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DIE PROVINSIE MPUMALANGA

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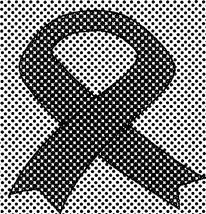
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AUGUSTUS 2012

No. 2067

We all have the power to prevent AIDS

AIDS
affects
us all



A
new
struggle

**AIDS
HELPLINE**

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DEPARTMENT OF HEALTH

Prevention is the cure

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GENERAL NOTICE

NOTICE 269 OF 2012

MPUMALANGA DEPARTMENT OF CULTURE, SPORT AND RECREATION

PUBLICATION OF MPUMALANGA PROVINCIAL LANGUAGES BILL, 2012

I, Millicent Ntombizodwa Sibongile Manana, in my capacity as the Member of the Executive Council for Culture, Sport and Recreation, hereby publish, in accordance with Rule 150(1)(a) and Orders of the Mpumalanga Provincial Legislature, the Mpumalanga Languages Bill, 2012, for public comment.

Interested persons and institutions are invited to submit written representations on the said Bill, to reach the Department of Culture, Sport and Recreation, by no later than 15th of August 2012.

All submissions must be addressed to:

Ms N.Dlamini

Senlor Legal Administration Officer

Department of Culture, Sport and Recreation

P.O.Box 1243

Mbombela

1200

You can contact Ms Dlamini at:

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MNS MANANA

MEMBER OF THE EXECUTIVE COUNCIL FOR

CULTURE, SPORT AND RECREATION

PROVINCE OF MPUMALANGA

MPUMALANGA PROVINCIAL LANGUAGES BILL, 2012

MPUMALANGA PROVINCIAL LANGUAGES BILL, 2012

To designate the official languages of the Province; to provide for the determination of a Provincial language policy; to provide for principles which must be respected in the development and implementation of the Provincial language policy; to provide for certain language practices within and between organs of state in the Province; to provide for the establishment of the Mpumalanga Provincial Language Committee to assist in the development, implementation and monitoring of the Provincial language policy; and to provide for matters connected therewith.

BE IT ENACTED by the Provincial Legislature of Mpumalanga, as follows:

1. Definitions. In this Act, unless the context indicates otherwise -

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

“Committee” means the Mpumalanga Language Committee established by section 8;

“Executive Council” means the Executive Council of the Province as contemplated in section 132 of the Constitution;

“financial year” means a period commencing on the first day of April in any year and ending on the thirty first day of March in the ensuing year, both days inclusive;

“Head of Department” means the Head of the Department responsible for cultural and linguistic matters in the Province;

“member” means a member of the Committee;

“Member of the Executive Council” means the Member of the Executive Council responsible for cultural and linguistic matters in the Province;

“designated official languages” means the languages designated in section 3;...

“prescribed” means prescribed by regulation in terms of this Act;

“Province” means the Province of Mpumalanga as referred to in section 103(1)(f) of the Constitution;

“Provincial Gazette” means the *Provincial Gazette* of the Province;

“Provincial Legislature” means the Provincial Legislature of the Province as referred to in section 104 of the Constitution;

“Provincial organ of state” means -

- (a) any Provincial Government Department; or
- (b) any other Provincial functionary or institution exercising a power or performing a function in terms of the Constitution or in terms of any Provincial legislation;

“this Act” also means a regulation made under this Act.

2. Objectives of this Act. The objectives of this Act are to –

- (a) designate the official languages of the Province;
- (b) promote respect for and the usage of all other languages used by communities within the Province; and
- (c) provide for the establishment of a Provincial Language Committee to assist in the development, implementation and monitoring of the provincial language policy.

3. Designated Official languages of the Province. (1) Whilst having due regard to section 6 of the Constitution, which determines the 11 official languages, the designated official languages of the Province, for purposes of government, as contemplated in section 6(3) of the Constitution, are IsiNdebele, isiSwati, English and Afrikaans.

