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INHOUD

PROVINSIALE KENNISGEWING

Konsepwetsontwerp: Konsepwetsontwerp op Beplanning en Ontwikkeling, 1996

P.K. 450

23 Oktober 1996

Die volgende Konsepwetsontwerp word hierby vir algemene inligting en kommentaar gepubliseer:—

Konsepwetsontwerp op Beplanning en Ontwikkeling, 1996

Aangesien die voorgestelde wetgewing die bevoegdheid en pligte van plaaslike regerings raak, word plaaslike regerings en belanghebbendes, met inbegrip van georganiseerde plaaslike regering, in die besonder uitgenooi ingevolge artikel 174 van die Grondwet, om versoë in verband met die Konsepwetsontwerp te rig.

Enige persoon of organisasie wat kommentaar oor die genoemde Konsepwetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 30 November 1996:

(a) *deur dit te pos aan:*

Die Hoofdirekteur Beplanning
Departement van Behuising, Plaaslike Bestuur en Beplanning
Vir aandag: Me J I Muller/Mnr P Grobler
Privaatsak X9083
Kaapstad
8000, of

(b) *deur dit in te handig by:*

Die Hoofdirekteur: Beplanning
Vir aandag: Me J I Muller/Mnr P Grobler
Kamer 501
ISM-gebou
Waalstraat 27
Kaapstad
8000, of

(c) *deur dit te faks aan:*

(021) 483-4527 of 483-4185
Vir aandag: Me J I Muller/Mnr P Grobler

(Vervolg op agterblad)

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PROVINCIAL NOTICE

Draft Bill: Draft Planning and Development Bill, 1996

P.N. 450

23 October 1996

The following Draft Bill is hereby published for general information and comment:—

Draft Planning and Development Bill, 1996

As the proposed legislation affects the powers and duties of local government, local governments and interested persons, including organised local government, are especially invited, in terms of section 174 of the Constitution, to make representations on the draft Bill.

Any person or organisation wishing to comment on the said draft Bill is requested to lodge such comment in writing before or on 30 November 1996:

(a) *by posting it to:*

Chief Director Planning
Department of Housing, Local Government and Planning
For attention: Ms J I Muller/Mr P Grobler
Private Bag X9083
Cape Town
8000, or

(b) *by handing it in at:*

Chief Director: Planning
For attention: Ms J I Muller/Mr P Grobler
Room 501
ISM Building
27 Wale Street
Cape Town
8000, or

(c) *by faxing it to:*

(021) 483-4527 or 483-4185
For attention: Ms J I Muller/Mr P Grobler

(Continued on back cover)

KONSEPWETSONTWERP

Om beplanning en ontwikkeling op provinsiale, streeks- en plaaslike vlak, in stedelike en landelike gebiede te reël, en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

DAAR WORD BEPAAL deur die Provinsiale Wetgewer van die provinsie Wes-Kaap, soos volg:—

INLEIDENDE BEPALINGS

Indeling van Wet

1. Hierdie Wet word as volg ingedeel:	5
HOOFSTUK I Ontwikkelingsraamwerke en struktuurplanne (artikels 3 tot 6)	
HOOFSTUK II Soneringskemas (artikels 7 tot 21)	
HOOFSTUK III Onderverdeling van grond (artikels 22 tot 32)	
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HOOFSTUK V Opheffing van beperkings (artikels 43 tot 48)	
HOOFSTUK VI Beplanningsrade (artikels 49 tot 52)	
HOOFSTUK VII Algemene beginsels vir beplanning en ontwikkeling (artikel 53)	
HOOFSTUK VIII Algemene bepalinge (artikels 54 tot 74)	15

