



PROVINCE OF THE EASTERN CAPE
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PROVINCIAL NOTICE

No. 38

PROVINCE OF THE EASTERN CAPE

DEPARTMENT OF SPORT, RECREATION, ARTS AND CULTURE

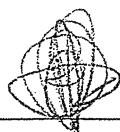
CALL FOR COMMENT ON EASTERN CAPE USE OF OFFICIAL LANGUAGES BILL, 2013

I, Pemmy Majodina, Member of Executive Council of the Eastern Cape Province responsible for Sport, Recreation, Arts and Culture, hereby publish the draft Eastern Cape Use of Official Languages Bill, 2013 for public comment in terms of rule 147 of the Standing Rules of the Legislature.

All interested persons and organisations are invited to comment on the Bill, in writing and direct the comments to -

The Head of Department of Sport, Recreation, Arts and Culture, Private Bag X0020, Bhisho, 5606, for attention: Adv. J. Kruger, tel. 043 604 4019, fax 043 642 5309, e-mail address julian.kruger@ecsrac.gov.za

The comments must reach the Department within 21 days of publication hereof.



Dr. PEMMY MAJODINA

PROVINCE OF THE EASTERN CAPE

DEPARTMENT OF SPORT RECREATION ARTS AND CULTURE

DRAFT EASTERN CAPE USE OF OFFICIAL LANGUAGES BILL, 2013

As introduced

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

BILL

To provide for the regulation and monitoring of the use of official languages for government purposes in the Province; to provide for the establishment and functions of a Provincial Language Unit; to provide for the establishment and functions of language units by provincial departments, provincial public entities and provincial public enterprises and to require their adoption of a language policy; to facilitate intergovernmental co-ordination of language units in the Province; and to provide for matters connected therewith.

PREAMBLE

WHEREAS section 6 of the Constitution of the Republic of South Africa, 1996, provides for the use of official languages of South Africa and of all official languages to enjoy parity of esteem and to be treated equitably;

AND WHEREAS section 6(3)(a) provides that provincial government may use any particular official languages for the purposes of government, provided that at least two official languages must be used;

AND WHEREAS section 6(4) of the Constitution provides that provincial government must regulate and monitor the use of official languages by legislative and other means;

INASMUCH as the Constitution recognises the equal status of the official languages isiXhosa, Afrikaans, English and Sesotho will be used for the purposes of government.

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

ARRANGEMENT OF SECTIONS

1. Definitions
2. Objects of the Act
3. Application of Act
4. Language Policy
5. Establishment of Central Provincial Language Unit
6. Function of Central Provincial Language Unit
7. Establishment of language units in provincial departments, provincial public entities and provincial government business enterprises
8. Functions of language units in provincial departments, provincial public entities and provincial government business enterprises
9. Monitoring and reporting on official language use
10. Annual report to Legislature
11. Intergovernmental forums on official language use
12. Exemptions from application of section 7
13. Regulations
14. Short title and commencement date

1. Definitions

In this Act, unless the context indicates otherwise-

“Central Provincial Language Unit” means the Provincial Language Unit established in terms of section 5;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Department” means the Department responsible for language matters in the Province;

“Language Unit” means a language unit established in terms of section 7;

“MEC” means the Member of the Executive responsible for language matters in the Province;

“official language” means an official language contemplated in section 6(1) of the Constitution;

“organ of state” means an organ of state as defined in section 239 of the Constitution;

“prescribe” means prescribe by regulations;

“Province” means the Province of the Eastern Cape established in section 103 of the Constitution;

“provincial department” means the provincial department of the Province as contemplated in section 7 of the Public Service Act, 1994;

“provincial government business enterprise” means a provincial government business enterprise as defined in section 1 of the Public Finance Management Act, 1999 (Act No. 1 of 1999);

“provincial public entity” means a provincial public entity defined in section 1 of the Public Finance Management Act, 1999;

“Public Finance Management Act” means the Public Finance Management Act, 1999 (Act No. 1 of 1999); and

“this Act” includes any regulations made in terms of this Act.

2. Objects of Act

The objects of this Act are –

- (a) to provide a framework for the use of official languages for government purposes in the Province;
- (b) to actively promote the principle of multilingualism in the Province;
- (c) to regulate and monitor the use of official languages for government purposes in the Province;

- (d) to promote parity of esteem and equitable treatment of official languages of the Republic;
- (e) to facilitate equitable access to the services and information of the Province; and
- (f) to promote good language management by the Province, for efficient public service administration and to meet the needs of the public.

