



PanSALB
PAN SOUTH AFRICAN LANGUAGE BOARD

***AN AMENDED VERSION OF
THE SOUTH AFRICAN LANGUAGES
ACT PROPOSED BY PANSALB***



“One nation many languages ”

**AN AMENDED VERSION OF THE SOUTH AFRICAN LANGUAGES ACT PROPOSED BY
PanSALB**

BILL

To provide for the regulation and monitoring of the use of official languages by national government for government purposes;

To require the adaption of language policies by national departments, national public entities and national public enterprises;

To provide for the establishment and functions of a National Language Unit;

To provide for the establishment and functions of language units by national departments, national public entities and national public enterprises;

To provide for monitoring and reporting on official language use by national government;

To facilitate intergovernmental co-ordination of language policies;

And to provide for an integrated approach to promote multilingualism, which the spirit of the language section, section 6 of the Constitution of the RSA;

And to provide a spatial structure to promote the diversity of South African official languages within the areas where they are predominantly used;

And to provide for the co-ordination between the national government and PanSALB as an independent constitutional structure in order to avoid unnecessary work and unnecessary duplication;

And to provide for accessible and affordable enforcement mechanisms to empower the language speakers of South Africa to actualise their language rights;

And to provide a basis to promote Ubuntu as a foundation stone in the language sphere in South Africa;

Whereas language diversity has suffered neglect due to the non-compliance with section 6(4) of the Constitution, it is required in terms of subsection 9(2) of the Constitution to rectify the past discriminatory practices through this Act, and for that particular purpose, it is required that the necessary funding be made available to the relevant departments in implementing the language policies envisaged herein and to create a translation service in the Department of Arts and Culture and in parliament to expedite the realisation of the spirit and letter of section 6 of the Constitution;

To provide for the regulation of the publication of legislation in all 11 languages;

And to provide for the appointment of personnel to reflect the language demography and to provide a time frame for compliance by municipalities to adopt language policies;

And provide for matters connected therewith.

PREAMBLE

WHEREAS section 6 of the Constitution of the Republic of South Africa, 1996 provides for the use of 11 official languages of South Africa and for all official languages to enjoy parity of esteem and to be treated equitably;

AND WHEREAS section 6(4) of the Constitution provides that national government must regulate and monitor the use of official languages by legislative and other means;

NOW THEREFORE it is enacted by the Parliament of the Republic of South Africa, as follows:

SECTION 1: DEFINITIONS

In this Act, unless the context indicates otherwise –

“Categories of languages” means Tshivenda, Xitsonga, Afrikaans, English, at least one from the Nguni group (isiZulu, isiNdebele, isiXhosa, siSwati) and at least one from the Sotho group (Sepedi, Sesotho, Setswana);

“Constitution” means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996);

“Equitable treatment” means fair and just;

“Higher functions of languages” means the use of official languages in the public sphere, in public documents, in public notices, in court as language of record, in the publication of legislation;

“Indigenous languages” mean the languages which originated in South Africa and include the African official languages and Afrikaans;

“Language Council” means a language council established by the speakers of an official language or a sufficiently representative body of official language speakers registered at PanSALB or at the Department of Arts and Culture;

“Language region” means a region where an official language is spoken as first language by at least 20% of speakers, as determined by either the national census or a language referendum;

“language unit” means a language unit established in terms of section 7;

“minister” means the Minister responsible for language matters;

“national department” means a department listed in schedule 1 to the Public Service Act (Proclamation 103 of 1994), but excluding an Office of the Premier;

“national government” means national departments, national public entities and national public enterprises; as well as the Courts;

“National Language Unit” means the National Language Unit established in terms of section 5;

“national public enterprise” means a national government business enterprise as defined in section 1 and listed in schedule 3 part B of the Public Finance Management Act, 1999 (Act 1 of 1999);

“national public entity” means a national public entity as defined in section 1 and listed in schedule 2 and 3 part A of the Public Finance Management Act, 1999 (Act 1 of 1999);

“official language” means an official language contemplated in section 6(1) of the Constitution;

“PanSALB (Pan South African Language Board)” means the board established in terms of section 2 of the Pan South African Language Board Act, 1995 (Act 59 of 1995);

“Parity of esteem” means equal status;

“Ubuntu” means an all-inclusive value system, or common values in South Africa, an ideal that runs like a golden thread across cultural lines, a national expression of interdependence and respect to be generally articulated in this country;

“this Act” includes any regulations made in terms of this Act.

