

North West, South Africa

North West Petitions Act, 2010

Act 2 of 2010

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North West Petitions Act, 2010

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North West South Africa

North West Petitions Act, 2010

Act 2 of 2010

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Assented to on 15 April 2011

Commenced on 30 May 2011

*[This is the version of this document from 30 May 2011 and
includes any amendments published up to 12 September 2023.]*

To give effect to section 17 (BILL OF RIGHTS) of the [Constitution](#); to provide for receiving petitions at the North West Provincial Legislature; to provide for the realization of the right to petition as entrenched in the Standing Rules of the North West Provincial Legislature; and to provide for matters incidental thereto,

(The English text is the original text of this act)

BE IT ENACTED by the North West Provincial Legislature as follows:

1. Definitions

In this Act, unless the context indicates otherwise-

- (a) “**Administrative support service**” means employees of the Legislature assigned by the Secretary for purposes of the effective implementation and execution of this Act;
- (b) “**Appeal**” means an Appeal by the Petitioner contemplated in [section 13](#) of this Act;
- (c) “**Chairperson**” means the Chairperson of the Committee responsible for petitions;
- (d) “**Committee**” means a Committee of the Legislature established in terms of [section 10](#) of this Act;
- (e) “**Constitution**” means the [Constitution of the Republic of South Africa, 1996](#);
- (f) “**Executive Council**” means the Executive Council of the North West Province contemplated in section 132 of the [Constitution](#);
- (g) “**Legislature**” means the Provincial Legislature of the North West contemplated in section 104 of the [Constitution](#);
- (h) “**Petitioner**” means a person who submits a Petition in terms of this Act and includes natural or juristic person;
- (i) “**Petition**” means complaint, request, representation or submission addressed by the Petitioner to the Committee in terms of this Act;
- (j) “**Prescribed**” means prescribed by regulations made under this Act;
- (k) “**The Secretary**” means the Secretary to the North West Provincial Legislature;
- (l) “**Speaker**” means the Speaker of the Legislature elected in terms of section 111 of the [Constitution](#);
- (m) “**Standing Rules**” means the Rules and Orders made for the conduct of the business of the Legislature in terms of section 116 of the [Constitution](#);
- (n) “**This Act**” includes regulations made by the Speaker under this Act.

2. Application

- (1) This Act binds the North West Province and all citizens
- (2) If any conflict relating to a matter dealt with in this Act arises between this Act the provisions of any other law, other than the [Constitution](#) or an Act of Parliament expressly repealing this Act, the provisions of this Act shall prevail.

3. Objects

- (1) The objects of this Act are-
 - (a) to enact legislation required by section 17 of the [Constitution](#) and the Standing Rules of the Legislature;
 - (b) to give effect to the letter and spirit of the [Constitution](#) and the Standing Rules of the Legislature;
 - (c) to promote public participation in the province;
 - (d) to conduct the business of the Legislature in an open and transparent manner;
 - (f) to develop an implementation of effective accountability to the Legislature's constituency;
[Please note: numbering as in original]
 - (g) to accelerate the culture of participatory democracy;
 - (h) to establish voluntary and mandatory mechanisms and procedure to give effect to the Right of Petition in a manner which enables persons to obtain a fair hearing as simple and affordable as possible.

4. Interpretation

- (1) Any person applying this Act must interpret its provisions so as to give effect to-
 - (a) section 17 of the [Constitution](#), which includes the promotion of Petition through legislative and other measures designed to protect or advance persons disadvantaged by past and present unfair discrimination;
 - (b) the relevant Standing Rules of the North West Provincial Legislature.
- (2) Any person interpreting this Act must take into account-
 - (a) any relevant law or code of practice in terms of a law
 - (b) the context of public participation and the purpose of this Act.

5. Right to petition

Any person may submit a Petition in terms of this Act.

6. General principles

- (1) A petitioner may submit a Petition in any of the official language as contemplated section 6 of the [Constitution](#).
- (2) The Committee must-
 - (a) respect, protect and promote the rights of a petitioner provided for in this Act;

- (b) take appropriate steps to promote and facilitate participation by the citizens of the Province in the processes of government in the Province, particularly persons disadvantaged by unfair discrimination of whatever nature, and
 - (c) enhance democracy by exercising maximum accountability and transparency in consideration of Petitions.
- (3) The Speaker must promote and facilitate a fair and equitable process of considering Petitions submitted to the Legislature in terms of this Act.

