

KwaZulu-Natal, South Africa

KwaZulu-Natal Petitions Act, 2003

KwaZulu-Natal Petitions Regulations, 2006.

Provincial Notice 331-A of 2007

Legislation as at 31 August 2007

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KwaZulu-Natal Petitions Regulations, 2006.

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KwaZulu-Natal South Africa

KwaZulu-Natal Petitions Act, 2003

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The Speaker of the KwaZulu-Natal Legislature has, in terms of section 26 of the KwaZulu-Natal Petitions Act, 2003 ([Act No. 4 of 2003](#)), made the regulations contained in the Schedule.

TW Mchunu

Speaker of the KwaZulu-Natal Legislature

1. Definitions

In these regulations, unless the context indicates otherwise, any word or expression defined in the KwaZulu-Natal Petitions Act, 2003 (KZN [Act No. 4 of 2003](#)) has that meaning, and -

"**appeal**" means an appeal in terms of regulation 12;

"**administrative support service**" means the administrative support contemplated in section 15;

"**petition file**" means the file contemplated in regulations 6(1)(b) and 7;

"**Petitions Register**" means the register contemplated in regulation 6(1)(a);

"**statement of complaint**" means the subject matter of a petition and any information provided by the petitioner; and

"**the Act**" means the KwaZulu-Natal Petitions Act, 2003 (KZN [Act No. 4 of 2003](#)).

2. Application of regulations

These regulations apply to any petition submitted in accordance with the Act.

3. Responsibilities of the Committee

The Committee must, from time to time, take reasonable steps to -

- (a) inform the citizens of the province of their rights in terms of the Act;
- (b) inform the citizens of the province of the physical address, postal address, electronic address or fax number where a petition may be submitted;
- (c) exercise maximum accountability and transparency in the consideration of a petition;
- (d) where appropriate, or if requested to do so by a petitioner, resolve a dispute, reverse an act or rectify an omission by means of mediation or negotiation;
- (e) where appropriate, lodge a complaint with the Public Protector in terms of the Public Protector Act, 1994 ([Act No. 23 of 1994](#)), if the conduct of a person or body to whom a petition has been referred, is unsatisfactory;

- (f) assume a supervisory role in respect of the administrative support service;
- (g) in general, issue directions to the administrative support service in respect of preliminary investigations;
- (h) instruct the administrative support service to report to it on the efficacy of the processes of public participation and petitions;
- (i) instruct the administrative support service to organize and manage programmes designed to promote, advertise or popularize public participation and petitions; and
- (j) ensure that persons or categories of persons previously disadvantaged by unfair discrimination enjoy full participation in the process of provincial government.

4. Rights of a petitioner

Subject to compliance with the Act, a petitioner has the right -

- (a) to submit a petition in accordance with the First Schedule to the Act;
- (b) to submit a petition in any of the eleven official languages recognized in section 6(1) of the [Constitution](#);
- (c) to be assisted by the administrative support services in submitting a petition;
- (d) at any time before the Committee concludes its consideration of the petition -
 - (i) to submit new information to the Committee in respect of the subject matter of the petition;
 - (ii) to submit a written rebuttal against any statement, opinion or recommendation expressed by any person or body in respect of that petition;
 - (iii) to inform the Committee if any person or body has, subsequent to the submission of the petition, addressed the matter in respect of which the petition was submitted; and
 - (iv) to submit a request to the Committee to obtain any information or hear any evidence or oral submission in respect of the subject matter of the petition, which information or evidence must be included in the petition file;
- (e) to be notified by the Committee within four weeks of the tabling of the petition submitted by him or her of -
 - (i) the file number of the petition file assigned to that petition;
 - (ii) the manner in which a petition is being dealt with; and
 - (iii) the reasons why the petition is being dealt with in that manner;
- (f) to have his or her petition considered by the Committee, unless the petition is subject to a disqualification contemplated in the Act or these regulations;
- (g) to be given written reasons if the Committee refuses to consider a petition;
- (h) to attend any Committee meeting where his or her petition is considered, unless the Chairperson determines otherwise and has in writing prior to the meeting informed the petitioner of that determination and the reasons therefor;
- (i) to be advised in writing of the outcome of the consideration by the Committee of the petition;
- (j) to be advised by the Committee, where appropriate, of other remedies available to him or her;
- (k) to have access to the petition file at any reasonable time;
- (l) to have his or her rights provided for in -
 - (i) the Constitution, especially his or her right to administrative justice; and

- (ii) the Act and these regulations, respected by Parliament, the Speaker, the Committee and the administrative support service; and
- (m) to withdraw a petition.

