
EASTERN CAPE USE OF OFFICIAL LANGUAGES ACT, 2016

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EASTERN CAPE USE OF OFFICIAL LANGUAGES ACT, 2016: REGULATIONS

I, Fezeka Bayeni, Member of the Executive Council responsible for Arts and Culture in the Province of the Eastern Cape, hereby under section 13 of the Eastern Cape Use of Official Languages Act, 2016 (Act No. 8 of 2016), and after consultation with stakeholders, publish the Regulations for general information.

Translations of the Regulations in Afrikaans, isiXhosa and Sesotho will be published on the departmental website.


FEZEKA BAYENI
MEC FOR SPORT, RECREATION, ARTS AND CULTURE

01/07/2020
DATE

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PART 1: INTERPRETATION

1. Interpretation

- (1) In these Regulations, unless the context indicates otherwise-
 - (a) **“day”** means a calendar day, and when any number of days is prescribed for the doing of any act, the time period must be calculated by excluding the first day and including the last day, except if the last day falls on a Sunday or a public holiday, in which case the time period will expire on the day following the Sunday or public holiday;
 - (b) **“HOD”** means the head of Department; and
 - (c) **“the Act”** means the Eastern Cape Use of Official Languages Act, 2016.
- (2) A word or expression that is defined in the Act bears the same meaning in these Regulations as in the Act.

PART 2: CONTENT AND FORM OF A LANGUAGE POLICY

2. Content and form of a language policy

- (1) A language policy contemplated in section 4 of the Act must state:
 - (a) the purpose of policy;
 - (b) the nature of the provincial department, provincial public entity or provincial public enterprise describing, amongst other things:

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- (i) the nature of services provided by the provincial department, provincial public entity or public enterprise;
 - (ii) regions or geographical locations where services are provided;
- (c) the official languages that the provincial department, provincial public entity or public enterprise will use for government purposes;
- (d) how the provincial department, provincial public entity or public enterprise will use the official languages selected, amongst other things:
 - (i) to effectively communicate with members of the public;
 - (ii) when compiling official forms;
 - (iii) in public notices and announcements, public information signs, signage identifying facilities and services;
 - (iv) in government reports, documents, records, transcripts and other official publications intended for public distribution; and
 - (v) at hearings and other official proceedings;
- (e) how the provincial department, provincial public entity or public enterprise will communicate with members of the public whose language of choice is not one of the selected official languages, amongst other things:
 - (i) providing a procedure to enable members of the public to receive services in a language other than the official languages of the

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- provincial department, provincial public entity or public enterprise, which may include translation and/or interpretation services;
- (ii) stipulating the time periods that will apply to such procedures;
- (f) how the provincial department, provincial public entity or public enterprise will communicate with members of the public whose language of choice is South African Sign Language by, amongst other things:
- (i) providing a procedure to enable members of the public to receive services in South African language; and
- (ii) stipulating the time periods that will apply to such procedures;
- (g) how members of the public can access the language policy by describing:
- (i) which official languages the policy will be published in, provided that the language policy must be published in at least the selected official languages, which are isiXhosa, Afrikaans, English and SeSotho;
- (ii) where the policy will be available in hardcopy and electronically and the procedure to enable members of the public to access the policy; and
- (iii) whether the policy will be available in Braille, and if so, the procedure to enable members of the public to access the policy in Braille;
- (h) a complaints mechanism regarding the use of official languages by the provincial department, provincial public entity or public enterprise, in the form contemplated in regulation 2 (2) below.

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(2) Complaints mechanism

(a) any person who is dissatisfied with a decision of a provincial department, provincial public entity or public enterprise regarding its use of official languages may lodge a complaint addressed to:

(i) the head of the provincial department concerned; or

(ii) the head of the provincial public entity or provincial public enterprise concerned.

(b) A complaint must be delivered:

(i) to the street address of the head office of the provincial department, provincial public entity or provincial public enterprise; or

(ii) by registered post remitted to the head of the provincial department concerned or the head of the provincial public entity or provincial public enterprise at the postal address of the head office of the provincial department, provincial public entity or provincial public enterprise; or

(iii) by fax or e-mail to the head of the provincial department concerned or the head of the provincial public entity or provincial public enterprise, at his or her fax or e-mail address.

