



**FREE STATE PROVINCE**

# **PROVINCIAL GAZETTE**

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# **PROVINSIALE KOERANT**

**PROVINSIE VRYSTAAT**

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**No. 106**

**BLOEMFONTEIN, 7 DECEMBER 2007**

**BLOEMFONTEIN, 7 TSHITOE 2007**

<b>OFFICE OF THE PREMIER</b>	<b>OFISI YA TONAKGOLO</b>
<b>No. 7</b>	<b>Nomoro ya 7</b>
<b>7 December 2007</b>	<b>7 Tshitoe 2007</b>
It is hereby notified that the Premier has assented to the following Act which is hereby published for general information:-	Mona ho tsebiswa hore Tonakgolo e ananetse Molao o latelang o phatlalatswang bakeng la tlhahisoleseding ya kakaretso:-
<b>No. 7 of 2007 : Free State Arts and Culture Council Act, 2007</b>	<b>Nomoro ya 7 wa 2007 : Molao wa Lekgotla la Bonono le Setso wa Freistata, 2007</b>

# ACT

To establish a juristic person known as the Free State Arts and Culture Council; to determine its objects, functions and the manner of its operations; to regulate its staff matters and financial matters; and to provide for matter connected therewith.

**BE IT ENACTED** by the Provincial Legislature of the Free State Province as follows:-

*(English text assented to and signed by the Premier.)*

## Definitions

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1. In this Act, unless the context indicates otherwise -

“**chairperson**” means the chairperson of the Council;

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“**Council**” means the Free State Arts and Culture Council established in terms of section 2;

“**Department**” means the Department responsible for Arts and Culture in the Province;

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“**Head of Department**” means the Head of the Department responsible for Arts and Culture in the Province;

“**MEC**” means the Member of the Executive Council responsible for Arts and Culture in the Province;

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“**member**” means member of the Council;

“**Province**” means the Free State Province;

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“**the arts**” includes all forms of music, dance, drama, theatre, craft, visual art, literature and community art; and

“**this Act**” includes the Regulation.

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## Establishment of the Free State Arts and Culture Council

2. A juristic person known as the Free State Arts and Culture Council is established.

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## Objects of the Council

3. (a) To encourage and provide opportunities for persons to practice the arts;

(b) To promote the appreciation, understanding and the enjoyment of the arts;

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(c) To promote the general application of the arts in the community;

# MOLAO

Ho theha setheo sa molao se tlang ho tsejwa e le Lekgotla la Bonono le Setso la Freistata; ho phethahatsa maikemisetso a sona, mesebetsi le mokgwa wa tshebetso wa sona, ho laola ditaba tsa basebeletsi ba sona le tsa ditjhelete; le ho nehelana ka thuso le tshehetso e amanang le sona.

**E TLA KENNGWANG TSHEBETSONG** ke Lekgotla la Ketsamolao la Provense ya Freistata, ka mokgwa ona:-

*(Sengolwa sa Senyesemane se ananetswe le ho saenelwa ke Tonakgolo.)*

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## Ditlhaloso

1. Molaong ona, ntle le ha se ngotsweng se bolela ho hong -

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“**Hlooho ya Lefapha**” ho bolelwa Hlooho ya Lefapha e ikarabellang ho tsa Bonono le Setso Provenseng;

“**Lefapha**” ho bolelwa Lefapha le ikarabellang ho tsa Bonono le Setso Provenseng;

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“**Lekgotla**” ho bolelwa Lekgotla la Bonono le Setso la Freistata le thehilweng ho latela dintlha tsa karolo ya 2;

“**modulasetulo**” ho bolelwa modulasetulo wa Lekgotla;

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“**Mola ona**” o kenyeletsa Molawana;

“**Provense**” ho bolelwa Provense ya Freisetata;

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“**Setho**” ho bolelwa Setho sa Lekgotla;

“**SLP**” ho bolelwa Setho sa Lekgotla la Phethahatso se ikarabellang ho tsa Bonono le Setso Provenseng; le

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“**tša bonono**” ho kenyelletswa mefuta yohle ya mmimo, motjeko, tshwantshiso, mesebetsi ya matsoho, botaki, dingolwa le bonono ba baahi.

