

PROVINCE OF THE EASTERN CAPE

EASTERN CAPE PROVINCIAL ARTS AND CULTURE AMENDMENT BILL, 2025

(As introduced)

(The English text if the official text of the Amendment Bill)

(By the Member of the Executive Council responsible for Sport, Recreation, Arts and Culture)

GENERAL EXPLANATORY:

[] Words in bold type in square brackets indicate omission from the existing enactments.

_____ Words underlined with solid line indicate insertion in the existing enactments.

BILL

To amend the Eastern Cape Provincial Arts and Culture Council Act, 2000, so as to amend and insert certain definitions; to supplement provisions relating to the aims, objects and powers, composition and appointment, term of office and filling of vacancies of the Council; to provide for the removal of a councillor, dissolution of Council and the appointment of an Interim Council and to provide for matters connected therewith.

B^E IT ENACTED by the Legislature of the Province of the Eastern Cape as follows:

Amendment of section 1 of Act 6 of 2000

1. Section 1 of the Eastern Cape Provincial Arts and Culture Council Act, 2000 (Act No. 6 of 2000) (hereinafter referred to as the principal Act), is hereby amended by–

(a) the insertion of the definition "**Head of Department**" after the definition of "*gazette*" of the following definition:

"Head of Department" means the head of the Department responsible for arts and culture in the Province";

(b) the deletion of the definition of "**Permanent Secretary**";;

(c) by the substitution of the definition of "Premier" of the following paragraph:

"Premier means the Premier of the Province elected in terms of section 128 of the Constitution of the Republic of South Africa, 1996";

Amendment of section 3 of Act 6 of 2000

2. Section 3 of the Eastern Cape Provincial Arts and Culture Council Act, 2000, is hereby amended by–

Amendment of section 4 of Act 6 of 2000

3. Section 4 of the Eastern Cape Provincial Arts and Culture Council Act, 2000, is hereby amended by–

(a) the substitution for subsection (1) of the following subsection:

“(1) The MEC must appoint not less than **[fourteen (14)]** ~~nine (9)~~ and not more than **[sixteen (16)]** ~~twelve (12)~~ councillors in accordance with subsection (2) and section 5.”;

(b) the substitution for subsection (2) of the following subsection:

(2) The MEC must appoint–

[(a) six councillors who have special knowledge or experience in arts and culture to represent the art forms language and literature; visual arts and crafts; theatre and performing arts; dance and music;

(b) six councillors to represent the Province broadly on a geographical basis, including an equitable representation of rural and urban areas;

(c) not more than four councillors who have specialist skills which are not necessarily related to arts and culture but which will be beneficial to the council to advise the council on exhibitions and festivals and campsites, finance, fund-raising and law; and

(d) an official at the rank of at least a Director from the Department as an *ex officio* member without the right of voting.]

~~(a) two (2) council members from the executive management of ECPACC, preferably the Chief Executive Officer and the Chief Financial Officer or General Manager, Arts and Culture of the Department, as an *ex officio* member without the right of voting.~~

~~(b) four (4) council members representing the constituency sectors of ECPACC;~~

~~(c) two (2) independent members;~~

~~(d) an official at the rank of at least a Senior Manager from the Department as an *ex officio* member without the right of voting.~~

(3) The council must reflect broadly the race, gender, youth and physically challenged composition of the Province.

Amendment of section 5 of Act 6 of 2000

4. Section 5 of the Eastern Cape Provincial Arts and Culture Council Act, 2000, is hereby amended by–

(c) the substitution for subsection (3) of the following subsection:

(3) The **[Standing Committee responsible for arts and culture in the Legislature]** ~~MEC~~ must consider the nominations **[and make recommendations to the MEC]** for appointments in a transparent and open process, including–

(a) the shortlisting of nominees for interviews;

(b) interviewing of shortlisted nominees; and

(c) verifying references provided, by nominees.

(4) The MEC must, from amongst the recommendations in terms of subsection (2), appoint the members of the council.

(5) Councillors are appointed for three years after which time fifty percent of the councillors may be re-appointed for a further term of office to allow for continuity. Thereafter no councillor may be re-appointed for office unless a period of three years has lapsed since the expiry of the councillor's period of appointment.

(6) The MEC may terminate the term of office of a councillor.

(7) A councillor may not be appointed on a full-time salaried basis by the council but may receive *honoraria* or *stipends*, as the MEC may determine, for meetings attended and services rendered.

(8) A vacancy in the council must be filled in accordance with this section and a councillor who is appointed holds office for the unexpired portion of the period for which the councillor who is replaced was appointed.

(9) Councillors must sign an agreement including a code of conduct, in which they undertake to carry out the duties as specified in the constitution of the council.

(10) Councillors must annually elect an executive committee from all councillors consisting of a chairperson, vice-chairperson, treasurer and two additional members, all of whom are eligible for re-election.