(c) The complaint must:

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- (i) be in writing;
 - (ii) be lodged within 3 months of the complaint arising;
 - (iii) state the name, address, and contact information of the person lodging the complaint; and
 - (iv) provide a full and detailed description of the complaint.
- (d) The head of the provincial department concerned or the head of the provincial public entity or provincial public enterprise may request a complainant to:
 - (i) supply additional information necessary to consider the complaint; and
 - (ii) attend a meeting for the purpose of making oral enquiry into the complaint.
- (e) The head of the provincial department concerned or the head of the provincial public entity or provincial public enterprise must:
 - (i) consider the complaint and make a decision, no later than 3 months after the complaint was lodged; and
 - (ii) inform the complainant in writing of the decision.
- (3) A complainant not satisfied with a decision contemplated in paragraph 2(e)(ii) may lodge an appeal with:

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- (a) the MEC of the provincial department concerned; or
- (b) the accounting authority of a provincial public entity or provincial public enterprise;
- (c) The appeal must:
 - (i) be in writing;
 - (ii) be lodged within 1 month of a decision contemplated in paragraph 2(e)(ii);
 - (iii) state the name, address, and contact information of the person lodging the appeal; and
 - (iv) provide a full and detailed description of the complaint.
- (d) The MEC of the provincial department concerned or the accounting authority of the provincial public entity or provincial public enterprise must:
 - (i) consider the appeal and make a decision, no later than 3 months after the appeal was lodged; and
 - (ii) inform the appellant in writing of the decision.

3. Process to determine official languages

- (1) In order to determine its official languages as contemplated in section 4(2) of the Act, every provincial department, provincial public entity or provincial public enterprise:

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- (a) must consider the factors stipulated in section 6(3) of the Constitution, including:
 - (i) language usage of members of the public that access the services of the provincial department, provincial public entity or provincial public enterprise, having regard to:
 - (aa) language needs of members of the public accessing the services;
 - (bb) language statistics in the population census published by the Statistician-General in terms of section 7 of the Statistics Act No. 6 of 1999;
 - (cc) research that the provincial department, provincial public entity or provincial public enterprise may conduct;
 - (ii) expenses associated with adopting official languages for government purposes;
 - (b) must consider practical and positive measures that it will take to elevate the status and advance the use of indigenous languages of historically diminished use and status, in accordance with section 6(2) of the Constitution.
- (2) Before adopting its language policy, every provincial department, provincial public entity or provincial public enterprise must:
- (a) publish the proposed language policy in the *Gazette* for public comment;

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- (b) grant a period of at least 30 days for written representations to the provincial department, provincial public entity or provincial public enterprise on the proposed language policy; and
 - (c) consider any such written representations received.
- (3) Every provincial department, provincial public entity or provincial public enterprise must publish its language policy in the Gazette as soon as reasonably practicable, but within 90 days of its adoption.

PART 3: TIMEFRAMES FOR ESTABLISHING OF CENTRAL PROVINCIAL LANGUAGE UNIT

4. Timeframes for Establishing of Central Provincial Language Unit

- (1) The MEC must-
 - (a) establish a Central Provincial Language Unit in the Department as contemplated in section 5 of the Act within 6 months of the coming into effect of these Regulations; and
 - (b) ensure that the Central Provincial Language Unit is provided with human resources, administrative resources and other resources necessary for its effective functioning.
- (2) The functions of the Central Provincial Language Unit is outlined in section 6 of the Act.
- (3) The MEC may-
 - (a) establish an intergovernmental forum-

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- (aa) to promote general co-ordination, cooperation and consultation between provincial departments, provincial public entities and provincial government business enterprises on the use of official languages for government purposes;
 - (bb) to co-ordinate, align and monitor the implementation of language policies;
 - (cc) to perform any other function that the MEC may prescribe;
- (b) determine the composition, the terms of reference and any other matter necessary for the effective functioning of the intergovernmental forum.

