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PREMIER'S NOTICES • PREMIERSKENNISGEWINGS

PREMIER'S NOTICE 2 OF 2016

OFFICE OF THE PREMIER

It is hereby notified that the Premier has assented to the following Act that is hereby published for general information:

No. 3 of 2016: Gauteng Provincial Languages Act, 2016

GAUTENG PROVINCIAL LEGISLATURE

**GAUTENG PROVINCIAL
LANGUAGES ACT, 2016**

ENGLISH TEXT SIGNED BY THE PREMIER
ASSENTED TO ON 17/10/2016

CERTIFIED CORRECT AS PASSED BY
THE GAUTENG PROVINCIAL LEGISLATURE

SIGNED *[Signature]* SPEAKER

DATE 30.09.2016

ASSENTED TO
[Signature]
PREMIER

No 3, 2016

ACT

To provide for the designation of official languages for the Province; to provide for the regulation and monitoring of the use of official languages by the provincial organs of state; to provide for the development and adoption of internal language policies by the provincial organs of state; to provide for the establishment and functions of a Gauteng Provincial Language Unit; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

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Definitions

1. In this Act, unless the context indicates otherwise—
 - “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
 - “**Department**” means the Department responsible for linguistic or cultural matters in the Province; 20
 - “**Executive Council**” means the Gauteng Executive Council contemplated in sections 125 to 141 of the Constitution;
 - “**Gauteng Provincial Language Unit**” means the Gauteng Provincial Language Unit established in terms of this Act; 25
 - “**head of provincial organ of state**” means—
 - (a) in relation to a provincial department or administration, the head of that department or administration;
 - (b) in relation to the Provincial Legislature, including its administration, the Secretary of the Provincial Legislature; 30
 - (c) in relation to a Municipal Council, as well as an administration of a municipality, the municipal manager of that municipality;
 - (d) in relation to a provincial or municipal entity or institution, the administrative head of that provincial or municipal entity or institution; and

- (e) in relation to the Executive Council, the Secretary to the Executive Council;
“HoD” means the Head of the Department responsible for linguistic or cultural matters in the Province;
“MEC” means the Member of the Executive Council responsible for linguistic or cultural matters in the Province; 5
“Municipal Council” means a municipal council referred to in sections 151(2), 157, 158, 159, 160 and 161 of the Constitution;
“municipality” means a municipality contemplated in section 155(6) of the Constitution read with section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), and established in terms of section 12 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998); 10
“prescribe” means prescribe by regulation made in terms of this Act, and **“prescribed”** has a corresponding meaning;
“Province” means the province of Gauteng referred to in section 103(c) of the Constitution, and **“provincial”** has a corresponding meaning; 15
“Provincial Legislature” means the Gauteng Provincial Legislature contemplated in sections 104 to 124 of the Constitution;
“provincial organ of state” means—
 (a) a provincial department or administration falling within the competence of the Executive Council, Provincial Legislature or a Municipal Council; 20
 (b) a provincial functionary or institution falling within the competence of the Executive Council, Provincial Legislature or a Municipal Council—
 (i) exercising a power or performing a function in terms of the Constitution; or
 (ii) exercising a public power or performing a public function in terms of national or provincial legislation or municipal by-law; and 25
“this Act” includes regulations made in terms of this Act.

Objects of Act

2. The objects of this Act are to—
 (a) provide for the designation of official languages for the Province; 30
 (b) regulate and monitor the use of official languages for the purposes of government in the Province;
 (c) promote parity of esteem and equitable treatment in the Province of the official languages mentioned in section 6(1) of the Constitution;
 (d) facilitate equitable access to services and information in the possession of provincial organs of state in the Province; 35
 (e) promote good language management in the Province;
 (f) aid efficient public service administration and to meet the needs of the public in the Province; and
 (g) provide for the establishment of the Gauteng Provincial Language Unit. 40

Application of Act

3. This Act applies to all provincial organs of state in the Province, including but not limited to—

- (a) the Executive Council;
 (b) the Provincial Legislature; and 45
 (c) a Municipality.

