

REPUBLIC OF SOUTH AFRICA

SOUTH AFRICAN PUBLIC LIBRARY AND INFORMATION SERVICES BILL

*(As introduced in the National Assembly (proposed section 76); explanatory
summary of Bill published in Government Gazette No. of) (The English text
is the official text of the Bill)*

(MINISTER OF ARTS AND CULTURE)

[B - 2012]

B I L L

To provide for measures to redress the inequality for the provision of public library and information services and resources; to provide principles for public library and information services; to provide guidelines for the Minister to determine national norms and standards in order to maintain consistency for the delivery of public library and information services; to promote access to public library and information services by providing free membership and free admission to public library and information services; to promote co-operative governance and co-ordination for the responsibility of public library and information services; to establish the National Public Library and Information Services Committee; to provide for the composition, disqualification of membership, functions, meetings and decisions of the Committee; to provide for the Minister to dissolve the Committee and to appoint an interim Committee; to empower the Minister to make regulations; and to provide for the assignment of functions; and to provide for matters connected therewith.

BE IT ENACTED by the Parliament of the Republic of South Africa, as follows:—

ARRANGEMENT OF SECTIONS

CHAPTER 1

INTERPRETATION, APPLICATION AND OBJECTS OF ACT

1. Definitions
2. Objects of Act
3. Application of Act

CHAPTER 2

NATIONAL NORMS AND STANDARDS FOR PUBLIC LIBRARY AND INFORMATION SERVICES

4. Public library and information services principles
5. National minimum norms and standards
6. Public library and information services to be open to public

CHAPTER 3

INTERGOVERNMENTAL ARRANGEMENTS FOR PUBLIC LIBRARY AND INFORMATION SERVICES

7. Functions of Minister
8. Functions of MECs
9. Functions of municipalities
10. Intergovernmental disputes regarding public library and information services

CHAPTER 4

NATIONAL PUBLIC LIBRARY AND INFORMATION SERVICES COMMITTEE

11. Establishment of Committee
12. Composition of Committee
13. Disqualification from membership
14. Functions of Committee
15. Meetings and decisions of Committee
16. Dissolution of Committee

CHAPTER 5

GENERAL PROVISIONS

17. Regulations
18. Assignment of functions
19. Short title and commencement

CHAPTER 1

INTERPRETATION, APPLICATION AND OBJECTS

Definitions

1. In this Act, unless the context indicates otherwise—

“applicable provincial legislation” means legislation enacted by a provincial legislature regulating library and information services;

“Committee” means the National Public Library and Information Services Committee established by section 11;

“Constitution” means the Constitution of the Republic of South Africa, 1996;

“Council” means the National Council for Library and Information Services established by section 2 of the National Council for Library and Information Services Act, 2001 (Act No. 6 of 2001);

“Department” means the national Department of Arts and Culture;

“Director-General” means the Director-General of the Department of Arts and Culture;

“library material” means any book, periodical, manuscript, chart, map, video cassette, slide, filmstrip, microfilm, audio cassette, audio-compact disc,

computer software or any other material supplied by a public library and information services;

“**MEC**” means the member of the Executive Council who is responsible for library and information services in that province;

“**Minister**” means the Minister responsible for arts and culture;

“**municipality**” means a municipality as contemplated in section 2 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000);

“**province**” means a province contemplated in section 103 of the Constitution;

“**provincial head of department**” means the head of the provincial department responsible for library and information services in that province;

“**public library and information services**” means library and information services established, funded or maintained by a province or municipality to provide library and information services to the public;

“**regulation**” means a regulation made under section 17;

“**SALGA**” means the South African Local Government Association recognised in terms of section 2(1)(a) of the Organised Local Government Act, 1997 (Act No. 52 of 1997); and

“**this Act**” includes the regulations.

Objects of Act

2. The objects of this Act are to—
- (a) provide for essential national minimum norms and standards for the rendering of public library and information services;

- (b) promote public access to public library and information services;
- (c) provide for the determination of national policy and principles for public library and information services;
- (d) promote co-operative governance and the co-ordination of responsibilities for public library and information services;
- (e) provide measures to redress the inequality in the provision of public library and information services;
- (f) promote transformation in the provision of public library and information services; and
- (g) encourage a culture of reading to create a nation of readers.