(2) Every person has, in his or her written or oral communications with any Provincial organ of state, the right to use any one of the 11 official languages as contemplated in section 6 of the Constitution, or sign language.

(3) Wherever practicable, every person has the right to be assisted and addressed in his or her language of choice utilized in his or her communications with the Provincial organ of state concerned.

4. Use of official languages by Provincial Legislature. (1) Any of the 11 official languages as contemplated in section 6 of the Constitution, may be used in any debates and other proceedings of the Provincial Legislature and its committees, and reasonable provision must be made for the furnishing of interpreting services during sittings of the Provincial Legislature and any of its committees.

(2) All official records of debates of the Provincial Legislature must be kept in the official language in which the debate took place, and a translation thereof in any one of the designated official languages must be made available, on request, by the Secretary to the Provincial Legislature.

(3) All legislation, official reports and resolutions of the Provincial Legislature and its Committees must be made available in all four designated official languages, but the Provincial Legislature may make practical arrangements to cause legislation, official reports and resolutions drawn up in one designated official language, to be made available, within a reasonable period, in the other three designated official languages.

(4) A Bill introduced in the Provincial Legislature must, upon introduction, be available in at least two designated official languages, but the Provincial Legislature may make practical arrangements to cause Bills introduced in two designated official languages to be available, within a reasonable period after such introduction, in the other designated official languages.

(5) A motion given notice of or moved in the Provincial Legislature must be available in at least two designated official languages, but the Provincial Legislature may make practical arrangements to cause motions drawn up in one designated official language to be available, within a reasonable period, in the other designated official languages.

5. Official notices and advertisements. (1) Official notices issued by the Provincial

Government must take cognizance of the language needs and preferences of inhabitants of the Province.

(2) All official notices and advertisements published by the Provincial Government must, in case of publication in the *Provincial Gazette*, be published in the designated official languages.

(3) All official notices and advertisements published in newspapers in the Province, must be published in the language in which the newspaper concerned appears and if there is no newspaper published in that particular designated official language, such official notice and or advertisement must also be published in such newspaper in such other designated official language.

6. Communication with and services to the public. (1) Every institution of the Provincial Government must, in its communication with and rendering of services to members of the public, ensure that such services are carried out in the most appropriate manner in at least two of the designated official languages of the Province, depending on the needs of the member or members of the public concerned or of the target audience concerned.

(2) Any member of the public in the Province -

- (a) may use any one of the 11 official languages in his or her communication with any institution of the Provincial government; and
- (b) must be served in any of the designated official languages at or by any institution of the Provincial Government, where there is a substantial need for communication and services in that language and it can reasonably be expected of the institution concerned to communicate and render services in that language: Provided that, in the instance that a member of the public requires service in an official language other than a designated official language, the Provincial Organ of State concerned must endeavour to render such service in such official language.

7. Identification signs and notices. (1) Where any Provincial organ of state identifies any of its offices or facilities by way of signboards, such signboards must be installed in at least two of the designated official languages in accordance with the language preference of the community concerned and where it can reasonably be expected of the institution concerned to identify its offices or facilities in such language or languages.

(2) Notices put up by any Provincial organ of state in the interest of the public must be installed in at least two of the designated official languages preferred by the community concerned where it can reasonably be expected of the Provincial organ of state concerned to communicate its notices in such language or languages.

8. Establishment of Language Committee. There is hereby established a juristic person to be known as the Mpumalanga Language Committee.