5. Submission

- (1) A petition must be submitted in accordance with the provisions of the Act.
- (2) A petition must be delivered in person or by mail, whether by ordinary mail or by electronic transmission.
- (3) The administrative support service must, on receipt of a petition, complete the form in Annexure "A" to these regulations, reflecting -
 - (a) the name of the person who made the petition, or the name of the group or class of persons on whose behalf that person has made that petition;
 - (b) the capacity contemplated in paragraphs (a), (b), (c) and (d) of the definition of "petitioner" in section 1 of the Act in which the petitioner is acting;
 - (c) the contact details of the person making the petition;
 - (d) the subject matter of the petition; and
 - (e) any other matter which the Speaker or the Committee may require to be detailed.
- (4) The administrative support services must -
 - (a) on receipt of a petition, ensure that the form in the annexure to these regulations is duly completed as detailed under sub-regulation (3) above;
 - (b) render assistance, excluding financial assistance, to any person who is unable to submit a petition complying with all the requirements imposed by the Act and these regulations; and
 - (c) determine whether the petition complies with the requirements of the Act and these regulations in order to be considered by the Committee, and enter an opinion in this regard in the petition file.

6. Registration of petition

- (1) The administrative support service must-
 - (a) register a petition by entering the details thereof in an official Petitions Register;
 - (b) open a "petition file" which must contain the information detailed under regulation 7;
 - (c) assign a file number to the petition file contemplated in paragraph (b); and
 - (d) within seven working days after delivery of a petition in terms of regulation 5 which has been registered as a petition in terms of paragraph (a), inform the person who made the petition of the registration of the petition and the file number assigned to that petition.
- (2) The Speaker may at any time direct the administrative support service to inform any other person or body in writing of the petition.

7. The petition file

- (1) The petition file contemplated in regulation 6(1) must contain -
 - (a) a duly completed petition in the format of the First Schedule to the Act;
 - (b) a duly completed form contemplated in regulation 5(3);

- (c) the preliminary investigation into the statement of complaint;
 - (d) any opinion held or recommendation made by the administrative support service in respect of the petition;
 - (e) any opinion or comment on the matter furnished by a legal adviser contemplated in regulation 8(1)(f);
 - (f) the steps taken by the administrative support services in accordance with regulation 8; and
 - (g) the name of any person or body who was requested to provide information in respect of or comment on the petition as contemplated in regulation 8(2) and who or which failed or refused to do so and, if available, their reasons for failing or refusing to do so.
- (2) The administrative support service must retain a full and legible copy of the petition file.

8. Preliminary investigation of petition

- (1) The administrative support service must, after registration of a petition and the opening of a petition file as contemplated in regulation 6(1)(b), conduct a preliminary investigation in respect of that petition and -
- (a) if applicable, obtain all information or documents on policy held by the national executive or any other relevant official body on the petition;
 - (b) obtain all information or documents on policy held by the executive authority of the province on the petition;
 - (c) endeavour to obtain the official comment of the Department which is responsible for a function of the executive of the province which is relevant to the petition;
 - (d) if applicable, obtain all information or documents on policy held by a municipal council of a local government which is responsible for a function within its jurisdiction which is relevant to on the petition;
 - (e) if necessary, cause the petition and any other relevant information or document to be translated; and
 - (f) if the petition pertains to -
 - (i) a question of law;
 - (ii) the interpretation of legislation;
 - (iii) a legislative proposal; or
 - (iv) a Bill tabled in Parliament,require a Legal Advisor of Parliament or the executive authority of the province to render advice or express an opinion on that matter.
- (2) The administrative support service or the Legal Advisor contemplated in paragraph (f) of sub-regulation (1) may request any person or body other than contemplated in sub-regulation (1) to comment on or provide information held by him, her or it in respect of the statement or complaint which may reasonably be required to complete the preliminary investigation into the petition.
- (3) The administrative support service must, if it has in terms of -
- (a) paragraphs (a), (b), (c) or (d) of sub-regulation (1), or sub-regulation (2), requested information, documents on policy or official comment;
 - (b) paragraph (e), requested a translation of the petition and other information; or