3. Application of Act

(1) This Act applies to –

- (a) provincial departments;
- (b) provincial public entities; and
- (c) provincial government business enterprises.

(2) If there is any conflict between the provisions of this Act and any other law that provides for the use of languages in the Province, the provisions of this Act shall prevail.

4. Language policy

(1) The MEC must prescribe by way of Regulation a provincial language policy regarding the use of official languages for government purposes, within 18 months of the commencement of this Act or such further period as the MEC may prescribe, provided that such prescribed period may not exceed six months.

(2) Every provincial department, provincial public entity and provincial government business enterprise must adopt a language policy regarding the use of official languages for government purposes consistent with the provincial language policy and this Act.

(2) The language policy adopted in terms of subsection (1) must –

- (a) comply with the provisions of section 6(3) of the Constitution and this Act;
- (b) identify at least two official languages that a provincial department, provincial public entity and provincial government business enterprise will use for government purposes;
- (c) stipulate how official languages will be used, amongst other things, in communicating with the public, official notices, government publications and inter- and intra-government communications;
- (d) describe how a provincial department, provincial public entity and provincial government business enterprise will effectively communicate with members of the public whose language of choice is –
 - (i) not an official language contemplated in paragraph (b); or
 - (ii) South African sign language.

- (e) describe how members of the public can access the language policy;
- (d) provide for a complaints mechanism to enable members of the public to lodge complaints regarding the use of official languages by a provincial department, provincial public entity and provincial government business enterprise;
- (e) provide for any other matter that the MEC may prescribe; and
- (f) be published in the Provincial Gazette as soon as reasonably practicable, but not later than 90 days of its adoption.

(3) In identifying at least two official languages as contemplated in subsection (2)(b), every provincial department, provincial public entity and provincial government business enterprise must take into account its obligation to take practical and positive measures to elevate the status and advance the use of indigenous languages of historically diminished use and status in accordance with section 6(2) of the Constitution.

(4) Every provincial department, provincial public entity and provincial government business enterprise must –

- (a) ensure that a copy of its language policy is available on request to members of the public at all its offices; and
- (b) display at all its offices a summary of its language policy in such a manner and place that it can be read by member of the public.

5. Establishment of Central Provincial Language Unit

The MEC must –

- (a) establish a Central Provincial Language Unit in the Department; and
- (b) ensure that the Central Provincial Language Unit is provided with human resources, administrative resources and other resources necessary for its effective functioning.

6. Functions of Central Provincial Language Unit

The Central Provincial Language Unit must –

- (a) advise the MEC on policy and strategy –
 - (i) to regulate and monitor the use of official languages by the provincial government for government purposes in the Province;
 - (ii) to promote parity of esteem and equitable treatment of the official languages of the Republic and facilitate equitable access to the services and information of provincial departments, provincial public entities and provincial government business enterprises;
 - (iii) to promote good language management within the provincial departments, provincial public entities and provincial government business enterprises;

- (iv) on the functions of language units contemplated in section 8;
- (b) actively promote the principle of multilingualism in the Province;
- (c) liaise with, promote and facilitate the general co-ordination of language units contemplated in section 7;
- (d) receive annual reports from language units in provincial departments, provincial public entities and provincial government business enterprises;
- (e) complete an annual report on its functions for submission to the MEC;
- (f) through the MEC, and after consultation with other Members of the Executive Council of the Province, request provincial departments, provincial public entities and provincial government business enterprises; to submit annual reports on –
 - (i) the activities of their language units;
 - (ii) the implementation of the language policy; and
 - (iii) any complaints received regarding the use of official languages and the manner in which the complaints were dealt with;

7. Establishment of language units in provincial departments, provincial public entities and provincial government business enterprises

Every provincial department, provincial public entity and provincial government business enterprise must –

- (a) establish a language unit;
- (b) identify and designate at least four, but not more than eight, suitably qualified persons from its existing personnel to constitute the language unit to perform the functions as prescribed in section 8 of the Act; and
- (c) ensure that the language unit is provided with administrative resources and other resources necessary for its effective functioning.