7. Petition

- (1) A Petition may be-
- (a) a single Petition which is an individual submission from a single petitioner, concerning a particular complaint or request;
 - (b) an association Petition, which is an individual submission from an association or a single petitioner mandated by an association to submit that petition, concerning a particular complaint or request;
 - (c) collective Petition, which is made up of individual or group submissions from a number of petitioners concerning the same or substantially similar complaints or requests;
 - (d) a mass or group petition, which is made up of individual or group submissions from a number of petitioners concerning the same or substantially similar complaints or requests.
- (2) A Petition may be submitted by a person acting-
- (a) in his or her own interest;
 - (b) in the interest of another person who is not in a position, for whatever reason to submit a petition in his/her or its own;
 - (c) as a member of or in the interest of a group or class of persons; or
 - (d) in the public interest.
- (3) A Petition may, subject to [section 6](#), address any matter-
- (a) within the legislative authority of the North West Province contemplated in the [Constitution](#);
 - (b) within the Executive Authority of the North West Province contemplated in the [Constitution](#);
 - (c) assigned to a Member of the Executive in terms of the [Constitution](#); or
 - (d) relating to the provincial supervision of local government contemplated in section 139 of the [Constitution](#).
- (4) The Committee must refuse to consider Petition if-
- (a) it falls outside the scope of matters contemplated in [section 3](#)
 - (b) concerning a matter pending in a Court of Law, other tribunal or forum or a commission of enquiry contemplated in the [Constitution](#);
 - (c) in connection with the conviction and sentencing of a person by the court of law to a period of imprisonment;
 - (d) brought by person who does not have necessary capacity to petition;
 - (e) written in a disparaging or insulting language against an institution of government;
 - (f) based on media speculations;

- (5) The Committee may refuse to consider a Petition which-
- (a) is libel
 - (b) does not state the correct name and contact details of the Petitioner and, where applicable, the name of association or group on whose behalf the Petition has been submitted;
 - (c) has not been signed by the Petitioner, except in the case of a Petitioner who is unable to write and-
 - (i) who has made a mark on the Petition as a symbol of his or her authority to submit the Petition, and
 - (ii) that mark was made in the presence of two witnesses who are able to write and who by signing the Petition, certified the mark as that of the Petitioner;
 - (d) address a matter that has been previously considered by the Committee, unless the petition embodies new information which, if considered may materially impact on the decision of the Committee;
 - (e) contains defamatory statements or improper language;
 - (f) does not supply the Legislature with full details of the complaint;
 - (g) the Petitioner has not exhausted all available local remedies.

8. Rights of a petitioner

A petitioner has the right to-

- (a) submit a petition in accordance with the Act;
- (b) withdraw a petition;
- (c) submit a petition in any of the official languages of the province;
- (d) be assisted by the administrative support services in submitting a petition;
- (e) at any time before the Committee concludes its consideration of the petition-
 - (i) submit new information to the Committee in respect of the subject matter of the petition;
 - (ii) submit a written rebuttal against any statement, opinion or recommendation expressed by any person or body in respect of that petition, if invited to do so by the Committee;
 - (iii) 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;
 - (iv) obtain, upon request to the Committee, 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;
- (f) be notified, within four weeks of the submission of the petition of-
 - (i) the number assigned to the petition file which shall also be the petition number;
 - (ii) the manner in which a petition is being dealt with, and
 - (iv) the reason why the petition is being dealt with in that manner;
- (g) have his or her petition considered by the Committee, unless the petition is subject to a disqualification as contemplated in this Act;
- (h) be given written reasons if the Committee refuses to consider a petition;

- (i) attend Committee meeting where his or her petition is considered, unless the Chairperson determines otherwise and has in writing prior to that meeting, informed him or her of that determination and the reasons thereof;
- (j) be advised in writing of the outcome of the consideration by the Committee of the petition;
- (k) be advised by the Committee, where appropriate, of other remedies available to him or her; and
- (l) have access at any reasonable time, to the petition file.

9. Submission of petition

- (1) A petition must be submitted strictly in accordance with this Act.
- (2) The administrative support service must render all reasonable assistance, excluding financial assistance, to any person who is unable to submit a petition meeting all the requirements imposed by this Act, to enable that person to properly submit a petition.
- (3) After careful consideration of the petition as contemplated in [section 7](#) and the petition does not fall within the limitations stipulated in [section 7\(4\)](#) and (5), the administrative service must take all necessary steps to prepare the petition for consideration by the Committee.