- (c) paragraph (f), requested legal advice or a legal opinion,
request the Department, body, municipal council, local government, translator or Legal Advisor concerned, as the case may be, to provide that information, documents on policy or official comment within 14 working days after receipt of that request.
- (4) The administrative support service must conduct its preliminary investigation without favour or prejudice to the petitioner or the petition and in accordance with any code of conduct applicable to an employee of Parliament.
- (5) The administrative support service must, within 30 working days of registration of a petition, submit the petition file to the Speaker for actioning under section 10 of the Act.

9. Declaration of personal interest and referral

- (1) (a) In the event that the Speaker has a personal interest in the petition-
 - (i) he or she must make a written declaration to such effect, addressed to the Chairperson of the Committee and the administrative support service; and
 - (ii) the Deputy Speaker must undertake any function or duty imposed upon the Speaker by the Act or these regulations.
- (b) The administrative support service must place a copy of the declaration under paragraph (a) in the petition file.
- (2) The Speaker must, upon receipt of the petition file, examine the file and -
 - (a) may refer the file back to the administrative support service with instructions he or she may deem appropriate, including an instruction in respect of the period of time within which the administrative support service must comply with his or her instructions; or
 - (b) pursuant to section 10 of the Act, submit the petition to the Committee and / or make a determination regarding approval for the tabling of the petition in the House.

10. Committee

- (1) Within 3 months from the date of submission of the petition, the Committee must consider and deal with the petition referred to it by the Speaker in accordance with the Act, these regulations and the Standing Rules.
- (2) The Committee, in addition to its functions provided for in the Act and the Standing Rules, may-
 - (a) issue directions to the administrative support service in respect of the further investigation of a particular petition; and
 - (b) instruct the administrative support service to inform the petitioner in writing of interim developments in respect of the consideration and resolution of a particular petition.
- (3) The Committee must, after concluding its consideration of the petition, include the details thereof in its report to Parliament contemplated in section 13(8)(b) of the Act.

11. Closure and submission of petition after decision by the House

- (1) The Secretary must, after final Resolution by the House, notify the petitioner and, if necessary, any other person or body in writing of the outcome of the petition, and reasons therefore, within seven days of the decision of the House.
- (2) The administrative support service must, after final Resolution by the House and compliance with sub-regulation (1), -
 - (a) close the petition file; and

- (b) archive the petition file in accordance with any applicable law pertaining to the archiving of documents.

12. Right of appeal

- (1) A petitioner may appeal against -
 - (a) a refusal by the Speaker or Committee to table a petition in the House under section 10 of the Act.
 - (b) a determination by the Chairperson to consider the petition submitted by that petitioner behind closed doors under section 14(2) of the Act; or
 - (c) any recommendation, referral to another person or body or other decision of the Committee after consideration of the petition submitted by him or her.
- (2)
 - (a) A petitioner who intends to exercise his or her right of appeal must, within 21 working days of receipt of written notification of any matter contemplated in sub-regulation (1), submit a document recording his or her appeal and to be known as the "appeal document".
 - (b) The document contemplated in paragraph (a) must be submitted in the same manner as a petition, as provided for in the Act and these regulations.
 - (c) A petitioner may at any time withdraw an appeal, by written notice.
 - (d) The administrative support service must, upon request, render reasonable assistance to a petitioner in the lodging of an appeal.
- (3) The appeal document must, with reference to -
 - (a) the process of the consideration of the petition by the Committee; or
 - (b) the written reasons furnished by the Committee or the chairperson of the Committee for its, his or her decision, set out -
 - (i) the reasons for the appeal;
 - (ii) the matters in respect of which the Committee or the chairperson erred; and
 - (iii) the decision, recommendation or conclusion the Committee should, in the opinion of the petitioner, have made or arrived at.
- (4) The appeal document may not contain information which, before the conclusion of the consideration of the petition by the Committee, was not included in the petition file.
- (5) The administrative support service must forthwith upon receipt of the appeal document -
 - (a) in writing acknowledge receipt of the appeal document;
 - (b) enter the details of the appeal document in the Petitions Register;
 - (c) include the appeal document in the petition file;
 - (d) in writing, notify the Committee and any person or body who has in any way been involved with the petition, of the appeal and provide the Committee or that person or body with a copy of the appeal document; and
 - (e) refer the appeal document and the petition file to the Speaker.
- (6) Subject to sub-regulation (7), the Speaker must, within 15 working days of receipt of the appeal document and the petition file, consider the appeal and may thereafter -
 - (a) dismiss the appeal;
 - (b) table the appeal document and refer it to the Committee for re-consideration;