SECTION 2: OBJECTS OF THE ACT

The objects of this Act are –

- (1) to regulate and monitor the use of official languages for government purposes by national government;
- (2) to promote parity of esteem and equitable treatment of the national languages of the Republic without detracting from the obligation of subsection 6(2) of the Constitution laid upon, inter alia, national government to take practical and positive measures to elevate the status and advance the use of the indigenous languages;
- (3) to enable all South Africans to use the official languages of their choice as a matter of right within the range of contexts contemplated in this Act, with a view to ensuring equal access to government services and programmes, to education, and to knowledge and information;
- (4) to facilitate equitable access to the services and information of national government;
- (5) to promote good language management by national government for efficient public service administration and to meet the needs of members of the public;
- (6) to promote Ubuntu in the context of the language sphere through the promotion of multilingualism and language diversity in South Africa; and
- (7) to bring the nine formerly marginalised languages as soon as possible, within a reasonable time, to the so-called higher function level in order to be used in the public and official sphere as a main ideal and goal of this Act read together with the Constitution.

SECTION 3: GUIDING PRINCIPLES

- (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 Constitution and relevant international law.
 - (b) The use of all indigenous languages and South African Sign Language/s must be promoted.
 - (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.

SECTION 4: APPLICATION OF THE ACT

(1) This Act applies to –

- (a) national departments;
 - (b) national public entities; and
 - (c) national public enterprises.
- (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 takes precedence over any inconsistent provision of any other Act except the Constitution on the use of official languages by national government.
- (4) No provision of this Act shall be construed in such a manner that the powers and function of:
- (a) any state institution supporting constitutional democracy established in terms of section 185 of the Constitution or any other legislation;
 - (b) the Pan South African Language Board established in terms of the Pan South African Language Board Act,
- are limited or undermined.

SECTION 5: LANGUAGE POLICY

- (1) Every national department, national public entity and national public enterprise must adopt a language policy regarding its use of official languages for government purposes before 15 March 2012.
- (2) A language policy adopted in terms of subsection (1) must –
 - (a) comply with the provisions of section 6 of the Constitution and this Act;
 - (b) identify at least two official languages that the national department, national public entity or national public enterprise will use for purposes of government (which languages have the higher function capacity); and will implement in its language policy a progressive plan to deliver services to the public in at least one indigenous language additionally;
 - (c) stipulate how official languages will be used, amongst other things, in communications with members of the public, official notices, government publications and inter- and intra-government communications; but within 12 months of the date of this Act, all national government's forms that may be used by the public must be made available in all 11 languages in at least electronic format which may be accessed via the internet;
 - (d) describe how the national department, national public entity or national public enterprise will communicate with members of the public where their language of choice is not an official language contemplated in paragraph (b), with the guiding principle that service delivery is most effective in the language of the citizen;
 - (e) describe how members of the public can access the language policy;
 - (f) provide for a complaints mechanism by members of the public regarding the use of official languages by the national department, national public entity or national public enterprise, which complaints mechanism may not be less than the minimum format as set out in the regulations issued in terms of this Act;
 - (g) provide for any other matter that the Minister may prescribe by regulation; and
 - (h) be published in the *Government Gazette* as soon as reasonably practicable, but within 90 days of its adoption.
- (3) Every national department, national public entity and national public enterprise must –
 - (a) ensure that a copy of its language policy is available on request to members of the public at all of its offices;
 - (b) display at all its offices a summary of its language policy in such manner and place that it can be read by members of the public; and
 - (c) publish the language policy in all 11 official languages on the department's website within six months of the promulgation of this Act.
- (4) In addition to the purposes in section 7(b), and subject to the provisions of subsection (5), government documents shall be made available in all 11 official languages, and in cases where this is not feasible, national government departments shall publish documents simultaneously in at least the six categories of languages.