Application of Act

3. This Act applies to public library and information services within the Republic.

CHAPTER 2

NATIONAL NORMS AND STANDARDS FOR PUBLIC LIBRARY AND INFORMATION SERVICES

Public library and information services principles

4. (1) The following principles apply to the provision of public library and information services:

- (a) Services must encourage a culture of reading to create a nation of readers;

- (b) services must be provided on the basis of equal access for everyone;
- (c) special measures must be taken to ensure equitable access to services, including measures to facilitate, promote and ensure access by people with disabilities and other categories of persons disadvantaged by unfair discrimination;
- (d) services must be provided in a manner that is user friendly, accessible to the public and that comply with the basic values and principles governing public administration contemplated in section 195(1) of the Constitution;
- (e) services must be provided in a manner that facilitates, promotes and develops the information literacy and electronic communication and technology skills of library users, particularly people with disabilities and young children;
- (f) services must promote awareness of South African identity, South African emblems, cultural heritage, appreciation of the arts, scientific achievements, innovation, inter-cultural dialogue, cultural diversity and community history; and
- (g) services must promote and advance South African publishing and writing.

(2) The principles contained in this Chapter—

- (a) must apply alongside any other relevant consideration including the state's responsibility to respect, protect, promote and fulfil the rights in Chapter 2 of the Constitution and in particular the needs of persons and communities historically disadvantaged by unfair discrimination;
- (b) provide a framework for implementing policy, norms and standards relating to public library and information services; and
- (c) must guide the interpretation, administration and implementation of this Act.

National minimum norms and standards

5. (1) The Minister must, after consultation with the MEC's, SALGA and the Committee, by notice in the *Gazette*—

- (a) determine national minimum norms and standards for public library and information services that must apply throughout the Republic; and
- (b) set indicators to measure compliance with the national minimum norms and standards.

(2) Before determining the national minimum norms and standards provided for in subsection (1), the Minister must—

- (a) give notice of the proposed national minimum norms and standards in—
 - (i) the *Gazette*;
 - (ii) at least two newspapers published and circulating nationally; and
 - (iii) in every province in a newspaper published and circulating in that province; and
- (b) invite the public to submit written representations in respect of the proposed national minimum norms and standards to the Minister, within 30 days after the publication of the notice referred to in paragraph (a).

(3) The national minimum norms and standards must—

- (a) be consistent with national policy and programmes on public library and information services;
- (b) provide for easy and equal access to public library and information services, which must provide for—
 - (i) appropriate geographical location for the rendering of public library and information services; and

- (ii) accessibility of public library and information services to the public;
- (c) provide measures to redress the inequality in the provision of public library and information services, taking into account—
 - (i) the size of public library and information services, which must be proportional to the communities they serve;
 - (ii) the resources allocated to the public library and information services, that must be suitable to the needs and preferences of the community concerned;
 - (iii) the language of the community it serves and that of potential library users; and
 - (iv) the geographical areas they serve, which must be proportional to the number of libraries in the area;
- (d) provide for public library and information services which promote the official languages of the Republic, and must include the availability of library materials in indigenous languages;
- (e) provide a building plan for the physical infrastructure of the public library and information services to ensure access to persons with disabilities, older persons and children, which infrastructure must include—
 - (i) the public facilities to be provided for on the premises of the public library and information services;
 - (ii) planning, design and maintenance for new premises of public library and information services; and
 - (iii) the expansion, renovation and maintenance for existing premises of the public library and information services;
- (f) provide for library materials and information services including library

materials which are accessible to and appropriate for visually impaired, older persons, children and rural communities, and include—

- (i) literacy programmes and adult basic education and training services;
- (ii) local area study collection;
- (iii) public library awareness programmes; and
- (iv) literacy materials for visually impaired;

(g) promote accessibility to public library and information services which serve the needs and interests of the public, especially previously disadvantaged persons and communities, and include—

- (i) library opening and closing times which must accommodate the community it serves;
- (ii) circulation and lending services;
- (iii) library cost mechanism for the damage or loss of library materials;
- (iv) the minimum range of library materials to be made available to users;
and
- (v) mobile library and information services;