PART 4: TIMEFRAMES FOR ESTABLISHING OF A LANGUAGE UNIT

5. Timeframes for Establishing of a language unit

- (1) Every provincial department, provincial public entity and provincial public enterprise, other than a provincial public entity and provincial public enterprise exempted in terms of section 12 of the Act, must establish a language unit contemplated in section 7 of the Act, within 6 months of the coming into effect of these Regulations.
- (2) A provincial department, provincial public entity or provincial public enterprise may apply to the MEC for an extension of the period contemplated in sub-regulation (1).
- (3) An application for extension contemplated in sub-regulation (2) must, amongst other things:

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- (a) be submitted to the MEC at least 2 months before the expiry of the period contemplated in sub-regulation (1);
 - (b) provide full and detailed reasons for the application for extension; and
 - (c) stipulate when a language unit contemplated in section 7 of the Act will be established.
- (4) The MEC may, after considering the application, grant the extension, provided that such extension may not exceed 2 months.
- (5) The MEC must make the decision whether or not to grant the extension within 1 month from the date of receiving the application and inform the applicant in writing of the decision.
- (6) If, upon the expiry of the 1 month period provided for in sub-section (5), the MEC has not informed the applicant in writing of the decision, the MEC will be deemed to have refused the application for extension.

PART 5: TIMEFRAMES FOR REPORT CONTEMPLATED IN SECTION 9

6. Timeframes for report contemplated in section 9

- (1) A provincial department, provincial public entity or provincial public enterprise must, at least 3 months after the end of its financial year, submit to the MEC the report contemplated in section 9(2) of the Act.
- (2) A provincial department, provincial public entity or provincial public enterprise may apply to the MEC for an extension of the period contemplated in sub-regulation (1).

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- (3) An application for extension contemplated in sub-regulation (2) must, amongst other things:
- (a) be submitted to the MEC at least 1 month before the expiry of the period contemplated in sub-regulation (1);
 - (b) provide full and detailed reasons for the application for extension; and
 - (c) stipulate when a report contemplated in section 9(2) of the Act will be submitted.
- (4) The MEC may, after considering the application, grant the extension, provided that such extension may not exceed 2 months.
- (5) The MEC must make a decision whether or not to grant the extension within 1 month from the date of receiving the application.

PART 6: EXEMPTION IN TERMS OF SECTION 12

7. Application for exemption

- (1) A provincial public entity or provincial public enterprise listed in Schedule 3 Parts C or D to the Public Finance Management Act, 1999 (Act No. 1 of 1999) may apply to the MEC for exemption from the application of section 7 of the Act to establish a language unit, within 3 months of the coming into effect of these regulations.

8. Lodging of an application for exemption

- (1) An applicant must lodge an application for exemption in writing, addressed to the Head of Department:

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- (a) at the street address of the head office of the Department, or
- (b) by registered post remitted to the Head of Department at the postal address of the head office of the Department; or
- (c) by fax or e-mail to the Head of Department at his or her fax or e-mail address.

9. Requirements for an application for exemption

- (1) An application for exemption must be in writing and must contain-
 - (a) the names, address, and contact information of the applicant; and
 - (b) the full and detailed grounds on which the applicant is based.
- (2) The MEC must provide the applicant with a written acknowledgement of receipt of the application and may:
 - (a) request such further documentation or particulars in writing from an applicant relating to any matter pertaining to the application as it may deem necessary; and
 - (b) conduct such investigation and/or inspection of the applicant in terms of the Act as the Head of Department may deem necessary in the circumstances.
- (3) The MEC may grant the exemption, with or without conditions and must inform the applicant in writing of the decision.

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10. Review of exemptions

- (1) The MEC may at any time review an exemption granted in terms of the Act and may-
- (a) withdraw the exemption;
 - (b) amend or remove any condition to which the exemption is subject, or add the conditions that may be necessary;
 - (c) amend the scope of the exemption; or
 - (d) take any other step in regard to the exemption.

11. Short title and commencement date

- (1) These regulations are the Eastern Cape Use of Official Languages Regulations, 2019 and will come into effect on a date to be determined by the MEC by notice in the *Gazette*.