## Ho thehwa ha Lekgotla la Bonono le Setso la Freistata

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2. Setheo sa molao se tsejwang ka hore ke Lekgotla la Bonono le Setso la Freistata se thehilwe.

## Maikemisetso a Lekgotla

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3. (a) Ho kgothaletsa le ho nehelana ka menyetla ho batho ba sebetsanang le tsa bonono;

(b) Ho tsebahatsa ho amohelwa, ho utlwisiswa, le ho thabelwa ha tsa bonono;

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(c) Ho tsebahatsa ho kenngwa tshebetsong ka kakaretso ha tse mabapi le bonono baahing;

- (d) To uphold and promote the right of persons to freedom in the practice of the arts;
- (e) To address historical imbalances in the provision of infrastructure and funding for the promotion of the arts; 5
- (f) To develop and promote the arts and encourage excellence in performance and expression in the art works and forms; and
- (g) To encourage and recognise innovations and creativity in all art works and forms. 10

### Composition of the Council

- 4. (1) The Council consists of eleven (11) members appointed by the MEC. 15
- (2) Every district municipality in the Province as defined in the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998) must nominate one (1) person to be appointed to the Council. 20
- (3) Subject to subsections (2) and (5), the MEC must request nominations for the other members of the Council in at least one newspaper circulating in the Province and in the *Provincial Gazette*.
- (4) Members of the Council must have special knowledge or experience in one or more of the following fields: 25
  - (i) Music;
  - (ii) Dance; 30
  - (iii) Theatre;
  - (iv) Film and video; 35
  - (v) Literary arts;
  - (vi) Spoken words arts;
  - (vii) Visual arts; 40
  - (viii) Crafts;
  - (ix) Community Arts and Culture;

- (d) Ho sireletsa tokelo ya motho ka mong ya tokoloho, ditabeng tsa bonono;
- (e) Ho lokisa ho se lekalekane ha mehleng nehelanong ya meralo ya ditshebeletso le tshehetso ya ditjhelete bakeng la ho tsebahatsa tsa bonono;
- (f) Ho ntshetsapele le ho tsebahatsa tsa bonono le ho kgothaletsa boqhetseke ho mefuta yohle ya tsa bonono;
- (g) Ho kgothaletsa le ho ehlwa boiqapelo mesebetsing le mefuteng yohle ya bonono;

#### **Popeho ya Lekgotla**

4. (1) Lekgotla le boptjwa ke ditho tse lesome le motso (11) tse thongtsweng ke SLP.
- (2) Masepala ka mong wa setereke ka hara Provense jwalokaha o hlalositse kahara Molao wa Mmuso wa Lehae wa Dipopeho tsa Bomasepala, wa 1998 (Molao wa Nomoro ya 117 wa 1998) o tlamehile ho khetha motho a le mong (1) ya tla thonngwang ho ba Lekgotleng.
- (3) Ho itshehlehle hodimo ha dikarolwana (2) le (5), SLP o tlamehile ho etsa kopo ya ho khethwa ha ditho tse ding tsa Lekgotla bonyane koranteng e le nngwe e balwang Proveng le ho *Koranteng ya Provense*.
- (4) Ditho tsa Lekgotla di lebeletswe ho ba le tsebo e ikgethang kapa boiphihlelo lekaleng kapa makaleng a latelang:
- (i) Mmino;
- (ii) Motjeko;
- (iii) Papadi ya kalaneng;
- (iv) Difilimi le dividiyo;
- (v) Bonono dingolweng;
- (vi) Bonono mantsweng a buuwang;
- (vii) Bonono bo bohuwang;
- (viii) Mesebetsi ya matsoho;
- (ix) Bonono le Setso sa baahi;