Designation and use of official languages for the Province

4. (1) The eleven official languages mentioned in section 6(1) of the Constitution have equal status in the Province.
 (2) The MEC must, within six months from the date of commencement of this Act, after consultation with the Legislature, organised local government in the Province and the Executive Council, by notice in the Provincial *Gazette*, designate no less than two official languages for use by provincial organs of state for the purposes of government in the Province. 50
 (3) The designation in terms of subsection (2) must take into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population in the Province. 55

(4) Despite subsections (1), (2) and (3), a person has the right, in oral or written communication with a provincial organ of state, to use—

- (a) any of the eleven official languages mentioned in section 6(1) of the Constitution;
- (b) a Khoi, Nama or San language mentioned in section 6(5)(a)(ii) of the Constitution; or
- (c) a sign language mentioned in section 6(5)(a)(iii) of the Constitution.

(5) To give effect to subsections (1) and (4), a provincial organ of state must ensure that interpretation services are readily accessible and provided or reasonable arrangements are made for the provision of interpretation services. 10

Establishment and Staff of Gauteng Provincial Language Unit

5. (1) The MEC must—

- (a) within the fixed establishment of the Department, established the Gauteng Provincial Language Unit; and
- (b) ensure that the Unit is provided with human resources, administrative 15 resources and other resources necessary for its effective functioning.

(2) The HoD—

- (a) is the head of the Gauteng Provincial Language Unit;
- (b) is responsible for—
 - (i) executing the powers of the Unit; or 20
 - (ii) performing the functions of the Unit; and
- (c) may, in writing—
 - (i) delegate or assign his or her responsibility in terms of paragraph (b) to another senior employee of the Department; and
 - (ii) designate an employee of the Department as a language practitioner to 25 support him or her or his or her delegate or assignee in the carrying out of his or her responsibility in terms of paragraph (b).

(3) A delegation in terms of subsection (2)(b) does not divest the HoD from being responsible and accountable for the execution and the performance of his or her responsibility in terms of subsection (2)(b). 30

Functions and powers of Gauteng Provincial Language Unit

6. The functions of the Gauteng Provincial Language Unit are to—

- (a) advise the MEC on policy and strategy—
 - (i) to regulate and monitor the use of official languages for the purposes of government in the Province; 35
 - (ii) to promote parity of esteem and equitable treatment of the official languages and facilitate equitable access to the services and information in the possession of provincial organs of state;
 - (iii) to promote good language management within the provincial organs of state; and 40
 - (iv) to liaise with provincial organs of state in order to promote the general co-ordination of language practice in the Province;
- (b) monitor the implementation of the provisions of—
 - (i) this Act; and
 - (ii) the model internal language policy contemplated in section 7(1), by 45 provincial organs of state;
- (c) provide translation, editing and interpretation services to a provincial organ of state in respect of official languages;
- (d) facilitate training programmes on translation, editing and interpretation techniques; 50
- (e) provide support to provincial organs of state in respect of—
 - (i) official languages mentioned in section 6(1) of the Constitution;
 - (ii) a Khoi, Nama or San language mentioned in section 6(5)(a)(ii) of the Constitution; or
 - (iii) a sign language mentioned in section 6(5)(a)(iii) of the Constitution; 55
- (f) foster cooperation with provincial organs of state to facilitate the achievement of the objects of the Act; and
- (g) perform any other function that the MEC may assign to it.

Internal language policies

7. (1) The MEC must, within six months from the date of commencement of this Act, after consultation with the MEC responsible for co-operative governance and organised local government in the Province, prescribe a model internal language policy which may be adopted and implemented by provincial organs of state. 5

(2) The model internal language policy contemplated in subsection (1) must—

- (a) comply with the provisions of section 6(3) of the Constitution;
- (b) be consistent with the provisions of this Act;
- (c) stipulate how a provincial organ of state must use official languages;
- (d) describe how a provincial organ of state must effectively communicate with a member of the public whose language of choice is not—
 - (i) the official languages designated in terms of section 4(2); or
 - (ii) a sign language contemplated in section 6(5)(a)(iii) of the Constitution;
- (e) provide a complaints mechanism to be adopted and used by a provincial organ of state to enable members of the public to lodge complaints regarding language usage; and 10
- (f) provide for any other matter that the MEC may prescribe. 15

(3) A provincial organ of state must, within twelve months from the date of commencement of this Act—

