

REGIONAL LEGISLATION SERVICE – MPUMALANGA

**MPUMALANGA PETITIONS ACT,
NO. 6 OF 2000**

[ASSENTED TO 3 DECEMBER, 2001] [DATE OF COMMENCEMENT TO BE PROCLAIMED]

ACT

To provide for right to submit a petition to the Provincial Legislature of Mpumalanga; to lay down the general principles and procedures for public participation in the process of government in the Province; to provide for the function of the relevant Standing Committee of the Legislature assigned to deal with petitions; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the Mpumalanga, as follows:-

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

“Chairperson” means the chairperson of the Committee;

“Committee” means the relevant Committee in the Provincial Legislature contemplated under section 3 assigned to deal with petitions;

“Constitution” means the Constitution of the republic of South Africa, 1996 (Act No. 108 of 1996);

“Executive Council” means Executive Council of the Province as contemplated in section 132 of the Constitution;

“House of Traditional Leaders” means the House in terms of the Eastern Transvaal House of Traditional Leaders Act, No. 4 of 1994;

“Legislature” means the Provincial Legislature of the Province as contemplated in section 104 of the Constitution;

“Local Government” means the local tier of government in the province as contemplated in section 151 of the Constitution;

“Member” means a member of the Legislature elected to a seat in the Legislature in terms of section 105 and 106 of the Constitution;

“Petition” means a complaint or a request or a representation or a submission addresses by a petitioner to the Committee, and may take the form of –

- (a) a single petition, which is an individual submission from a single petitioner concerning a particular complaint or request;
- (b) a collective petition, which is a collection of signatures from a number of petitioners concerning a particular complaint or request;

REGIONAL LEGISLATION SERVICE – MPUMALANGA

ss. 1-6

Mpumalanga Petitions Act. No 6 of 2000

ss. 1-6

- (c) a multiple or group or mass petition, made up of individual or group submission from a number of petitioners concerning the same or subsequently similar complaints or requests; or
- (d) an association petition which is an individual submission from an association, or an individual mandated by an association, concerning a particular complaint or request;

“Petitioner” means a person who has addressed a petition to the Committee, and includes a natural or juristic person acting –

- (a) in his or her or its own interest;
- (b) in the interest of another person who is not in a position to seek relief in his or its own name;
- (c) as a member of or in the interest of a group or class of persons; or
- (d) in the public interest and includes as association acting in the interest of its members;

“Province” means the province of Mpumalanga established in terms of section 103 of the Constitution;

“Secretary” means the administrative head and accounting officer of the Mpumalanga Provincial Legislature Service;

“Speaker” means the Speaker of the Provincial Legislature elected in terms of section 111 of the Constitution; and

“Standing rules” means the rules and orders made for the conduct of the business of the Provincial Legislature in terms of section 116 of the Constitution.

2. General principles of the Act.- (1) The Committee must-

- (a) take appropriate steps to encourage and facilitate participation by the public in the process of government in the Province, particularly, previously politically, socially, and economically excluded communities;
 - (b) receive petitions from petitioners;
 - (c) enhance democracy by exercising maximum accountability and transparency; and
 - (d) respect the petitioners
- (2) A right conferred by this Act shall be exercised in a manner, which is reasonable and justifiable.
- (3) Every petitioner shall have the right to submit a petition in a language of his or her choice where it is practicable.

(4) The Committee must ensure that persons or groups or categories of persons previously disadvantaged by unfair discrimination, enjoy full participation in the process of government.

3. Composition of Committee. – The Committee consists of members of the Legislature as determined from time to time by the standing rules of the Legislature.

4. Right to petition. – (1) Subject to the provisions of this Act and any other law, a petitioner who wishes to submit a petition to the Committee.

(2) The administration support service must render assistance to a prospective petitioner who wishes to submit a petition to the Committee.

5 Jurisdiction of committee. – (1) The Speaker or the Chairperson or any person authorized by them must submit a petition to the Committee.

6. Scope of petition.- (1) Subject to subsection (2), a petitioner must submit a petition in writing, written in the petitioner’s preferred language.

(2) The Committee must allow a petitioner to supplement written petition by oral submissions: provided the content thereof is not altered.

(3) Before it considers a petition, the Committee must record and reduce to writing oral submissions contemplated in subsection (2).

7. Consideration of a settled petition.- A petition in respect of a matter on which a decision has been taken is not entitled to reconsideration by the Committee unless that petition provides new facts or relevant evidence that justify a reconsideration of the matter.

