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GAUTENG***



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GAUTENG***

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LOCAL AUTHORITY NOTICES • PLAASLIKE OWERHEIDS KENNISGEWINGS

LOCAL AUTHORITY NOTICE OF 19 2016**THE GAUTENG PROVINCIAL GOVERNMENT INTENDS TO INTRODUCE
THE GAUTENG PROVINCIAL LANGUAGES BILL 2015 IN THE GAUTENG
LEGISLATURE**

The above mentioned Bill is hereby published in English in the Gauteng Provincial Extraordinary Gazette No. 6, dated 14 January 2016 for public comments and general information.

The Bill seeks 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.

People, who wish to comment on the Bill, may send their written comments to:

Office of the Secretary
Committee Coordinator (Ms. Philile Sigubudu)
Gauteng Provincial Legislature
Private Bag X52
Johannesburg
2000

Tel: (011) 498 6492
Mobile: (079) 8972382
Fax: (011) 498 5719

Comments must reach the above office on or before 12 February 2016.

Copies of the *Gazette* may be obtained from Government Printers, Publications Section, Vermeulen and Bosman Streets, Pretoria at R2.50 per copy

GAUTENG PROVINCIAL LANGUAGES BILL, 2015

(As introduced in the Gauteng Legislature as a Government Bill in terms of Rule 195(1) of the Standing Rules (Version 5 – Revision 3) of the Gauteng Legislature)

(Member of the Executive Council responsible for Sport, Arts, Culture and Recreation)

[G004-2015]

BILL

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 Provincial Legislature of Gauteng, as follows:—

ARRANGEMENT OF SECTIONS

Sections

1. Definitions
2. Objects of Act
3. Application of Act
4. Designation and use of official languages for the Province
5. Establishment and staff of Gauteng Provincial Language Unit
6. Functions and powers of Gauteng Provincial Language Unit
7. Internal language policies
8. Gauteng Intergovernmental Language Forum
9. Responsibilities of and reporting by heads of provincial organs of state
10. Monitoring and reporting
11. Regulations
12. Short title and commencement

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;

"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;

"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;
- (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;

"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);

"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;

"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;
- (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

"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;
- (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;
- (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.

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
- (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.

(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.

(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.

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 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
 - (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 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).

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;
 - (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

- (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 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;
- (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;
- (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.

(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
- (f) provide for any other matter that the MEC may prescribe.

(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);
- (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

- (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.

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
- (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;
- (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"**.

(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—

- (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.

(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—

- (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);
- (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—

- (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.

(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.

(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

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; and
- (c) any matter which the MEC deems necessary or expedient to make regulations on in order to achieve the objects of this Act.

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

- (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.

Short title and commencement

12. This Act is called the Gauteng Provincial Languages Act, 2015, and comes into operation on a date determined by the Premier by proclamation in the Provincial *Gazette*.

MEMORANDUM OF OBJECTS ON THE GAUTENG PROVINCIAL LANGUAGES BILL, 2015

1. BACKGROUND

- 1.1 The Gauteng Provincial Languages Bill, 2015 ("the Bill"), is drafted in response to the obligation in terms of section 6(4) of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), which requires that the national government and provincial governments, by legislative and other measures, must regulate and monitor their use of provincial languages, on condition that all official languages must enjoy parity of esteem and must be treated equitably.
- 1.2 Having regard to the section 6 of the Constitution, the Bill seeks to—
- regulate and monitor the treatment and use of official languages for the purposes of government in the Province;
 - promote parity of esteem and equitable treatment of official languages of the Republic of South Africa ("the Republic");
 - facilitate equitable access to services and information of the Province; and
 - promote good language management in the Province, for efficient public service administration and to meet the needs of the public.
- 1.3 In order to achieve its objects, the Bill provides for the establishment and functions of a Provincial Language Unit, the establishment and functions of Gauteng Intergovernmental Language Forum and requires the adoption of language policies by the provincial organs of state in the Province and the Legislature.

2. EXPLANATION OF THE BILL

- 2.1 The Bill establishes a legislative framework for the Province to regulate and monitor its treatment and use of official languages for the purposes of government in the Province. The Bill applies to provincial departments, provincial public entities, provincial public enterprises, municipalities and municipal public entities in the Province.

2.2 The objects of the Bill are:

- to regulate and monitor the treatment and use of official languages for the purposes of government in the Province;
- to promote parity of esteem and equitable treatment of official languages in the Province;
- to facilitate equitable access to services and information of the Province; and
- to promote good language management in the Province, for efficient public service administration and to meet the needs of the public.

2.3 The Bill contains various regulatory mechanisms, which include the following:

- the establishment of the Provincial Language Unit within the fixed establishment of the Department of Sport, Arts, Culture and Recreation;
- the establishment of one or more Intergovernmental Language Forum to promote general coordination, cooperation and consultation between organs of state on the use of official languages for government purposes;
- the obligation that provincial organs of state must adopt language policies regarding the treatment and usage of official languages by such provincial organs of state;
- the obligation that provincial organs of state must ensure that interpretation services are readily accessible and provided or reasonable arrangements are made for the provision of interpretation services;
- the obligation that provincial organs of state must designate employees as language practitioners in order to support and assist the heads of provincial organs of state in carrying out their responsibilities in terms of the Act; and
- the obligation that provincial organs of state must annually submit reports to the MEC for Sport, Arts, Culture and Recreation on their treatment and usage of official languages, who in turn must report to the Legislature.