- (x) Arts Education;
  - (xi) Technical knowledge of the arts;
  - (xii) Law; 5
  - (xiii) Finance; and
  - (xiv) Management. 10
- (5) The Head of Department is an *ex officio* member of the Council. 10
- (6) The MEC must appoint the chairperson among the members of the Council. 15
- (7) No person shall be appointed as a member of the Council –
- (a) if he or she is declared insolvent and is not rehabilitated;
  - (b) if he or she is declared unfit by a court of law to manage his or her own affairs; 20
  - (c) is convicted and sent to prison without an option of a fine; and
  - (d) unless that person is a South African citizen permanently resident in the Province. 25
- (8) The composition of the Council shall be broadly representative of the gender, language and community composition of the Province. 30
- (9) The names of the members of the Council and the dates of the commencement of their terms of office shall as soon as possible after the constitution of the Council be made known by the MEC by notice in the *Provincial Gazette*. 35

### **Powers of the Council**

5. In order to achieve its objects, the Council may –
- (1) render financial support, advice and information to persons, organisations and institutions that may approach it for that purpose; 40
  - (2) investigate and determine the need, support, advice and information for persons, organisations and institutions; 45
  - (3) promote and encourage equity in arts and culture;
  - (4) conduct research into various fields of arts;

- (x) Thuto ya bonono;
- (xi) Tsebo ya setekgeniki ya tsa bonono;
- 5 (xii) Molao;
- (xiii) Ditjhelete; le
- (xiv) Botsamaisi.
- 10 (5) Hlooho ya Lefapha e tla ba Setho sa Lekgotla ho ya ka maemo a hae.
- (6) SLP se tla kgetha e mong hara ditho tsa Lekgotla ho ba modulasetulo.
- 15 (7) Ha ho motho ya tla kgethwa jwalo ka setho sa Lekgotla –
- (a) ebang a ka phatlalatswa a e na le mathata a ditjhelete mme a sa hlabollehe;
- 20 (b) ebang a phatlalatswa ke lekgotla la dinyewe hore ha a itekanela ho laola ditaba tsa hae;
- (c) o fumanwe a le molato mme a ahlolwa ntle le kotlo ya tjhelete;
- 25 (d) mme ntle le ha e ba motho eo ke moahi wa Afrika Borwa ya dulang ka dinako tsohle ka hara Provense.
- (8) Lekgotla le tla theuwa holatela bong, puo le setjhaba ka kakaretso sa Provense ya Freistata.
- 30 (9) Mabitso a ditho tsa Lekgotla le matsatsi a ho qala tshebetso a tla tsebiswa ke SLP hang ka mora ho thehwa ha Lekgotla mme a phatlalatswe ka hara koranta ye mmuso wa Provense.

### 35 **Matla a Lekgotla**

#### 5. Ho fihlella maikemisetso a lona, Lekgotla le ka-

- 40 (1) nehelana ka tshehetso ya ditjhelete, keletso le tlhahisoleseding ho batho, mekgatlo le ditheo tse ka hlohang thuso e jwalo ho Lekgotla;
- (2) fuputsa le ho etsa qeto mabapi le tlhoko, tshehetso, keletso le tlhahisoleseding ho batho, mekgatlo le ditheo;
- 45 (3) tsebahatsa le ho kgothaletsa tekatekano ho tsa bonono le Setso;
- (4) etsa dipatlisiso makaleng a fapaneng a tsa bonono;

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|------|--|----|
| (5)  | establish, compile and maintain databases of persons, organisations, institutions, equipment and facilities connected with the arts;   |    |
| (6)  | raise funds with the written consent of the MEC to promote the objects of this Act;  | 5  |
| (7)  | enter into agreements with persons, organisations or institutions with written consent of the MEC;   |    |
| (8)  | purchase, acquire, possess, hire, alienate or let, pledge or encumber movable property and with the approval of the MEC of Arts and Culture, with the concurrence of the MEC for Treasury, purchase, acquire, possess, hire, alienate or let pledge or encumber, immovable property; | 10 |
| (9)  | advise the MEC on matters and policy regarding arts and culture;   | 15 |
| (10) | publish information on its objects and functions;  |    |
| (11) | report quarterly on its activities to the MEC; and   |    |
| (12) | perform such other functions that are necessary to achieve the objects of this Act.  | 20 |

#### **Term of office of members of the Council and filling of vacancies**

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| 6. | (1) A member shall be appointed for a period of five (5) years.   |    |
|    | (2) A member whose term of office has expired is eligible for reappointment, but may not serve more than two (2) terms of office.   |    |
|    | (3) Any vacancy on the Council shall be filled by appointment in the manner in which the member who vacates the office was required to be appointed, and any member so appointed shall hold office for the unexpired portion of the period for which the member who vacates the office was appointed. | 30 |