Insertion of section 5A in Act 6 of 2000

5. The following sections are hereby inserted in the Eastern Cape Provincial Arts and Culture Council Act, 2000, after section 5:

"Chairperson

5A (1) The MEC must appoint a chairperson and deputy chairperson for every newly constituted Council.

(2) If the chairperson or the deputy chairperson are for any reason unable to preside at a Council meeting, the members present must elect one of the members to preside at that meeting, and the person elected may perform all the functions and exercise all the powers of the chairperson.

(3) If the chairperson has vacated office, the MEC must appoint a chairperson from the Council members for the remaining term of office of the Council.

Amendment of section 6 of Act 6 of 2000

6. Section 6 of the Eastern Cape Provincial Arts and Culture Council Act, 2000, is hereby amended by—

(a) the substitution for section 6 of the following section:

6. Disqualification of Members of the Council.—A [member of the council must vacate office if he or she] person is disqualified from being appointed or remaining a member of the council if that person—

[(a) resigns;]

[(b) without leave from the council, misses two consecutive meetings of the council;]

(c) [applies for assistance contemplated in section 10 (1) (c) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966), or his or her estate is sequestered;]

(d) is declared by the High Court to be of unsound mind or suffers from a mental illness, or has a severe or profound intellectual disability as contemplated in the Mental Health Care Act, 2002 (Act No. 17 of 2002);

(e) [is] has been convicted [of an offence in terms of this Act, or of which dishonesty is an element] whether in the Republic or elsewhere, of theft, fraud, forgery or uttering a

forged document, perjury, or any offence involving dishonesty and sentenced to imprisonment irrespective of whether such imprisonment was wholly or partly suspended;

- (f) is or becomes a member of the National Assembly, [a Permanent Delegate], or National Council of Provinces, [a member of a] any provincial legislature or municipality, [a member of a] provincial House of Traditional Leaders, a member of the Council of Traditional Leaders[, or a member of a council of a municipality;] or in full-time employ of an organ of state with the exception of the representative of the Department contemplated in section xxxxxx
- (g) is not a South African citizen or a permanent resident who is ordinarily resident in the Republic.
- (h) has been convicted of an offence, other than an offence contemplated in subsection (5), and sentenced to imprisonment without the option of a fine for a period of not less than three months, irrespective of whether such imprisonment was wholly or partly suspended;
- (i) without authorisation discloses or improperly acts on information gained as a result of his or her membership of the Council; or
- (j) fails to disclose an interest as contemplated in section 12.

Insertion of section 6A, 6B and 6C in Act 6 of 2000

7. The following sections are hereby inserted in the Eastern Cape Provincial Arts and Culture Council Act, 2000, after section 6:

"Resignation of council member and vacation of office

6A (1) A Member of the Council may at any time resign from the Council by giving one month's written notice tendered to the chairperson who must immediately inform the MEC, the Council and the Chief Executive Officer accordingly.

(2) A member of the Council who resigns as contemplated in subsection (1) must vacate his or her office at the end of the notice period contemplated therein.

(3) A member of the Council ceases to be a member and must vacate his or her office with immediate effect if he or she—

- (a) is no longer eligible to be a member in terms of section 6 ; or
- (b) is removed from office by the MEC in terms of section 10.

Removal of member of Board, dissolution of Board and appointment of interim Board

6B (1) The MEC may, after due inquiry, or on recommendation of the Council after due inquiry, remove, with immediate effect, a member of the Council from office on account of any or all of the following—

- (a) misconduct;
- (b) inability to perform the duties of his or her office efficiently;
- (c) absence from three consecutive meetings of the Council without the permission of the Council, except on good cause shown; or
- (d) failure to disclose an interest in terms of section 12, or voting or attendance at, or participation in, proceedings of the Council while having an interest contemplated in section 12.

- (2) The MEC may, after due inquiry, dissolve the Council with immediate effect, if it fails in any or all of the following:
 - (a) discharging its fiduciary duties; or
 - (b) carrying out its duties.
- (3) Upon the dissolution of the Council contemplated in subsection (2), the MEC must appoint an interim Board consisting of not less than **five** and not more than **seven** members, and he or she does not have to follow the nomination and appointment procedure contemplated in **section 4**.
- (4) The MEC must appoint the interim Council within 30 days after the dissolution of the Council, and the term of office of the interim Council is a period not exceeding six months.
- (5) The provisions of this Act regarding the Council apply to the interim Council.

Appointment of member to vacant seat

6C (1) When a seat on the Council becomes vacant as a result of any action referred to in section 9 and 10, or if a Council member dies before the expiry of his or her term of office, the Council must, as soon as is practicable after the seat becomes vacant, notify the MEC that the seat has become vacant.

