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PROVINCIAL GAZETTE**

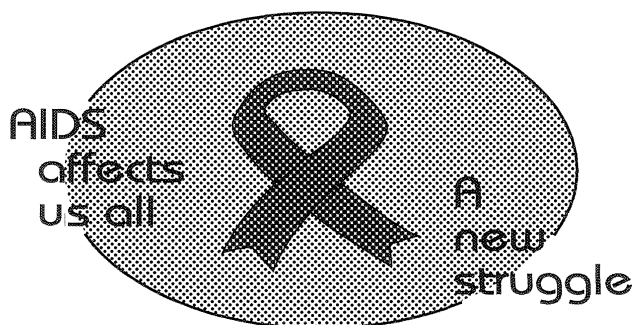
**BUITENGEWONE
PROVINSIALE KOERANT**

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**16 JUNE 2014
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No. 7296

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DEPARTMENT OF HEALTH

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PROVINCIAL NOTICE

No. 3

16 June 2014

DEPARTMENT OF SPORT, ARTS AND CULTURE

DRAFT NORTH WEST PROVINCIAL LANGUAGES BILL, 2014

APPROVAL TO CALL FOR WRITTEN SUBMISSIONS FROM STAKEHOLDER BODIES AND MEMBERS OF THE PUBLIC ON THE DRAFT NORTH WEST PROVINCIAL LANGUAGES BILL

1. I, Tebogo Modise, Member of Executive Council of the North West Province responsible for Sport, Arts and Culture, in compliance with section 154(2) of the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996) hereby publish the draft North West Provincial Languages Bill and invite stakeholder bodies and members of the public to comment on it.

AVAILABILITY OF DOCUMENTS

- 2.1 The draft NW Provincial Languages bill, 2014, is obtainable on the following departmental website:

<http://www.nwpg.gov.za/dsac>

- 2.2 Hard copies of the draft are also obtainable from the addresses supplied in paragraph 5 of this notice.

3. SUBMISSIONS

Organised local government, municipalities and other interested parties are invited to submit comments on the proposed Bill in writing by no later than 30 days after the publication hereof. It would greatly assist the Department if all submissions could be prepared under the headings listed in the draft. If you do not wish to comment under a particular heading, please indicate "No Comment".

CLOSING DATE

4. The closing date for the receipt of comments is set as 30 days after publication of this Notice

ADDRESS FOR SUBMISSIONS

5. Please send or deliver your submissions to:

1. The Chairperson: North West Provincial Language Committee

Savera House, 4086 Aerodrome Street, Industrial Area, Private Bag X90 Mmabatho 2735, Fax 018 381 0519 Email : mmotaung@nwpg.gov.za

OR

Department of Sports, Arts and Culture Head Office : Attention : Mr TM Tumanem
760 Dr James Moroka Drive, Gaabomotho Building
Private Bag X90, Mmabatho, 2735
Fax: 0866205741, Email tumanem@nwpg.gov.za

Bojanala Platinum District

Contact Person :District Director -Mr A Sekati
28 Steen Street, Old Herald Building
Rustenburg 0300
Tel: 014 5948500

Dr Ruth Segomotsi Mompoti District

Contact Person: District Director –Mr T Mocumi
28 Market Street
Private BagX15
Vryburg,8600
Tel:053 927 5271

Dr Kenneth Kaunda District

Contact Person: District Director- Ms C Motjuwadi
Corner Wolmarans &Peter Mokaba Street
1st Floor Louis le Grange Building
Tel:018 294 6860

Ngaka Modiri Molema District

Contact Person: District Director : Mr K. Lebotse
Savera House,4086 Aerodrome Street, Industrial Area, Private BagX90 Mmabatho
Tel : 018 397 8200

NORTH WEST PROVINCE

***Draft 2: For discussion
purposes only
30 April 2014***

**NORTH WEST
PROVINCIAL LANGUAGES
BILL, 2014**

*(As introduced in the Provincial Legislature)
(The English text is the official text of the Bill)*

(MEMBER OF THE EXECUTIVE COUNCIL FOR SPORT, ARTS AND CULTURE)

BILL

To determine the provincial official languages in the North West Province; to regulate and provide for the monitoring of the use of provincial official languages by all organs of state in the North West Province; to provide for measures aimed at the advancement of indigenous languages spoken in the North West Province; to provide for the establishment of the North West Provincial Language Committee; to provide for the development of internal language policies by organs of state in the Province; to provide for the development and adoption of the North West Development and Advancement of Indigenous Languages Policy; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the North West Province, as follows:-