- (5) The languages referred to in subsection (2) are:
- (a) Tshivenda
 - (b) Xitsonga
 - (c) Afrikaans
 - (d) English
 - (e) At least one from the Nguni group (isiNdebele, isiXhosa, isiZulu and siSwati)
 - (f) At least one from the Sotho group (Sepedi, Sesotho, Setswana).
- (6) Any alternative policy referred to in subsection (2) –
- (a) shall be adopted and implemented in consultation with the Pan South African Language Board; and
 - (b) shall comply with the provisions of sections 6(3) (a) and 30 of the Constitution.
 - (c) The selection of any applicable number of languages in terms of subsection (2) shall apply to:
 - (d) 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, provided that no less than six languages in the category of languages shall be used in the national sphere for the purpose of written communication as determined in terms of subsection (6).

SECTION 6: ESTABLISHMENT OF A NATIONAL LANGUAGE UNIT

The Minister must –

- (1) establish a National Language Unit in the department; and
- (2) ensure that the National Language Unit is provided with the personnel, administrative and other resources necessary for its effective functioning.

SECTION 7: FUNCTIONS OF A NATIONAL LANGUAGE UNIT

The National Language Unit must –

- (1) advise the Minister on –
 - (a) policy and strategy to meet the constitutional obligation to regulate and monitor the use of official languages by national government for government purposes;
 - (b) the promotion of parity of esteem and equitable treatment of the official languages of the Republic and facilitate equitable access to the services and information of the national department, national public entity or national public enterprise concerned;

- (c) the promotion of good language management by the national department, national public entity or national public enterprise concerned; and
 - (d) the functions of language units contemplated in section 7;
- (2) liaise with and promote the general co-ordination of language units contemplated in section 7;
 - (3) perform the functions set out in section 8 for the department;
 - (4) found a translation office in order to facilitate the translation of all official documentation into all 11 official languages;
 - (5) create and promote the development of translation methods, for instance electronic software, and appoint staff to give full effect to the required translation services by national government, and support provinces and municipalities with their compliance with language legislation and the Constitution;
 - (6) within 12 months from the date of commencement of this Act, prepare a language demographic map which will be used as guideline in regard to the implementation of language policies across the country, and also see to it that all forms and information are available in such areas in the specific predominantly used languages of the language regions for the public in accordance with the language map;
 - (7) assist the 11 official language groups to establish and maintain separate and independent Language Councils to promote the development of the languages and to advise the respective organs of state in regard to the language interests of such communities;
 - (8) perform any other function that the Minister may prescribe.

SECTION 8: POWERS AND FUNCTIONS OF LANGUAGE UNITS

(to be read in conjunction with section 6)

- (1) A language unit shall have the powers and functions to:
 - (a) facilitate and monitor the implementation of regulations made in fulfilment of the obligations imposed by this Act;
 - (b) take effective and positive measures for the implementation of the national language policy in section 5 in regard to the following:
 - (i) intra- and interdepartmental oral communication in all spheres of government;
 - (ii) intra- and interdepartmental 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 existing language policy and practice, and to make recommendations for the improvement of such 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 or state; and
- (e) do all things incidental to or necessary for the proper fulfilment of the obligations referred to in paragraphs (a) to (d).

SECTION 9: FUNCTIONS OF LANGUAGE UNITS IN NATIONAL DEPARTMENTS, NATIONAL PUBLIC ENTITIES AND NATIONAL ENTERPRISES

(1) Every language unit must –

- (a) advise the responsible accounting officer or accounting authority on the development, adoption and implementation of the language policy of the national department, national public entity or national public enterprise concerned;
- (b) monitor and assess the use of official languages by the national department, national public entity or national public enterprise concerned;
- (c) monitor and assess compliance with the language policy of the national department, national public entity or national public enterprise concerned;
- (d) compile reports to be submitted to the Minister in terms of section 12;
- (e) promote parity of esteem and equitable treatment of the official languages of the Republic and facilitate equitable access to the services and information of the national department, national public entity or national public enterprise concerned; and
- (f) furnish a report to parliament within six months in regard to a prioritised list of legislation, which are being administered by such a department, which should be translated into the six categories of languages within a period of two years from the promulgation of this Act;
- (g) liaise with a Language Council of each official language's language group or in the absence thereof, with any representative body thereof, and include the recommendations of such a board in the report to parliament.;
- (h) promote good language management by the national department, national public entity or national public enterprise concerned; and
- (i) see to it that the department places its forms and information in the six categories of languages, as aforesaid, on the department's website which must be accessible immediately with Google, Yahoo or any other search engine;
- (j) implement a policy of appointment of personnel in the various language regions according to the language demography and language preference of the area in which the department's offices are situated

- (k) perform any other function that the Minister may prescribe by regulation.

