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PROVINCIAL NOTICES • PROVINSIALE KENNISGEWINGS

PROVINCIAL NOTICE 949 OF 2016



GAUTENG
LEGISLATURE
Your View ~ Our Vision

PUBLICATION OF GAUTENG PETITIONS REGULATIONS, 2016

NOTICE is hereby given that the Speaker of the Gauteng Provincial Legislature has made Regulations in terms of section 17 of the Gauteng Petitions Act, 2002 (Act No. 5 of 2002), that is hereby published for general information.

This Regulations comes into effect on the 1st February 2017.

GAUTENG PETITIONS ACT, 2002 (Act No. 5 of 2002)

REGULATIONS RELATING TO THE SUBMISSION AND CONSIDERATION OF PETITIONS

The Speaker of the Gauteng Provincial Legislature has in terms of section 17 of the Gauteng Petitions Act, 2002 (Act No. 5 of 2002), made the regulations contained in the Schedule.

SCHEDULE

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Definitions

1. In these Regulations, unless the context indicates otherwise, a word or expression to which a meaning has been assigned in the Act has the meaning so assigned, and—

“**petition file**” means the file contemplated in regulation 4;

“**petitions register**” means the register contemplated in regulation 3(2)(b); and

“**the Act**” means the Gauteng Petitions Act, 2002, and includes the Regulations.

Submission of petitions

2. (1) A petitioner may—

- (a) submit a petition in accordance with the Act;
- (b) submit a petition in any of the official languages; and
- (c) withdraw a petition at any stage of its consideration.

(2) In order to submit a petition, a petitioner must complete and sign the petition form prescribed in Annexure A, or mark the form in accordance with section 4(5)(c) of the Act.

(3) A petitioner must submit a petition in any of the following ways:

- (a) by delivering the petition at the physical address of the Legislature;
- (b) by mail;
- (c) by fax; or
- (d) by electronic means.

Processing of petitions

3. (1) On receipt of a petition, the administrative support service must—

- (a) ensure that the form prescribed in Annexure A is duly completed and signed by the petitioner, or marked in accordance with section 4(5)(c) of the Act;
- (b) determine whether the petition complies with the requirements of the Act; and
- (c) assist a petitioner to submit a petition that complies with the requirements of the Act.

(2) The administrative support service must—

- (a) acknowledge receipt of each petition within two working days;
- (b) register each petition received by entering the details thereof in a petitions register;
- (c) open a petition file for each petition; and
- (d) allocate a file number to each petition.

Petition file

4. (1) The petition file must contain, where applicable—

- (a) a duly completed and signed petition form prescribed in Annexure A;
- (b) a report on the preliminary investigation into the subject matter of the petition;
- (c) any opinion held or recommendation made by the administrative support service in respect of the petition;
- (d) any legal opinion or comment on the matter received by the Secretary;
- (e) steps taken by the administrative support service in accordance with the Act;
- (f) the name of any person or body who was requested to provide information in respect of or comment on the petition as contemplated in regulation 5(3), and who failed or refused to do so and, if available, their reasons for failing or refusal to do so;
- (g) any steps taken by the Committee in accordance with the Act; and
- (h) all relevant information in respect of an appeal lodged against a decision by the Committee.

(2) The administrative support service must ensure that the content of a petition file is translated, if necessary, into a working language of the Legislature.

(3) A petitioner may access the relevant petition file at any reasonable time.

Preliminary investigation

5. (1) The administrative support service must conduct a preliminary investigation in respect of a petition within seven working days of registration of that petition by the administrative support service.

(2) In conducting the preliminary investigation the administrative support service must obtain—

(a) all available information or documents in respect of the subject matter of the petition held by the executive authority of the province, a municipal council, or any person or official body referred to in the petition; and

(b) the comments of the relevant executive authority; municipal council or person or official body responsible for the function to which the subject matter of the petition relates.

(3) The administrative support service may request in writing any person or entity, other than those contemplated in sub-regulation (2)(a) and (b), to provide information relating to the subject matter of the petition, which may reasonably be required to complete the preliminary investigation in respect of the petition.

(4) The relevant person or entity must submit the required information contemplated in regulation 5(3) within seven working days from the date of receipt of the request by the administrative support service.

(5) The administrative support service must compile a report on the preliminary investigation and include it in the petition file.

(6) The administrative support service must submit the petition file to the Speaker within seven working days of the completion of the preliminary investigation.

(7) The administrative support service must inform the petitioner of the status of the petition within seven working days of the completion of the preliminary investigation.

Referral to Committee

6. (1) On receipt of the petition file, the Speaker must refer the petition file to the Committee contemplated in the Act for consideration and decision.

(2) The Speaker may refer the petition to the relevant Portfolio Committee for information, and the Portfolio Committee and the Committee may conduct a joint oversight visit in respect of the subject matter of the petition.

Conflict of interest

7. (1) Any Member of the Committee or officer or employee of the administrative support service who has a pecuniary or other interest in respect of a petition must immediately upon becoming aware of that interest—

(a) notify the Speaker and the Committee in writing of the interest and the details thereof; and

(b) cause a copy of the notification to be lodged in the petition file.