8. Functions of language units in provincial departments, provincial public entities and provincial public enterprises

Every language unit must–

- (a) advise the responsible accounting officer or accounting authority on the implementation of the language policy for the provincial department, provincial public entity and provincial government business enterprise;
- (b) monitor and assess the use of official languages by the provincial department, provincial public entity and provincial government business enterprise concerned;
- (c) monitor and assess compliance with official languages by the provincial department, provincial public entity and provincial government business enterprise concerned;

- (d) compile and submit a report to the Provincial Language Unit;
- (e) promote parity of esteem and equitable treatment of official languages of the Province and facilitate equitable access to services and information of the provincial department, provincial public entity and provincial government business enterprise concerned;
- (f) promote good language management by the provincial department, provincial public entity and provincial public enterprise concerned; and
- (g) perform any other functions that the MEC may prescribe.

9. Monitoring of and reporting on use of official languages

- (1) The MEC is responsible for monitoring the use of official languages for government purposes by provincial department, provincial public entity and provincial government business enterprise.
- (2) The Central Provincial Language Unit must submit a report to the MEC annually on –
 - (a) the activities of its language unit and any other language units set up in provincial departments, provincial public entities and provincial government business enterprises;
 - (b) the implementation of the language policy in provincial departments, provincial public entities and provincial government business enterprises;
 - (c) any complaints received regarding the use of official languages provincial department, provincial public entity and provincial government business enterprise and the manner in which these complaints were dealt with; and
 - (d) any other matter that the MEC may prescribe.
- (3) The MEC may prescribe the form and content of the reports to be submitted and the timeframes for submitting such reports.
- (4) Notwithstanding the provision of subsection (2) and (3), the MEC may at any time require any provincial department, provincial public entity and provincial government business enterprise to submit a report to the MEC on its use of official languages, within a time period determined by the MEC.
- (5) The MEC may, through the Executive Council of the Province, request a provincial department, provincial public entity and provincial government business enterprise that has failed to comply with any provision of this Act to comply with the Act within a time determined by the MEC.

10. Annual Report to Legislature

The MEC must table in its annual report in the Provincial Legislature on the status and use of official languages for government purposes by a provincial department, provincial public entity and provincial government business enterprise in terms of section 12.

11. Intergovernmental forum on use of official languages

(1) The MEC may –

(a) establish one or more intergovernmental forums –

- (i) to promote general coordination, cooperation and consultation between provincial departments, provincial public entities and provincial government business enterprises on the use of official languages for government purposes;
- (ii) to coordinate, align and monitor the implementation of language policies; and
- (iii) to perform any other function that the MEC may prescribe.

(b) in respect of such forums –

- (i) determine their composition;
- (ii) determine their terms of reference;
- (iii) convene their meetings; and
- (iv) determine any other matter necessary for their effective functioning.

12. Exemptions from application of section 7

(1) The MEC may, on application by –

- (a) a provincial public entity listed in Schedule 3 Part C to the Public Finance Management Act; or
- (b) a provincial government business enterprise listed in Schedule 3 Part D to the Public Finance Management Act

exempt, wholly or in part, the provincial public entity or provincial government business enterprise from the application of section 7.

(2) The MEC may, on her or his own accord and on such terms and conditions as the MEC may determine, by notice in the Provincial Gazette, exempt a provincial public entity or provincial government business enterprise listed in Schedule 3 Parts C and D to the Public Finance Management Act, from the application of section 7.

(3) The application for exemption must be in the form and manner prescribed by the MEC.

(4) If the MEC exempts a provincial public entity and provincial government business enterprise from the application of section 7, it must assign a senior employee to perform the functions of a language unit.

13. Regulations

(1) The MEC may make regulations not inconsistent with the provisions of this Act, regarding –

- (a) the form and content of a language policy;
 - (b) timeframes for the establishing of a language unit;
 - (c) the form and content of a report contemplated in section 9;
 - (d) the manner, form and timeframes for submitting an application from exemption in terms of section 12;
 - (e) any matter which in terms of this Act is required, or permitted, to be prescribed; and
 - (f) any matter which the MEC deems it necessary or expedient to make regulations in order to achieve the objects of this Act.
- (2) Before making regulations in terms of this Act, the MEC must –
- (a) publish the proposed regulations in the Provincial Gazette for public comment;
 - (b) grant a period of at least 30 days for the written representation to the MEC on the proposed regulations; and
 - (c) consider any such written representations received.

14. Short title and commencement

The Act is called the Eastern Cape Use of Official Languages Act, 2013 and comes into operation on a date fixed by the Premier by proclamation in the Provincial Gazette.
