

Module 2.7 HERITAGE		STATEMENT OF INTENT Cultural assets are protected
Measures		Notes
Legal requirement	<p><b><i>Compliance with the National Heritage Resources Act, 25 of 1999</i></b></p> <ul style="list-style-type: none"> <li>Maintenance, repair and management of historically important sites, buildings, graves, archaeological and palaeontological sites and artefacts, rock art, and important cultural sites is practiced in terms of the law</li> </ul>	<p>The National Heritage Resources Act 25 of 1999 replaces the National Monuments Act, 28 of 1969 and provides for the conservation and management of heritage resources in South Africa.</p> <p>In doing so, the National Heritage Resources Act provides specifically for the conservation and management of the “national estate”, which includes:-</p> <ul style="list-style-type: none"> <li>places and buildings of cultural significance;</li> <li>historical settlements;</li> <li>archaeological and paleontological sites; and</li> <li>graves and burial grounds.</li> </ul> <p>In providing for the conservation and management of the “national estate”, the National Heritage Resources Act, places certain obligations, in that no person:-</p> <ul style="list-style-type: none"> <li>may destroy, damage, deface, excavate, alter or sub-divide any heritage site without a permit issued by the South African Heritage Resources Authority (SAHRA) responsible for the heritage site (section 27(18)); and</li> <li>may destroy, alter, exhume or remove the grave of a victim of conflict, a grave or burial ground older than sixty years, which is situated outside a formal cemetery, or bring onto a burial ground any excavation equipment or equipment which assists in the detection or recovery of metals unless authorised to do so, in terms of a permit issued by SAHRA or a provincial Heritage Resources Authority;</li> </ul> <p>Section 38 of the Act requires that any person who intends to undertake a development categorised as:</p> <ul style="list-style-type: none"> <li>the construction of a road, wall, power line, pipeline or canal or barrier exceeding 300m in length;</li> <li>the construction of a bridge exceeding 50m in length;</li> <li>any development or other activity which will change the character of the site exceeding 5000m<sup>2</sup> in extent;</li> <li>the rezoning of a site exceeding 10000m<sup>2</sup> in extent;</li> </ul> <p>must, at the very earliest stages of initiating the development, notify the responsible Heritage Resources Authority and further furnish it with details relating to the location, nature and extent of the proposed development.</p>

<p><b>Legal requirement</b></p>		<p>Of critical relevance to farmers in KZN, is that the Act provides that any province which has enacted legislation which provides for a provincial Heritage Resources Authority and the management of heritage resources at a provincial level, takes precedence over the Act, insofar as they relate to provincial areas of competence.</p> <p>Should such a development be part of an environmental impact assessment required in terms of the National Environmental Management Act, 107 of 1998 (i.e. an EIA), then the provisions of section 38 do not apply. However, the assessment process must fulfill the requirements of the relevant heritage resources authority, and their comments and recommendations must be taken into account.</p> <p>Thus, farmers who have sites, areas, or objects on their farms that are either of heritage value, or have the potential to be declared as such, must be aware of the limitations they impose regarding normal day to day farming activities, or for the cultivation of new land.</p> <p>A number of provinces also have provincial heritage legislation, which takes precedence over the National Heritage Resources Act where similar provisions exist. As mentioned, this applies in KZN where the KwaZulu-Natal Heritage Act, 4 of 2008, together with the KwaZulu-Natal Heritage Regulations, 2012 (PN 40 of 2 April 2012), apply to heritage resources found on farms within the province. Where the provincial Act does not regulate a matter pertaining to heritage resources, then the national Act applies.</p> <p>Thus, a sugarcane farmer in KZN who has landmark sites/objects or potential landmark sites/objects on his farm may be constrained by this legislation in terms of the protection the law gives these sites or objects.</p>
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Legal requirement		<p><b>KwaZulu-Natal Heritage Act, 4 of 2008</b></p> <p>The KwaZulu-Natal Heritage Resources Act 10 of 1997 has now been repealed by the KwaZulu-Natal Heritage Act, 4 of 2008. This Act established the Amafa aKwaZulu-Natali Heritage Council which is the provincial Heritage Resources Authority insofar as the province of KwaZulu-Natal is concerned.</p> <p>The KwaZulu-Natal Heritage Act provides for the general protection of:-</p> <ul style="list-style-type: none"> <li>• structure;</li> <li>• graves of victims of conflict;</li> <li>• traditional burial places;</li> <li>• battlefield sites, archaeological sites, rock art sites, paleontological sites, historical fortifications and meteorite impact sites; and</li> </ul> <p>The KwaZulu-Natal Heritage Act also provides that none of the above may generally be damaged, altered, demolished or removed from its original position unless authorised by the Amafa aKwaZulu-Natali Heritage Council.</p> <p>The Amafa aKwaZulu-Natali Heritage Council may confer Heritage Landmark status on sites (section 38) which the council believes constitute important elements of the heritage of the Province, but which are not owned by the Provincial Government or a local authority. The owner of the potential Heritage Landmark may make written representations or submissions regarding the conferral of Heritage Landmark status within a period of not less than 30 days.</p> <p>In the event that Heritage Landmark status is conferred onto a site, no person may damage, alter, redecorate, remove from its original position, subdivide or amend any plan thereof, unless the Heritage Landmark status of the site is withdrawn by the Amafa aKwaZulu-Natali Heritage Council.</p> <p>The same process applies to the Amafa aKwaZulu-Natali Heritage Council conferring Provincial Landmark status as well as Heritage Object status, in terms of Section 39 and 43 of the Act. The conferral of Heritage Object Status only applies to sites which are not owned by the Provincial Government or a local authority and Provincial Landmark sites are those owned by the Provincial Government or local authority.</p>
Better management practice	<ul style="list-style-type: none"> <li>• Historically important sites should be incorporated into the Land Use Plan</li> </ul>	