SECTION 10: DEVELOPMENT OF INDIGENOUS LANGUAGES AND SOUTH AFRICAN SIGN LANGUAGE/S AND THE PROMOTION OF UBUNTU

- (1) Subject to the provisions of section 11(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.
- (2) In executing any language policy by any national government, the spirit and contents of Ubuntu, as developed by the courts with specific reference to the Constitutional Court, must be taken into account.

SECTION 11: CO-OPERATION

Without derogating from the provisions of the Pan South African Language Board Act, in fulfilling any of the obligations imposed by this Act, especially those in sections 7, 9 and 10, language units or any other organ of state involved in the implementation of this Act:

- (1) 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 that has the necessary resources and capacity to facilitate the effective implementation of this Act; and this section creates a legitimate expectation that the relevant department will liaise with all the language councils established for each official language; and
- (2) may enter into an agreement with any such person, institution or council for delivering a service or product, conducting research that will facilitate the implementation of this Act, the development of the official and indigenous languages of South Africa, or the adaptation or development of appropriate technology to facilitate the development and use of South African languages.

SECTION 12: MONITORING OF AND REPORTING ON OFFICIAL LANGUAGE USE

- (1) The Minister is responsible for monitoring the use of official languages for government purposes by national departments, national public entities and national public enterprises in conjunction with PanSALB.
- (2) Every national department, national public entity and national public enterprise must submit reports to the Minister annually on –
 - (a) the activities of its language unit;

- (b) the implementation of its language policy;
 - (c) any complaints received regarding its use of official languages and how these complaints were dealt with; and
 - (d) any other matter that the Minister may prescribe by regulation.
- (3) The Minister must by regulation prescribe the form and content of the reports to be submitted and the time frames for submitting such reports.
- (4) Notwithstanding the provisions of subsection (2) and (3), the Minister may at any time require any national department, national public entity or national public enterprise to submit a report to the Minister on its use of official languages within a time period determined by the Minister.
- (5) If any national department, national public entity or national public enterprise fails to submit the reports, as is required in subsection 12(2), the director-general or the chief financial officer in the event of a national department, national public entity or national public enterprise, must appear before the portfolio committee of the Department of Arts and Culture to deliver such report, and if failing to deliver such report or provide an acceptable reason not to have delivered such report in the said time period or in the prescribed format, or not to have complied with any provision of this Act, the portfolio committee must refer the said director-general or financial officer to the language tribunal for an appropriate penalty for contempt.

SECTION 13: ANNUAL REPORT TO PARLIAMENT

The Minister must, on an annual basis, table in Parliament a report on the status of the use of official languages for government purposes by national government.

SECTION 14: INTERGOVERNMENTAL, PROVINCIAL AND LANGUAGE BOARD FORUMS ON OFFICIAL LANGUAGE USE

- (1) The Minister may –
- (a) establish one or more intergovernmental, national, provincial and language board forums –
 - (i) to promote general co-ordination, co-operation and consultation between national departments, national public entities, national enterprises, provincial language committees and language boards on the use of official languages;
 - (ii) to co-ordinate, align and monitor the implementation of language policies; and
 - (iii) to perform any other functions that the Minister may prescribe by regulation; and
 - (b) in respect of such forums –
 - (i) determine their composition;
 - (ii) determine their terms of reference

- (iii) convene their meetings; and
 - (iv) determine any other matter necessary for their effective functioning.
- (2) The representative/s of PanSALB will always be a party to such a forum in order to execute PanSALB's legislative obligations.

SECTION 15: EXEMPTIONS FROM APPLICATION OF SECTION 9

- (1) The Minister may, on application by a national public entity listed in schedule 3 part B of the Public Finance Management Act, 1999 (Act 1 of 1999) exempt such a public entity from the application of section 7.
- (2) The application for an exemption must be in the form and manner prescribed by the Minister by regulation.
- (3) If the Minister exempts a public entity from the application of section 9 as contemplated in subsection (1), the public entity must assign a senior employee in the public entity to perform the functions of the language unit.
- (4) The written view of PanSALB must accompany the application sent by such a national public entity in terms of schedule 3 part B of the Public Finance Management Act, 1999 (Act 1 of 1999), to the Minister which will be taken into account by the Minister in the consideration of the application for an exemption by such national public entity.

