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THE PRESIDENCY

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It is hereby notified that the President has assented to the following Act, which is hereby published for general information:–

Act No. 12 of 2012: Use of Official Languages Act, 2012



AIDS HELPLINE: 0800-123-22 Prevention is the cure

(English text signed by the President)
(Assented to 1 October 2012)

ACT

To provide for the regulation and monitoring of the use of official languages by national government for government purposes; to require the adoption of a language policy by a national department, national public entity and national public enterprise; to provide for the establishment and functions of a National Language Unit; to provide for the establishment and functions of language units by a national department, national public entity and national public enterprise; to provide for monitoring of and reporting on use of official languages by national government; to facilitate intergovernmental coordination of language units; and to provide for matters connected therewith.

PREAMBLE

WHEREAS the use of the Republic's official languages must be promoted and pursued in accordance with the Constitution of the Republic of South Africa, 1996;

AND WHEREAS section 6 of the Constitution of the Republic of South Africa, 1996, provides for 11 official languages of South Africa; recognises the diminished use and status of indigenous languages and requires the State to take practical and positive measures to elevate the status and advance the use of indigenous languages;

AND WHEREAS the Constitution of the Republic of South Africa, 1996, requires all official languages to enjoy parity of esteem and be treated equitably;

AND WHEREAS section 6(4) of the Constitution of the Republic of South Africa, 1996, provides that national government must regulate and monitor its use of official languages by legislative and other measures,

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

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Definitions

- 1. In this Act, unless the context indicates otherwise— 10
 - “**Constitution**” means the Constitution of the Republic of South Africa, 1996;
 - “**Department**” means the national Department of Arts and Culture;
 - “**language unit**” means a language unit established in terms of section 7;
 - “**Minister**” means the Minister responsible for language matters;
 - “**national department**” means a department listed in Schedule 1 to the Public Service Act, 1994 (Proclamation No. 103 of 1994), but excluding the Offices of Premier; 15
 - “**national government**” means national departments, national public entities and national public enterprises;
 - “**National Language Unit**” means the National Language Unit established in terms of section 5; 20
 - “**national public enterprise**” means a national government business enterprise defined in section 1 and listed in Schedule 3 Part B to the Public Finance Management Act, 1999 (Act No. 1 of 1999);
 - “**national public entity**” means a national public entity defined in section 1 and listed in Schedules 2 and 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999); 25
 - “**official language**” means an official language contemplated in section 6(1) of the Constitution;
 - “**Pan South African Language Board**” means the Board established in terms of section 2 of the Pan South African Language Board Act, 1995 (Act No. 59 of 1995); 30
 - “**prescribe**” means prescribe by regulations; and
 - “**this Act**” includes any regulations made in terms of this Act.

Objects of Act

- 2. The objects of this Act are— 35
 - (a) to regulate and monitor the use of official languages for government purposes by national government;
 - (b) to promote parity of esteem and equitable treatment of official languages of the Republic;
 - (c) to facilitate equitable access to services and information of national government; and 40
 - (d) to promote good language management by national government for efficient public service administration and to meet the needs of the public.

Application of Act

- 3. (1) This Act applies to— 45
 - (a) national departments;
 - (b) national public entities; and
 - (c) national public enterprises.
 (2) This Act takes precedence over any inconsistent provision of any other law on the use of official languages by national government. 50

Language policy

4. (1) Every national department, national public entity and national public enterprise must adopt a language policy regarding its use of official languages for government purposes within 18 months of the commencement of this Act or such further period as the Minister may prescribe, provided that such prescribed period may not exceed six months. 5

(2) A language policy adopted in terms of subsection (1) must—

- (a) comply with the provisions of section 6(3)(a) of the Constitution;
- (b) identify at least three official languages that the national department, national public entity or national public enterprise will use for government purposes; 10
- (c) stipulate how official languages will be used, amongst other things, in effectively communicating with the public, official notices, government publications and inter- and intra-government communications;
- (d) describe how the national department, national public entity or national public enterprise will effectively communicate with members of the public whose language of choice is— 15
 - (i) not an official language contemplated in paragraph (b); or
 - (ii) South African sign language.
- (e) describe how members of the public can access the language policy;
- (f) provide a complaints mechanism to enable members of the public to lodge complaints regarding the use of official languages by a national department, national public entity or national public enterprise; 20
- (g) provide for any other matter that the Minister may prescribe; and
- (h) be published in the *Gazette* as soon as reasonably practicable, but within 90 days of its adoption. 25

(3) In identifying at least three official languages as contemplated in subsection (2)(b), every national department, national public entity and national public enterprise must take into account its obligation to take practical and positive measures to elevate the status and advance the use of indigenous languages of historically diminished use and status in accordance with section 6(2) of the Constitution. 30

(4) Every national department, national public entity and national public enterprise must—

- (a) ensure that a copy of its language policy is available on request to members of the public at all its offices; and
- (b) display at all its offices a summary of its language policy in such manner and place that it can be read by the public. 35

Establishment of National Language Unit

5. The Minister must—

- (a) establish a National Language Unit in the Department; and
- (b) ensure that the National Language Unit is provided with human resources, administrative resources and other resources necessary for its effective functioning. 40

Functions of National Language Unit

6. (1) The National Language Unit must—

- (a) advise the Minister on policy and strategy— 45
 - (i) to regulate and monitor the use of official languages by national government for government purposes;
 - (ii) to promote parity of esteem and equitable treatment of the official languages of the Republic and facilitate equitable access to the services

- and information of national departments, national public entities and national public enterprises;
- (iii) to promote good language management within national departments, national public entities and national public enterprises; and
- (iv) on the functions of language units contemplated in section 8; 5
- (b) liaise with and promote the general co-ordination of language units contemplated in section 7;
- (c) perform the functions provided for in section 8 for the Department; and
- (d) perform any other function that the Minister may prescribe.