Woordomskrywings

2. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (1) "aanwending", met betrekking tot grond, die gebruik van grond vir 'n doel of vir die verbetering van grond, en het "aanwend" 'n ooreenstemmende betekenis; (54) 20
 - (2) "Administrateur" die persoon wat kragtens die Wet op Provinsiale Regering, 1986 (Wet 69 van 1986), aangestel was, asook as die bevoegde gesag aan wie die uitvoering van die Grondgebruik-ordonnansie kragtens artikel 235(8) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet 200 van 1993), opgedra is; (1) 25
 - (3) "adverteer", met betrekking tot 'n aangeleentheid waarna in hierdie Wet verwys word, enige van die metodes van bekendmaking soos voorgeskryf by regulasie of, by gebrek aan regulasies, een of meer van die volgende metodes van bekendmaking wat, volgens die beleid van die owerheid wat adverteer, die geskikste metodes is om soveel persone as moontlik wat 'n belang by die aangeleentheid het, te bereik: 30
 - (a) die betekening van 'n kennisgewing wat voldoen aan die bepalinge van artikel 68, of
 - (b) die hou van openbare vergaderings, hetsy voor of na die indiening van 'n aansoek, of 35
 - (c) die vertoning van 'n kennisgewing op 'n grondeenheid, of
 - (d) die publikasie van 'n kennisgewing in die pers, en het "advertensie" 'n ooreenstemmende betekenis; (2)
 - (4) "afwyking"—
 - (a) 'n veranderde grondgebruikbeperking— 40
 - (i) ingevolge artikel 15(1) opgelê;

DRAFT BILL

To regulate planning and development at provincial, regional and local levels in urban and rural areas, and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Legislature of the province of Western Cape, as follows:—

INTRODUCTORY PROVISIONS

Division of Law

5 1. This Law is divided as follows:

CHAPTER I	Development frameworks and structure plans (sections 3 to 6)
CHAPTER II	Zoning schemes (sections 7 to 21)
CHAPTER III	Subdivision of land (sections 22 to 32)
10 CHAPTER IV	Accelerated development (sections 33 to 42)
CHAPTER V	Removal of restrictions (sections 43 to 48)
CHAPTER VI	Planning boards (sections 49 to 52)
CHAPTER VII	General planning and development principles (section 53)
CHAPTER VIII	General provisions (sections 54 to 74)

15 Definitions

2. In this Law unless the context otherwise indicates—

- (1) "Administrator" means the person who was appointed in terms of the Provincial Government Law, 1986 (Law 69 of 1986), as well as the competent authority to whom the administration of the Land Use Ordinance was entrusted in terms of section 235(8) of the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993); (2)
- (2) "advertise", in relation to making known a matter referred to in this Law, means any of the methods of making known prescribed by regulation or, in the absence of regulations, one or more of the following methods of making known which, according to the policy of the authority which advertises, is the most suitable method to reach as many people who may have an interest in the matter as possible:
 - (a) serving a notice which complies with the provisions of section 68, or
 - (b) holding public meetings, whether before or after the submission of an application, or
 - (c) displaying a notice on a land unit, or
 - (d) publishing of a notice in the press, and "advertisement" has a corresponding meaning; (3)
- (3) "appeal committee" means an appeal committee established in terms of section 63(1); (5)
- (4) "chief executive officer" means the chief executive officer of a competent authority or the chief executive officer of another competent authority