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CHAPTER 1 DEFINITIONS

Definitions

1. In this Act, unless the context indicates otherwise –

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

“**Code of Conduct**” means the Code of Conduct for members of the North West Provincial Language Committee published in terms of section 8(11)(b) of the Pan South African Language Board Act, 1995 (Act No. 59 of 1995);

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

“**draft provincial law**” means a Bill which is yet to be assented to in terms of section 121 of the Constitution and published to become law in the *Gazette*;

“**eleven official languages**” means the official languages of the Republic of South Africa, contemplated in section 6(1) of the Constitution;

“**Executive Council**” means the Executive Council of the North West Province;

“**financial year**” means the period commencing on 1 April of a particular year and terminating on 31 March of the following year;

“**Gazette**” means the official *Provincial Gazette* of the North West Province;

“**Head of Department**” means the person appointed as the accounting officer of the Department;

“**head of organ of state**” means the accounting officer of any organ of state in the Province or any person acting as such;

“**indigenous languages spoken in the Province**” means those languages which –

(a) according to historical records, originated in South Africa and spoken in the

Province; and

(b) in the past were not afforded the requisite recognition and status as compared to English and Afrikaans;

“internal language policies” means internal language policies developed by respective organs of state in the Province, as contemplated in section 18;

“language complainant” means any person who lodges a language complaint contemplated in section 20(1);

“language complaint” means a language complaint contemplated in section 20(1);

“language dispute” means a language dispute contemplated in section 21(2)(f);

“Language Dispute Resolution Committee” means a Language Dispute Resolution Committee, appointed by the responsible Member, from time to time, in terms of section 21(2);

“Municipal Council” means the Municipal Council of any municipality contemplated in section 157 of the Constitution;

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

“PanSALB” means the Pan South African Language Board, established in terms of section 2 of the Pan South African Language Board Act, 1995;

“Pan South African Language Board Act” means the Pan South African Language Board Act, 1995 (Act No. 59 of 1995);

“Premier in Executive Council” means the Premier chairing the proceedings of the Executive Council;

“prescribed” means prescribed by regulation under section 23, and **“prescribe”** has a corresponding meaning;

"Province" means the North West Province contemplated in section 103 of the Constitution, and **"provincial"** has a corresponding meaning;

"Provincial Government" means the government of the Province;

"Provincial House of Traditional Leaders" means the Provincial House of Traditional of Leadership established in terms of section 2(1) of the House of Traditional Leaders for the Province of North West Act, 1994 (Act No. 12 of 1994);

"Provincial Language Committee" means the Provincial Language Committee for the Province established by PanSALB in terms of section 8(8)(a) of the Pan South African Language Board Act, 1995;

"Provincial Legislature" means the Legislature of the Province as contemplated in section 105 of the Constitution and having legislative authority for the Province as contemplated in section 104(1) of the Constitution;

"provincial official languages" means the provincial official languages contemplated in section 4(1);

"regulations" means regulations made in terms of section 23;

"responsible Member" means the Member of the Executive Council of the Province responsible for language matters in the Province; and

"this Act" includes the regulations.

CHAPTER 2 OBJECTS AND APPLICATION OF ACT

Objects of Act

2. The objects of the Act are to –

- (a) determine official languages for the Province;

- (b) regulate the use of provincial official languages by all organs of state in the Province;
- (c) promote equitable treatment of all official languages in the Province;
- (d) provide mechanisms for the public to use languages of their choice when accessing government services, knowledge and information; and
- (e) promote multilingualism and linguistic diversity in the Province.

Application of Act

3. This Act applies to –

- (a) the Premier in Executive Council;
- (b) Members of the Executive Council;
- (c) the Provincial House of Traditional Leaders; and
- (d) all organs of state, including municipalities, in the Province.

CHAPTER 3 PROVINCIAL OFFICIAL LANGUAGES

Determination of provincial official languages

4.(1) The official languages of the Province are Setswana, English and Afrikaans.

(2) Notwithstanding subsection (1) –

- (a) all eleven official languages of the Republic of South Africa, as contemplated in section 6(1) of the Constitution, must be treated equitably, in the Province; and
- (b) the Provincial Government must, in co-operation with PanSALB –
 - (i) promote and create conditions for the use of –
 - (aa) all eleven official languages;
 - (bb) the Khoi, Nama and San languages; and
 - (cc) South African Sign Language,
 in the Province; and
 - (ii) promote respect for –
 - (aa) all languages commonly used by communities in South Africa; and
 - (bb) other languages used for religious purposes.

Use of provincial official languages in proceedings of Executive Council, Provincial House of Traditional Leaders, Municipal Councils and Provincial Legislature

5.(1) Any of the provincial official languages may be used in any debate or address in any proceedings of –

- (a) the Executive Council;
- (b) the Provincial House of Traditional Leaders;
- (c) any Municipal Council;
- (d) any committee of any Municipal Council;
- (e) the Provincial Legislature; and
- (f) any committee of the Provincial Legislature.

