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## GENERAL NOTICE

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### NOTICE 282 OF 2015

#### PROPOSED LANGAUGE POLICY

#### USE OF OFFICIAL LANGAUGES ACT, 2012 (ACT NO.12 OF 2012)

The National Heritage Council of South Africa (NHC) which is an entity of the Department of Arts and Culture intends to adopt a Language Policy for the entity in terms of section 4(1) of the Use of Official Languages Act, 2012 (Act No. 12 of 2012) ("the Act").

In terms of Regulation 3(2) of the Act, the NHC Council hereby invites interested persons to submit their comments on the proposed Language Policy within 30 days of the date of publication of this notice at any of the following addresses:

1) The Chairperson of Council

Dr Marcus Balintulo

NATIONAL HERITAGE COUNCIL

Attention: Mr Thendo Ramagoma

PO Box 74097

Lynnwood Ridge

Pretoria, 0040

2) *Physical address:* 57 Kasteel Road, Domus Building, Lynnwood Glen, Pretoria

3) By email: [m.ngwaila@nhc.org.za](mailto:m.ngwaila@nhc.org.za) / [t.ramagoma@nhc.org.za](mailto:t.ramagoma@nhc.org.za)

Signed by:

*M Balintulo*

Dr Marcus Balintulo

Chairperson

National Heritage Council

Date: 27 March 2015



**Draft NHC Language Policy**

**NATIONAL HERITAGE COUNCIL**

**LANGUAGE POLICY**

**DRAFT**

## **Draft NHC Language Policy**

### **TABLE OF CONTENTS**

APPROVAL .....	3
VERSION CONTROL .....	4
1. PREAMBLE AND SCOPE .....	4
2. REFERENCE DOCUMENTATION .....	4
3. DEFINITIONS, ABBREVIATIONS, ACRONYMS AND INTERPRETATION .....	5
4. INTRODUCTION .....	6
5. APPLICATION .....	8
6. PURPOSE .....	8
7. LEGISLATIVE IMPERATIVE .....	8
8. MANDATE OF THE NHC .....	10
9. JURISDICTION .....	12
10. OFFICIAL LANGUAGE AND USAGE .....	12
11. ACCESS .....	13
12. COMPLAINTS AND MECHANISMS .....	13
13. APPEAL AND REVIEW .....	14
14. ADOPTION .....	15
15. ESTABLISHMENT OF LANGUAGE UNIT .....	16
16. REPORTING .....	16

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## **Draft NHC Language Policy**

### **APPROVAL**

This document will be approved by:

<b>Name</b>	<b>Title</b>	<b>Date</b>	<b>Signature</b>	<b>Effective Date</b>
Mr/Ms.....	Chairperson: Committee Heritage	24 February 2015		02 May 2015
Mr/Ms .....	Chairperson: NHC Council	24 February 2015		02 May 2015

### **INTERNAL VERSION CONTROL**

Policy Number	Heritage Policy No.01
Policy Version	Heritage Policy Version 01
Unit Responsible	Heritage Management Branch
Date of Review	N/A (New Policy)
Date Approved	24 February 2015

**Policy revision date: 30 April 2017**

## **Draft NHC Language Policy**

### **1. PREAMBLE AND SCOPE**

The right to use own languages is enshrined and guaranteed by the Constitution of the Republic of South Africa. Since the dawn of democracy in 1994 South Africa has always grappled with the issue of languages and usage thereof especially in schools as a medium of instruction; in the courts to access justice; for official communication to access services provided by government; amongst the people when they go about their business for which members of the public have special interest and, between and amongst private and public institutions in their interactions.

At the heart of the debates that often get reported on especially in the media and institutions established to promote democracy usually lies complaints of exclusions, marginalisation, discrimination and many other prejudices that manifest in public spaces based on language usage. At the receiving end of the prejudices are usually speakers of indigenous languages who have in the past being forced to use predominantly English and Afrikaans for communication. At schools, learning materials have for decades prioritised English and Afrikaans at the expense of indigenous languages. The languages of the courts both written and oral presentations still remain predominantly English and Afrikaans. In reality, speakers who can only command their indigenous languages often remain disadvantaged and excluded which cannot even be cured by interpretive services provided to them in court either.