3. CLAUSE BY CLAUSE EXPLANATION

3.1 Clause 1

This clause defines key terms used in the Bill.

3.2 Clause 2

This clause sets out the objects of the legislation.

3.3 Clause 3

This clause provides for the application of the legislation.

3.4 Clause 4

This clause deals with the designation and use of official languages in the Province. The clause specifically accords equal status and treatment in the Province to all official languages mentioned in section 6(1) of the Constitution. In addition to that, the clause mandates the MEC for Sport, Arts, Culture and Recreation, after consultation with the Legislature, organised local government in the Province and the Executive Council, to designate no less than two official languages for use by provincial organs of state for the purposes of government in the Province, taking into account usage, practicality, expense, regional circumstances and the balance of the needs and preferences of the population in the Province, within six months after the date of commencement of the Act.

3.3 Clause 5

This clause provides for the establishment of the Provincial Language Unit, outlines the responsibilities of the MEC for Sport, Arts, Culture and Recreation and designates the Head of the Department for Sport, Arts, Culture and Recreation as the head of the Provincial Language Unit.

3.4 Clause 6

This clause lists the functions and powers of the Provincial Language Unit, which must advise the MEC on policy and strategy:

- to regulate and monitor the use of official languages for government purposes in the Province;
- to promote parity of esteem and equitable treatment of the official languages of the Republic;
- to facilitate equitable access to the services and information of provincial departments, provincial public entities, provincial public enterprises, municipalities and municipal public entities; and
- to promote good language management within provincial departments, provincial public entities, provincial public enterprises, municipalities and municipal public entities.

3.5 Clause 7

This clause defines mechanisms that must be followed in ensuring that municipalities and other provincial organs of state develop internal language policies and further outlines consultation requirements between the MEC and the MEC for Cooperative Governance and organised local government structures.

3.6 Clause 8

This clause empowers the MEC to establish one or more Gauteng Intergovernmental Language Forum to promote provincial coordination of language matters in the Province.

3.7 Clause 9

This clause stipulates that the responsibilities of the provincial heads of organs of state with respect to their duties to comply with section 4 (4) and 7(3) and other obligations of this the Act.

3.8 Clause 10

This clause obliges the MEC to table a report in the Legislature every 24 months basis on the status and use of official languages for government purposes in the Province.

3.9 Clause 11

This clause empowers the MEC to make regulations which are not inconsistent with the provisions of the Act to prescribe measures for the development of the model language policy and to enable compliance with the general obligations of the Act.

3.10 Clause 12

This clause provides for the short title and commencement of the legislation.

4 CONSTITUTIONAL AND OTHER IMPLICATIONS OF THE BILL

4.1 Constitutional and legal implications

4.1.1 In terms of section 6(4) of the Constitution, provincial governments are required to promulgate legislation to regulate and monitor their use of official languages by legislative and other measures. The Bill is drafted in response to the obligation on the Province in section 6(4) of the Constitution to, by legislative measures, regulate and monitor the use of official languages by government in the Province.

4.1.2 The Bill will therefore apply to provincial departments, provincial public entities, provincial public enterprises, municipalities and municipal public entities and the Legislature.

4.2 Financial implications

4.2.1 The Bill provides for the establishment of a Provincial Language Unit within the fixed establishment of the Department of Sport, Arts, Culture and Recreation. In that regard, the MEC must ensure that the Provincial Language Unit is provided with the human resources, administrative and other resources necessary for its effective functioning.

4.2.3 Furthermore, the Bill requires that provincial organs of state must designate one or more employees as language practitioners to support and assist the head of those provincial organs of state on carrying out their responsibilities in terms of the Bill.

4.2.4 Each provincial organ of state will therefore have to make provision their budgets in order to comply with the above statutory obligations.

4.3 Organisational and personnel implications

The Bill envisages the establishment of a Provincial Language Unit within the fixed establishment of the Department of Sport, Arts, Culture and Recreation. Furthermore, the Bill requires that provincial organs of state to designate one or more employees as language practitioners to support and assist the head of

those provincial organs of state on carrying out their responsibilities in terms of the Bill.

4.4 Communication implications

A structured communication strategy will be developed to enable the MEC for Sport, Arts, Culture and Recreation to announce and inform all stakeholders of the legislation and its impact.

4.5 Social implications

Implementation of the Bill will promote the official languages of the Republic, 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 government and its citizens.

4.6 Environmental implications

None.

5. PUBLIC CONSULTATION

The department engaged in a wide ranging consultation process with organisations within civil society, Pan South African Language Board, South African Local Government Association, Municipalities and Gauteng Provincial Government Departments.

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