(2) To give effect to subsection (1), reasonable arrangements must be made for the provision of interpreting services during the sittings of the structures contemplated in subsection (1).

(3) Any record of –

- (a) the Executive Council;
- (b) the Provincial House of Traditional Leaders;
- (c) Municipal Councils;
- (d) any committee of –
 - (i) the Executive Council;
 - (ii) the Provincial House of Traditional Leaders; and
 - (iii) Municipal Councils,

may be printed and published in any of the provincial official languages: Provided that any person may request a translated version of the original record or publication in any other provincial official language.

Use of provincial official languages for legislative purposes

6.(1) Each Member of the Executive Council must ensure that –

- (a) each draft provincial law; and
- (b) regulation, proclamation or rule made under, or by virtue of, any provincial law, published in the *Gazette* or any newspaper circulating in the Province, is so published in all three provincial official languages.

(2) The Premier in Executive Council must ensure that each draft provincial law submitted to, served before and approved by the Executive Council for introduction in the Provincial Legislature is so approved and introduced in all three provincial official languages.

(3) The Premier must ensure that each draft provincial law assented to in terms of section 121 of the Constitution is in all three provincial official languages.

(4) Any notice issued under, or by virtue of, any provincial law and published in the *Gazette* or any newspaper circulating in the Province, must be so published in at least two provincial official languages: Provided that –

- (a) language use and preference of the members of public targeted by the notice must be taken into consideration; and
- (b) one of the languages used to publish the notice must, subject to regional circumstances, be one of the indigenous languages spoken in the Province.

(5) Any municipal by-law, rule or notice published in the *Gazette* or any newspaper by any municipality in the Province must be published in at least two provincial official languages: Provided that –

- (a) local language use and preference must be taken into consideration; and
- (b) one of the languages used to publish the notice must, subject to regional circumstances, be one of the indigenous languages spoken in the Province.

Use of provincial official languages by organs of state in Province

7.(1) All organs of state in the Province must, through internal language policies contemplated in section 18, and subject to –

- (a) language use and preference of the majority of the customers and clients of the relevant organ of state; and
- (b) regional circumstances,

designate at least two provincial official languages for –

- (i) internal, external, written and oral communication; and
- (ii) publication,

purposes: Provided that any organ of state in the Province may, in addition, so designate any one or more of the eleven official languages.

(2) Reasonable arrangements to provide interpreting and translation services may be made to accommodate any member of the public wishing to communicate with any organ of state in the Province, using any other provincial official language not designated in terms of subsection (1).

(3) One of the languages designated in terms of subsection (1) must, subject to language use and preference of the customers and clients of the relevant organ of state, be one of the indigenous languages spoken in the Province.

(4)(a) Any record or publication of any organ of state in the Province may be printed and published in any of the languages designated in terms of subsection (1): Provided that any person may request a translated version of the original record or publication in any other provincial official language.

(b) The responsible Member may prescribe the period within which a translated version of the original record or publication in any other provincial official language must be provided following a request contemplated in paragraph (a).

(5) Where organs of state in the Province –

- (a) identify;
- (b) market; or
- (c) promote,

their services, they must use the provincial official languages designated in terms of subsection (1) in their signs, letterheads, billboards and promotional material.

(6) Where a organ of state in the Province directs written communication or correspondence to a customer, client or member of the public, such communication or correspondence must be in the preferred provincial official language as may be indicated by such customer, client or member of the public.

CHAPTER 4 NORTH WEST PROVINCIAL LANGUAGE COMMITTEE

Establishment of North West Provincial Language Committee

8.(1) There is hereby established the North West Provincial Language Committee, hereinafter referred to as the Provincial Language Committee.

(2) The Provincial Language Committee –

- (a) is an independent advisory body; and
- (b) is not a juristic person.

Powers, functions and duties of the Provincial Language Committee

9.(1) The Provincial Language Committee must –

(a) monitor and advise on the implementation of the provisions of –

- (i) this Act;
- (ii) any regulation made in terms of section 23; and
- (iii) internal language policies contemplated in section 18,

by all organs of state in the Province;

(b) promote and monitor equitable use of provincial official languages by all organs of state in the Province in order to ensure equitable access to government services, knowledge and information by all citizens of the Province;

(c) provide support to all organs of state in the Province in respect of language matters;

(d) take practical and positive measures to –

- (i) promote multilingualism in the Province;
- (ii) promote the use and development of indigenous languages spoken in the Province; and
- (iii) promote entrench language equity in the Province;

