
GENERAL NOTICES

NOTICE 196 OF 2011

NORTH WEST PROVINCIAL LEGISLATURE

NORTH WEST PETITIONS ACT OF 2010

REGULATIONS RELATING TO THE SUBMISSION, INVESTIGATION AND CONSIDERATION OF PETITIONS

The Speaker of the North West Provincial Legislature, Hon. P.D.N. Maloyi, acting in terms of section 20 of the North West Petitions Act, 2010 (Act No.2 of 2010) made the regulations set out in the Schedule:

SCHEDULE

Definitions

1. In these regulations, unless the context indicates otherwise, any word or expression defined in the Act has that meaning, and –

“**this Act**” means the North West Petitions Act, 2010 (Act No. 2 of 2010);

“**Committee**” means a Petitions Committee established in terms of section 10 of the Act;

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

“**Legislature**” means the Provincial Legislature of the Province contemplated in section 104 of the Constitution;

“**Petition**” means a complaint or request or a representation or a submission addressed by a petitioner to the Committee in terms of this Act;

“**Petitions Office**” has a corresponding meaning with administrative support services defined in this Act and includes petitions unit, directorate or one or more of staff members assigned therein; and

“**Province**” means the Province of the North West established in terms of section 103 of the Constitution.

Application of regulations

2. These regulations apply to any petition referred to in this Act.

Submission

3. (1) Subject to Rule 124 of the Standing Rules, a petition may be submitted to the Petitions Office in one of the following ways:
- (a) mail, whether postal or electronic transmission thereof;
 - (b) facsimile transmission;
 - (c) delivered personally at Legislature's offices or any designated area;
 - (d) online through the Legislature's website;
 - (e) at any of the constituency offices of the Legislature listed in **ANNEXURE "E"** of the Act;
 - (f) through a Member of the Legislature.
- (2) A petition submitted in accordance with paragraphs (a), (b), (c) and (d) of sub-regulation (1), must be processed and or registered within 2 working days of its submission and receipt by the Petitions Office.
- (3) For any petition submitted in accordance with paragraphs (e) and (f) of sub-regulation (1), administrators of constituency offices and Members of the Provincial Legislature must send them, using any of provisions of paragraphs (a) to (d) of sub-regulation (1), not later than 3 working days from date of receipt from a petitioner.
- (4) Petitions Office must, on receipt of a petition, complete the form prescribed in **ANNEXURE "A"** of the Act, reflecting:
- (a) the name of the person or persons who made the petition, or the name of the group or section of a community on whose behalf that person has made that petition;
 - (b) the capacity contemplated in paragraphs (a), (b), (c) and (d) of section 7(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;
 - (e) any matter which the Speaker or the Committee may require to be detailed.

- (5) The Petitions Office must consider a petition in order to determine whether it meets the requirements of the Act, and enter an opinion in this regard in the petition file.
- (6) For purposes of administration, save the provisions of sub-regulation (3), time frames relating to a petition shall start to count from the day it reaches the Petitions Office, irrespective of where and how it was submitted.

Registration

4. (1) The Petitions Office must, subject to regulation 3(2), register such petition in a petitions register prescribed in **ANNEXURE "B"** of the Act, and –
 - (a) open a petition file which must contain the form contemplated in regulation 3(4) and all information or other material particulars to the petition which the Petitions Office obtains or produces;
 - (b) assign a file number to the petition file contemplated in paragraph (a);
 - (c) inform the person who made the petition of the registration thereof, and the file number assigned to the petition.
- (2) The Petitions Office must keep additional two registers separately, in which the following types of submissions shall be entered –
 - (a) For submissions qualifying as petitions, but do not fall within the competence of the Legislature because they are within exclusive jurisdiction of national sphere/parliament;
 - (b) For submissions that do not qualify as petitions due to one or more of provisions of section 7 (4) (a) to (f), or other reasons excluding those provided for in paragraph (a).
- (3) Petitions Office must retain a legible and full copy of the petition file.

Preliminary Investigation of petition

5. (1) The Petitions Office must after registration of a petition and the opening of a file as contemplated in regulation 4, conduct a preliminary investigation in respect of that petition and –

- (a) if applicable, obtain all information or documents on policy held by the executive authority of either or both national and province; or any other relevant official body, which is relevant to the petition;
- (b) endeavour to obtain the input of the Department which is responsible for a function of the executive of the Province which is relevant to the petition;
- (c) if applicable, obtain all information or documents on policy held by a municipal council of a local government on the petition;
- (d) endeavour to obtain the input of the municipal council of a local government, which is responsible for a function within its jurisdiction which is relevant to the petition;
- (e) if necessary, cause the petition and any other relevant information or documents to be translated in accordance with provisions of this Act or the Standing Rules; and
- (f) if the petition pertains to –
 - (i) a question of law;
 - (ii) the interpretation of legislation;
 - (iii) a legislative proposal;
 - (iv) a bill tabled in the legislature,

require a legal advisor of the Legislature or the executive authority of the Province to render advice or express an opinion on that matter.