SECTION 16: PUBLICATION OF LEGISLATION IN ALL 11 OFFICIAL LANGUAGES

Parliament accepts the challenge to integrate the principle of Ubuntu via the promotion of language diversity in South-Africa, to respect the official status of all 11 languages and to implement the following obligations:

- (1) A specific parliamentary committee will be founded in the speaker and in the chairperson of each province's office in order to co-ordinate, expedite and furnish reports to parliament in regard to the translation process, and to suggest further practical measures in order to fulfil the constitutional vision of multilingualism and the language provisions in the Constitution and in this Act.
- (2) Parliament must see to it that all Acts passed by it be published in all 11 official languages within a period of three years from the promulgation of this Act.
- (3) Parliament shall, on advice of the language unit of the relevant department that tables legislation, prioritise the translation of the set legislation and give advice and directions regarding which category or groups of the Nguni and Sesotho languages, together with the other category languages, the set legislation should first be translated.
- (4) Parliament must found and/or extend a translation office in order to facilitate the translation of all legislation into all 11 languages, to be published within 12 months of the promulgation thereof, and make appropriate funds available to comply with this legislative obligation.
- (5) If a Language Board submits a translation of an Act to parliament, parliament will certify the said translation within 90 days from the date of receipt thereof as a true copy of the original

signed piece of legislation, which then may be accepted in courts and in all public spheres, and failing of an express certification, it will be deemed to be certified until the contrary is reported in writing by parliament.

SECTION 17: APPLICABILITY OF THIS ACT ON THE JUDICIAL SERVICES COMMISSION AND THE MAGISTRATES' COMMISSION

- (1) It is incumbent on the Judicial Services Commission and on the Magistrates' Commission that, when considering appropriate candidates for appointments in either the High court or in the Magistrate Court, the requirement to be able to supply proper services as is envisaged in section 195 of the Constitution in preferably the citizen's own languages, the language proficiency of the candidate in regard to such region's language shall be taken into account before a person is appointed as either judge or magistrate.
- (2) The language demographic information received from the Department of Statistics or any other reliable scientific research shall be taken into account before the appointment is made by the said Judicial Services Commission and Magistrates' Commission.
- (3) If there is not an appropriate candidate with the necessary language skills, the Judicial Services Commission or the Magistrates' Commission will see to it that proper and free interpreting services are available at such court to supply the necessary translation and interpretation services to the members of the public.

SECTION 18: MUNICIPALITIES

- (1) The municipalities in South Africa are obliged in terms of subsection 6(3) (b) of the Constitution to adopt language policies and this obligation relates also to the obligations set out in section 195.
- (2) The municipalities of South Africa are herewith granted 12 months to comply with this constitutional requirement.
- (3) The municipalities of South Africa must use a language if 20% of the community uses a specific official language. The acceptance of the regional reality of the usage of languages.

SECTION 19: PUBLICATION OF THIS ACT IN ALL OFFICIAL LANGUAGES

- (1) For purposes of giving full effect to this Act and making the Act as accessible as possible –
 - (a) the Minister must publish this Act in all official languages within a period of one year after the promulgation of this Act.
 - (b) this Act, regulations and forms issued in terms hereof must be placed on the official websites of all official governmental departments, national public entities and national public enterprises within one year after the promulgation of this Act.

SECTION 20: INSTITUTION OF LANGUAGE OMBUD, LANGUAGE TRIBUNAL AND REMEDIES

- (1) An aggrieved person may seek to enforce any right in terms of this Act, by –