10. Establishment and functions of Petitions Committee

- (1) The Speaker shall, after consultation with the political parties represented in the Legislature, appoint a Petitions Committee, the composition of which shall be consistent with multi-party democracy.
- (2) The Committee must-
 - (a) receive every petition submitted in terms of this Act;
 - (b) subject to [section 7\(3\)](#), (4) and (5), consider every petition properly submitted in terms of this Act;
 - (c) record the oral submission or evidence of a petition given in terms of [section 11\(a\)](#);
 - (d) if a petition has been referred to a member of the Executive Council or a Municipal Council in terms of [section 11\(e\)](#),
 - (i) direct the person or body to whom the petition was referred to consider that petition, make a decision or recommendation in respect of that petition or otherwise dispose of the request or complaint raised in that petition, and
 - (ii) require the person or body to whom that petition was referred to furnish the Committee within four weeks of that referral in writing with a detailed report on the steps taken by that person or body, to address the complaint, request, recommendation or instruction by the Committee as the case may be, and the reasons for those particular steps;
 - (e) if it refuses to consider a petition in terms of [section 7\(3\)](#), (4) and (5), or because it has not been submitted in accordance with this Act, in writing inform the Petitioner of that fact as well as reasons for its decision;
 - (f) on a quarterly basis, report to the Legislature on petitions submitted to it during that period and all of its activities in respect thereof, including-
 - (i) the responsiveness, efficiency and timeousness that petitions were dealt with, and
 - (ii) the efficiency of the petitions process and procedure;

- (g) instruct the administrative support service to inform a petitioner timeously-
 - (i) about progress in respect of the consideration of a petition from time to time;
 - (ii) of any decision taken by the Committee in respect of a petition, and reasons thereof;
 - (iii) if the Petitioner has been invited by the Committee to make an oral submission or call a witness;
 - (iv) of the date, time and venue when the petition is to be considered and that the Petitioner may attend that sitting of the Committee;
 - (v) of any referral to any person or body contemplated in this Act;
 - (vi) of other remedies available to the Petitioner; and
 - (vii) of the fact that the petitioner has access to the petition file at all reasonable times as contemplated in the Promotion of Access to Information [Act no. 2 of 2000](#).

11. Powers of the Committee

The Committee may-

- (a) invite a Petitioner to-
 - (i) supplement his or her petition with additional oral or written submissions
 - (ii) call a witness to present oral or written evidence to the Committee
- (b) make a recommendation to an appropriate person or body with a view of settling the request or complaint contained in the petition to the satisfaction of the Petitioner;
- (c) make a recommendation to an appropriate person or body in respect of the general approach to be followed in future in settling a request or complaint;
- (d) if requested to do so by a Petitioner, resolve a dispute or complaint, reserve an act, rectify an omission, regarding matters other than those prescribed by legislation means of negotiation;
- (e) refer the petition and recommendation, if any, to a Member of Executive Council or Municipal Council for consideration and decision in respect of the complaint or request contained in the petition;
- (f) make a recommendation to the Speaker to refer the petition to-
 - (i) the Legislature;
 - (ii) another Committee of the Legislature;
 - (iii) a member of the Executive Council;
 - (iv) a Municipal Council in the Province;
 - (v) and entity supporting constitutional democracy established in terms of Chapter 9 of the [Constitution](#);
 - (vi) the National Prosecuting Authority;
- (g) conclude its consideration of a petition if it resolves that no steps, or no further steps, as the case may be, may be taken to settle the matter to the satisfaction of the Petitioner;
- (h) if a petition has been referred to a Member of Executive Council or Municipal Council in terms of subsection (2) (e), and that person or body has failed to comply with subsection (1)(d), or that person's or body's conduct or response is unsatisfactory-
 - (i) make a complaint to the Public Protector in terms of Public Protector [Act No. 23 of 1994](#) or the Premier;

- (ii) take any other appropriate steps that the Committee may deem just and equitable;
- (i) if the complaint or request in the petition has, since its submission, been settled to the satisfaction of the Petitioner, close the petition file;
- (j) delegate any of its functions or power in terms of [section 15](#).

12. Procedure for consideration of a petition

The procedure for the consideration of a petition is as prescribed in the regulations and in accordance with the Standing Rules.

13. Right of appeal

- (1) A Petitioner may appeal to the Speaker against-
 - (a) a refusal by the Committee to consider a petition;
 - (b) where applicable, a determination by the Chairperson to consider behind closed doors a petition submitted by that Petitioner, or
 - (b) any recommendation, referral to another person or body or other decision of the Committee after consideration of the petition submitted by him or her.

