

South African Languages Bill

Bill

To provide for an enabling framework for promoting South Africa's linguistic diversity and encouraging respect for language rights within the framework of building and consolidating a united, democratic South African nation, taking into account the broad acceptance of linguistic diversity, social justice, the principle of equal access to public services and programmes, respect for language rights, the establishment of language services at all levels of government, the powers and functions of such services, and matters connected therewith.

PREAMBLE

WHEREAS section 6 of the Constitution of the Republic of South Africa, 1996, recognises the principle of multilingualism by providing for eleven official languages of South Africa and for all official languages to enjoy parity of esteem and to be treated equitably;

AND WHEREAS the state is directed to take practical and positive measures to elevate the status and advance the use of the historically marginalised languages of South Africa;

AND WHEREAS everyone has the right in terms of section 30 of the Constitution to use the language of their choice;

AND WHEREAS all obligations imposed by the Constitution must be fulfilled:

NOW THEREFORE BE IT ENACTED by the Parliament of the Republic of South Africa, as follows: -

Definitions

1. In this Act, unless the context otherwise indicates –

- (i) “Constitution” means the Constitution of the Republic of South Africa, 1996 (Act No. 108 of 1996);
- (ii) “indigenous languages” mean the languages which, according to the historical record, originated in South Africa;
- (iii) “language unit” means a language unit established in terms of section 6 of this Act;
- (iv) “legislative instrument” means any act or regulation that originates from a government organ with legislative powers;
- (v) “Minister” means the Minister responsible for language matters;
- (vi) “official languages” mean the languages referred to in section 6(1) of the Constitution;
- (vii) “organ of state” means any department of state or administration in the national, provincial or local sphere of government;
- (viii) “other institution” means an institution referred to in section 4(1)(b) of this Act;
- (ix) “South African languages” mean all the indigenous languages as defined in section 1(ii), as well as all other languages generally used in

South Africa, including those referred to in section 6(5)(a) and (b) of the Constitution;

- (x) "this Act" includes any regulation made in terms of this Act.

Objects

2 The objects of this Act are –

- (a) to give effect to the letter and spirit of section 6 of the Constitution;
- (b) to promote the equitable use of the official languages of South Africa;
- (c) to enable all South Africans to use the official languages of their choice as a matter of right within the range of contexts specified in this Act with a view to ensuring equal access to government services and programmes, and to knowledge and information;
- (d) to provide for a regulatory framework to facilitate the effective implementation of the constitutional obligations concerning multilingualism.

Guiding principles

3(1) The guiding principles of this Act are as follows–

- (a) The promotion and accommodation of linguistic diversity must be pursued in accordance with the provisions of the Constitution and relevant international law.
- (b) The marginalisation of the indigenous languages and South African

Sign Language/s must be progressively eliminated.

- (c) The entrenchment of language equity and language rights must be pursued in such a way that both national unity and democracy are promoted.
 - (d) The learning of South African languages, especially the indigenous languages, must be encouraged.
 - (e) Measures for the implementation of multilingualism must take into account the interests, needs and aspirations of all affected parties and their participation in language matters must be promoted.
 - (f) There must be intergovernmental co-ordination and harmonisation of policies, legislation and actions relating to the entrenchment and promotion of multilingualism.
- (2) The principles set out in subsection (1) shall apply to all organs of state and to other institutions where and when applicable, and shall –
- (a) apply alongside all other appropriate and relevant considerations in respect of the promotion of multilingualism;
 - (b) serve as a general framework within which all measures for the implementation of this Act must be formulated;
 - (c) serve as guidelines by reference to which any organ of state must exercise any function in terms of this Act;
 - (d) guide the interpretation, administration and implementation of this Act.