8. Powers and functions of the Committee.- (1) The Committee must –

- (a) consider a petition that was lodged with a view to settling the matter to the satisfaction of the petitioner; and
- (b) where applicable, advise a petitioner of other appropriate remedies available to him or her.

(2) The Committee may recommend a referral of a petition, in whole or in part, to the Speaker for consideration by any of the following persons or bodies:

- (a) the Legislature;
- (b) a standing committee of the Legislature;
- (c) a member of the Executive Council of the Province;
- (d) the municipal council of the local government in the Province;
- (e) an institution supporting constitutional democracy mentioned in Chapter 9 of the Constitution; or
- (f) the House of Traditional Leaders.

(3) If a petition is referred to a member of the executive Council, the local government or the House of Traditional Leaders, the Committee must-

- (i) require a response within four (4) weeks of the referral; and
- (ii) direct the person or body to whom the petition was referred to consider it, make a recommendation or otherwise dispose of a matter by any means expedient in the circumstances, and that such person or body furnish the

Committee with a report detailing, and proving reasons for the steps he, she or it has taken within the stipulated period.

[Editorial Note: numbering as per original Gazette.

(5) Subject to the provisions of this Act, if requested to do so by a petitioner, the Committee may resolve a dispute, reverse an act, or rectify an omission by means of mediation or negotiation.

(6) The Committee may assist a person or body to which a petition has been referred by way of recommendations.

(7) The Committee may conclude its consideration of a petition if it is of the opinion that-

- (a) no steps or no further steps can be taken to settle the matter; or
- (b) the matter has been settled as requested by the petitioner.

(8) The Committee may refuse to consider a written petition that-

- (a) is illegible;
- (b) does not reflect the name and contact address of the petitioner; or
- (c) has not been signed by the petitioner: provided that a petitioner who is unable to write must make her or his mark on the petition in the presence of two (2) witnesses, who must sign the petition in that capacity.

(9) The Committee must refuse to consider a petition that-

- (a) falls outside its scope of jurisdiction;
- (b) concerns a matter pending in a court of law;
- (c) originates from a prisoner and is connected to his or her case; or
- (d) involves the subject matter that is before a commission of inquiry established in terms of Provincial Service Commission Act, Eastern Transvaal, 1994 (Act No. 3 of 1994) and other relevant bodies.

(10) In the event where the Committee refuses to consider a petition as contemplated in subsection (9) the Committee must give reasons for the refusal to the petitioner.

(11) The Committee must -

- (a) make quarterly reports of referrals as contemplated in subsections (2) and (3) to the Legislature; and
- (b) inform a petitioner of its decisions with regard to a particular petition and reasons therefore.

(12) Subject to the provisions of this Act, the Committee may, in consultation with the Speaker, regulate its proceedings and perform its function in a manner it deems fit.

9. Sitting of the Committee.- (1) The Committee may, for the purpose of receiving evidence or for deliberating, sit at a time and place in the Province as the Chairperson determines.

(2) Evidence presented to the Committee must be heard in public, unless the Chairperson determines otherwise.

(3) The Chairperson must give public notice of all sittings as determined by the standing rules.

10. Witnesses.- (1) For the purpose of ascertaining a matter relating to the subject of its investigation, the Committee may-

- (a) summon a person to attend a sitting of the Committee as a witness in order to give evidence, or produce any book, document or object if the Committee requires it; or
- (b) subpoena a person to attend a sitting of the Committee as a witness in order to give evidence, or produce any book, document or subpoena.

(2) A subpoena contemplated in subsection (1) (b) must be signed and issued by the Chairperson and served on the person subpoenaed either by a registered letter sent through the post or by delivery by a person authorized thereto by the Chairperson or by any method determined by the Speaker in the form of regulations.

(3) A witness must, before giving evidence, take an oath or make an affirmation administered by the Chairperson or such member or employee of the Committee as the Chairperson may designate.

(4) A person who has been subpoenaed to attend a sitting of the Committee as a witness or who has given evidence before the Committee, is entitled to the same witness fees as if he or she had been subpoenaed to attend or had given evidence at a criminal trial in the High Court.

11. Offences.- (1) A person duly subpoenaed in terms of section 10 (1) (b), and (2) who, without sufficient cause-

- (a) fails to attend the meeting of the Committee at the time and place specified in the subpoena; or
- (b) fails to remain in attendance at the meeting of the Committee until the completion of the investigation before the Committee or until he or she is excused by the Chairperson from further attendance executes him or her, is guilty of an offence.