- (ii) ingevolge 'n voorwaarde kragtens 'n bepaling van hierdie Wet opgelê, of
- (iii) wat ingevolge enige bepaling van hierdie Wet wettig is, of
- (b) 'n gebruiksreg op 'n tydelike grondslag ingevolge artikel 15 toegestaan; (12) 5
- (5) "appèlkomitee" 'n appèlkomitee kragtens artikel 63(1) ingestel; (3)
- (6) "beperking" 'n serwituut of voorwaarde wat teen die titelakte van onroerende eiendom geregistreer is en 'n beperking plaas op die aanwending daarvan, asook enige ander wetlike beperking op die beplanning, ontwikkeling of aanwending van onroerende eiendom; (41) 10
- (7) "beplanningsraad" 'n raad kragtens artikel 49 van hierdie Wet ingestel; (31)
- (8) "bevestig", met betrekking tot 'n onderverdeling of deel daarvan, om te bevestig soos beoog in artikel 27(3); (6)
- (9) "bevoegde owerheid" 'n liggaam of owerheid deur die Verantwoordelike lid by kennisgewing in die *Provinsiale Koerant* aangewys om die bevoegdhede daarin vermeld uit te voer en kan dit 'n metropolitaanse oorgangsraad, metropolitaanse oorgangsubstruktuur, plaaslike oorgangsraad, landelike of verteenwoordigende oorgangsraad, distriksraad, of 'n ander liggaam of owerheid deur die Verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant* aangewys om die bevoegdhede daarin vermeld uit te voer, insluit; (5) 15
- (10) "bewoner" 'n persoon wat nie die eienaar van die grond is nie, maar wat die grond met die toestemming of kennis van die eienaar bewoon; (28)
- (11) "diensteooreenkoms" 'n skriftelike ooreenkoms tussen 'n ontwikkelaar van onroerende eiendom en 'n bevoegde owerheid aangegaan, ingevolge waarvan die onderskeie verantwoordelikhede van die twee partye vir die beplanning, ontwerp, verskaffing, installasie, finansiering en onderhoud van interne en eksterne ingenieursdienste en die standaard van sodanige dienste in artikel 62(3) beoog, bepaal word; (44) 20
- (12) "departementshoof" die departementshoof van die departement van die Provinsiale Administrasie van die Wes-Kaap wat met die administrasie van hierdie Wet gemoeid is; (11) 30
- (13) "Dorpe-ordonnansie" die Ordonnansie op Dorpe, 1934 (Ordonnansie 33 van 1934); (52) 35
- (14) "eienaar", met betrekking tot grond, die persoon in wie se naam daardie grond in 'n registrasiekantoor van aktes geregistreer is, wat die houer van 'n geregistreerde serwituutreg of huurkontrak en enige regsopvolger van so 'n persoon kan insluit, en omvat dit daardie persoon se gevolmagtigde agent of 'n persoon aan wie grond ingevolge 'n grondbesikbaarheidsooreenkoms beskikbaar gestel is; (29) 40
- (15) "eienaarsvereniging" 'n vereniging wat tot stand gekom het uit hoofde van die bepalings van artikel 29; (30)
- (16) "gebruiksreg", met betrekking tot grond, die reg om daardie grond aan te wend ooreenkomstig die sonering daarvan, met inbegrip van enige wettige afwyking of aanwending daarvan; (53) 45
- (17) "geïntegreerde ontwikkelingsraamwerk" 'n plan wat ekonomiese, ruimtelike, vervoer-, institusionele, administratiewe, fiskale, omgewing- en ander strategieë integreer om die optimale toewysing van skaars hulpbronne in 'n bepaalde geografiese gebied te bevorder; (20) 50
- (18) "gesamentlike komitee" 'n komitee kragtens artikel 3(1)(a) ingestel; (21)
- (19) "grond" grond met of sonder verbeterings; (22)
- (20) "grondbesikbaarheidsooreenkoms" 'n ooreenkoms aangegaan tussen die liggaam deur wie grond beskikbaar gestel word en die persoon of liggaam aan wie grond beskikbaar gestel word; (23) 55
- (21) "grondeenheid" 'n stuk grond wat in 'n registrasiekantoor van aktes geregistreer is of geregistreer kan word en kan dit 'n serwituutreg of huurkontrak omvat; (24)
- (22) "grondgebruikbeperking" 'n beperking, ingevolge 'n sonering, op die omvang van die verbetering van grond; (26) 60
- (23) "Grondgebruik-ordonnansie" die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985); (25)