(2) Sub-regulation (1) does not derogate from—

(a) the Powers; Privileges and Immunities of Parliament and Provincial Legislatures Act; 2004 (Act No.4 of 2004); or

(b) a code of ethics or code of conduct applicable to any Member of the Committee or officer or employee of the administrative support service.

Consideration by Committee

8. (1) The Committee must consider a petition referred to it, unless it refuses the petition in terms of section 4(4) or (5) of the Act.

(2) The Committee must finalise its consideration of a petition within 90 days from the date the petition was referred to it by the Speaker.

(3) Within seven working days of the date the petition was referred to it by the Speaker the Committee must—

(a) determine whether the petition should be refused or closed;

(b) inform the petitioner in writing and with reasons whether the petition meets the requirements of the Act, and whether it is refused or accepted for consideration; and

(c) refer the petition to the relevant authority as contemplated in sections 6 and 7 of the Act.

(4) A petitioner must inform the Committee if any person has dealt with the subject matter of the petition subsequent to the submission of the petition to the Legislature.

(5) The relevant authority must respond in accordance with section 6(d)(ii) of the Act.

Public hearings

9. (1) The Committee may hold a public hearing or invite the public to submit representations if, in the opinion of the Committee, such hearing or representations are likely to assist the Committee in its consideration of the petition.

(2) The Committee may hold a public hearing if the responses of the relevant authority do not address the petition to the satisfaction of the Committee, in order to receive oral evidence, documentary evidence or any other relevant information.

(3) The Committee may invite the relevant authority and petitioners to the public hearing in order to hear evidence and to consider a petition at a place in the province as determined by the Chairperson.

(4) The Chairperson must give notice of a public hearing in accordance with the Standing Rules.

(5) The administrative support service must timeously—

(a) ensure that an invitation, instruction or summons to appear before the Committee is issued properly and served;

(b) inform the petitioner whether the Committee would require or consider any oral submission on the petition from the petitioner or any other relevant party; and

(c) inform the petitioner in writing of the date, venue and time when the petition will be considered.

(6) A petitioner may attend a Committee meeting where his or her petition is considered, unless the chairperson determines otherwise and has in writing prior to that meeting informed the petitioner of that determination and the reasons thereof.

(7) If the relevant authority fails to attend the hearing as invited or fails to submit responses as requested, the Committee shall issue a subpoena against the person representing the relevant authority in a format prescribed in Annexure B.

(8) The Committee must notify the petitioner in writing, and if necessary, any other person or entity who has an interest in the subject matter of the petition of any developments in respect of the consideration and resolution of a particular petition.

Decision of Committee

10. (1) The Committee must take a decision in respect of a petition in accordance with section 7 of the Act.

(2) The administrative support service must within seven working days from the date of the decision of the Committee inform the petitioner in writing and with reasons of—

- (a) the final outcome of the petition;
- (b) any further steps the Committee may be taking in accordance with section 7(h) of the Act; and
- (c) the right of the petitioner to appeal to the Speaker.

Witnesses and materials of evidence

11. (1) For the purpose of ascertaining a matter relating to the subject of its investigation, the Committee may summon or subpoena a person as contemplated in section 13 of the Act to attend a sitting of the Committee as a witness in order to give evidence or produce any book; document; object or other materials of evidence before the Committee at a time and place specified in the subpoena.

(2) A subpoena contemplated in regulation 11(1) must be in the form prescribed in Annexure B, and must—

- (a) be signed and issued by the Chairperson;
- (b) state the matter in respect of which it is issued;
- (c) stipulate the date, time and venue when the person or a representative of a body must appear before the Committee; and
- (d) be timeously served on the person to whom the subpoena is addressed by registered mail, personal delivery or any other acceptable method.

Submission of appeals

12. (1) Within 21 days after a petitioner has been informed of the outcome of a petition, the petitioner may appeal in writing to the Speaker against the outcome of the petition on any ground set out in section 9(1) of the Act.

(2) In order to submit an appeal, a petitioner must complete and sign the appeal form prescribed in Annexure C, or mark the form as contemplated in section 4(5)(c) of the Act in respect of petitions.

(3) The appeal must set out—

- (a) the reasons for the appeal;
- (b) the matter in respect of which the Committee erred; and
- (c) the decision, recommendation or conclusion the Committee should, in the opinion of the petitioner, have made or arrived at.

(3) A petitioner must submit an appeal in the same manner as in the case of a petition, as provided for in the Regulations.

(4) A petitioner may at any time withdraw an appeal by written notice to the Speaker.

(5) The administrative support service must, upon request, render reasonable assistance to a petitioner in the lodging of an appeal.

(6) The appeal may not contain information which was not included in the petition file before the conclusion of the consideration of the petition by the Committee.

(7) The administrative support service must within seven days of the receipt of the appeal document—

(a) acknowledge receipt of the appeal in writing;

(b) enter the details of the appeal in the petitions register;

(c) include the appeal in the petition file;

(d) in writing notify the Committee and any person or body who has in any way been involved in the petition of the appeal and provide the Committee and that person or body with a copy of the appeal; and

(e) submit the appeal document and the petition file to the Speaker.