9. Powers and functions of the Committee. The Committee, in addition to any powers and functions conferred on it by any other law -

- (a) must make written recommendations to the Member of the Executive Council with regard to any proposed or existing legislation, practice or policy dealing directly or indirectly with language matters in the Province, and with regard to

- any proposed amendments to or the repeal or replacement of such legislation, practice or policy;
- (b) may direct a Provincial organ of state to supply it with information on any legislative, executive or administrative measures adopted by it relating to language policy or language practices;
 - (c) must advise a Provincial organ of state on the implementation of any proposed or existing legislation, policy or practice dealing directly or indirectly with language matters;
 - (d) must monitor the observance of any advice given in terms of paragraph (c);
 - (e) may make recommendations to Provincial organs of state where it considers such action advisable for the adoption of measures aimed at the promotion of multi-lingualism within the framework of the Constitution;
 - (f) must actively promote awareness of the principle of multi-lingualism by developing, administering and monitoring access, information and implementation programmes pertaining to the designated official languages of the Province;
 - (g) must advance the use of indigenous languages, which languages' use and status were historically diminished, by -
 - (i) developing, administering and monitoring access, information and implementation programmes pertaining to such language or languages of the Province; and
 - (ii) undertaking such studies on or relating to language development as is necessary for the exercise of its powers and the performance of its functions;
 - (h) may investigate on its own initiative or on receipt of a written complaint, any alleged violation of a language right, language policy or language practice and make such recommendations as are necessary to address such violation;
 - (i) may, with due regard to the Constitutional provisions and principles pertaining to language matters in general, and specifically to sections 6 and 9(3) of the Constitution -
 - (i) monitor the observance of the Constitutional provisions regarding the use of language;
 - (ii) monitor the observance of any existing or new legislation, practice or policy pertaining to language matters in general, by Provincial organs of state; and
 - (iii) assist with and monitor the formulation of programmes and policies aimed at fostering the equal use of and respect for the official languages.
 - (j) may establish, compile and maintain a database including, but not limited to, databases of -
 - (i) all legislative measures dealing with language matters; and

- (ii) every policy and practice dealing directly or indirectly with language matters, of any institution or Provincial organ of state;
- (k) may initiate studies and research aimed at –
 - (i) promoting respect for the official languages referred to in section 6(1) of the Constitution, and their equal use and enjoyment;
 - (ii) the development of those indigenous languages which languages' use and status were historically diminished;
 - (iii) promoting multi-lingualism in the Province;
 - (iv) the prevention of the use of any language which may result in exploitation, domination or division of any nature; and
 - (v) advising on the coordination of language planning in the Province.

10. Advice to Pan South African Language Board. The Committee must, in terms of section 8(8)(a) of the Pan South African Language Board Act (Act No. 59 of 1995), advise the Pan South African Language Board on any language matter in or affecting the Province and simultaneously submit a copy of such advice to the Member of the Executive Council.

11. Objectives of the Committee. The objectives of the Committee are -

- (a) to advise the Member of the Executive Council on language-related matters;
- (b) to assist the Head of Department in the monitoring of language policies and practices in the Province;
- (c) promote research and innovation in any language policy;
- (d) to promote knowledge of and respect for this Act and the language-related provisions of the Constitution;
- (e) to foster respect for all the languages spoken or used in the Province; and
- (f) to promote the development of the official languages referred to in section 6 of the Constitution.

12. Appointment and composition of the Committee. (1) The Committee consists of not fewer than seven and not more than eleven part-time members, appointed by the Member of the Executive Council on recommendation by the Executive Council, and who must be representative of the users of the designated official languages in the Province in the proportion in which these languages are spoken in the Province, taking into account the regional variations.

(2) Nominations for inclusion in the shortlist must be obtained from the public by means of a notice in the *Provincial Gazette*, inviting such nominations to be forwarded within a specified period, to the Member of the Executive Council or any person designated by the Member of the Executive Council.

(3) The Committee of the Provincial Legislature responsible for cultural and linguistic matters must compile a shortlist from the nominations received pursuant to subsection (2), which shortlist must be submitted to the Executive Council of the Province within a reasonable period of time, for its consideration and recommendation.

(4) The members of the Mpumalanga Language Committee must be -

- (a) fit and proper persons;
- (b) South African citizens who are ordinarily resident in the Province;
- (c) broadly representative of the population of the Province; and
- (d) persons who have sufficient knowledge of, or experience in, the fields covered by the Committee.