- (2) Petitions Office or the legal advisor contemplated in paragraph (f) sub-regulation (1), may for purposes of this regulation, request any person or body other than that 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.
- (3) Petitions Office 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 such information, documents on policy or official comment within 10 working days after receipt of that request.

- (4) Petitions Office 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 Legislature.
- (5) Petitions Office must submit the petition file to the Secretary to the North West Provincial Legislature within 60 working days of its registration.
- (6) Petition File contemplated in sub-regulation (5) must contain separate reports in respect of –
 - (a) the preliminary investigation into the petition, including –
 - (i) any opinion held or recommendation made by the petitions office in respect of the petition;
 - (ii) any opinion or comment on the matter furnished by a legal advisor contemplated in paragraph (f) of sub-regulation (1).
 - (b) the steps taken by the Petitions Office in accordance with sub-regulation (1); and
 - (c) the name of any person or body who was requested to provide information in respect of or comment on the petition who or which failed or refused to do so and, if available, his or her or its reasons for failing or refusing to do so.

Tabling of referral

- 6. The Speaker must, upon receipt of the petition file, not later than 2 working days, examine the file and –
 - (a) table in the Legislature or refer the petition file to the Committee for consideration within 14 working days of receipt thereof; or
 - (b) may refer the file back to the petitions office with instructions that he or she may deem appropriate, including an instruction in respect of the period of time within which the Petitions Office must comply; or

- (c) may cause the petition contemplated in regulation 4(2)(a) to be referred to delegates representing the province in the National Council of Provinces for consideration by Parliament.

Consideration by the Committee and archiving of the petition

7. (1) The Committee must consider and deal with the petition referred to it by the Legislature by way of resolution or the Speaker, not later than 14 working days of such referral, where after it may –
- (a) recommend that the Speaker refers a petition in whole or in part to the person or body contemplated in section 10 (2)(d) of the Act;
 - (b) instruct the Petitions Office to inform the petitioner in writing of interim developments in respect of the consideration of a particular petition.
- (2) The Secretary to the North West Provincial Legislature must –
- (a) notify the petitioner in writing of the outcome of the petition; and
 - (b) archive the petition file in accordance with any applicable law pertaining to the archiving of documents.

Legislature not in session

8. (1) The –
- (a) provisions of the Act or the Standing Rules; and
 - (b) the duties and obligations placed on a person or body, including the Legislature, in terms of the Act or the Standing Rules,
- are not suspended in respect of a petition solely because the Legislature is in recess, at the end of a Legislature term or for whatever other reason not sitting.
- (2) A petition submitted before the Legislature goes in recess , must be dealt with in accordance with the Act or the Standing Rules as if the Legislature is sitting.

- (3) If –
- (a) the term of office of the Legislature expires;
 - (b) the Legislature is dissolved in terms of section 109 of the Constitution; or
 - (c) the Premier has called an election for the Legislature,
- and the Legislature has not yet finalized its consideration of the petition, the Legislature must immediately cease its consideration of the petition and instruct the Petitions Office to hold over the petition until a new Legislature has been elected and has met for its first sitting as contemplated in section 110(1) of the Constitution.
- (4) If the Petitions Office is investigating a petition in a period during which a Legislature has not yet been elected, it must hold the petition over until the new Legislature has been elected and has met for the first sitting as contemplated in section 110(1) of the Constitution.
- (5) Petitions Office must inform in writing a petitioner if a situation contemplated in this regulation arises.

Conflict of interests

9. (1) Any Member of the Committee or member of staff of the Petitions Office must, if he or she has 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 Committee of that interest in the case of a Member, and the Secretary to the North West Provincial Legislature in the case of a member of staff, and details thereof; and
 - (b) cause a copy of that notification to the Secretary to the North West Provincial Legislature 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 North West Provincial Legislature Management Act (No. 3 of 2007) as amended; or

(b) any code of ethics or code of conduct applicable to any Member of the Committee or member of staff of the Petitions Office.

Short title

10. These regulations are called the North West Petitions Regulations, 2011.