Consideration of appeals

13. (1) Within seven working days of receipt of the appeal document from the administrative support service, the Speaker must appoint a panel consisting of three persons to advise the Speaker on the decision to be taken in respect of the appeal.

(2) The Speaker must appoint the panel from amongst Members other than Members of the Committee, or any other person with applicable expertise, and must appoint two Members who represent different political parties.

(3) Within 21 days of its appointment, the panel must make a recommendation to the Speaker on the decision to be taken in respect of the appeal.

(4) The Speaker must thereupon decide the appeal in accordance with section 9(3) of the Act.

(5) The administrative support service must within seven working days of the date of the Speaker's decision inform the petitioner of the Speaker's decision.

Legislature not in session

14. (1) The Act, the Regulations or the Standing Rules, and the duties and obligations placed on a person or body including the Committee or a Member in terms of the Act, are not suspended in respect of a petition solely because the Legislature is in recess or at the end of a legislative term or for whatever other reason is not sitting.

(2) A petition submitted before the Legislature goes in recess or is at the end of a legislative term must be dealt with in accordance with the Act, the Regulations, or the Standing Rules as if the Legislature is sitting.

(3) The Committee must cease its consideration of the petition and refer the petition to the Speaker, who must instruct the administrative support service to hold over the petition until a new Legislature has been elected and has met for its first sitting, if—

(a) the term of the Legislature expires;

- (b) the Legislature is dissolved;
- (c) the Premier has called an election for the Legislature; and
- (d) the Committee has not yet finalised its consideration of the petition.

(4) If the administrative support service is investigating a petition in a period during which a Legislature has not yet been elected, it must hold the petition over until a Legislature has been elected and has met for its first sitting.

(5) The administrative support service must inform in writing a petitioner if a situation contemplated in sub-regulations 14(3) and (4) arises.

(6) The Legislature may resolve a dispute by means of mediation or negotiation, where appropriate, or if requested to do so by a petitioner.

Closure and archiving of petition

15. (1) After the final resolution of the petition by the Committee and compliance with sub-regulation 10(2), and after an appeal has been finalised in terms of regulations 12 and 13, if applicable, the administrative support service must—

(a) close the petition file; and

(b) archive the petition file in accordance with any applicable law pertaining to the archiving of public documents.

Short title

16. These Regulations are called the Gauteng Petitions Regulations, 2016.

ANNEXURE A

**GAUTENG PROVINCIAL LEGISLATURE PETITION FORM (ANNEXURE A)
GAUTENG PETITION ACT, 2002 (ACT NO. 5 OF 2002) AND REGULATIONS**

ANNEXURE A			
PETITION FORM [Prescribed form in terms of Regulation 2(2)]			
Date			
Full names			Surname
Gender	Male	Female	Title
ID number			
Address	Residential:	Contacts:	
		Telephone:	
	Postal:		Fax:
			Cell:
		Email	
Type of submission	Individual	Group	Are you employed
			Yes No
How did you hear about Legislature or petitions office?			
What is your statement of complaint?			
What would you prefer the Legislature to do?		Where have you taken your complaint before?	
What would you prefer the Legislature to do?			
Home Language		Preferred language of communication:	
Did you attach additional statements in a separate document (s), if yes, how many?		Signature:	
FOR OFFICE USE ONLY			
Date received: Handled by:			
Appropriate register: FILE NUMBER:			

ANNEXURE B**SUBPOENA TO APPEAR BEFORE THE PETITIONS STANDING COMMITTEE OF
THE GAUTENG PROVINCIAL LEGISLATURE**

Petitions No:

TO:

You are hereby given notice that, in terms of section 11(2) of the Gauteng Petitions Act 5 of 2002, you are required to appear before the Petitions Standing Committee at _____ on the _____ 20 ... to give evidence under oath or affirmation in respect of a petition relating to the following issues:

Your attention is further drawn to the provisions of section 4 of the Gauteng Petitions Act 5 of 2002.

This summons is to be served by _____

Signed by the Chairperson of the Petitions Standing Committee at
_____ this ___ day of _____ 20 ...

Chairperson of the Gauteng Legislature Petitions Standing Committee

ANNEXURE C

**GAUTENG PROVINCIAL LEGISLATURE PETITION APPEAL FORM (ANNEXURE C)
GAUTENG PETITION ACT, 2002 (ACT NO. 5 OF 2002) AND REGULATIONS**

ANNEXURE C			
PETITION APPEAL FORM [Prescribed form in terms of Regulation 10(1)]			
Date			
Reference number of a petition file			
Full names		Surname	
Gender	Male	Female	Title
ID number			
What are your reasons for appeal?			
What would you prefer the Speaker to do?			
Did you attach additional statements in a separate document (s), if yes, how many?		Signature:	
<u>FOR OFFICE USE ONLY</u>			
Date received: Handled by:			
Appropriate register: APPEAL NUMBER:			

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