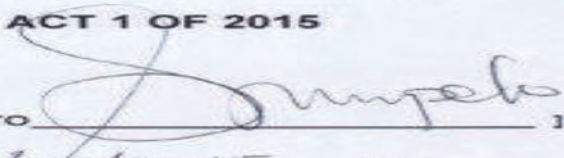


**NORTH WEST  
PROVINCIAL LANGUAGES  
ACT 1 OF 2015**

[ASSENTED TO  ]

[DATE 17/09/2015 ]

NORTH WEST PROVINCE

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**NORTH WEST  
PROVINCIAL LANGUAGES  
ACT, 2015**

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*(As passed in the Provincial Legislature)*

*(The English text is the official text of the Act)*

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

**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 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.**

### **Preamble**

WHEREAS section 6 of the Constitution, 1996 provides for 11 official languages of the Republic of South Africa.

WHEREAS all eleven official languages of the Republic of South Africa, as contemplated in section 6(1) of the Constitution, must be treated equitably.

WHEREAS priority needs to be given to the dominant languages spoken in the North West Province, namely Setswana, Afrikaans, English, isiXhosa and Sesotho.

AND WHEREAS the North West Provincial Languages Act seeks to designate Setswana, Afrikaans, isiXhosa, English and Sesotho as official languages of the North West Province

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;

“**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 8;

**“language complainant”** means any person who lodges a language complaint contemplated in section 10(1);

**“language complaint”** means a language complaint contemplated in section 10(1);

**“language dispute”** means a language dispute contemplated in section 11(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 11(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;

**“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 13, 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 Languages Committee as contemplated in the Pan South African Language Board Act.

**“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 13;

**“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, Afrikaans, isiXhosa, English and Sesotho.

(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 –

(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

### DEVELOPMENT OF INTERNAL LANGUAGE POLICIES AND NORTH WEST DEVELOPMENT AND ADVANCEMENT OF INDIGENOUS LANGUAGES

#### POLICY

#### **Internal language policies**

**8.(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 Languages 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 13.

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

- (a)(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**

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

## CHAPTER 5

### INTERNAL COMPLAINTS MECHANISM AND HANDLING OF LANGUAGE DISPUTES

#### **Internal complaints mechanism**

10.(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 11(1), to the responsible Member for further investigation and resolution in terms of section 11(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 11(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**

11.(1) A language dispute arises when –

(a) a language complaint remains unresolved as contemplated in section 10(2)(f); or

(b) when the responsible Member, in terms of section 10(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 10(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 10(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 6

### MONITORING OF, AND REPORTING ON, USE OF PROVINCIAL OFFICIAL LANGUAGES

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

12.(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 9;
- (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 Committees 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 Languages 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 7

### GENERAL PROVISIONS

#### **Regulations**

**13.** 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

14. (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 13; 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.

## Offences

15. An organ of state, a head of an organ of state or any member of staff of an organ of state, is guilty of an offence if he or she directly fails to comply with the provisions of a mandatory provision of this Act

## Penalties

16. Any person convicted of an offence in terms of this Act is liable to a fine not exceeding R5000 or to imprisonment for a period not exceeding 5 years.

## Short title

17. This Act is called the North West Provincial Languages Act, 2015.

**MEMORANDUM ON THE OBJECTS  
OF THE  
NORTH WEST PROVINCIAL LANGUAGES ACT, 2015**

**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 Act, 2015.



## **SALIENT PROVISIONS OF THE ACT**

2.(1) The main objects of the Act 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) measures for the development of indigenous languages and sign language in the Province; and
- (d) other incidental matters thereto.

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

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

(4)(a) Chapter 3 of the Act provides for the determination of Setswana, Afrikaans, IsiXhosa, English and Sesotho, 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 seeks to regulate the development of internal language policies and the North West Development and Advancement of Indigenous Language Policy.

(6) Chapter 5 provides for the development of the internal language policies by all organs of state in the Province. This chapter also provides for the development of the North West Policy on Development and Advancement of Indigenous Languages.

(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 Act.

(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 were invited to provide input and comments on the Act.

## **CONSTITUTIONAL IMPLICATIONS**

6. The Act seeks to dictate to the Municipalities 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 Act 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 Act.