(e) promote and monitor good language management by all organs of state in the Province for efficient public service administration;

(f) promote and monitor respect for the language rights of the citizens of the Province by all organs of state in the Province;

(g) monitor the development, review and implementation of internal language policies, as contemplated in section 18, by all organs of state in the Province;

(h) promote terminology and literature development in the Province; and

(i) support the learning and teaching of all provincial official languages in the Province;

(j) promote general co-ordination, co-operation and consultation between all organs of

state in the Province on language matters;

(k) monitor the implementation of internal language policies in the Province;

(l) investigate any matter relating to the implementation of this Act and advise the responsible Member;

(m) promote engagement and dialogue between the Provincial Government and any organisation or person with an interest in language matters in the Province;

(n) represent the Provincial Government on, and participate in and contribute to, any national intergovernmental language forum; and

(o) perform such other functions that may be prescribed or assigned to Provincial Language Committee by the responsible Member.

(2) The responsible Member must –

(a) designate the Chairperson and the Deputy Chairperson of the Provincial Language Committee; and

(b) determine such other terms and conditions of appointment of the Chairperson and Deputy Chairperson.

(3)(a) The responsible Member must convene the first meeting of Provincial Language Committee.

(b) Provincial Language Committee must, thereafter, meet as often as necessary, but at least four times a year at such times and places as the Chairperson may determine.

(c) Organs of state in the Province must, in respect of the officials representing the relevant organ of state in Provincial Language Committee, and –

(i) within the allocated resources of that organ of state; and

(ii) subject to any applicable law or policies governing subsistence and travelling of that organ of state,

make the necessary provision for any subsistence and travelling costs that may be incurred in attending the meetings of the Provincial Language Committee.

(4) The administrative and secretarial work incidental to the performance of the functions of the Provincial Language Committee must be performed by officers or employees of the Department designated for such purpose by the Head of Department in accordance with the Public Service Act, 1994 (Proclamation No. 103 of 1994).

Composition of Provincial Language Committee10.(1) The Provincial Language Committee consists of at least 13, but not more than 20, members appointed by the responsible Member.

(2) Members of the Provincial Language Committee must be fit and proper persons to serve the best interests of the Province, collectively possessing appropriate knowledge, experience, skills and expertise in –

- (a) interpretation;
- (b) translation;
- (c) terminology and lexicography;
- (d) language and literacy teaching; and
- (e) language planning, as contemplated in the Pan South African Language.

(3) The Provincial Language Committee must have one member per language, which includes the following languages as contemplated in section 6(5)(a) and (b) of the Constitution –

- (a) The 11 official South African Languages;
- (b) The Khoi and San Languages;
- (c) South African Sign Language; and
- (d) Heritage Languages.

(4) The members of the Language Committee must be South African citizens and resident in the Province.

(5) In appointing members to the Provincial Language Committee, the responsible Member must ensure that –

- (a) the Provincial Language Committee, collectively, possess the necessary and appropriate skills and expertise; and
- (b) the Provincial Language Committee is representative of persons involved in the development of languages in the Province.

(6) The responsible Member may appoint an employee of the Department as his or her representative who –

- (a) must facilitate liaison between the responsible Member and the Provincial Language

Committee;

(b) must report to the responsible Member from time to time regarding matters which are considered relevant; and

(c) may attend meetings of the Provincial Language Committee and participate in discussions, but does not have the right to vote when a decision of the Provincial Language Committee is being taken.

(7) The responsible Member must, by notice in the *Gazette*, invite any interested parties within the Province to nominate candidates for appointment to the Provincial Language Committee.

(10) The invitation for nomination must specify –

(a) the nomination procedure;

(b) the requirements for nomination; and

(c) the closing date for the nomination.

(11) The responsible Member must consider all nominations submitted in response to the notice, and may appoint a selection panel comprising of the senior departmental officials to review all the nominations and make recommendations to the responsible Member on the nominees.

(12) The responsible Member must cause the names of the persons appointed to the Provincial Language Committee to be published in the *Gazette* and in at least two newspapers circulating in the Province, immediately after such persons have been notified, in writing, of their appointment to the Provincial Language Committee.

(13) The responsible Member must, within two months after the appointment of members of the Provincial Language Committee in terms of subsection (1), inform the Executive Council and the Portfolio Committee of the names of the appointed members including the term of their appointment.

(14) This section applies, with the necessary changes, to the filling of a vacancy on the Provincial Language Committee.

Disqualification from being appointed to Provincial Language Committee

11. A person is disqualified from being appointed to the Provincial Language Committee or from remaining on the Provincial Language Committee, by reason that he or she is or has been declared by a competent court to be of unsound mind.

