly diminish the national heritage.
- (2) Grade 2: Heritage resources with special qualities which make significant in the context of a province or region should be applied to any heritage resource which—
- (a) is of great significance in terms of one or more of the criteria set out in section 3(3) of the Act; and
 - (b) enriches understanding of cultural, historical, social and scientific development in the province or region in which it is situated, but that does fulfil the criteria for Grade 1 status.
- (3) Grade 3: Heritage resources worthy of conservation should be applied to any heritage resource which—
- (a) fulfils one or more of the criteria set out in section 3(3) of the Act; or
 - (b) in the case of a site, contributes to the environmental quality or cultural significance of a larger area which fulfils one of the above criteria, but that does not fulfil the criteria for Grade 1 status.

[Reg 43 ins by GoN 694 in G. 24893.]