[Please note: numbering as in original]

- (2) An appeal must be submitted and processed as prescribed;
- (3) The Speaker must consider the appeal as prescribed and may thereafter-
 - (a) dismiss the appeal;
 - (b) table the appeal document and refer it to the Committee for reconsideration; or
 - (c) refer the appeal and petition file with a recommendation to-
 - (i) the Legislature;
 - (ii) a standing committee of the Legislature;
 - (iii) the Premier or a Member of Executive Council;
 - (iv) the Municipal Council of a local government;
 - (v) an institution supporting constitutional democracy contemplated in Chapter 9 of the [Constitution](#); or
 - (vi) the National Prosecuting Authority;
 - (d) make any other determination which he or she is competent in law to make in respect of the petition.
- (4) The Speaker must within a reasonable time after the consideration of an appeal, in writing, report to the Legislature on that appeal.

14. Responsibilities of 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 this Act;
- (b) inform the citizens of the Province of the physical address, fax number or postal address where a petition may be submitted;

- (c) ensure that persons or categories of persons previously disadvantaged by unfair discrimination enjoy full participation in the process of governance;
- (d) exercise maximum accountability and transparency in the consideration of petitions where appropriate, or if requested to do so by a petitioner, resolve a dispute by means of mediation or negotiation.

15. Delegation

- (1) The Committee may delegate any of its duties, functions or powers in respect of a particular petition to a Member of the Committee.
- (2) A Member contemplated in subsection (1) shall be appointed by the Chairperson;
- (3) The Chairperson must provide the Members with a written and signed authorization to consider a particular petition.
- (4) The Chairperson may at any time before the Member has commenced his or her Consideration of a petition, withdraw his or her consideration of that petition to the Committee.
- (5) The Member must after he or she has concluded his or her consideration of that Petition, refer it to the Committee.
- (6) A Member appointed in terms of this section, has all powers that are necessary to Enable him or her to fulfill his/her functions.
- (7) Notwithstanding the provisions above, the Committee may exercise any power or Perform any duty delegated in terms of this section.

16. Sitting of Committee

- (1) The Committee may for purpose of hearing evidence and considering a petition, sit at a date, time and place anywhere in the Province determined by the Chairperson.
- (2) The Chairperson must give public notice of sitting in accordance with the Standing Rules of the Legislature.
- (3) The Chairperson must instruct the administrative support service to timeously-
 - (a) ensure that subpoenas have been properly issued and served as prescribed;
 - (b) inform the Petitioner in writing on any matter that the Petitioner is entitled to be informed of in terms of this Act, any other law or Standing Rules of the Legislature;
 - (c) if necessary, ensure that the contents of the petition file are translated into a working language of the Committee;
 - (d) perform any additional duty, which enable the Committee to properly consider a petition and exercise its other functions in terms of this Act.
- (4) Evidence presented before the Committee must be heard in public, unless it is—
 - (a) in the interest of justice, or
 - (b) in the interest of the safety of the Petitioner or a witness;that evidence must be heard behind closed doors.
- (5) The administrative support service must provide the Chairperson with a list of submitted petitions, which have not been finalized by the Committee for tabling at each meeting of the Committee.

17. Accountability of Committee to the Legislature

- (1) The Committee must report to the Legislature as contemplated in [section 12\(1\)\(f\)](#).
- (2) A debate on an issue raised in a report of the Committee to the Legislature must take place if more three members of the Legislature so demand.
- (3) The Legislature may refer any matter contained in a report submitted to the Legislature by the Committee back to the Committee for reconsideration.
- (4) A member of the Legislature has access to a petition file at any reasonable time.
- (5) The Legislature may whilst the Committee is considering a petition, only conduct an interpellation in respect of that petition, relating to the process of considering petition, and not in respect of the merits thereof.