Term of office and reappointment of member of Provincial Language Committee

12. The persons appointed to the Provincial Language Committee hold office for a period of three years or such shorter period as the responsible Member may determine and are, subject to section 5, eligible for re-appointment at the expiry of such period: Provided that no person may be re-appointed after having served on the Provincial Language Committee for a continuous period of nine years.

Vacancies, removal and resignation from office of members of Provincial Language Committee

13.(1) A member of the Provincial Language Committee must vacate office when, without good cause shown, he or she –

- (a) fails to attend three consecutive meetings of the Provincial Language Committee; and
- (b) fails adhere to the Code of Conduct for Members of the Provincial Language Committee.

(2) A member of the Provincial Language Committee may resign from office in writing by giving not less than 30 days notice to the responsible Member: Provided that the responsible Member may waive the resignation notice.

(3) Whenever a vacancy occurs on the Provincial Language Committee, the responsible Member must, subject to section 12, appoint a person to fill such vacancy for the unexpired portion of the period of office of the member in whose place such person is appointed.

(4) Where a member of the Provincial Language Committee vacates office in terms of

subsection (1), the responsible Member may, notwithstanding the procedure for the appointment of the members of the Provincial Language Committee set out in section 5, but subject to sections 12(2) and 12(3), appoint persons to serve as members of the Provincial Language Committee on an interim basis: Provided that –

- (a) the persons appointed in terms of this subsection may not remain on the Provincial Language Committee for a period of more than 60 days from the date of their appointment; and
- (b) the responsible Member must, subject to section 12, appoint the members of the Provincial Language Committee within 60 days of the appointment contemplated in this subsection.

Meetings and procedures at meetings of Provincial Language Committee

14.(1) The first meeting of the Provincial Language Committee must be held on a date and at a time and venue determined by the responsible Member whereafter all future meetings must be as determined by the chairperson.

(2) The *quorum* for a meeting of the Provincial Language Committee is the majority of the members of the Provincial Language Committee.

(3) The proceedings at a meeting of the Provincial Language Committee must, subject to the provisions of this section, be determined by the chairperson including the right to decide that any matter under discussion may be withdrawn before it is put to the vote.

(4) The chairperson must preside at all meetings of the Provincial Language Committee: Provided that in his or her absence the deputy chairperson must preside and in the event that neither the chairperson nor the deputy chairperson are present at a meeting of the Provincial Language Committee, the members then present may elect, from their own number, a person to act as chairperson for the duration of that particular meeting.

(5) A decision of the Provincial Language Committee must be taken by a majority of the votes of the members present at a meeting and, in the event of an equality of votes on any matter, the chairperson has a casting vote in addition to his or her deliberative vote.

(6) The Provincial Language Committee must keep minutes of its meetings.

(7) No decision of the Provincial Language Committee is invalid merely by reason of a vacancy on the Provincial Language Committee: Provided that the decision is taken by the required majority of the members of the Provincial Language Committee then present and entitled to sit as members of the Provincial Language Committee.

(8) The chairperson, or a majority of the Provincial Language Committee, may call an extraordinary meeting of the Provincial Language Committee in which event the provisions of this section apply with the necessary changes.

(9) The Provincial Language Committee may, in its discretion, allow members of the public to attend any meeting of the Provincial Language Committee.

Remuneration of members of Provincial Language Committee

15.(1)(a) A member of the Provincial Language Committee may be paid allowances as determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance.

(b) A member of the Provincial Language Committee who receives remuneration, allowances or other benefits by virtue of his or her post or employment in –

- (i) the national government;
- (ii) a provincial government;
- (iii) a municipality; or
- (iv) a corporation, body or institution in which the national or a provincial government has a controlling interest,

and who continues to receive such remuneration, allowances or other benefits while serving as a member of the Provincial Language Committee, may only receive remuneration and allowances referred to in paragraph (a) to the extent required to place such member in the financial position in which he or she would have been were it not for such post or employment:

(2)(a) A member of the Provincial Language Committee and a person who has been co-opted to the Provincial Language Committee may, in respect of his or her functions as a member or co-opted member, receive reimbursement from the funds of the Agency for reasonable actual

subsistence and travelling expenses necessitated by the actual attendance of a meeting of the Provincial Language Committee.

(b) The Member of the Executive Council responsible for finance must determine procedures, including control measures, for the management, handling and processing of claims for subsistence and traveling expenses contemplated in paragraph (a).

Establishment of committees to assist Provincial Language Committee

16.(1) The Provincial Language Committee may establish committees consisting of one or more of its members to –

- (a) assist the Provincial Language Committee in the performance of any of its powers, duties or functions; or
- (b) enquire or conduct research into any matter falling within the mandate of the Provincial Language Committee in terms of this Act.