- (c) refer the appeal document and the petition file with a recommendation to-
 - (i) Parliament;
 - (ii) a Standing Committee of Parliament;
 - (iii) the Premier or a member of the Cabinet of the province;
 - (iv) the municipal council of a local government; or
 - (v) an institution supporting constitutional democracy contemplated in Chapter 5 of the [Constitution](#); or
- (d) make any other determination which he or she is competent in law to make in respect of the petition.
- (7) (a) In the event that the Speaker has made a declaration of personal interest in the petition under regulation 9(1), the Deputy Speaker must conduct the appeal process.
- (b) The person or body taking a final decision on the appeal must provide written reasons for such decision.
- (8) The administrative support service must -
 - (a) upon instructions from the Speaker or the Committee, from time to time inform the person who lodged the appeal of the status of, or progress in respect of, the appeal; and
 - (b) within 15 working days after the final decision in respect of the appeal, in writing advise the person who lodged the appeal of the outcome of the appeal, together with reasons.

13. Parliament not in session

- (1) The-
 - (a) provisions of the Act, the Standing Rules or these regulations; and
 - (b) duties and obligations placed on a person or body, including the Committee or a Member, in terms of the Act, the Standing Rules or these regulations, are not suspended in respect of a petition solely because Parliament is in recess, at the end of a legislative term or for whatever other reason not sitting.
- (2) A petition submitted before Parliament goes on recess or is at the end of a legislative term must be dealt with in accordance with the Act, the Standing Rules and these regulations as if Parliament were still sitting.
- (3) If -
 - (a) the term of office of Parliament expires;
 - (b) Parliament is dissolved in terms of section 109 of the [Constitution](#); or
 - (c) the Premier has called an election for Parliament,

and the Committee has not yet finalized its consideration of the petition, the Committee must immediately cease its consideration of the petition and refer the petition to the Speaker, who must instruct the administrative support service to hold over the petition until a new Parliament has been elected and has met for its first sitting contemplated in section 110(1) of the [Constitution](#).
- (4) If the administrative support service is investigating a petition in a period during which Parliament has not yet been elected, it must hold the petition over until a new Parliament has been elected and has met for the first sitting contemplated in section 110(1) of the [Constitution](#).
- (5) The administrative support service must in writing inform a petitioner if a situation contemplated in this regulation arises.

14. Conflict of interest

- (1) Any member of the Committee or member of staff of the administrative support service must, if he or she has a direct pecuniary interest in any petition, in respect of any petitioner, or in the outcome of a petition, immediately upon becoming aware of that interest -
 - (a) in writing notify the Speaker and the Committee of that interest and the details thereof; and
 - (b) cause a copy of that notification under paragraph (a) to be lodged in the petition file.
- (2) Sub-regulation (1) does not in any way derogate from the provisions of -
 - (a) the Powers, Privileges and Immunities of Parliament and the Provincial Legislatures Act, 2004 ([Act No. 4 of 2004](#)); or
 - (b) any code of ethics or code of conduct applicable to any member of the Committee or member of staff of the administrative support service.

15. Short title

These regulations are called the KwaZulu-Natal Petitions Regulations, 2006.

Annexure A

KwaZulu-Natal Parliament

Petition in terms of section 6 of the KwaZulu-Natal Petitions Act, 2003 (KZN [Act No. 4 of 2003](#))

Full names of petitioner

If applicable, name of person or group on whose behalf the petitioner is acting

Address of petitioner

ID number of petitioner

Registration number of petitioner {if a legal person}

Contact telephone number of petitioner

Fax number of petitioner

E-mail address of petitioner

Summary of Petition {a brief description of the subject matter as in the format of the First Schedule to the Act}

Number of pages appended to this document containing the petition

Description of any evidence not in paper form submitted with this petition

Date

Place