

NOTICE 411 OF 2013

**MINISTRY: ARTS AND CULTURE
REPUBLIC OF SOUTH AFRICA**

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USE OF OFFICIAL LANGUAGES ACT, 2012 (ACT NO. 12 OF 2012)

PROPOSED REGULATIONS

The Minister of Arts and Culture intends to make the regulations in the Schedule in terms of section 13 of the Use of Official Languages Act, 2012 (Act No. 12 of 2012).

The Minister hereby invites interested persons to submit their comments or representations on the proposed regulations, within 30 days of the date of publication of this notice at any of the following addresses:

For attention:

The Minister of Arts and Culture
Mr S.P. Mashatile
c/o: Maseapo Kganedi
Private Bag 898
Pretoria
0001

Or

Attention: Maseapo Kganedi
481 Stanza Bopape Street
10th Floor, Kingsley Centre
Arcadia
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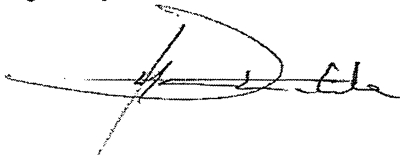
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By **fax** at the following fax number:
+27 12 441-3614

or

By **e-mail** at the following e-mail address:
Minister@dac.gov.za

Signed by:



Mr S.P. Mashatile
Minister of Arts and Culture
Date: 10 April 2013

**REGULATIONS IN TERMS OF SECTION 13 OF THE USE OF OFFICIAL
LANGUAGES ACT, 2012**

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PART 1: INTERPRETATION**1. Interpretation**

(1) In these Regulations, unless the context indicates otherwise-

5 (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) “**Director-General**” means the Director-General of the Department;

10 (c) “**Department**” means the national Department of Arts and Culture;

(d) “**the Act**” means the Use of Official Languages Act, 2012.

(2) A word or expression that is defined in the Act bears the same meaning in these Regulations as in the Act.

15 (3) A reference to a section number in these regulations refers to the corresponding section of the Use of Official Languages Act, 2012.

PART 2: TIMEFRAMES FOR ESTABLISHING A LANGUAGE UNIT**2. Timeframes for establishing a language unit**

20 (1) Every national department, national public entity and national public enterprise, other than a national public entity and national public enterprise exempted in terms of section 12 of the Act, must establish a language unit contemplated in section 7 of the Act, within 3 months of the coming into effect of these Regulations.

(2) A national department, national public entity or national public enterprise may apply to the Minister 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:
- (a) be submitted to the Minister at least 1 month before the expiry of the period contemplated in sub-regulation (1);
 - 5 (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 Minister may, after considering the application, grant the extension, provided that such extension may not exceed 2 months.
- 10 (5) The Minister must make the decision whether or not to grant the extension within 1 month from the date of receiving the application.

PART 3: EXEMPTION IN TERMS OF SECTION 12

3. Application for exemption

- 15 (1) A national public entity or national public enterprise listed in Schedule 3 Parts A or B to the Public Finance Management Act, 1999 (Act No. 1 of 1999) may apply to the Minister 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.

4. Lodging of an application for exemption

- 20 (1) An applicant must lodge an application for exemption in writing, addressed to the Director-General:
- (a) at the street address of the head office of the Department, or
 - (b) by registered post remitted to the Director-General at the postal address of the head office of the Department.

5. Requirements for an application for exemption

(1) An application for exemption must be in writing and must contain-

- (a) the name, address, and contact information of the applicant; and
- (b) the full and detailed grounds on which the application is based.

5 (2) The Minister may, after receipt of an application for exemption –

- (a) provide the applicant with a written acknowledgement of receipt of the application;
- (b) 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
- (c) conduct such investigation and/or inspection of the applicant in terms of the Act as the director-general may deem necessary in the circumstances.

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(3) The Minister may, after considering the application:

- (a) grant the exemption, with or without conditions; and
- (b) inform the applicant in writing of the decision.