- who deals with the administration of the first mentioned competent authority as an agent or according to special arrangements; (27)
- (5) "competent authority" means a body or authority designated by the Responsible Member by notice in the Provincial Gazette to exercise the powers as are mentioned in the notice and it may include a transitional metropolitan council, transitional metropolitan substructure, transitional local council, transitional rural or representative council, district council, or another body or authority; (9)
- (6) "confirm", in relation to a subdivision or part thereof, means to confirm as contemplated in section 27(3); (8)
- (7) "consent use" means a use or an amended land use restriction permitted in terms of scheme regulations in a particular zone with the consent of the council only; (56)
- (8) "Constitution" means the Constitution of the Republic of South Africa, 1993 (Act 200 of 1993); (24)
- (9) "conveyancer" means a conveyancer as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937); (53)
- (10) "council" means the transitional council or council of a competent authority; (42)
- (11) "department head" means the head of the department of the Provincial Administration of the Western Cape which deals with the administration of this Law; (12)
- (12) "departure" means—
- (a) an altered land use restriction—
- (i) imposed in terms of section 15(1);
- (ii) imposed in terms of a condition by virtue of any provision of this Law, or
- (iii) that is legal in terms of any provision of this Law, or
- (b) a use right granted on a temporary basis in terms of section 15; (4)
- (13) "develop" means to develop land by preparing land for development, *inter alia* by the filling up, draining or levelling of areas; the installation of engineering services, the subdivision of land or the erection, alteration or extension of buildings on land, and "development" has a corresponding meaning; (31)
- (14) "development councils" mean the Western Cape Provincial Development Council, Regional Development Councils and local development forums established and accredited in terms of the Western Cape Provincial Development Council Law, 1996 (Law 5 of 1996); (33)
- (15) "development framework" means both an integrated and a specific development framework; (34)
- (16) "development planning" means a participatory process to integrate economic, sectoral, spatial, social, institutional, fiscal, environmental and other strategies with a view to the optimal allocation of scarce resources to the various sectors and geographic areas and to supporting the whole of the population in a manner which promotes sustainable growth and equity, with the emphasis on the empowerment of poor and marginalised communities; (32)
- (17) "engineering services" means services installed for the provision of water, electricity and sewerage, and the building of streets, roads and stormwater drainage systems, including all related services and equipment; (29)
- (18) "exercise" means to utilise in terms of a use right; (54)
- (19) "initial ownership" means the form of title as contemplated and defined in section 62 of the Development Facilitation Act, 1995 (Act 67 of 1995); (59)
- (20) "integrated development framework" means a plan which integrates economic, spatial, transport, institutional, administrative, fiscal, environmental and other strategies to attain the optimal allocation of scarce resources in a particular geographic area; (17)
- (21) "joint committee" means a committee established in terms of section 3(1)(a); (18)