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#### **Termination of office of members of the Council**

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| 7. | (1) The MEC may terminate a member's membership if –  |    |
|    | (a) he or she absents himself or herself from two (2) consecutive meetings without a written apology accepted by the Council; | 40 |
|    | (b) a member is declared insolvent and is not rehabilitated;  |    |
|    | (c) a member is declared unfit by a court of law to manage his or her own affairs;  | 45 |
|    | (d) a member resigns by written notice addressed to the MEC;  |    |

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- (5) theha, ho bokella le ho hlokomela pokello ya lesedi mabapi le batho, mekgatlo, ditheo, thepa, le dibaka tse amanang le tsa bonono;
- 5 (6) ho bokella ditjhelete ka tumello e ngotsweng ya SLP ho phethahatsa ditabatabelo tsa molao ona;
- (7) kena tumellanong le batho, le mekgatlo kapa ditheo ka tumello e ngotsweng ya SLP;
- 10 (8) reka, la fumana, la eba le thepa, la hirisa, la fetisetsa matla a ho ba le thepa kapa la hira, la tshepisa kapa la etsa thibelo ho thepa e tsamayang, ka tumello ya SLP sa tsa Bonono le Setso, ka tshebedisano le SLP sa Ditjhelete, la reka, la fumana, la eba le thepa, la hirisa, la fetisetsa matla a ho ba le thepa, la hira, la tshepisa, kapa la etsa thibelo thepeng e sa tsamayeng;
- 15 (9) eletsa SLP dintlheng le leanong, le amanang le bonono le Setso;
- (10) phatlalatsa tlhahisoleseding mabapi le maikemisetso le mesebetsi ya lona;
- 20 (11) etsa pehelo kotareng kangwe hodima diketsahalo ho SLP; hape
- (12) etsa mesebetsi e meng e hlokahalang ho fihlela maikemisetso a Molao ona.

### Nako ya ofisi le tlatso ya dikgeo tsa ditho tsa Lekgotla

- 25 6. (1) Setho se tla kgethwa bakeng sa nako ya dilemo tse hlano (5).
- (2) Setho seo nako ya sona ya ofisi e fihlileng pheletsong se ka boela sa kgethwa hape, empa se ke ke sa eba ofising nakong e fetang mekgahlelo e mmedi (2)
- 30 ya nako ya ofisi.
- (3) Sekgeo sefe kapa sefe se Lekgotleng se tla tlatswa ka ho thonya ka mokgwa oo setho se tswang tshebetsong se neng se thonngwe mme setho sefe kapa sefe se tla thonngwa se tla sebetsa nako e salletseng Lekgotla eo setho se
- 35 tswang se neng se setse ka yona.

### Ho kgaolwa ha ofisi ya ditho tsa Lekgotla

- 40 7. (1) SLP se ka kgaola botho ba Setso haeba -
- (a) se sa iponahatse makgetlo a mabedi (2) a latelanang dikopanong kante ho kopo ya tshwarelo e ngotsweng mme e amohetswe ke Lekgotla;
- 45 (b) Setho se ka fumanwa se se sa kgone ho lefa melato, mme se sa hlole se eba boemong bo tsitsitseng ba tshebetsong;
- (c) Setho se fumanwa se se boemong bo nepahatseng ba bophelo ke lekgotla la dinyewe ho ka phetha mesebetsi ya
- 50 sona;
- (d) Setho se itokolla ka ho tsebisa SLP ka lengolo;

- (e) a member is convicted and sent to prison without an option of a fine; and
- (f) a good cause is shown to terminate a member's membership.

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(2) The MEC may dissolve the Council on any reasonable grounds.

### Meetings of the Council

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8. (1) The Council must meet at least once in every three (3) months at a place and time decided by the Council.

(2) The chairperson may convene a special meeting and he or she shall, upon written request signed by the majority of members, convene a special meeting, when necessary, to deal with urgent or outstanding matters that could not be dealt with during the meetings referred to in subsection (1).