(2) When establishing a committee contemplated in subsection (1), the Provincial Language Committee must –

- (a) determine the terms of reference of such committee including, but not limited to, whether or not such committee ceases to exist once it has completed the task or tasks allocated to it by the Provincial Language Committee;
- (b) appoint a chairperson of such committee who must be a member of the Provincial Language Committee; and
- (c) determine whether or not such committee may co-opt persons who are not members of the Provincial Language Committee and, if so, on what terms and conditions.

(3) The Provincial Language Committee may, at any time, terminate the existence of a committee or any mandate given to a committee, irrespective of whether or not such committee has completed the task or tasks allocated to it by the Provincial Language Committee.

Co-opting of persons to Provincial Language Committee or committees of Provincial Language Committee

17.(1) The Provincial Language Committee may, if it is of the opinion that a particular person is

able to assist it in regard to any of its functions and powers, co-opt such person for that purpose.

(2) A person co-opted in terms of subsection (1) is not entitled to vote at any meeting of the Provincial Language Committee or a committee.

(3) A person co-opted in terms of subsection (1) may be paid such remuneration and allowances out of the funds determined by the responsible Member in consultation with the Member of the Executive Council responsible for finance.

CHAPTER 5 DEVELOPMENT OF INTERNAL LANGUAGE POLICIES AND NORTH WEST DEVELOPMENT AND ADVANCEMENT OF INDIGENOUS LANGUAGES POLICY

Internal language policies

18.(1) All organs of state in the Province must –

- (a) within 18 months of the commencement of this Act; and
 - (b) after consultation with the Provincial Language Committee,
- develop and approve their respective internal language policies.

(2) Internal language policies contemplated in subsection (1) must be consistent with the provisions of this Act and any regulations made under this Act in terms of section 23.

(3) An internal language policy for any organ of state in the Province, must –

- (a) as contemplated in section 20 –
 - (i) identify at least two of the provincial official languages for purposes of internal and external, written and oral communication and publication purposes, for the relevant organ of state;
 - (ii) stipulate how the relevant organ of state communicates with any member of the public wishing to communicate with that organ of state, using any other language not designated in terms of section 7;
- (b) provide for an internal complaints mechanism contemplated in section 20; and
- (c) be published in the *Gazette* as soon as reasonably practicable, but not later than 90

days after adoption.

(4) Each organ of state in the Province must –

- (a) inform their customers and clients of the existence of its internal language policy and make it available on request and free of charge;
- (b) ensure that a copy of its internal language policy is available on request to its customers and clients and the members of the public; and
- (c) display at all its offices, a summary of its language policy in such a manner and place that it can be seen and read by its customers and clients and members of the public.

Development and Advancement of Indigenous Languages Policy

19. The responsible Member must, after consultation with the Provincial Language Committee, develop and adopt a Development and Advancement of Indigenous Languages Policy.

CHAPTER 6

INTERNAL COMPLAINTS MECHANISM AND HANDLING OF LANGUAGE DISPUTES

Internal complaints mechanism

20.(1) Every organ of state in the Province must, through their internal language policies contemplated in section 18, provide for a detailed internal complaints mechanism that –

- (a) may be used by any member of the public wishing to lodge a language complaint for any alleged violation or threatened violation of any –
 - (i) language right contemplated in the Constitution, this Act or the internal language policy of the relevant organ of state; or
 - (ii) provision of this Act or of any internal language policy of that organ of state, by the organ of state; and
- (b) must be followed by –
 - (i) the complainant to lodge a language complaint; and
 - (ii) the organ of state to investigate and resolve language complaints.

(2) The complaints mechanism must –

- (a) identify the authority within the organ of state with whom a language complaint may

be lodged;

(b) indicate a period within which a language complaint may be lodged: Provided that all language complaints must be lodged within 90 days of the date upon which the language complainant became aware of the violation or threatened violation of any –

- (i) language right;
- (ii) provision of this Act; or
- (iii) provision of the internal language policy of the relevant organ of state;

(c) indicate that language complaints must –

- (i) be in writing: Provided that any language complainant who cannot read and write must be assisted by officials of the relevant organ of state to reduce the language complaint to writing;
- (ii) specify the provision of this Act or the nature of the right allegedly violated or allegedly threatened to be violated; and
- (iii) specify the grounds on which the language complainant bases his or her language complaint;

(d) require the language complainant to identify his or her interest in the matter: Provided that if the person lodging the language complaint is acting on behalf of a third party or a group of individuals, he or she must also submit proof of authority;

(e) specify the period within which the language complaint lodged with the relevant organ of state must be finalised: Provided that all language complaints must be finalised within 30 days from the date of receipt of the complaint;

