



PROVINCE OF THE EASTERN CAPE
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PROVINSIE OOS-KAAP

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(Extraordinary)

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DEPARTMENT OF HEALTH

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PROVINCIAL NOTICE

No. 62

DD2 28/06/2013

PROVINCE OF THE EASTERN CAPE

DEPARTMENT OF SPORT RECREATION ARTS AND CULTURE

PROVINCIAL ARTS AND CULTURE COUNCIL AMENDMENT BILL, 2013

As introduced

(BY MEMBER OF THE EXECUTIVE COUNCIL RESPONSIBLE FOR SPORT,
RECREATION, ARTS AND CULTURE)

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GENERAL EXPLANATORY NOTE

[] **Words in bold type in square brackets indicate omissions from existing enactments.**

_____ **Words underlined with a solid line indicate insertions in existing enactments.**

.....
BILL

To amend the Eastern Cape Provincial Arts and Culture Council Act, 2000 (Act No. 6 of 2000) so as to amend or delete certain definitions; to amend the aims, objects and powers, composition and appointment, term of office and filling of vacancies of the Council; to provide for the removal of a councillor, dissolution of Council and the appointment of an Interim Council and to provide for matters incidental thereto.

BE IT ENACTED by the Legislature of the Province of the Eastern Cape, as follows:-

Amendment of section 1 of Act 6 of 2000

1. Section 1 of the Provincial Arts and Culture Council Act, 2000 (Act No.6 of 2000) (hereinafter referred to as the Principal Act) is hereby amended –
 - (a) by the insertion of the definition “Head of Department” after the definition of “*gazette*”

“Head of Department” means the head of the Department responsible for arts and culture in the Province.”;
 - (b) by the deletion of the definition of “Permanent Secretary.”;
 - (c) by the substitution of the definition of “Premier “ of the following paragraph:

“Premier means the Premier of the Province elected in terms of section 128 of the Constitution of the Republic of South Africa, 1996.”;

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Substitution of section 2 of Act 6 of 2000

2. The following section is hereby substituted for section 2 of the Principal Act :

“ 2. There is hereby established a juristic person to be known as the Eastern Cape Arts and Culture Council.”

Substitution of section 3 of Act 6 of 2000

3. The following section is hereby substituted for section 3 of the Principal Act:

“Aims, objects and powers of Council

3. (1) The aims and objects of the Council are, to –

- (a) advise the MEC on matters pertaining to arts and culture;
- (b) ensure that provincial arts and culture policies, promotions and programmes are designed to address past imbalances;
- (c) promote appreciation, understanding and enjoyment of arts and culture;
- (d) foster the expression of a provincial identity and consciousness by means of the arts and culture;
- (e) uphold and promote the right of any person to freedom in the practice of culture for the development and attainment of excellence;
- (f) provide short, medium, long term and once-off funding to cultural, arts and heritage institutions, groups, programmes and individual artists – professional and amateur;
- (g) render support, including, but not limited to, financial support, advice and information, to any person, organisation or institution;
- (h) conduct research into any field of arts and culture;
- (i) establish, compile and maintain databases including but not limited to databases of persons, organisations, institutions equipment and facilities connected with arts and culture;
- (j) make bursaries available to students for local studies;

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- (k) with the concurrence of the MEC facilitate and enter into agreement with any person, organisation or institution provincially, nationally or internationally to promote liaison between individuals and institutions active in arts;
- (l) purchase or otherwise acquire or possess or hire, alienate, let, pledge, or otherwise encumber movable and, with the approval of the MEC, granted with the concurrence of the MEC for Finance, immovable property;
- (m) with the approval of the MEC, granted with the concurrence of the MEC for Finance, on such terms and against such security as may be agreed upon, raise money by way of loans from any source, fundraising or donations;
- (n) monitor and evaluate the use of funds made available by the council and request financial statements on the use thereof; and
- (o) generally do everything which is necessary to achieve its objects.”.

Substitution of section 4 of Act 6 of 2000

4. The following section is hereby substituted for section 4 of the Principal Act:

“ Composition of Council

- 4.(1) The MEC must appoint not less than six and not more than eight councillors;
- (2) The councillors must, when viewed collectively, be persons who are suited to serve in the council by virtue of their qualifications, skills, expertise, experience and knowledge in the fields of arts and culture, business and financial management, law and any other skill which may be beneficial to the council.
- (3) The MEC may appoint an official from the Department to serve as an *ex officio* member of the council.
- (4) The Council must represent the demographics of the Province.”.