(h) provide for library technical services, which must include—

- (i) material selection and classification systems;
- (ii) electronic and manual cataloguing; and
- (iii) material database maintenance;

(i) provide for library information and communication technology, which must include—

- (i) the availability of computers and electronic equipment; and
- (ii) electronic access to library materials;

(j) provide for library human resources and staffing requirements which must

protect the dignity and enhance the stature of library officials, promote the equitable allocation of human resources and must include guidelines for—

- (i) staff composition;
 - (ii) remuneration of staff;
 - (iii) applicable academic qualifications and training of library staff; and
 - (iv) conduct of staff;
- (k) provide for the effective management of public library and information services, which must provide for—
- (i) performance management mechanisms; and
 - (ii) the evaluation of public library and information services and library materials; and
- (l) promote co-operative governance by providing for the co-ordination of responsibilities for public library and information services.

(4) The Minister must provide for the effective monitoring and evaluation of compliance with the provisions of this Act in order to maintain essential national standards and the Minister must provide for mechanisms to evaluate the compliance with the minimum norms and standards required for the rendering of public library and information services.

Public library and information services to be open to public

- 6.** A member of the public must not be charged a fee for—
- (a) membership of a public library and information services; or
 - (b) admission to the premises of the public library and information services.

CHAPTER 3
INTERGOVERNMENTAL ARRANGEMENTS FOR PUBLIC LIBRARY AND
INFORMATION SERVICES

Functions of Minister

7. The Minister must—
- (a) determine the national policy for public library and information services;
 - (b) promote co-ordination and consultation on matters regarding public library and information services between national, provincial and local government;
and
 - (c) promote the effective co-ordination of strategic planning and budgeting processes for public library and information services.

Functions of MECs

8. Subject to any applicable provincial legislation, every MEC must—
- (a) promote compliance with the national norms and standards for public library and information services;
 - (b) prepare and initiate provincial legislation on public library and information services;
 - (c) establish, maintain and manage public library and information services;
 - (d) prepare and implement relevant plans and budgets for public library and information services;

- (e) promote general planning, co-ordination and consultation on matters regarding public library and information services within the province; and
- (f) ensure that municipalities providing public library and information services are capacitated to perform their functions.

Functions of municipalities

- 9.** (1) A municipality must take all reasonable steps to—
- (a) provide public library and information services in accordance with any assignment of powers and functions under any applicable provincial legislation or any other assignment contemplated in sections 126 or 156(1)(b) of the Constitution;
 - (b) provide public library and information services that comply with the minimum national norms and standards contemplated in this Act;
 - (c) regularly report and provide information to the province on matters relating to public library and information services;
 - (d) prepare and implement relevant plans and budgets for public library and information services;
 - (e) execute its functions in accordance with the national norms and standards for public library and information services; and
 - (f) ensure sustainable public library and information services through effective and efficient management and adherence to the national minimum norms and standards contemplated under this Act.

Intergovernmental disputes regarding public library and information services

10. Subject to this Act, any intergovernmental dispute regarding the provision of public library and information services must be dealt with in a manner and spirit consistent with the principles of co-operative government and intergovernmental relations contemplated by section 41 of the Constitution and in terms of the Intergovernmental Relations Framework Act, 2005 (Act No. 13 of 2005).

CHAPTER 4

NATIONAL PUBLIC LIBRARY AND INFORMATION SERVICES COMMITTEE

Establishment of Committee

11. There is hereby established a National Public Library and Information Services Committee.

Composition of Committee

- 12.** (1) The Committee consists of—
- (a) the Director-General, who is the chairperson of the Committee;
 - (b) the provincial heads of departments;
 - (c) an employee of the Department designated by the Director-General;
 - (d) for each province, one person designated—
 - (i) in terms of applicable provincial legislation; or
 - (ii) by the provincial head of department;
 - (e) a representative from SALGA; and

(f) the chairperson of the Council.

(2) The members of the Committee may designate an alternate to attend a meeting of the Committee in their place.

(3) All members of the Committee have equal voting rights.