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6. Review of exemptions

(1) The Minister may at any time review an exemption that has been 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

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- (d) take any other step in regard to the exemption.

PART 4: CONTENT AND FORM OF A LANGUAGE POLICY

7. Content and form of a language policy

- (1) A language policy contemplated in section 4 of the Act must state:

- 5 (a) the purpose of policy;
- (b) the nature of the national department, national public entity or national public enterprise describing, amongst other things:
- (i) the nature of services provided by the national department, national public entity or national public enterprise;
- 10 (ii) regions or geographic locations where services are provided;
- (c) the official languages that the national department, national public entity or national public enterprise will use for government purposes;
- (d) how the national department, national public entity or national public enterprise will use the official languages selected, amongst other things:
- 15 (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
- 20 (v) at hearings and other official proceedings.

- (e) how the national department, national public entity or national public enterprise will communicate with members of the public whose language of choice is not one of selected official languages, amongst other things:
- 5 (i) providing a procedure to enable members of the public to receive services in a language other than the official languages of the national department, national public entity or national public enterprise, which may include translation and/or interpretation services;
- (ii) stipulating the time periods that will apply to such procedures;
- (f) how the national department, national public entity or national public enterprise will communicate with members of the public whose language of choice is South African sign language by, amongst other things:
- 10 (i) providing a procedure to enable members of the public to receive services in South African sign language; and
- (ii) stipulating the time periods that will apply to such procedures.
- (g) how members of the public can access to the language policy by describing:
- 15 (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;
- (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
- 20 (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 a national department, national public entity or national public enterprise, in the form
- 25 contemplated in regulation 7(2) below.

(2) Complaints mechanism

- (a) Any person who is dissatisfied with a decision of a national department, national public entity or national public enterprise regarding its use of official languages may lodge a complaint addressed to:
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- (i) the director-general of the national department concerned; or
 - (ii) the head of the national public entity or national public enterprise concerned.
- (b) A complaint must be delivered:
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- (i) to the street address of the head office of the national department, national public entity or national public enterprise; or
 - (ii) by registered post remitted to the director-general or the head of the national public entity or national public enterprise at the postal address of the head office of the national department, national public entity or national public enterprise.
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- (c) The complaint must:
- (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.
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- (d) The director-general or the head of the national public entity or national public enterprise may request a complainant to:
- (i) supply additional information necessary to consider the complaint; and

- (ii) attend a meeting for the purposes of making oral enquiry into the complaint.
- (e) The director-general or the head of the national public entity or national 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.

8. Process to determine official languages

- (1) In order to determine its official languages as contemplated in section 4(2) of the Act, every national department, national public entity or national public enterprise:
 - (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 national department, national public entity or national 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 national department, national public entity or national 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.
- 5 (2) Before adopting its language policy, every national department, national public entity or national public enterprise must:
- (a) publish the proposed language policy in the Gazette for public comment;
- (b) grant a period of at least 30 days for written representations to the national department, national public entity or national public enterprise on the proposed language policy; and
- 10 (c) consider any such written representations received.
- (3) Every national department, national public entity or national public enterprise must publish its language policy in the Gazette as soon as reasonably practicable, but within 90 days of its adoption.

PART 5: TIMEFRAMES FOR REPORT CONTEMPLATED IN SECTION 9

15 **9. Timeframes for report contemplated in section 9**

- (1) A national department, national public entity or national public enterprise must, at least 3 months after the end of its financial year, submit to the Minister the report contemplated in section 9(2) of the Act.
- 20 (2) A national department, national public entity or national public enterprise may apply to the Minister 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:
- (a) be submitted to the Minister at least 1 month before the expiry of the period contemplated in sub-regulation (1);
- 25 (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 Minister may, after considering the application, grant the extension, provided that such extension may not exceed 2 months.
- 5 (5) The Minister must make the decision whether or not to grant the extension within 1 month from the date of receiving the application.

10. Short title and commencement date

These regulations are the Use of Official Languages Regulations, 2013 and will come into effect on a date to be determined by the Minister by notice in the *Gazette*.