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| **Standing Committee on Community Safety, Cultural Affairs and Sport** |
| **Matrix of Submissions for the Western Cape Museums Ordinance Amendment Bill [BB5-2020]** |
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| **Person/Organisation**  | **Comment** | **Department response**  | **Response from Parliamentary Legal Adviser**  |  |
| Ministry of Finance and Economic Opportunities | The Bill should make provision to require the department to issue policy guidelines/directives to determine instances where the auditing of a museum should be conducted by the AGSA | The proposal in the comment is not aligned with the objective of the amendment. The amendment seeks to delete the requirement that the AG audits the accounts of province-aided museums. In terms of section 4(3) of the Public Audit Act, 2004, the AG will still retain a discretion to audit the accounts of province-aided museums should the amendment pass. The proposal is in this sense therefore unnecessary and potentially may fetter the discretion of the AG should the criteria envisaged in the proposal not align with the prescribed criteria referred to in the Public Audit Act, 2004.  |  |  |
| Dr Nic Walker | There is no mention of the support role played by the department itself.  | This statement is not correct. The Bill expressly substitutes the defined terms “Department” that refers to the provincial department of Cultural Affairs in the Bill. These references are in clauses throughout the text that sets out or refers to the functions of the Department.  |  |  |
|  | What about mentioning private or independent museums? Are they illegal? | The scope of the Bill is that it deals with the 3 categories of museums dealt with in the principal Ordinance and these are provincial, province-aided and local museums.  |  |  |
|  | There are also issues like insurance, building maintenance, liabilities, leases, dealing with an unruly public etc that need to be covered by regulations | In respect of province -aided museums, the Bill does provide in clause 27 which substituted section 29 of the principal Act that subsidies may be used only for the payment of salaries, wages and allowances and the maintenance costs of the museum. The costs listed in the comment would seemingly fall within the grouping of maintenance costs. The Bill does not provide likewise for provincial museums. This is because the building in which these museums are located are owned by the Provincial Government and the payments if such costs are regulated by rules and arrangements extraneous to the Bill.  |  |  |
|  | Also stakeholders like museum clubs, Friends, volunteers need to be born in mind | Such stakeholders are recognized in the Bill. For example, for all 3 types of museum, provision is made for subscribers to the particular museum to be nominated on the governance structure of the museum. |  |  |
|  | Specific points (Sections refer to existing Bill):-Sec 1 (l). Include 'accessions' | The new definition of “museum” in clause 1 of the Bill refers to “acquire”. This includes the accession of an object by a museum. Accession is the last step of the formal process of acquisition of an object by a museum. There is therefore no need to specifically refer to the accession of an object by a museum.  |  |  |
|  | Sec 2. It is not clear what criteria are needed for a museum to be a provincial museum. It implies that these have a higher status than aided museums, just below a national museum. The Dias Museum in fact has an international interest because of the Portuguese connection. | The statement in the comment is incorrect. Clause 2 of the Bill very clearly sets out what is need for a provincial museum to be established- first: the purpose of establishment must be to promote and protect the heritage of the Province and secondly, there needs to be a consideration of the operational needs of the Department. As to the second contention in the comment, it is unclear how that assumption can be made and clarity is required.For the third, the Department has no response to the statement that the Dias Museum has an international interest because of the Portuguese connection as far as the Amendment Bill is concerned. |  |  |
|  | Sec 3. One problem is that the Department makes decisions without consulting management committees. The roles thus of committees are ambiguous. | The statement in the comment is not correct. Section 7 of the principal Act read with clause 8 of the Bill sets out clearly the functions of a management committee.  |  |  |
|  |  Sec 7. Items 1 (a) to (c) are surely museum management rather than committee tasks. (f) is too vague - the committee should provide direction, oversight etc. | The management committee of a provincial museum constitutes the governance structure of the museum. The committee performs an advisory role in support of museum management, this is unlike in the case of province-aided museums where its governance structure is required account for operational decisions because it is accountable to the Department. As such, committees in fact do provide direction and oversight.  |  |  |
|  | There is no mention of how often the committee should meet.  | Section 33 of the principal Ordinance provides for when a board of a province-aided museum should meet. There is no equivalent for provincial museums but there is no need to provide likewise. This is because the boards of province-aided museums are accountable to the Department and the latter want to be assured that a board will at least meet at least several times a year. This not needed in the case of provincial museums because the committee performs an advisory role and is not accountable to the Department. It is submitted that such a provision is unnecessary because a management committee in any event has authority under section 7(1)(f) to co-ordinate its own timetable for meetings.  |  |  |
|  |  Sec 9. Donations etc should also be subject to the museum's Collections Policy (which should include temporary loans). There needs to be proper acceptance forms etc | The museum will, in clause 10 which amends section 9 of the principal Ordinance, have a discretion to accept donations provides that it does so subject to the Public Finance Management Act, 1999. As the Department has a discretion to accept a donation, it may develop guidelines to guide it in exercising that discretion provided the guidelines are in accordance with section 9 and do not fetter the discretion of the museum. There is therefore no need to expressly include in the clause that a museum should have such a policy and that donations should be subject to such a policy, |  |  |
|  | Sec 40. Is there really a museums advisory committee? If so, why do we not hear of their proposals etc. For me, the museum service is very passive and should be more innovative and play a more active role in society | A museums advisory committee does not currently exist. The principal Ordinance provides the option for the Department to establish such committee if required.The remainder of the comment is subjective, and the Department cannot comment on the subjective views of the commentator. |  |  |
| Mr. Mbiko  | General comment | The comment discusses museums in general and is not specifically focused on the Bill. The Department notes the general comment made by Mr. Mbiko. |  |  |