Twenty one (21) years into democracy, despite the establishment of the DAC, Constitutional Institutions and heritage institutions such as PANSALB, CRL Commission and NHC charged amongst others with transformation, the promotion of heritage embedded in the indigenous languages still lag behind in terms of their usage. Despite the progressive pieces of legislation that Parliament has passed to ensure their advancement and development, indigenous languages are still not properly advanced. The passing of the UOLA and Regulations in term of which this policy has been developed should be hailed as the much needed intervention to ensure that indigenous languages find expression in official communication especially in the public sector.

### **2. REFERENCE DOCUMENTATION AND LEGISLATION**

- Constitution of the Republic of South Africa, 1996
- National Heritage Council Act, 1999 (Act No.11 of 1999)
- Pan South African Language Board, 1995 (Act No.59 of 1995)
- Promotion of Access to Information Act, 2000 (Act No. 2 of 2000)

## Draft NHC Language Policy

- Public Finance Management Act, 1999 (Act No.1 of 1999)
- Use of Official Languages Act, 2012 (Act No.11 of 2012)
- Use of Official Language Regulations, 2013

### 3. DEFINITIONS, ABBREVIATIONS, ACRONYMS AND INTERPRETATION

#### 3.1 Definitions

<b>Term</b>	<b>Definition</b>
<b>Act</b>	"the Act" shall mean the Use of Official Languages Act, 2012 (Act No.12 of 2012)
<b>Constitution</b>	"Constitution" shall mean the Constitution of the Republic of South Africa which reigns supreme over all other legislation
<b>Council</b>	"Council" shall mean the Council of the National Heritage Council established in terms of Section 3 of the National Heritage Council Act, 1999 (Act No. 11 of 1999)
<b>Day</b>	"day" shall mean a calendar day, and when any number of days is prescribed for doing 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>Minister</b>	"Minister" shall mean the Minister responsible for language matters
<b>Pan South African Language Board</b>	"Pan South African Language Board" means the Board established in terms of Section 2 of the Pan South African Language Board Act, 1995 (Act No. 59 of 1995)
<b>Regulations</b>	"the Regulations" shall mean the Regulation made in terms of the Use of Official Languages Act, 2002
<b>National department</b>	"National Department" means a department listed in Schedule 1 of the Public Service Act, 1994 (Proclamation No. 103 of 1994)
<b>National government</b>	"National Government" means national department, national public entities and national public enterprise
<b>National public enterprise</b>	"National enterprise" means a national government business enterprise defined in section 1 and listed in Schedule 3 Part B to the Public Finance management Act, 1999 (Act No. 1999)

## Draft NHC Language Policy

<b>National public entity</b>	“National public entity” means a national public entity defined in Section 1 and 25 listed in Schedules 2 and 3 to the Public Finance Management Act, 1999 (Act No. 1 of 1999)
<b>Official language</b>	“official language” means an official language contemplated in Section 6(1) of the Constitution
<b>NHC Physical Address</b>	“NHC Physical Address” means the main office from which NHC conducts its official business registered as: <b>Office No. 016, Ground Floor, Domus Building, Corner Ingersol and Kasteel Rd, 57 Kasteel Road, Lynnwood Glen, 0183;</b>
<b>NHC Postal Address</b>	“NHC Postal Address” means PO Box 74097, Lynnwood Ridge, South Africa, 0040.

### 3.2 Abbreviations and Acronyms

<b>CEO:</b>	Chief Executive Officer
<b>CRL:</b>	Commission for the Protection and Promotion of Rights of Linguistic Communities
<b>DAC:</b>	Department of Arts and Culture
<b>NHC:</b>	National Heritage Council
<b>PANSALB:</b>	Pan South African Language Board

### 3.3 Interpretation

- a) In this policy, unless the context indicates otherwise
- i) A word or expression that is defined in the Policy shall bear the same meaning as in both the Act and the Regulations;
  - ii) A reference to a section number in this policy shall refer to the corresponding meaning in both the Act and the Regulations;

## 4. INTRODUCTION

- 4.1 The Act was promulgated by the President of the Republic of South Africa on 02 May 2013 and is intended to regulate the use of official languages by National Departments, Public Enterprises and Public Entities;