- (a) referring the matter to the language ombud;
 - (b) referring the matter directly to the Language Tribunal, if such a direct referral is permitted by this Act in the case of the particular dispute;
 - (c) approaching a court with jurisdiction over the matter, if all other remedies available to that person in terms of national legislation have been exhausted.
- (2) A language ombud is hereby established with the powers and functions to mediate and/or to make a finding in regard to any dispute and/or complaint between/amongst any national government and/or provincial language committee and/or national public entity and/or national public enterprise and/or member of the public or legal entity in regard to any infringement of language right or legitimate expectation created in terms of this Act, any provincial language act and/or the Constitution.
- (a) The language ombud must direct the execution of a finding in favour of the complainant to be executed by a specific official in the relevant department and to request feedback within 30 days and failing of feedback or acceptable feedback, the said official's personal file must be endorsed and may not be considered for any merits for a period of 12 months thereafter.
 - (b) If the language ombud has not finalised their mediation process within 90 days from receipt of the request for mediation and/or a complaint and in the absence of any agreement between/ amongst the effected parties, the matter will be deemed to be unresolved and must be automatically referred by the language ombud or the complainant to the Pan South African Language Board or the Language Tribunal according to the choice of the complainant.
 - (c) The language ombud's seat will be at the offices of the National Language Unit of the Department of Arts and Culture created in terms of section 6 hereof.
 - (d) The Minister must regulate the office of the language ombud within 90 days from the date of promulgation of this Act through regulations in terms of this Act and the powers and functions of the language ombud will be, after the necessary adjustments, in the absence of any regulation to the contrary, be the same as the Public Protector created in terms of the national legislation.
 - (e) A Language tribunal is hereby established with the powers and functions to adjudicate any dispute and/or complaint between/amongst any national government and/or provincial government and/or national public entity and/or national public enterprise and/or member of the public or legal entity in regard to any infringement of language right/s or legitimate expectation created in terms of this Act, any provincial language act and/or the Constitution.
 - (i) For purposes of giving full effect to this section and in giving full effect hereto the institution of the Language Tribunal, a judge of the High Court or a special appointed judge or judges appointed by the Judicial Services Commission will be designated as preceding officer/s of the Language Tribunal to adjudicate any dispute referred to the Language Tribunal.

- (ii) A judge of the Language Tribunal will have concurrent jurisdiction to that of the High Court and the applicable rules / regulations of the Equality Court will after the necessary adjustment be applicable in the Language Tribunal, pending the publication by the Minister of regulations regulating the Language Tribunal.
- (iii) The Language Tribunal's seat will be at the offices of PanSALB in order to utilise the library and resources of the PanSALB.
- (iv) The presiding judge must appoint at least one assessor whose mother tongue is that of the complainant and an assessor who specialises in language rights, pending the publication by the Minister of Regulations regulating the assessors.
- (f) Any referral by the Equality Court must be dealt with by the language ombud or Language Tribunal as final determiner of the alleged discrimination matter.

Remedies

- (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 thus apply to a Language Tribunal for an appropriate remedy in terms of this section, subject, however, to the referral thereof either to the language ombud and/or to PanSALB in terms of section 11(1) of the PanSALB Act, must first be exhausted, but in urgent cases or when a serious infringement of rights requires a Language Tribunal to intervene, a person may approach the Language Tribunal directly.
- (2) An application may be made under subsection 2(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 and in the National Language Policy Framework;
 - (b) the non-compliance with a recommendation, finding or decision of the Pan South African Language Board in relation to this Act.
- (3) A Language Tribunal, 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, a Language Tribunal may admit as evidence information relating to any similar complaint under this Act of the Pan South African Language Board Act, in respect of the same organ or institution.
- (6) Where the language tribunal is of the opinion that an application in terms of this section has raised an important new principle in relation to this Act, the Language Tribunal may order that costs be awarded to the applicant even if the applicant has not been successful in the result.

SECTION 21: LANGUAGE REFERENDUM

- (1) National government shall see that a national referendum to determine the language usage is held on a ten yearly basis.
 - (a) National government, the provinces and municipalities must within six months thereafter adjust their language policies, including the appointment of staff policy, which shall reflect the province's and municipality's language demography in order to render efficient services.

SECTION 22: REGULATIONS

- (1) The Minister may, after consultation with the Pan South African Language Board, make regulations, not inconsistent with the provisions of this Act, regarding –
 - (a) the form and content of language policies;
 - (b) time frames for establishing language units;
 - (c) the form and content of reports required in terms of section 12;
 - (d) the manner, form and time frames for submitting applications for exemption in terms of regulation 15;
 - (e) the procedure and rules of the language ombud and the Language Tribunal;
 - (f) the format and rules applicable with regard to language referendum;
 - (g) any matter which in terms of this Act is required or permitted to be prescribed; and
 - (h) any matter in respect of which the Minister deems it necessary or expedient to make regulations in order to achieve the objects of this Act.

SECTION 23: SHORT TITLE AND COMMENCEMENT DATE

This Act is called the South African Language Act, 2011 and comes into operation on a date fixed by the President by proclamation in the *Government Gazette*.

How To Contact Us

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