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Substitution of section 5 of Act 6 of 2000

5. The following section is hereby substituted for section 5 of the Principal Act:

“ Appointment of Council, Term of Office and Filling of Vacancies

5.(1) The MEC must, by notice in the *Gazette* and the media, invite nomination from the public, artists, art and culture organisations **[and regional arts council]** for the appointment of councillors.

(2) Nomination must be submitted to the MEC in a manner prescribed by the MEC accompanied by a *Curriculum Vitae*, and signed by the nominee.

(3) The **[Standing]** Portfolio Committee responsible for arts and culture in the Legislature must consider the nomination and make recommendations to the MEC for appointments in a transparent and open process, including--

- (a) the shortlisting of nominees for interviews;
- (b) interviewing of shortlisted nominees; and
- (c) verifying references provided by nominees.

(4) If the Portfolio Committee fails to consider and/or make recommendations within 60 days from the date of receipt of the nominations, the MEC must constitute a panel to do the functions envisaged in subsection 3 above.

(5)**[(4)]** The MEC must, from amongst the recommendations in terms of subsection (3), appoint the members of the council.

(6)**[(5)]** Councillors are appointed for three years after which time fifty percent of the councillors may be re-appointed for a further term of office to allow for continuity. Thereafter no councillor may be re-appointed for office unless a period of three years has lapsed since the expiry of the councillor's period of appointment.

[(6)The MEC may terminate the term of office of a councillor.]

(7) A councillor may not be appointed on a full-time salaried basis by the council but may receive *honoraria* or stipends, as the MEC may determine, in consultation with the MEC for Finance, for meetings attended and services rendered.

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(8) A vacancy in the council must be filled in accordance with this section and a councillor who is appointed holds office for the unexpired portion of the period for which the councillor who is replaced was appointed.

(9) Councillors must sign an agreement including a code of conduct, in which they undertake to carry out the duties as specified in the constitution of the council.

(10) Councillors must annually elect an executive committee from all councillors consisting of a chairperson, vice-chairperson, **[treasurer]** and two additional members **[all of whom are eligible for re-election]**.”.

Insertion of section 6A and 6B of Act 6 of 2000

6. The following sections are hereby inserted after section 6 of the Principal Act:

“ 6A Removal of councillor, dissolution of Council and appointment of Interim Council

- (1) The MEC may after following due process, remove a councillor from office on account of any or all of the following –
- (a) misconduct; or
 - (b) inability to perform duties of his or her office efficiently.
- (2) The MEC may after following due process, dissolve the council with immediate effect, if it fails in any or on all of the following:
- (a) carrying out its duties; and
 - (b) achieving its objectives in terms of the Act.”.
- (3) Upon the dissolution of the council contemplated in subsection (2), the MEC must appoint an interim council consisting of between four to six members and he or she does not have to follow the nomination and appointment procedure contemplated in the Act.
- (4) The MEC must appoint the interim council within 30 days after the dissolution of the council and the term of office of the interim council is a period not exceeding six months.
- (5) The MEC must appoint the chairperson and deputy chairperson of the interim council.

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(6) The provisions of this Act regarding the council apply to the interim council.

6B Council Committees

- (1) The council may establish committees to assist in discharging its responsibilities.
- (2) The council may co-opt any person outside the council to sit in a committee if that person has skills and expertise and he or she must serve in an advisory capacity without voting powers.
- (3) The council has the power to determine the mandate, composition, powers, functions and duration of any council committee and may amend these from time to time or disestablish such committee.
- (4) The council committees are accountable to the council and must keep record of their proceedings and resolutions in the same manner as the council.”.

Amendment of section 10 of Act 6 of 2000

7. Section 10 of the Principal Act is hereby amended by the insertion of the following section after the subsection 4:

“4A. The MEC may make regulations on any matter necessary for the implementation or administration of this Act.”.

Short Title

8. This Act is called the Eastern Cape Arts and Culture Council Amendment Act, 2013

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