

Extract from the National Heritage Resources Act 25 of 1999.

Section [42] Heritage agreements

(1) (a) SAHRA, or a provincial heritage resources authority may negotiate and agree with a provincial authority, local authority, conservation body, person, or community for the execution of a heritage agreement to provide for the conservation, improvement or presentation of a clearly defined heritage resource: Provided that the consent of the owner of such resource must be given.

(b) Such a heritage agreement must be in the form of a binding contract.

(2) A heritage agreement may include such terms and conditions as the parties think fit, including provision for public access, and provision for financial or other assistance from the heritage authority concerned.

(3) Without limiting subsection (2), a heritage agreement may be expressed to have effect in perpetuity or for any specified term, or to terminate upon the happening of a specific event.

(4) A heritage agreement may, with the consent of the owner of the resource concerned, be varied or cancelled by agreement between the parties.

(5) The consent of the owner of the resource concerned to the heritage agreement or any variation of the heritage agreement may be given, subject to the inclusion in the heritage agreement of any additional provisions or modified provisions, or to the deletion of such provisions, as the owner giving the consent considers necessary.

(6) Nothing in this Act requires a heritage resources authority to negotiate or agree with any person or authority to enter into or execute any heritage agreement.

(7) A heritage agreement in respect of a place attached to the land is binding on the owner of the place, as at the date of execution of the agreement while the agreement remains in force.

(8) The owner of a national heritage site, a provincial heritage site or a place listed in a heritage register may, by a heritage agreement entered into with the heritage resources authority or local authority responsible for the protection of such place, or any person or body approved by such authority, appoint the heritage resources authority or the local authority or the person or body concerned, the guardian of the place.

(9) The heritage agreement referred to in subsection (7) or (8) may provide for-

- (a) the maintenance and management of the place;
- (b) the custody of the place and the duties of any person who may be employed in connection therewith;
- (c) the occupation or use of the place by the owner or otherwise;
- (d) the restriction of the right of the owner or occupier to do certain acts or things on or near the place;
- (e) the facilities of access to be permitted to the public and to persons deputed by the guardian to inspect or maintain the place;
- (f) the presentation of the place;
- (g) the notice to be given to the guardian in case the owner intends to offer the land on which the place is situated for sale, lease or other disposal, and the right to be reserved to the guardian to have first refusal of such sale, lease or other disposal;
- (h) the payment of any expenses incurred by the owner or by the guardian in connection with the maintenance of the place;
- (i) any other matter connected with the protection or management of the place which is agreed to by the owner and the guardian;
- (j) the duration of the agreement, with provision for the earlier termination thereof by any party thereto; and
- (k) the procedure for the resolution of any dispute arising out of the agreement.

(10) The owner of a place which is under guardianship shall, except as expressly provided by this Act, continue to have the same estate, right, title and interest in and to the place as before.

(11) Every heritage agreement has effect according to its tenor but subject to the provisions of this Act: Provided that-

- (a) the execution of a heritage resources agreement in respect of a heritage resource must not prevent the heritage authority responsible for its protection from exercising any powers in this Act in relation to that resources; and
- (b) nothing in terms of any heritage agreement shall permit or allow any person to carry out any act contrary to this Act.