Establishment of language units in national departments, national public entities and national public enterprises 10

7. Every national department, national public entity and national public enterprise must—
- (a) establish a language unit; and
 - (b) ensure that the language unit is provided with human resources, administrative resources and other resources necessary for its effective functioning. 15

Functions of language units in national departments, national public entities and national public enterprises

8. Every language unit must—
- (a) advise the responsible accounting officer or accounting authority on the development, adoption and implementation of the language policy for the national department, national public entity or national public enterprise concerned; 20
 - (b) monitor and assess the use of official languages by the national department, national public entity or national public enterprise concerned; 25
 - (c) monitor and assess compliance with the language policy of the national department, national public entity or national public enterprise concerned;
 - (d) compile and submit a report to the Minister and to the Pan South African Language Board in terms of section 9;
 - (e) promote parity of esteem and equitable treatment of official languages of the Republic and facilitate equitable access to services and information of the national department, national public entity or national public enterprise concerned; 30
 - (f) promote good language management by the national department, national public entity or national public enterprise concerned; and 35
 - (g) perform any other functions that the Minister may prescribe.

Monitoring of and reporting on use of official languages

9. (1) The Minister is responsible for monitoring the use of official languages by the national government for government purposes.
- (2) Every national department, national public entity and national public enterprise must submit a report to the Minister and to the Pan South African Language Board annually on— 40
- (a) the activities of its language unit;
 - (b) the implementation of its language policy;
 - (c) any complaints received regarding its use of official languages and the manner in which these complaints were dealt with; and 45
 - (d) any other matter that the Minister may prescribe.
- (3) The Minister may prescribe the form and content of the reports to be submitted and the timeframes for submitting such reports.

(4) Notwithstanding the provisions of subsections (2) and (3), the Minister may at any time require any national department, national public entity or national public enterprise to submit a report to the Minister on its use of official languages, within a time period determined by the Minister.

(5) The Minister may instruct a national department, national public entity or national public enterprise that has failed to comply with any provision of this Act to comply with the Act within a time period determined by the Minister. 5

Annual report to National Assembly

10. The Minister must, on an annual basis, table a report in the National Assembly on the status and use of official languages by national government for government purposes and on any exemption granted to a national public entity and a national public enterprise in terms of section 12. 10

Intergovernmental forums on use of official languages

11. The Minister may—

- (a) establish one or more intergovernmental forums— 15
 - (i) to promote general coordination, cooperation and consultation between national departments, national public entities and national public enterprises on the use of official languages for government purposes;
 - (ii) to coordinate, align and monitor the implementation of language policies; and 20
 - (iii) to perform any other function that the Minister may prescribe.
- (b) in respect of such forums—
 - (i) determine their composition;
 - (ii) determine their terms of reference; 25
 - (iii) convene their meetings; and
 - (iv) determine any other matter necessary for their effective functioning.

Exemptions from application of section 7

12. (1) The Minister may, on application by a national public entity or national public enterprise listed in Schedule 3 Parts A or B to the Public Finance Management Act, 1999 (Act No. 1 of 1999), exempt, wholly or in part, such national public entity or national public enterprise from the application of section 7. 30

(2) The Minister may, on his or her own accord and on such terms and conditions as the Minister may determine, by notice in the *Gazette*, exempt a national public entity or national public enterprise listed in Schedule 3 Parts A or B to the Public Finance Management Act, 1999 (Act No. 1 of 1999), from the application of section 7. 35

(3) The application for an exemption must be in the form and manner prescribed by the Minister.

(4) If the Minister exempts a national public entity or national public enterprise from the application of section 7 the national public entity or national public enterprise must assign a senior employee to perform the functions of a language unit. 40

Regulations

13. (1) The Minister may, after consultation with the Pan South African Language Board, make regulations, not inconsistent with the provisions of this Act, regarding— 45

- (a) the form and content of a language policy;
- (b) timeframes for establishing a language unit;
- (c) the form and content of a report contemplated in section 9;

- (d) the manner, form and timeframes for submitting an application for exemption in terms of section 12;
 - (e) any matter which in terms of this Act is required, or permitted, to be prescribed; and
 - (f) any matter which the Minister deems it necessary or expedient to make regulations in order to achieve the objects of this Act. 5
- (2) Before making regulations in terms of this Act, the Minister must—
- (a) publish the proposed regulations in the *Gazette* for public comment;
 - (b) grant a period of at least 30 days for written representations to the Minister on the proposed regulations; and 10
 - (c) consider any such written representations received.

Short title and commencement

14. This Act is called the Use of Official Languages Act, 2012, and comes into operation on a date fixed by the President by proclamation in the *Gazette*.