(f) specify that a language complainant aggrieved by –

- (i) the failure of the organ of state concerned to finalise the language complaint within 30 days of receipt, as contemplated in paragraph (e); or
- (ii) the manner in which the relevant organ of state investigated, handled or finalised his or her language complaint,

may refer a language dispute, as contemplated in section 21(1), to the responsible Member for further investigation and resolution in terms of section 21(6)(a);

(g) specify that the responsible Member, may –

- (i) in respect of any complaint that remains unresolved; and
- (ii) on his or her own initiative,

make a determination that a language dispute, as contemplated in section 21(1) –

- (aa), has arisen; and
- (bb) must be subjected to further investigation, as contemplated in section

21(6); and

(h) specify any other information as may be prescribed by the responsible Member.

Handling of language disputes

21.(1) A language dispute arises when –

- (a) a language complaint remains unresolved as contemplated in section 20(2)(f); or
- (b) when the responsible Member, in terms of section 20(2)(g), makes a determination that a language dispute has arisen.

(2) Where a language dispute arises, a complainant may refer the language dispute to –

- (a) PanSALB, in terms of section 11 of the Pan South African Language Board Act, 1995; or
- (b) the responsible Member in terms of subsection (3).

(3) Where the complainant elects to follow the process contemplated in subsection (2)(b), he or she must, within 21 days, refer the language dispute to the responsible Member for further investigation and resolution as contemplated in subsection (5).

(4) Where the responsible Member has made a determination, as contemplated in section 20(2)(g), that a language dispute has arisen he or she must, within 21 days, notify –

- (a) the relevant organ of state concerned; and
- (b) the complainant,

of his or her intention to refer the language dispute for further investigation and resolution, as contemplated in subsection (5).

(5) The responsible Member must, within 30 days –

- (a) and upon receipt of a referral of a language dispute; or
- (b) of the responsible Member having made a determination, as contemplated in section 20(2)(g), that a language dispute has arisen,

appoint a Language Dispute Resolution Committee.

(6) The Language Dispute Resolution Committee must, within 90 days of appointment –

- (a) investigate the language dispute;

- (b) facilitate an amicable resolution of the language dispute by facilitation, conciliation or negotiation; and
- (c) report and make recommendations to the responsible Member on the outcome of the language dispute.

(7) The Language Dispute Resolution Committee, appointed by the responsible Member in terms of subsection (2), may subpoena any person, body or organ of state to –

- (a) appear before it;
- (b) give evidence; and
- (c) produce any relevant record or document.

(8) In the event that the language dispute is incapable of an amicable resolution as contemplated in subsection (5)(b) –

(a) the Language Dispute Resolution Committee must submit a report to the responsible Member containing –

- (i) factual details of the dispute;
- (ii) any verbal or written submission made by the –
 - (aa) language complainant; or
 - (bb) relevant organ of state,
 pertaining to the language dispute; and
- (iii) recommendations on the appropriate ruling, as contemplated in paragraph (b);

(b) the responsible Member, may, within 30 days of receipt of the Language Dispute Resolution Committee's report, contemplated in paragraph (a), determine the dispute by –

- (i) issuing a compliance notice, calling upon the relevant organ of state to rectify any act or omission which gave rise to the language dispute: Provided that the organ of state has 30 days to comply with the compliance notice; or
- (ii) dismissing the language dispute.

(9) A person aggrieved by the determination contemplated in subsection (8)(b), may approach a court of law for further relief.

CHAPTER 7
MONITORING OF, AND REPORTING ON, USE OF PROVINCIAL OFFICIAL LANGUAGES

Monitoring of, and reporting on, use of provincial official languages

22.(1) Organs of state in the Province must –

- (a) within three months after the end of each financial year; or
- (b) within such other period as may be determined by the responsible Member,

submit a report to the responsible Member on –

- (i) steps taken by the relevant organ of state to comply with the provisions of this Act;
- (ii) the development and implementation of an internal language policy, contemplated in section 10;
- (iii) the activities of any specialist language service unit of the relevant organ of state;
- (iv) any complaints received by the relevant organ of state and how these complaints were dealt with; and
- (v) any other matter as may be prescribed by the responsible Member.

(2) The Provincial Language Committee must –

- (a) within three months after the end of each financial year; or
- (b) within such other period as may be determined by the responsible Member,

provide an annual report to the responsible Member in respect of –

- (i) the fulfilment of its objects, the exercise of its powers and the performance of its functions and duties;
- (ii) any issue pertaining to the implementation of this Act; and
- (iii) any other matter as may be prescribed.