- (2) The MEC must, as soon as is practicable after the receipt of the notification from the Council, appoint to the Council, the required number of persons who qualify to be appointed to fill the vacant seat or seats.
- (3) The MEC must, as soon as is practicable after the appointment of a member to the vacant seat on the Council, publish by notice in the *Gazette* the –
 - (a) name of the person appointed;
 - (b) date from which the appointment takes effect; and
 - (c) period for which the appointment is made as contemplated in **subsection (4)**.
- (4) The person who is appointed to the vacant seat on the Council fills the vacancy for the unexpired portion of the period of office of the vacating member.

Disclosure of interest

6D (1) Members must, in the prescribed manner and not later than the 30th April of each financial year disclose their financial interests for that financial year.

- (2) If at any stage during the course of any proceedings before the Council, it appears that any Council member has or may have an interest which may cause a conflict of interest–
 - (a) that Council member must forthwith fully disclose the nature of his or her interest and leave the meeting so as to enable the remaining Council members to discuss the matter, and determine whether that Council member is precluded from participating in that meeting by reason of a conflict of interest; and
 - (b) the disclosure of interest by that member and the decision taken by the remaining Council members regarding the matter must be recorded in the minutes of the meeting in question.
- (3) If any Council member fails to disclose any interest as required by subsection (2) or, he or she is present at the venue where a meeting of the Council is held, or in any manner whatsoever participates in the proceedings of the Council, the relevant decisions of the Council will be null and void.

Amendment of section 7 of Act 6 of 2000

- 8.** Section 7 of the Eastern Cape Provincial Arts and Culture Council Act, 2000, is hereby amended by–

(a) the substitution for section 7 of the following section:

(1) The chairperson, and when absent, the **[vice] deputy**-chairperson must-

- (a) convene and chair council meetings;
- (b) supervise all the activities of the council;
- (c) ensure that all councillors carry out their duties;
- (d) ensure that the council adheres to its mandate;
- (e) liaise with the media, and act as a spokesperson for the council, and where necessary, delegate this responsibility to the **[vice] deputy**-chairperson or to any other councillor;
- (f) liaise between the MEC, the directorate of arts and culture and the council;
- (g) liaise, in co-operation with the treasurer and the administrative staff, with funders, arts and culture representatives of foreign governments, international visitors and local personalities;
- (h) represent the council at the National Arts Council;
- (i) assign any of the above or other tasks to the vice-chairperson, or any other councillor; and
- (j) register cultural organisation in the prescribed manner.

(2) The **[vice] deputy**-chairperson must assist the chairperson, deputise for the chairperson when necessary and carry out whatever functions are delegated by the council.

(3) The treasurer of the council must-

- (a) be responsible for the financial planning of the council;
- (b) develop strategies for the effective fund-raising and use of funds;
- (c) ensure that the funds are distributed to artists, cultural practitioners, arts and culture projects, groups and institutions on schedule;
- (d) oversee the preparation of a financial statement to be presented to the MEC; and
- (e) monitor the use of resources and the application of funds provincially and make recommendations to rectify inappropriate use of resources.

(4) The two additional members of the executive committee must perform the duties assigned to them by the chairperson, and in whose absence, the **[vice] deputy**-chairperson, or any councillor.

(5) A councillor who is not an executive committee member may be a participating member and must be thoroughly informed and furnished with all documentation relating to the running of the council.

(6) A participating member may request, or be requested, by the chairperson, or when absent, the **[vice] deputy**-chairperson, to present himself or herself for participation in any operational activity of the executive committee.

Insertion of section 8A, BB, 8C in Act 6 of 2000

9. The following sections are hereby inserted in the Eastern Cape Provincial Arts and Culture Council Act, 2000, after section 8:

"Term of Office

8A (1) A Council member holds office for a period of three years calculated from the date that his or her appointment takes effect and may be eligible for re-appointment for one additional term not

exceeding three years.

- (2) Despite subsection (1), the MEC may, by notice in the *Gazette*, after consultation with the Council, extend the term of office of all the Council members for a period of six months, but he or she may only extend the term of office of the Council twice.
- (3) Despite the duration of office referred to in subsection (1), Council members continue in office until the succeeding Council is duly constituted by the MEC.

Meetings of Board

8B (1) The MEC must, as soon as is practicable after the appointment of the Council for the first term of office, determine the time and place of its first meeting.

- (2) The Council must determine the time and place of any future meetings for the first and subsequent terms of office of the Board.
- (3) The Council meets at least four times in every financial year.
- (4) A majority of Council members constitutes a quorum at a meeting.
- (5) Every Council member, including the chairperson, has one vote and, in the event of an equality of votes, the chairperson of the meeting has a casting vote in addition to his or her deliberative vote.
- (6) Subject to the approval of the Council, any person who is not a Council member may attend or take part, but may not vote, in a meeting of the Council.
- (7) The Council must adopt governance rules, which provide for the conduct of proceedings at meetings and recording of the proceedings, including the governance rules for special meetings.