(5) The Committee must, subject to the provisions of this Act, exercise and perform the powers and functions conferred or imposed upon the Committee by this Act or any other law.

13. Terms and conditions and term of office of member. (1) The term of office of a member must be for a period not exceeding three years.

(2) Upon the expiration of the term of office of an appointed member as contemplated in subsection (1), such member is eligible for re-appointment.

(3) A member holds office on such conditions as to the remuneration, allowances and benefits as the Member of the Executive Council, in consultation with the Executive Council, may from time to time determine; after consultation with the Committee, by prior notice in the *Provincial Gazette*.

(4) The appointed members of the Committee are entitled to be reimbursed for any traveling and subsistence expenses reasonably incurred by them in connection with the performance of their functions as such members and may, for that purpose, be paid such allowances as the Member of the Executive Council, in consultation with the Executive Council, after consultation with the Committee, may determine.

14. Disqualification. Notwithstanding the provisions of section 12, a person is disqualified from being appointed or remaining a member of the Committee if such person -

- (a) is or becomes a member of the National Assembly or National Council of Provinces, any provincial legislature, municipal council or an officer or employee of the Public Service or a municipality;
- (b) is or becomes subject to a final order of court whereby his or her estate is sequestrated under the Insolvency Act, 1936 (Act No. 24 of 1936), or if his or her estate is sequestrated in terms of the laws of any other country or territory by a competent court or Agency of such country or territory, or if he or she has assigned his or her estate for the benefit of his or her creditors;
- (c) is or becomes subject to an order of a competent court declaring him or her to be of unsound mind or mentally disordered or defective;
- (d) has been convicted of any offence under this Act, or any other offence whatsoever in respect of which he or she was sentenced to imprisonment

without the option of a fine for a period of not less than six months, irrespective of whether such imprisonment was wholly or partly suspended or not, unless he or she has received a grant of amnesty or a free pardon, or unless the period of such imprisonment or suspension has expired at least three years before the date of his or her appointment as member.

15. Resignation and removal from office. (1) A member may at any time resign from the Committee upon one month's written notice tendered to the Member of the Executive Council who must forthwith inform the Executive Council accordingly.

(2) Notwithstanding the provisions of section 13, the term of office of any member may, before the expiration thereof, be terminated by the Member of the Executive Council, in consultation with the Executive Council -

- (a) on account of such member's improper conduct;
- (b) on account of unfitness for the functions of such member's office;
- (c) on the ground of a permanent infirmity of mind or body which renders such member incapable of discharging the functions of his or her office or discharging them properly; or
- (d) that such member is or has become disqualified in terms of section 14.

(3) Notwithstanding the provisions of section 13, a person's appointment as member of the Committee may be terminated by the Member of the Executive Council, in consultation with the Executive Council, if such a person has been absent from two consecutive meetings of the Committee without leave of the Chairperson, or the Committee in the case of the Chairperson, or does not attend at least 60 percent of the annual meetings of the Committee, in person.

(4) The Member of the Executive Council may not terminate the term of office or appointment of a member in terms of subsection (2) or (3) unless the Member of the Executive Council, after having afforded the relevant person an opportunity to state his or her case and having duly considered the matter, including any representations made, explanations given or evidence tendered by such person, if any, is satisfied that the termination of such member's appointment is justified in the circumstances.

(5) For the purposes of subsection (2)(a) the non-compliance by a member with any provisions of this Act constitutes, *inter alia*, improper conduct.

16. Filling of vacancies. (1) The office of an appointed member becomes vacant -

- (a) when he or she dies;
- (b) when his or her written resignation tendered to the Member of the Executive Council in terms of section 15 becomes effective;
- (c) when his or her term of office is terminated in terms of section 15; or
- (d) if he or she is absent from three consecutive meetings of the Committee without the prior consent of the Chairperson.

(2) Any vacancy in the Committee must be filled by the appointment of another member by the Executive Council, in accordance with section 12. of this Act, as soon as may be

reasonably practicable after the occurrence of such vacancy, and any member so appointed remains in office for the unexpired portion of his or her predecessor's term of office.