Disqualification from membership

13. A person is disqualified from being appointed or remaining as a member of the Committee if he or she—

(a) has been, within the Republic or elsewhere, convicted of an offence and was sentenced to imprisonment without the option of a fine;

(b) is declared insolvent or is an unrehabilitated insolvent;

(c) has been judicially declared of unsound mind;

(d) has been removed from an office of trust on account of misconduct involving theft, fraud or corruption;

(e) is not a fit and proper person to be so appointed; or

(f) fails to declare his or her interest in respect of any contract and dealings with the Committee or a matter before the Committee.

Functions of Committee

14. (1) The Committee is a forum to achieve the intergovernmental co-operation principles contemplated in section 41(1) of the Constitution.

- (2) The functions of the Committee are—
- (a) to consult with relevant stakeholders and advise the Minister on—
 - (i) national minimum norms and standards for public library and information services;
 - (ii) policy and programmes which impact on public library and information services;
 - (iii) legislation and regulations which impact on public library and information services, including the promotion of uniform national and provincial legislation and by-laws in respect of library and information service norms and standards;
 - (iv) any matter concerning public library and information services within the national, provincial and local spheres of government;
 - (v) any matter concerning the management or monitoring of public library and information services in the Republic; and
 - (vi) any other matter that may be referred to it by a member of the Committee;
 - (b) to promote the uniform application of national norms and standards with regard to public library and information services across all spheres of government;
 - (c) to promote sustainable growth of public library and information services in the Republic;
 - (d) to promote and facilitate intergovernmental relations in respect of public library and information services; and
 - (e) to facilitate the settlement of intergovernmental disputes concerning public library and information services.

Meetings and decisions of Committee

15. (1) The chairperson of the Committee may convene a meeting of the Committee at any time, but must convene at least one meeting every 12 months.

(2) The Committee may invite non-members to attend meetings of the Committee.

(3) As a body through which the national, provincial and local spheres of government seek to co-operate with one another in mutual trust and good faith, the Committee must attempt to reach its decisions by consensus.

(4) If the Committee fails to reach consensus on a decision, it may resolve the matter by formal vote on a motion.

(5) A motion in terms of subsection (4) passes only if it is supported by—

(a) the chairperson of the Committee; and

(b) at least five other voting members of the Committee.

(6) Subject to subsections (1) and (5), the Committee may adopt its own rules for the conduct of its meetings.

Dissolution of Committee

16. (1) The Minister may, after due inquiry dissolve the Committee if it fails in any or all of the following:

(a) Discharging its fiduciary duties; and

(b) carrying out its duties as contemplated in this Chapter.

(2) Upon the dissolution of the Committee contemplated in subsection (1), the Minister must within three months of the dissolution of the Committee appoint an interim Committee consisting of some of the persons referred to in section 12(1) and five other persons appointed by the Minister.

CHAPTER 5

GENERAL PROVISIONS

Regulations

17. (1) The Minister may, after consultation with the Council and the Committee, make regulations regarding—

- (a) the norms and standards for public library and information services;
- (b) access to public library and information services;
- (c) the determination of national policy and principles for public library and information services;
- (d) the promotion and co-ordination of responsibilities for public library and information services;
- (e) measures to redress the inequality in the provision of public library and information services; and
- (f) the promotion of transformation in the provision of public library and information services,

which may be necessary or expedient to prescribe in order to achieve the objects of this Act.

(2) Regulations made in terms of subsection (1) must be published in the *Gazette*.

Assignment of functions

18. (1) The MEC may assign any function contemplated in section 8(c) to a municipality, subject to sections 126 and 156(1)(b) of the Constitution and sections 9 and 10 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), to achieve the objects of the Constitution and this Act.

(2) A municipality may request the MEC to assign a function contemplated in section 8(c) to it, subject to sections 126 and 156(1)(b) of the Constitution and sections 9 and 10 of the Local Government: Municipal Systems Act, 2000 (Act No. 32 of 2000), if such municipality, in the opinion of the MEC after consultation with the municipality, has the capacity to provide public library and information services in accordance with this Act.

Short title and commencement

19. This Act is called the South African Public Library and Information Services Act, 2012 and comes into operation on a date determined by the President by proclamation in the *Gazette*.