- (a) develop, adopt and implement an internal language policy or adopt and implement the model internal language policy contemplated in subsection (1); Provided that an internal language policy adopted and implemented by the provincial organ of state must comply with the requirements of subsection (2); 20
- (b) describe how members of the public may access its internal language policy;
- (c) ensure that a copy of its language policy is available on request to a member of the public at all its offices; and 25
- (d) display at an office of the provincial organ of state a summary of the internal language policy in such manner and place that it may be read by the members of the public. 30

Gauteng Intergovernmental Language Forum

8. (1) The MEC may establish one or more intergovernmental language forums—

- (a) to promote general coordination, cooperation and consultation between organs of state on the use of official languages for government purposes in the Province;
- (b) to coordinate, align and monitor the implementation of language policies; and 35
- (c) to perform any other functions that the MEC may prescribe.

(2) The MEC must, in respect of the intergovernmental language forums contemplated in subsection (1)—

- (a) determine their composition;
- (b) determine their terms of reference; 40
- (c) convene their meetings; and
- (d) determine any other matter necessary for their effective functioning.

Responsibilities of and reporting by heads of provincial organs of state

9. (1) For the purposes of this section, the definition of “head of provincial organ of state” includes the definition of “HoD”. 45

(2) A head of a provincial organ of state is responsible for the compliance of that provincial organ of state with—

- (a) the provisions of sections 4(4) and 7(3); or
- (b) other obligations imposed by this Act.

(3) The head of the provincial organ of state contemplated in subsection (2) may, in writing— 50

- (a) delegate or assign his or her responsibility to another employee of that provincial organ of state; and
- (b) designate an employee of that provincial organ of state as a language practitioner to support him or her or his or her delegate or assignee in carrying out his or her responsibility. 55

(4) A delegation in terms of subsection (3)(a) does not divest the head of the provincial organ of state from being responsible and accountable for the execution and the performance of his or her responsibility in terms of subsection (2).

(5) In addition to subsection (2), the head of the provincial organ of state must prepare and submit a report to the relevant MEC or Municipal Council responsible for that organ of state in a manner and form prescribed, including on— 5

- (a) the steps taken by that provincial organ of state to comply with the provisions of or obligations imposed by this Act;
- (b) the adoption and implementation of an internal language policy contemplated in section 7(3); 10
- (c) the complaints received by that provincial organ of state and how those complaints were dealt with; and
- (d) other matters that the MEC may prescribe.

Monitoring and reporting

10. (1) An organ of state must submit a report to the MEC annually on— 15

- (a) the treatment and use of official languages by that organ of state;
- (b) the implementation of its language policy adopted in terms of this Act;
- (c) any complaints received regarding its use of official languages and the manner in which these complaints were dealt with; and
- (d) any other matter that the MEC may prescribe. 20

(2) The MEC may prescribe the form and content of the reports to be submitted and the timeframes for submitting such reports.

(3) Notwithstanding the provisions of subsections (2) and (3), the MEC may at any time require any organs of state to submit a report to the MEC on its use of official languages, within a time period determined by the MEC. 25

(4) From the date of the commencement of the provisions of section 7(3), the MEC must no later than 31 December of the second year, and thereafter every second year, table a report in the Provincial Legislature on the treatment and use of official languages for the purposes of government in the Province.

Regulations 30

11. (1) The MEC must make regulations not inconsistent with the provisions of this Act prescribing—

- (a) the model internal language policy contemplated in section 7(1);
- (b) the manner in which and the form and content of a report contemplated in section 9(5), including whether or not that report must be incorporated in the annual report and financial statements of that provincial organ of state submitted and tabled for the purposes of the Public Finance Management Act, 1999 (Act No. 1 of 1999), or the Local Government: Municipal Finance Management Act, 2003 (Act No. 56 of 2003), as the case may be. 35

(2) Before making regulations in terms of this Act, the MEC must— 40

- (a) publish a draft of the proposed regulations in the *Provincial Gazette* for public comment;
- (b) grant a period of at least 30 days for the submission of written representations to the MEC on the draft of the proposed regulations; and
- (c) consider the written representations received. 45

Short title and commencement

12. This Act is called the Gauteng Provincial Languages Act, 2016, and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.

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Contact Centre Tel: 012-748 6200. eMail: info.egazette@gpw.gov.za
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