## **Draft NHC Language Policy**

- 4.2 The Act encourages communication between government and the people in their preferred languages, and intended to enhance communication and active participation of citizens to government affairs without language limitation;
- 4.3 Section 4 of the Act requires departments, public enterprises and public entities such as NHC to develop and adopt a national language policy regarding the use of official languages within the prescribed period that being not later than 18 months after the commencement thereof which date had originally been set as 02 November 2014 but extended by the Minister to 02 May 2015 owing to the fact that some of the departments, public enterprises and public entities were unable to meet the deadline.
- 4.4 Section 7 of the Act requires departments, public enterprises and public entities to establish a language unit; and ensure that the language unit so established is provided with human resources and other resources necessary for its effective functioning. Exemptions from the application of this provision are provided for in terms of Section 12 of the Act.
- 4.5 NHC places promotion of use of indigenous languages which are part of the South African heritage as high priority and will rotate the use of the two official languages selected in this Policy other than English. The rotation will be for a period of two years at a given time after which they will be substituted by other two indigenous languages which are part of the declared official languages in the Constitution to ensure their advancement and elevation in an equitable manner.
- 4.6. NHC appreciates that as a heritage body with national footprints it should demonstrate support for all official languages nationwide hence the rotation contemplated in clause 4.5 above.

## **5. APPLICATION**

- 5.1 The Act shall apply to and bind all officials; Members of the NHC Council; third parties performing duties, functions or conducting business for and/or behalf of the

## **Draft NHC Language Policy**

NHC as delegated; and any other person (legal or natural) performing a public function to which NHC has an interest; and members of the public.

- 5.2 The Policy shall apply only to the extent that its provisions are not inconsistent with the Act and the Constitution on the use of official languages;

### **6. PURPOSE**

- 6.1 The purpose of this policy is to prescribe the official languages through which NHC shall communicate with the public as provided for in the UOLA;
- 6.2 The policy thus gives effect to the Constitutional imperative for NHC as one of the public entities required to promote official languages which are part of the South African heritage.

### **7. LEGISLATIVE IMPERATIVE**

- 7.1 NHC subscribes to the spirit and purport of Section 6(3) of the Constitution which provides for 11 official languages of South Africa, and recognises the diminished use and status of indigenous languages. It also recognises the requirement for the State to take practical and positive measures to elevate the status and advance their use;
- 7.2 This Policy thus seeks to give effect to the Constitutional imperative of promoting the use of official languages as further strengthened by the Act and the Regulations made in terms thereof both of which compel NHC to implement;
- 7.3 The Act further compels the NHC to-
- 7.3.1 adopt a language policy;
- 7.3.2 ensure the language policy adopted in terms of Section 4(1) of the Act meets the following criteria:
- a) Complies with the provisions of (6)(3)(a) of the Constitution;

## **Draft NHC Language Policy**

- b) Identifies at least three official languages that the NHC will use for government purposes;
- c) Describes how official languages will be used, amongst other things, in effectively communicating with the public, official notices, government publications and inter-and intra-government communications;
- d) Describe how members of the NHC as a public entity will effectively communicate with members of the public whose language of choice is –
  - i) not an official language amongst the three identified as official languages;
  - ii) South African sign language

7.4 The Act also compels the NHC in identifying at least three languages to take into account its obligation to take practical and positive measures to elevate the status and advance the use of indigenous languages of historically diminished use and status in accordance with the provisions of Section 6 of the Constitution;

7.5 The Act compels the NHC to –

- 7.5.1 describe how members of the public can access the language policy;
- 7.5.2 provide for a complaints mechanism to enable members of the public to lodge complaints regarding the use of Official languages;
- 7.5.3 publish in the Gazette as soon as reasonably practicable but within days of adoption of the language policy;
- 7.5.4 avail a copy of its language policy to members of the public on request;
- 7.5.5 display at its office a summary of the language policy at a place accessible to the public;

7.6 The Act further compels NHC to establish a National Language Unit and provide with human resources, administrative resources and other resources necessary for its effective functioning.