(2) A person called as a witness under section 10 (1) (a) or (b), who, without sufficient cause -

- (a) refuses to be sworn in or to make an affirmation as a witness after she or he has been requested by the Chairperson to do so;
- (b) after having been sworn in or having made an affirmation, fails to answer fully and satisfactorily any question lawfully put to him or her;
- (c) after having been sworn in or having made an affirmation, gives false evidence before a Committee on a matter, knowing the evidence to be false or not believing it to be true;
- (d) fails to produce a book; document or object in his or her possession or custody or under his or her control, which he or she had been called to produce, is guilty of offence.

- (3) A person who-
- (a) threatens, obstruct or unduly influences a witness to refrain from giving evidence or to give false evidence before the Committee,
 - (b) threatens, obstruct or unduly influences a witness to produce a paper, book, record or document before the Committee;
 - (c) with the intent to deceive the Committee, produces before the Committee a false, untrue, fabricated or falsified paper, book, record or document;
 - (d) destroys or conceals a book or document or object which to his or her knowledge might be of assistance to the Committee in any matter relating to the subject of its investigation; or
 - (e) willfully furnishes the Committee with information, or make a statement before it, which is false or misleading, is guilty of an offence.

12. Penalties.- A person convicted of an offence in terms of section 11 is liable to a fine or imprisonment for a period not exceeding 12 months or both a fine and such imprisonment.

13. Retention of books, documents or objects by the Committee. – The Committee may retain, for a reasonable period after a sitting, a book, document or object that it has requested or subpoenaed a person to produce in terms of section 10 (1) (a) or (b).

14. Delegation of powers by Committee.- The Committee may delegate its powers to a member or members of the Committee or other members of the Legislature, provided-

- (a) that no fewer than three (3) members must conduct each sitting; and
- (b) that the members must be representative of different political parties.

(2) The Chairperson must provide the members referred to in subsection (1) with a written and signed authorization.

(3) On completion, of the sitting or sitting, the members referred to in subsection (1) must report their findings to the Committee.

(4) Nothing shall prevent the Committee from exercising powers delegated to persons referred to in subsection (1).

15. Accountability to Legislature.- (1) The Committee must prepare a report at least quarterly on every petition it has adjudicated upon for submission to the Legislature for consideration.

(2) The Committee must prepare and submit an annual written report of its activities to the Legislature.

(3) The annual written report of the Committee must provide for an evaluation of the responsiveness, efficiency and timeousness of which petitions referred to under section 8 (2) were resolved.

(4) A debate on an issue raised in a report of the Committee to the Legislature must take place if more than five members of the Legislature so demand.

(5) The Legislature may refer a matter emanating from a report of the Committee back to the Committee for reconsideration.

16. Procedures relating to petitions. – (1) The administration support services must-

- (a) register every petition received in a petitions register;
- (b) open a file for every petition;
- (c) in terms of section 4(2) of this Act, prepare every petition received for consideration by the Committee, which may involve-
 - (i) correction, if possible, to ensure that a petition complies with the provisions of this Act; and
 - (ii) the translation of a petition:
provided the content thereof is not altered.
[Editorial Note: numbering as per original Gazette.]
- (d) prepare a full list of outstanding petitions addressed to the Legislature and make it available to each meeting of the Committee; and
- (e) present a petition at a meeting of the Committee for consideration within two (2) weeks of the date on which the Chairperson received the petition.

(2) The Committee must notify a petitioner within four weeks of the date on which a petition was tabled of –

- (i) the manner in which a petition is being dealt with; and
- (ii) the reasons why it is being dealt with in that particular manner.

(3) A petitioner may withdraw a petition ;provided that if the Committee deems the matter to be of public importance, it may continue to act on the complaint after the withdrawal request.

(4) The Committee must, after concluding its consideration of a petition in terms of section 8 (7), submit the petition file and its recommendation to the Speaker.

(5) After the submission of a petition in terms of subsection (4), the Speaker must scrutinize the contents of the file within two (2) weeks.

(6) A member of the Legislature is entitled to scrutinize the file and recommendations of the Committee.

(8) The Speaker may-

- (a) refer the file to the Committee for reconsideration; or refer the file to the Committee for closure.

[Editorial Note: numbering of sections as per original Gazette.]

(9) The Speaker may supplement this procedure by way of regulations.

17. Regulations – The Speaker must make regulations required for carrying out the provisions of this Act.

18. Short title and commencement.- This Act shall be called Mpumalanga Petitions Act, 2000 and comes into operation on a date fixed by the Speaker by proclamation in the Provincial Gazette.