(3) No member's term of office may be extended without complying with the procedure contemplated in section 12.

17. Performance of administrative work of the Committee. The Committee must, in the performance of its administrative duties, be assisted by an officer or officers appointed in terms of the Public Service Act, 1994, who must carry out the duties and perform the functions which the Committee from time to time confers or assigns to such officer or officers in order to achieve the objectives of the Committee, and such officer or officers are, for those purposes, accountable to the Committee.

18. Chairperson. (1) The Executive Council must appoint any member eligible to vote at Committee meetings, as the Chairperson of the Committee.

(2) The Chairperson must exercise and perform the powers and functions assigned to him or her by this Act.

(3) The Chairperson must preside at all meetings of the Committee.

(4) Whenever the office of Chairperson is vacant or the Chairperson is absent or incapacitated or refuses or fails to act, the powers, rights and functions of the Chairperson must be exercised and performed by the Deputy Chairperson, elected from among its members, by the Committee.

19. Meetings of the Committee. (1) The first meeting of the Committee must be held at a place and time determined by the Chairperson, and subsequent meetings of the Committee must be held on such dates and at such times and places as may be determined by resolution of the Committee or, failing such a resolution, as may be determined by the Chairperson.

(2) The Chairperson may at any time call for a special meeting of the Committee if it is justified under the circumstances, and must, upon having been presented with a request for that purpose signed by at least two members, or the Member of the Executive Council, and stating the purpose for which such a special meeting is to be convened, forthwith call for a special meeting of the Committee, and if the Chairperson fails to convene a special meeting within seven days as from the date of such presentation, such two members, or a member on behalf of the Member of the Executive Council may, on the expiration of such seven days, convene a special meeting.

(3) Notice of every meeting of the Committee must state the business to be transacted thereat and must be given to all the members in such reasonable manner as the Committee may from time to time determine.

20. Decisions of the Committee, and voting powers of Chairperson. (1) A decision agreed upon by the majority of the members eligible to vote at Committee meetings present at any meeting of the Committee constitutes a decision of the Committee, to be known as a resolution.

(2) In the event of an equality of votes in regard to any matter put to the vote, the Chairperson has a casting vote in addition to his or her deliberative vote.

(3) The Committee must cause a record to be kept of the proceedings of any meeting thereof and the Member of the Executive Council may at any reasonable time require that such record be submitted to him or her, for perusal.

(4) The Committee may make rules in regard to the holding of, and procedure at, meetings thereof.

(5) The Member of the Executive Council, or on request of the Member of the Executive Council, the Premier, may attend meetings of the Committee but is not entitled to vote thereat.

(6) The Head of Department is a member of the Committee, *ex officio*, without voting powers.

21. Appointment of subcommittees. (1) The Committee may appoint subcommittees, with the power to co-opt other persons, for the purpose of assisting it with the due and proper exercise and performance of any of its powers and functions in terms of the Act, and may likewise dissolve, extend, enlarge or limit any subcommittee so appointed.

(2) A subcommittee appointed under subsection (1), consists of no fewer than three members so appointed by the Committee being suitable and appropriately qualified or experienced regarding the functions of the subcommittee in question.

(3) The Committee must designate one of its members as the chairperson of the subcommittee.

(4) A person co-opted as a member in terms of subsection (1) may serve only in an advisory capacity, and is not entitled to vote at any meeting of the subcommittee.

22. Submissions. (1) The Committee may submit to the Member of the Executive Council any matter with regard to the powers or functions of the Committee for his or her decision.

(2) If any matter is submitted to the Member of the Executive Council in terms of subsection (1) -

- (a) the Member of the Executive Council must give his or her decision after consultation with the Committee; and
- (b) the Member of the Executive Council may lay down such conditions, either in general or in particular, regarding such matter, which he or she deems fit.

