

Free State, South Africa

Use of Free State Official Languages Act, 2017

Act 1 of 2017

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Free State South Africa

Use of Free State Official Languages Act, 2017

Act 1 of 2017

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ACT

To provide for the regulation and monitoring of the use of official languages by Provincial Government for government purposes; to require the adoption of a provincial language policy by the Executive Council; to provide for the establishment and functions of a provincial language unit; to provide for monitoring of and reporting on use of official languages by Provincial Government; and to provide for matters connected therewith.

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 each Provincial Government must regulate and monitor its use of official languages by legislative and other measures,

BE IT ENACTED by the Free State Provincial Legislature as follows:-

1. Definitions

In this Act, unless the context indicates otherwise-

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

“**Department**” means the provincial Department of Sport, Arts, Culture and Recreation;

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

“**government purposes**” include legislation and matters referred to in section 4(2)(c);

“**language official**” means a language official appointed or designated in terms of section 7;

“**MEC**” means the Member of the Executive Council of the Free State Province responsible for language matters;

“**official language**” means an official language contemplated in section 6(1) of the Constitution;

“**Premier**” means the Premier of the Free State Province elected in terms of section 128 of the Constitution of the Republic of South Africa, 1996;

“**prescribe**” means prescribe by regulations;

“**Province**” means the Province of the Free State established by section 103 of the [Constitution](#) of the Republic of South Africa, 1996;

“**provincial department**” means a Free State provincial department listed in Schedule 2 to the Public Service Act, 1994 ([Proclamation No. 103 of 1994](#)), including the Office of Premier listed in Schedule 1 of that Act;

“**Provincial Government**” means all Free State provincial departments and provincial public entities;

“**Provincial Language Unit**” means the Provincial Language Unit established in terms of [section 5](#);

“**provincial public entity**” means a Free State provincial public entity defined in [section 1](#) and listed in Schedule 3 to the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)); and

“**this Act**” includes any regulations made in terms of this Act.

2. Objects of Act

The objects of this Act are -

- (a) to regulate and monitor the use of official languages for government purposes by the Provincial Government;
- (b) to promote parity of esteem and equitable treatment of official languages of the Free State Province; and
- (c) to promote good language management by Provincial Government for efficient public service administration and to meet the needs of the inhabitants of the Free State Province.

3. Application of Act

- (1) This Act applies to all Free State -
 - (a) provincial departments; and
 - (b) provincial public entities.
- (2) This Act takes precedence over any inconsistent provision of any other provincial law on the use of official languages by Provincial Government.

4. Provincial language policy

- (1) In terms of section 125(2)(d) of the [Constitution](#) of the Republic of South Africa, 1996, the Executive Council must adopt a language policy regarding the Provincial Government’s use of official languages for government purposes within 12 months of the commencement of this Act.
- (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 Provincial Government will use for government purposes;
 - (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-departmental communications;
 - (d) describe how the Provincial Government will effectively communicate with members of the public whose language of choice is -
 - (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 the Provincial Government;
- (g) provide for any other matter that the MEC may prescribe; and
- (h) be proclaimed by the Premier in the *Provincial Gazette* before it becomes operational.
- (3) In identifying at least three official languages as contemplated in subsection (2)(b), the Provincial Government 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](#).
- (4) A language policy adopted in terms of subsection (1), binds and must be enforced by -
 - (a) the MEC;
 - (b) all provincial departments; and
 - (c) all provincial public entities.
- (5) The Provincial Government 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.

5. Establishment of Provincial Language Unit

The MEC must -

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

6. Functions of Provincial Language Unit

The Provincial Language Unit must -

- (a) advise the MEC on policy and strategy-
 - (i) to regulate and monitor the use of official languages by Provincial Government for government purposes;
 - (ii) to promote parity of esteem and equitable treatment of the official languages of the Republic;
 - (iii) to promote good language management within the Provincial Government;
 - (iv) to provide translation and language services to provincial departments and provincial public entities; and
 - (v) on the functions of language officials contemplated in [section 7](#);
- (b) liaise with and promote the general co-ordination of language officials contemplated in [section 7](#); and
- (c) perform any other function that the MEC may prescribe.