7.7 The Act also makes it compulsory for the NHC to compile and submit a report to the Minister and to PANSALB on –

- 7.7.1 activities of the language unit;

## **Draft NHC Language Policy**

7.7.2 implementation of its language policy;

7.7.3 any complaints received regarding its use of official languages and the manner in which they were dealt with

### **8. MANDATE OF THE NHC**

#### **8.1 Objects of the Council**

8.1.1 Section 4 of the National Heritage Council Act, 1999 (Act No. 11 of 1999) ("the NHC Act, 1999") provides that the objects of *"the Council are:*

- a) *to develop, promote and protect the national heritage for present and future generations;*
- b) *to co-ordinate heritage management;*
- c) *to protect, preserve and promote the content and heritage which reside in orature in order to make it accessible and dynamic;*
- d) *to integrate living heritage with the functions and activities of the Council and all other heritage authorities and institutions at national, provincial and local level;*
- e) *to promote and protect indigenous knowledge systems, including but not limited to enterprise and industry, social upliftment, institutional framework and liberatory processes; and*
- f) *to intensify support for the promotion of the history and culture of all our peoples and particularly to support research and publication on enslavement in South Africa".*

#### **8.2 Functions of the Council**

8.2.1 Section 10(1) of the NHC Act, 1999 sets the functions of the Council of the NHC as follows, that *"the Council must*

- a) *Advise the Minister on:*
  - (i) *National policies on heritage matters, including indigenous knowledge systems, treasures, restitution and other relevant matters; and*
  - (ii) *any other matter concerning heritage which the Minister may from time to time determine;*
- b) *Advise the Minister on the allocation of core funding to declared cultural institutions;*

## **Draft NHC Language Policy**

- c) *Investigate ways and means of effecting the repatriation of South African heritage objects presently held by foreign governments, public and private institutions and individuals;*
- d) *Make grants to any person, organisation or institution in order to promote and develop national heritage activities and resources;*
- e) *Co-ordinate the activities of public institutions involved in heritage management in an integrated manner to ensure optimum use of State resources:*
- f) *Monitor and co-ordinate the transformation of the heritage sector, with special emphasis on the development of heritage projects;*
- g) *Consult and liaise with relevant stakeholders on heritage matters;*
- h) *Generally support, nurture and develop access to institutions and programmes that promote and bring equity to heritage management;*
- i) *Promote an awareness of the history of all our peoples, including the history of enslavement in South Africa;*
- j) *Lobby in order to secure funding for heritage management and to create a greater public awareness of the importance of our nation's heritage; and*
- k) *Perform such duties in respect of its objects as the Minister may assign to it".*

8.2.2 In terms of Section 10(2) of the NHC Act, "the Council may on its initiative advise the Minister on any matter concerning heritage";

8.2.3 Section 10(3) of the NHC Act, provides that "in respect of subsections (1) and (2), the Minister –

- a) *Consider the advice of the Council; and*
- b) *Provide reasons in writing to the Council if the Minister does not accept the advice"*

## **9. JURISDICTION OF THE NHC**

9.1 NHC is a national body with footprints in all the nine provinces of South Africa and endeavours to service all the people of the Republic through programmes and projects implemented in line with its legislative mandate including but not limited to coordination, promotion of heritage through policy advice, funding and resource mobilisation as well as Advocacy and Awareness.

## **Draft NHC Language Policy**

9.2 NHC recognises that heritage is a shared competence in terms of the Constitution and shall endeavour to ensure that access to its Language Policy and offerings to the extent possible even using languages other than the selected three is widened as much as possible to cover the general public and communities especially at grassroots level.

### **10. OFFICIAL LANGUAGES AND USAGE**

10.1 NHC will use the following official languages for government communication purposes as per the dictates of the Act:

- a) English;
- b) SeTswana; and
- c) IsiZulu;

10.2 NHC will use its website, generate correspondence and publish materials in the three (3) chosen languages to effectively communicate with members of the public; when compiling official forms; issuing public notices and announcements, public information signs; signage, identifying facilities and services; in government reports, documents, records, transcripts and other official publications intended for public distribution, and at hearings and other official proceedings;

10.3. NHC will provide translation and interpretation services for members of the public whose language of choice is not one amongst the three chosen ones in clause 10.1 above provided a written request for such services is given in advance in which case a period of **fourteen (14) days** for delivery;

10.4 For members of the public whose language of choice is South African sign language, NHC will require a written request for provision of a sign language practitioner to be available to the requester for purposes of accessing such services which shall be provided within a period of **fourteen (14) days** for delivery;

## **Draft NHC Language Policy**

### **11. ACCESS**

- 11.1 The Policy shall be published and translated into the chosen three official languages and made accessible to the public through the NHC Website ([www.nhc.org.za](http://www.nhc.org.za)) electronically;
- 11.2 Hard copies of the Policy can be accessed by the public upon visiting the NHC Offices situated at **Office No. 016, Ground Floor, Domus Building, Corner Ingersol and Kasteel Rd, 57 Kasteel Road, Lynnwood Glen, 0183;**
- 11.3 NHC will upon receipt of a written request from a member of the public make available to the requester of the Policy in Braille which can be delivered within a period of 14 days from date of the request; and
- 11.4 NHC will place a summarised version which may include a booklet of its Language Policy on the NHC notice board.