23. Funds of the Committee. (1) The funds of the Committee consist of -

- (a) money appropriated by the Provincial Legislature;
- (b) donations or contributions received by the Committee with the approval of the Member of the Executive Council;
- (c) money accruing to the Committee from any other source approved by the Member of the Executive Council.

(2) The Committee may use its funds only to defray expenditure incurred in the furtherance of its objectives in terms of this Act as well as for the exercise and performance of its powers

and functions.

24. Quarterly reports. (1) The Committee must submit to the Member of the Executive Council quarterly reports, which reports must deal with the state of affairs, the activities, the operations, and the financial position of the Committee, and must –

- (a) state the extent to which the Committee has achieved or advanced its objectives during the financial quarter concerned;
- (b) contain relevant performance information regarding the economic, efficient and effective utilization of resources; and
- (c) indicate the amount of money, if any, received from the Government or any other source and any other commitment furnished to the Committee.

(2) The Member of the Executive Council must cause copies of the quarterly report submitted to him or her in terms of subsection (1), to be tabled in the Provincial Legislature within 14 days of receipt thereof if the Provincial Legislature is in session, or if the Provincial Legislature is not in session, within 14 days after commencement of its ensuing session.

(3) Notwithstanding the provisions of subsection (1), the Member of the Executive Council may, at any time, request the Committee to submit to him or her, an interim report pertaining to the state of affairs, the activities, the operations, and the financial position of the Committee, and such interim report must be submitted to the Member of the Executive Council within 14 days after such request.

25. Annual report. (1) The Committee must prepare and submit an annual report in respect of each financial year, as well as the balance sheet and statement of income and expenditure, to the Executive Council as soon as practically possible after the end of each financial year, but not later than three months after the end of each financial year.

(2) The Committee must, as soon as is practical, but not later than five months after the end of each financial year, submit to the Member of the Executive Council –

- (a) the audited balance sheet and an audited statement of the income and expenditure of the Committee which truly and correctly reflects the state of affairs of the Committee, as at the end of the immediately preceding financial year;
- (b) a report regarding such balance sheet and income and expenditure statement signed by the auditor: Provided that if the auditor is unable to make such report, or to make it without qualification, he or she must set out in such report either the facts or circumstances which prevent him or her from making such a report, or the qualification itself; and
- (c) a report of the Committee concerning the operation of the Committee including the key performance areas and how and the extent to which the objectives of the Committee were attained during the immediately preceding financial year.

(3) The financial statements referred to in subsection (2) must –

- (a) be in conformity with generally accepted accounting practices;
- (b) fairly present the state of affairs and functions of the Committee and the

results thereof; and

- (c) refer to any material matters not specifically prescribed by this Act, which have affected or are likely to affect the affairs of the Committee.

(4) The Member of the Executive Council must cause copies of the annual report submitted to him or her in terms of subsection (1), to be tabled in the Provincial Legislature within 14 days of receipt thereof if the Provincial Legislature is in session, or if the Provincial Legislature is not in session, within 14 days after commencement of its ensuing session.

(5) The Auditor-General may, in terms of the provisions of the Auditor-General Act, 1995 (Act No. 12 of 1995), at any reasonable time, conduct an audit of the Committee.

26. Offences and penalties. Any person who contravenes or fails to comply with any provision of this Act is guilty of an offence and liable on conviction to a fine or imprisonment for a period not exceeding 24 months, or to both such fine and imprisonment.

27. Regulations. The Member of the Executive Council may, after consultation with the Committee, make regulations regarding –

- (a) principles which must be respected in the development and implementation of a provincial language policy;
- (b) language practices within and between Provincial organs of state; and
- (c) in general, any other matter in respect of which it is necessary or expedient to make regulations.

28. Short title and commencement. (1) This Act is called the Mpumalanga Provincial Languages Act, 2012, and comes into operation on a date fixed by the Premier by notice in the *Provincial Gazette*.

(2) Different dates may be so fixed in respect of different provisions of this Act.