Application and interpretation

4(1) This Act binds -

- (a) the state, which shall include any department of state or administration in the national, provincial or local sphere of government; and
 - (b) any institution exercising a public power or performing a public function in terms of any legislation, subject to the provisions of section 5(4)(c).
- (2) When interpreting a provision of this Act, any person, court or tribunal shall prefer any reasonable interpretation that is consistent with the objects of the Constitution and this Act to any alternative interpretation that is inconsistent with the objects as contained in section 2.
- (3) This Act shall take precedence over inconsistent provisions of any other Act on language use, except the Constitution.
- (4) No provision of this Act shall be construed in such a manner that the powers and functions of -
- (i) any state institution supporting constitutional democracy established in terms of section 181 of the Constitution or any other legislation;
 - (ii) the Pan South African Language Board established in terms of the Pan South African Language Board Act, 1995 (Act No 59 of 1995), are limited or undermined.

Language policy

- 5(1)** All official languages shall be used equitably and enjoy parity of esteem.
- (2) Without derogating from the provision in subsection (1), the national government must use not less than four languages for any given purpose as provided for in section 7(b), provided that these languages shall be selected

by each organ of state from each of the four categories of official languages in subsection (3) on a rotational basis, except when it is reasonably necessary to follow an alternative policy in the interest of effective governance or communication.

- (3) The categories of languages referred to in subsection (2) are –
 - (a) the Nguni group (isiNdebele, isiXhosa, isiZulu and siSwati)
 - (b) the Sotho group (Sepedi, Sesotho and Setswana)
 - (c) Tshivenda/Xitsonga
 - (d) Afrikaans/English
- (4) Any alternative policy adopted in terms of subsection (2) shall comply with the provisions of section 6(3)(a) of the Constitution.
- (5) This policy shall be implemented –
 - (a) in legislative, executive and judicial functions of government in the national sphere taking into account all relevant factors, including usage, practicality and the balance of the needs and preferences of the population as a whole.
 - (b) in legislative, executive and judicial functions of government in the provincial and local spheres, provided that regional and local circumstances shall receive due recognition in addition to the factors referred to in paragraph (a).
 - (c) by institutions referred to in section 4(1)(b) where applicable and provided that the nature, aim and activities of such an institution receive due recognition in determining an appropriate language policy.
- (6) The Minister shall make use of his or her powers under section 12 to classify the communication, reports, records, documentation and legislative instruments to which this section, read with section 7(b), shall apply.

Language units

- 6(1) Within three years after the commencement of this Act, a language unit must be established -
- (a) for each department of the national government; and
 - (b) for each province.
- (2) Provincial governments shall take the necessary measures to support and strengthen the capacity of local governments to comply with the provisions of this Act and the constitutional provisions on language.
- (3) Where an existing unit in any sphere of government is already involved in language matters, the relevant department or province may assign such powers and functions to the unit as are necessary for the fulfillment of its obligations in terms of this Act and the Constitution.

Powers and functions of language units

- 7(1) A language unit shall have the powers and functions to -
- (a) implement and monitor the implementation of regulations made in fulfillment of the obligations imposed by this Act;
 - (b) take effective and positive measures for the implementation of the national language policy as determined in section 5 in regard to the following:
 - (i) intra- and inter-departmental oral communication in all spheres of government;
 - (ii) intra- and inter-departmental written communication in all

- spheres of government;
 - (iii) oral communication with the public;
 - (iv) written communication with the public; and
 - (v) international communication where applicable.
- (c) conduct language surveys and audits relevant to its sphere of activity with a view to assessing the appropriateness of an existing language policy and practice and to make recommendations for the improvement of the policy and practice;
- (d) inform the public, through the effective dissemination of information, of the content and implementation of the language policy of the relevant organ of state;
- (e) do all things incidental to or necessary for the proper fulfillment of the obligations referred to in paragraphs (a) to (d).

Development of indigenous languages and South African Sign Language/s

- 8** Subject to the provisions of section 9(a), the Minister shall take practical and positive measures for the development of the indigenous languages and South African Sign Language/s, in particular to –
- (a) identify priority areas for the development of these languages;
 - (b) support existing structures involved in the development of these languages;

- (c) establish new structures and programmes for the development of these languages, and
- (d) support cross-border projects for the development of these languages in the Southern African region.