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(3) The quorum of the meeting shall be at least 50 percent plus one of the Council's members present at that meeting.

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(4) The decision of the Council is by way of consensus, but if consensus is not reached, members must vote and if the majority of members vote in favour of the decision, it will be the decision of the Council.

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(5) The chairperson has a casting and a deliberative vote.

(6) Members of the Council who are not in the full-time service of the State or who are in the full-time service of the State, but who have no access to allowances, subsistence and travelling expenses, may, in respect of their services, be paid reasonable allowances and subsistence and travelling expenses as determined by the MEC with the concurrence of the MEC responsible for finance.

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### Committees of the Council

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9. (1) The Council may establish one or more committees which may perform the functions of the Council as may be determined by the Council.

(2) The Council may dissolve or reconstitute the committees established in terms of subsection (1).

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### Financial matters of the Council

10. (1) In the execution of its functions, the Council must utilise its funds for the purposes of achieving the objects of this Act.

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(2) The Council must adhere to the provisions of the Public Finance Management Act, 1999 (Act No. 1 of 1999).

(e) Setho se ka tshwarwa mme sa romelwa tjhankaneng kantle ho monyetla wa ho lefa kotlo; hape

(f) ho ka bonahala bohlokwa ba ho kgaola botho ba Setho.

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(2) SLP a ka qhala Lekgotla ho latela mabaka a utlwahalang.

### Dikopano tsa Lekgotla

10      **8.**      (1)      Lekgotla le tlameha ho kopana bonyane hang dikgweding tse tharo (3) seabakeng le nakong e tlang ho tsebiswa ke Lekgotla.

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(2)      Modulasetulo a ka bitsa kopano e ikgethang hape o tla bitsa kopano e ikgethileng ka kopo e saenilweng ke bongata ba ditho, ebang ho hlokahala, ho shebana le dintlha tse potlakileng kapa tse salletseng morao tse neng di ke ke tsa shejwa dikopanong tse boletsweng karolwaneng ya (1).

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(3)      Khoramo ya kopano e tla ba bonyane diperesente tse 50 le nngwe ya ditho tsa Lekgotla tse teng kopanong eo.

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(4)      Qeto ya Lekgotla e tla ba ka tsela ya tumellano ya kakaretso, empa haeba ho sa fihlellwe tumellano ya kakaretso, ditho di tlameha ho vouta mme ebang bongata ba ditho bo tshehetsa qeto e entsweng, hoo e tla ba qeto ya Lekgotla.

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(5)      Modulasetulo o na le matla a voutu e etsang qeto.

(6)      Ditho tsa Lekgotla tse sa sebeletseng Mmuso ka dinako tsohle kapa ba basebeletsang Mmuso ka dinako tsohle empa ba sa fumane ditsiane tse itseng bakeng la dijo le ditjeho tsa maeto, ho latela tshebeletso eo ba nehelanang ka yona, di ka lefshwa ditsiane tse itseng bakeng la dijo le ditjeho tsa maeto jwalo ka SLP se tla be se nkile qeto ka moraho ho tumello le SLP se ikarabellang ho tsa ditjhelete.

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### Dikomiti tsa Lekgotla

40      **9.**      (1)      Lekgotla le ka khetha komiti e le nngwe kapa tse mmalwa tse tla etsa mesebetsi ya Lekgotla ho latela kamoo Lekgotla le tla qeta kateng.

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(2)      Lekgotla le ka qhala kapa la bopa botjha dikomiti tse thehilweng ho latela dintlha tse boletsweng karolwaneng ya (1).

### Dintlha tsa ditjhelete tsa Lekgotla

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**10.**      (1)      Ho phethahatsa mesebetsi ya lona, Lekgotla le tlameha ho sebedisa ditjhelete tsa lona ho fihlella maikemisetso a Molao ona.

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(2)      Lekgotla le tlameha ho ikamahanya le diphelelo tsa Molao wa Botsamaisi ba Ditjhelete tsa Setjhaba, wa 1999, (Molao wa Nomoro ya 1 wa 1999) (o bitswang ka hore ke “PFMA”).