(3) The responsible Member must –

- (a) after consultation with the Provincial Language Committee; and
- (b) within five months after the end of each financial year,

table an annual report in the Provincial Legislature on the implementation of this Act.

CHAPTER 8 GENERAL PROVISIONS

Regulations

23. The responsible Member may, by notice in the *Gazette* and after consultation with the Provincial Language Committee, make regulations prescribing –

- (a) any matter which is required or permitted to be prescribed in terms of this Act; or
- (b) any administrative or procedural matter necessary to give effect to the provisions of this Act.

Delegations

24.(1) The responsible Member may delegate to the Head of Department –

- (a) any power conferred on the responsible Member by this Act, except the power to make regulations in terms of section 23; or
- (b) any duty imposed on the responsible Member by this Act.

(2) Any power or duty delegated in terms of subsection (1) must be exercised or performed subject to such conditions as the responsible Member considers necessary.

(3) Any delegation in terms of subsection (1) –

- (a) must be in writing;
- (b) may not prohibit the responsible Member from exercising that power or performing that duty; and
- (c) may, at any time, be withdrawn or amended in writing by the responsible Member.

Short title

25. This Act is called the North West Provincial Languages Act, 2014.

**MEMORANDUM ON THE OBJECTS
OF THE
NORTH WEST PROVINCIAL LANGUAGES BILL, 2014.**

BACKGROUND

1.(a) In addition to determining eleven official languages for the Republic of South Africa, section 6 of the Constitution of the Republic of South Africa, 1996 ("the Constitution"), further provides that –

- (i) the State must take practical and positive measures to elevate the status and advance the use of indigenous languages;
- (ii) the National government and provincial government, may, after taking into account usage, practicality, expense, regional circumstances and balance of needs of the target population, use at least any two of the official languages for government purposes. Municipalities must take language usage and preferences of their residents into consideration when deciding on the languages to be used for government purposes; and
- (iii) the National government and provincial governments, by legislation and other measures, must regulate and monitor their use of official languages.

(b) It is against the abovementioned constitutional imperative that the responsible Member responsible for Arts and Culture in the Province ("the MEC") seeks to introduce the North West Languages Bill, 2014.

SALIENT PROVISIONS OF THE BILL

2.(1) The main objects of the Bill are to provide for –

- (a) the determination of provincial official languages for the Province;
- (b) the regulation and monitoring of the use of provincial official languages by all organs of state in the Province;
- (c) the establishment of the North West Provincial Language Committee;
- (d) measures for the development of indigenous languages including sign language in the Province; and
- (f) other incidental matters thereto.

(2) Chapter 1 of the Bill provides for the definitions.

(3) Chapter 2 provides for the objects and the application of the Bill. The Bill, once passed into law, will apply to all organs of state in the Province.

(4)(a) Chapter 3 of the Bill provides for the determination of Setswana, English and Afrikaans as the provincial official languages in North West.

(b) Chapter 3 further provides for the use of the provincial official languages in the Province.

(5) Chapter 4 provides for the establishment of the Provincial Language Committee. This chapter also provides for the powers, functions and duties of the Provincial Language Committee, which include but are not limited to –

(a) monitoring the implementation of this Act, regulations, and internal policies by organs of state in the Province;

(b) promoting and monitoring good language management by organs of state in the Province; and

(c) promoting and monitoring respect for language rights of the citizens of the Province by all organs of state in the Province.

(7) Chapter 6 provides for the development of internal language policies by all organs of state in the Province. This chapter also provides for the development of the North West Policy on the Development and Advancement of Indigenous Languages.

(8) Chapter 7 provides for the issues relating to the handling of language complaints and disputes arising from any violation of language rights or any provisions of this Bill.

(9) Chapter 8 provides for monitoring and reporting mechanisms on the use of provincial official languages in the Province.

(10) Chapter 9 provides for general provisions namely regulations, delegations) and the short title of the Act.

ORGANISATIONAL AND PERSONNEL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

3. None.

FINANCIAL IMPLICATIONS FOR PROVINCIAL GOVERNMENT

4. None.

DEPARTMENTS / BODIES CONSULTED

5. The Provincial Language Committee. Representatives of all provincial departments and municipalities in the Province, academics and experts on languages will be invited to provide input and comments on the Bill.

CONSTITUTIONAL IMPLICATIONS

6. The Bill seeks to dictate to provincial government departments, Municipalities and other governmental bodies in the province as to how they should take cognisance of the languages of preference of their customers when performing their functions; hence section 154(2) of the Constitution of the Republic of South Africa, 1996, is applicable. In terms of the said provision the MEC must, prior to introducing this Bill in the Legislature, publish it for public comment, in a manner that allows organised local government and other interested persons an opportunity to make representations on the Bill.

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