Co-operation

9 Without derogating from the provisions of the Pan South African Language Board Act, 1995 (Act No. 59 of 1995), in fulfilling any of the obligations imposed by this Act, especially those in sections 7 and 8, national or provincial language units or any other organ of state involved in the implementation of this Act –

- (a) shall, where applicable and when necessary for the effective implementation of this Act and to avoid duplication of activities and services, liaise and co-operate with any other public or private body, institution or service which has the necessary resources and capacity to facilitate the effective implementation of this Act; and
- (b) may enter into an agreement with any person or institution for delivering a service or product, for conducting research that will facilitate the implementation of this Act, the development of South African languages, or the adaptation or development of appropriate technology to facilitate the development and use of South African languages.

Reports

10(1) A language unit shall report annually to –

- (a) the National Assembly through the relevant department in the case of a

national departmental language unit;

(b) the provincial legislature concerned and the National Council of Provinces in the case of a provincial language unit;

(c) the Pan South African Language Board.

(2) Any report submitted in terms of subsection (1) shall –

(a) indicate the extent to which the obligations imposed by this Act have been complied with;

(b) explain the nature of language-related complaints received from the public and what action was taken to address the complaints;

(c) elaborate on the problems encountered with the implementation of this Act and what steps have been or are being taken to overcome such problems;

(d) where necessary, make recommendations for the development, improvement, modernisation, reform or amendment of this Act;

(e) where necessary, deal with any other matter which could contribute towards the promotion of multilingualism.

(3) Any report submitted in terms of this section shall be duly taken into consideration by the relevant organ of state when subsequent measures for the implementation of this Act are taken.

(4) The provisions of sections 5 and 7 shall, where applicable, apply to the choice of languages in which reports must be submitted in terms of this section.

Remedies

- 11(1)** Any person acting on his or her own behalf or any person, body of persons or institution acting on behalf of its members or members of a language group or any organ of state may apply to a Court for an appropriate remedy in terms of this section.
- (2). An application may be made under subsection (1) concerning any alleged violation or threatened violation of a language right, language policy or language practice resulting from –
- (a) the non-compliance or compliance with the obligations contained in this Act;
 - (b) the non-compliance with a recommendation, finding or decision of the Pan South African Language Board in relation to this Act.
- (3) A Court, in proceedings under this section, may grant such remedy as it considers appropriate and just in the circumstances, including –
- (a) an interim order;
 - (b) a declaratory order;
 - (c) an interlocutory order or interdict;
 - (d) an order for the payment of any damages;
 - (e) an order for the implementation of special measures to address the situation complained of;
 - (f) an order requiring the respondent to undergo an audit of language policies and practices;
 - (g) an order to comply with any provision of this Act, or a finding, recommendation or decision of the Pan South African Language Board;
 - (h) an appropriate order of costs against any party to the proceedings.
- (4) Nothing in this section derogates from any right of action a person might have

other than the right of action set out in this section.

- (5) In proceedings under this section relating to a complaint against an organ or institution to which this Act applies, the Court may admit as evidence information relating to any similar complaint under this Act or the Pan South African Language Board Act, 1995 (Act No 59 of 1995) in respect of the same organ or institution.
- (6) Where the Court is of the opinion that an application in terms of this section has raised an important new principle in relation to this Act, the Court may order that costs be awarded to the applicant even if the applicant has not been successful in the result.

Regulations

12(1) The Minister may, by notice in the Gazette, make regulations regarding –

- (a) any matter which is required or permitted by this Act;
 - (b) any matter which may be necessary or expedient to achieve the objectives of this Act;
 - (c) a language code of conduct for public officials, after consultation with the Department of Public Service and Administration; and
 - (d) any other mechanisms that will ensure the effective enforcement of this Act.
- (2) Any regulation which relates to fees or may result in financial expenditure for the state must be made by the Minister acting in consultation with the Minister of Finance.

2000/07/19

Short title and commencement

- 13** This Act shall be called the South African Languages Act, 2000 and shall come into operation on a date to be fixed by the President by proclamation in the Gazette.

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