18. Witnesses and material of evidence

- (1) For the purpose of ascertaining a matter relating to the subject of its investigation, the Committee may either-
 - (a) summon a person to attend a sitting of the Committee as a witness in order to give evidence if the Committee requires it, or
 - (b) subpoena a person to attend a sitting of the Committee as a witness in order to give evidence, or produce any book, document, object or other material of evidence, before the Committee at the place and time specified in the subpoena.
- (2) A subpoena contemplated in subsection (1)(b) must-
 - (a) be signed and issued by the Chairperson;
 - (b) state the matter in respect of which it is issued;
 - (c) stipulate the date, time and place where the person or a representative of the body must appear before the Committee;
 - (c) draw the attention of the person to whom the subpoena is addressed to the provisions of subsection (4);

[Please note: numbering as in original]

 - (d) be timeously served on the person to whom the subpoena is addressed by-
 - (i) registered mail; or
 - (ii) personal delivery.
- (3) A person appearing before the Committee to give oral evidence must, before giving evidence, take oath or make affirmation administered by the Chairperson or any other person authorized by him or her to do so, to only speak the truth.
- (4) Any witness, other than an employee of the Province or a Municipal Council, appearing before the Committee to give oral evidence or to produce any document, object or other material of evidence under subpoena issued in terms of subsection (1), is entitled to the witness fee payable to a witness giving evidence, as contained in the Standing Rules.
- (5) A person appearing before the Committee to give oral evidence may be assisted by a representative or his or her choice.

19. Offences and penalties

- (1) A person properly subpoenaed in terms of [section 18\(1\)\(b\)](#), who without just cause-
 - (a) fails to appear before the Committee at the date and place stipulated in the subpoena;
 - (b) fails to remain in attendance at the sitting of the Committee until the Chairperson excuses him or her from further attendance;
 - (c) refuses or fails to take an oath or make an affirmation contemplated in [section 18\(3\)](#) when called upon by the Chairperson to do so;
 - (d) refuses or fail to produce any book, document, object or other material of evidence in his or her possession or under his or her control, which he or she has been instructed to produce; is guilty of an offence.
- (2) A person properly subpoenaed in terms of [section 18\(1\)\(b\)](#), who after having taken an oath or made an affirmation-
 - (a) fails to answer fully or dutifully any question lawfully put to him or her, or
 - (b) otherwise knowingly gives false evidence before the Committee, is guilty of an offence.
- (3) A person-
 - (a) who threatens, obstructs or unduly influence a person properly subpoenaed in terms of [section 18\(1\)\(b\)](#) to-
 - (i) refuse or fail to give oral evidence before the Committee;
 - (ii) knowingly give false evidence before the Committee, or
 - (iii) refuse or fail to produce any book, document, object or other material of evidence in his or her possession or under his or her control, which he or she has been instructed to produce;
 - (b) properly subpoenaed in terms of [section 18\(1\)\(b\)](#), produces any book, document, object or other material of evidence before the Committee, which he or she knows is false, fabricated, falsified or unlawfully or falsely altered;
 - (c) who destroys, conceal, falsifies, fabricates, or unlawfully or falsely alters any book, document, object or other material or evidence which he or she knows or may be reasonably expected to know it may be relevant to a petition being considered or to be considered by the Committee;
 - (d) who knowingly furnishes the Committee with information or makes a statement before it, which is false or misleading;
 - (e) who obstructs or unduly influences the Committee, any Member of the Committee or any member of the administrative support service from doing or not doing anything authorized in terms of this Act; is guilty of an offence.
- (4) Any person found guilty of an offence under this section shall be liable to a fine or imprisonment not exceeding twelve months or to both such fine and imprisonment.

20. Regulations

- (1) The Speaker must make regulations in respect of-
 - (a) the process and procedures for the submission of a petition;
 - (b) the registration of a petition and opening of a petition file by the administrative support service;

- (c) the preliminary investigation of a petition by the administrative support service;
 - (d) the process and procedures for the submission of an appeal by a Petitioner;
 - (e) the process and procedures for handling of a petition when the Legislature is not in session;
and
 - (f) the procedure to deal with conflicts of interests
- (2) The Speaker may make regulations in respect of-
- (a) the rights of a petitioner contemplated in this Act;
 - (b) any duty or function not in subsection (1), which the Committee is required to perform;
 - (c) any duty or function not provided for in subsection (1), which the administrative support service is required to perform;
 - (d) any time frames to be adhered to during any process or for any procedure contemplated in this Act;
 - (e) the archiving or disposal of a petition file that has been closed;
 - (f) the procedures and process for the issuing and serving of subpoenas for purposes of this Act;
 - (g) any measures to be taken by the Legislature, the Committee or the Secretary to promote and facilitate participation by the citizens of the Province in the processes of government in the Province, or
 - (h) in general, any matter not provided for in this section, that may be necessary to prescribe in order to achieve or promote the objects of this Act.

21. Short title and commencement

This Act shall be called North West Petitions Act, 2010 and shall come into operation upon publication in the *Government Gazette*.