7. Appointment or designation of language officials in provincial departments or provincial public entities

Every provincial department or provincial public entity must appoint or designate a person to act as a language official for that department or provincial public entity, which can be full-time or linked to other responsibilities depending on the needs of the relevant provincial department or provincial public entity.

8. Functions of language officials in provincial departments or provincial public entities

A language official must -

- (a) advise the head of the provincial department or the accounting authority of a provincial public entity on the implementation of the language policy for the provincial department or provincial public entity;
- (b) monitor and assess the use of official languages by the provincial department or provincial public entity concerned;
- (c) monitor and assess compliance by the provincial department or provincial public entity with the language policy;
- (d) compile and submit, through the head of the provincial department or the accounting authority of a provincial public entity concerned, a report to the MEC in terms of [section 9](#);
- (e) promote parity of esteem and equitable treatment of official languages of the Republic within the provincial department or provincial public entity concerned;
- (f) promote good language management by the provincial department or provincial public entity in terms of the Public Finance Management Act, 1999 ([Act No. 1 of 1999](#)); and
- (g) perform any other functions that the MEC may prescribe.

9. Monitoring and enforcing of and reporting on use of official languages

- (1) The MEC is responsible for monitoring and enforcing the use of official languages by the Provincial Government for government purposes.
- (2) The head of every provincial department and the accounting authority of the provincial public entity must submit a report to the MEC on -
 - (a) the activities of its language official;
 - (b) the implementation of the language policy;
 - (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.
- (3) The MEC may prescribe the form and content of a report to be submitted in terms of subsection (2) and the timeframes for submitting such report.
- (4) Notwithstanding the provisions of subsections (2) and (3), the MEC may at any time require the head of any provincial department or the accounting authority of a provincial public entity to submit a report to the MEC on the department's or provincial public entity's use of official languages, within a time period determined by the MEC.
- (5) The MEC may instruct the head of a provincial department or the accounting authority of a provincial public entity who has failed to comply with any provision of this Act to comply with the Act within a time period determined by the MEC, failing which the MEC may report such insubordination to the attention of the relevant MEC responsible for the provincial department or relevant board responsible for the provincial public entity to take further steps.

10. Annual report to Provincial Legislature

The MEC must, each year, no later than the last day of March, table a report in the Provincial Legislature on the status and use of official languages by Provincial Government for government purposes.

11. Interdepartmental language forum on use of official languages

- (1) The MEC may -
 - (a) establish an interdepartmental forum -
 - (i) to promote general coordination, cooperation and consultation between provincial departments and provincial public entities on the use of official languages for government purposes;
 - (ii) to coordinate, align and monitor the implementation of the provincial language policy; and
 - (iii) to perform any other function that the MEC may prescribe;
 - (b) in respect of such forum -
 - (i) determine its composition;
 - (ii) determine its terms of reference;
 - (iii) convene its meetings; and
 - (iv) determine any other matter necessary for its effective functioning.
- (2) The MEC or a person designated by the MEC is the chairperson of the interdepartmental forum established in terms of subsection (1).

12. Regulations

- (1) The MEC may, with the approval of the Executive Council, make regulations, not inconsistent with the provisions of this Act, regarding -
 - (a) the form and content of the language policy;
 - (b) timeframes for appointing a language official;
 - (c) the form and content of a report contemplated in [section 9](#);
 - (d) any matter which in terms of this Act is required or permitted to be prescribed; and
 - (e) any matter in respect of which the MEC deems it necessary or expedient to make regulations in order to achieve the objects of this Act.
- (2) Before making regulations in terms of this Act, the MEC must -
 - (a) publish the proposed regulations in the *Provincial Gazette* and media for public comment;
 - (b) grant a period of at least 30 days for written representations to the MEC on the proposed regulations; and
 - (c) consider any such written representations received.

13. Short title and commencement

This Act is called the Use of Free State Official Languages Act, 2017, and comes into operation on a date fixed by the Premier by proclamation in the *Provincial Gazette*.