### **12. COMPLAINTS AND MECHANISMS**

- 12.1 Any person who is dissatisfied with a decision of the NHC regarding the use, application or interpretation of any of the provisions of its Policy may in writing using the prescribed form which is part of this Policy lodge a complaint addressed to the Chief Executive Officer;
- 12.2 Any complaint lodged in terms of clause 12.1 of this Policy must be delivered:
- a) to the NHC Physical Address provided for in this Policy;
  - b) by registered post remitted to the Chief Executive Officer at the NHC Physical Address or NHC Postal Address provided for under clause 3.1 read with clause 11.2 of this Policy;
  - c) by fax or email to the Chief Executive Officer listed as **(012) 348 1698** and [heritage@nhc.org.za](mailto:heritage@nhc.org.za) respectively;
- 12.3 For the NHC to consider the complaint it must:

## **Draft NHC Language Policy**

- (a) be in writing;
- (b) be lodged within three (3) months of the complaint arising;
- (c) state the name, address, and contact information of the person lodging the complaint ;  
and
- (d) provide full and detailed description of the complaint.

12.4 The Chief Executive Officer of the NHC may in respect of the complaint so lodged request a complainant to:

- a) supply additional information necessary to consider the complaint; and
- b) attend a meeting for purposes of making an oral enquiry into the complaint;

12.5 The Chief Executive Officer of the NHC must;

- a) consider the complaint and make a decision no later than three (3) months after the complaint shall have been lodged; and
- b) inform the complainant in writing of the decision.

### **13. APPEAL AND REVIEW**

13.1 A complainant not satisfied with a decision contemplated in clause 12.5(b) may lodge an appeal or a review application with the Council of the NHC;

13.2 The appeal or review must:

- a) be in writing;

## **Draft NHC Language Policy**

- b) be lodged within one (1) month of a decision contemplated in clause 12.5(b) above;
  - c) state the name, address, and contact information of the person lodging the appeal or review; and
  - d) provide a full and detailed description of the complaint and grounds thereof.
- 13.3 The Council of the NHC shall consider the appeal and make a decision, no later than three (3) months after the appeal or review application was lodged;
- a) consider the appeal or review application and make a decision, no later than three (3) months after the appeal or review application was lodged; and
  - b) inform the appellant in the case of an appeal or applicant in relation to a review application in writing of the decision

## **14. ADOPTION OF LANGUAGE POLICY**

- 14.1 The Language Policy shall only take effect after the NHC shall have:
- a) published the proposed Language Policy in the Gazette for public comment;
  - b) granted the public a period of at least thirty (30) days for written representations to be submitted to it;
  - c) considered any such written representations received from the public; and
  - d) adopted the final Language Policy after considering inputs received from the public.
- 14.2 The NHC Language Policy shall become applicable after it shall have been published within ninety (90) days of its adoption or such other day as the Minister may determine.

## **15. ESTABLISHMENT OF LANGUAGE UNIT**

## **Draft NHC Language Policy**

15.1 Whereas Section 4(1) the Act requires the public entities to establish a Language Unit within its establishment, the NHC has considered the practical and financial implications associated with establishing a fully-fledged Language Unit envisaged in section 7 thereof.

15.2 NHC invoked the provisions of Section 12(1) of the Act read with Regulations 6-8 and thereby sought exemption from the Minister in favour of appointing a senior employee in the Heritage Management Branch (Core Business) as delegated by the Chief Executive Officer to perform such function of a Language Unit;

### **16. REPORTING**

16.1 In terms Section 9(2) read with Section 8(e) of the Act, the NHC must compile and submit a report to the Minister and to the Pan South African Language Board annually on the following:

- a) the activities of its language policy;
- b) implementation of its language policy;
- c) any complaints received regarding its use of official languages and the manner in which these complaints were dealt with; and
- d) any other matter that the Minister may prescribe.

16.2 NHC will use the form and content of the reports as may be prescribed and submit such timeframes as may be prescribed by the Minister.

**END**