### **Administrative support**

11. The Department must provide administrative support to the Council.

### **Regulations**

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12. (1) The MEC may, by notice in the *Provincial Gazette*, make regulations regarding other matters that may be necessary or expedient in order to achieve the objects of this Act. 10
- (2) Not less than 1 month before any regulation is made under this section, the MEC shall cause the text thereof to be published in the *Provincial Gazette* together with a notice declaring his or her intention to make that regulation and inviting interested persons to furnish any comments thereon or any representation which they may wish to make in regard thereto, to the MEC on or before a date mentioned in the notice. 15
- (3) The provision of subsection (2) shall not apply in respect of any regulation which, after the provision of that subsection have been complied with has been amended by the MEC, in consequence of comments or representations received in pursuance of such compliance. 20

### **Repeal of laws and savings**

13. (1) The laws mentioned in the Schedule are hereby repealed to the extent indicated in the second column of the Schedule. 25
- (2) A proclamation, regulation, notice, order, authority, permission or document issued, made, promulgated, given or granted and an action taken under a repealed law in subsection (1), shall, if not inconsistent with the provisions of this Act, be deemed to have been issued, made, promulgated, given, granted or taken under the corresponding provisions of this Act. 30

### **Short title**

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14. The Act is called the Free State Arts and Culture Council Act, 2007.

**Tshehetso ya tsamaiso**

11. Lefapha le tlameha ho nehelana ka tshehetso ya tsamaiso ho Lekgotla.

5      **Melawana**

12. (1) SLP ka tsebiso *Koranteng ya Provense*, se ka etsa melawana e mabapi le dintlha tse ding tse ka hlokaahalang kapa tse potlakileng hore ho fihlellwe maikemisetso a Molao ona.

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(2) Eseng ka tlase ho kgwedi pele molawana ofe kapa ofe ka tlasa karolo ena, SLP se tla phatlalatsa leqephe ka hara Koranta ya Mmuso wa Provense mmoho le tsebiso ya maikemisetso a hae a ho rala molao oo le ho mema ba nang le kgahleho ho tshwaela mabapi le molao oo, ho SLP pele kapa letsatsi le hlahositsweng tsebisong.

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(3) Dikateng tsa karolwana (2) ha di na ho sebetsa ho latela molawana ofe kapa ofe tse di beng di latetswe e le dikateng tsa dipolelwana tseo, di tla be di fetolwe ke SLP, a ikamahantse le maikutlo a mabapi le morero ona.

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**Ho hlakolwa ha melao le ho bolokwa ha e meng**

13. (1) Melao e boletsweng kahara Shejule e hlakolwa ho latela kamoo ho bontshitsweng kateng kholomong ya bobedi ya Shejule.

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(2) Kgoeletso, molawana, tsebiso, taelo, matla, tumello kapa tokomane e phatlaladitsweng, e tsebisitsweng semmuso, eo ho nehelanweng ka yona tlasa molao o hlakotsweng wa karolwana ya (1), haeba di sa kgeme mmoho le dipheho tsa Molao ona, di tla nkuwa di ile tsa phatlalatswa, tsa etswa, tsa tsebiswa semmuso, tsa amohelwa ho bapa le dipheho tsa Molao ona.

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**Sehlooho se se kgutshwane**

14. Molao ona o bitswa ka hore ke Molao wa Lekgotla la Bonono le Setso wa Freistata, wa 2007.

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**SCHEDULE****Laws repealed**

<b>No. and Year of Act</b>	<b>Short title</b>	<b>Extent of repeal</b>
Act No. 35 of 1983	Culture Promotion Act	The whole
Act No. 65 of 1989	Cultural Affairs Act (House of Assembly)	The whole

**SEJULE****Melao e hlakotsweng**

<b>Nomoro le Selemo sa Molao</b>	<b>Sehlooho se se kgutshwane</b>	<b>Kamoo molao o hlakotsweng kateng</b>
Molao wa Nomoro ya 35 wa 1983	Molao wa Tsebahatso ya tsa Setso	Kaofela
Molao wa Nomoro ya 65 wa 1989	Molao wa Tsebahatso ya Merero ya tsa Setso (Ntlo ya Seboka)	Kaofela