- (24) "Grondwet" die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet 200 van 1993); (8)
- (25) "hersonering" die verandering van 'n soneringskema kragtens artikel 14(4), 16 of 18 ten einde 'n verandering van sonering met betrekking tot bepaalde grond teweeg te bring; (42) 5
- (26) "hierdie Wet" ook die regulasies daarkragtens van krag; (51)
- (27) "hoof uitvoerende beampte" die hoof uitvoerende beampte van 'n bevoegde owerheid of die hoof uitvoerende beampte van 'n ander bevoegde owerheid wat as 'n agent of volgens spesiale reëlings die administrasie van eersgenoemde owerheid hanteer; (4) 10
- (28) "in die pers publiseer" om ooreenkomstig die bepalings van artikel 68 'n kennisgewing te publiseer in óf die nuusblad of nuusblaai wat die departementshoof of hoof uitvoerende beampte, na gelang van die geval, van tyd tot tyd bepaal, of die Provinsiale Koerant, óf in beide 'n nuusblad of nuusblaai soos hierin beoog en die Provinsiale Koerant, en het "publikasie in die pers" 'n ooreenstemmende betekenis; (37) 15
- (29) "ingenieursdienste" dienste wat geïnstalleer word vir die voorsiening van water, elektrisiteit en riolering, en die bou van strate, paaie en stormwaterdreineringsstelsels, insluitend alle verwante dienste en toerusting; (17) 20
- (30) "onderverdeel", met betrekking tot grond, om die grond te onderverdeel, hetsy deur—
 (a) opmeting;
 (b) die toewysing, met die oog op die afsonderlike registrasie van grondeenhede, van onverdeelde dele daarvan op enige wyse, insluitend die bemarking en sluit van kontrakte ten opsigte van die vervreemding, verkoop of verruil van gedeeltes van die eiendom, of (c) die voorbereiding daarvan vir onderverdeling; (47) 25
- (31) "ontwikkel" om grond te ontwikkel deur dit vir ontwikkeling voor te berei, onder meer deur die opvulling, drooglegging of platstoot van gebiede; deur ingenieursdienste te installeer, deur grond te onderverdeel of deur geboue op te rig of te verander of daaraan aan te bou, en het "ontwikkeling" 'n ooreenstemmende betekenis; (13) 30
- (32) "ontwikkelingsbeplanning" 'n deelnemende proses om ekonomiese, sektorale, ruimtelike, sosiale, institusionele, fiskale, omgewing- en ander strategieë te integreer met die oog op die optimale toewysing van skaars hulpbronne aan die verskillende sektore en geografiese gebiede en die ondersteuning van die hele bevolking, op 'n manier wat volhoubare groei en regverdigheid bevorder, met die klem op die bemagtiging van arm en gemarginaliseerde gemeenskappe; (16) 40
- (33) "ontwikkelingsrade" die Wes-Kaapse Provinsiale Ontwikkelingsraad, Streekontwikkelingsrade en plaaslike ontwikkelingsforums wat ingevolge die Wes-Kaapse Wet op die Provinsiale Ontwikkelingsraad, 1996 (Wet 5 van 1996), ingestel en geakkrediteer word; (14)
- (34) "ontwikkelingsraamwerk" beide 'n geïntegreerde en 'n spesifieke ontwikkelingsraamwerk; (15) 45
- (35) "openbare plek" enige grond aangedui as 'n oop ruimte of openbare plek op 'n plan, kaart of skema, ten opsigte waarvan die eiendomsreg as sodanig ingevolge artikel 28 van hierdie Wet of ingevolge enige ander Wet, by 'n bevoegde owerheid berus; (35) 50
- (36) "openbare straat" enige grond ten opsigte waarvan daar op 'n plan, kaart of skema aangedui word dat dit opsy gesit is vir straatdoeleindes en ten opsigte waarvan die eiendomsreg as sodanig ingevolge artikel 28 van hierdie Wet of ingevolge enige ander Wet by 'n bevoegde owerheid berus; (36) 55
- (37) "opmeter" 'n persoon wat as 'n professionele landmeter of 'n professionele ingenieursopmeter of 'n ingenieursopmeter kragtens die Wet op Professionele Landmeters en Tegnieiese Opometers, 1984 (Wet 40 van 1984), geregistreer is en wie se naam in die register bedoel in artikel 7(4) van daardie Wet ingeskryf is; (49) 60
- (38) "opskortende voorwaarde" 'n voorwaarde wat vereis dat 'n ander of verdere goedkeuring verleen moet word of ooreenkoms aangegaan moet

- (22) "land" means land with or without improvements; (19)
- (23) "land availability agreement" means an agreement concluded between the body by whom land is made available and the person or body to whom land is made available; (20)
- 5 (24) "land unit" means a portion of land registered or capable of being registered in a deeds registry and may include a servitude right or lease; (21)
- (25) "Land Use Ordinance" means the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985); (23)
- 10 (26) "land use restriction" means a restriction, in terms of a zoning, on the extent of the improvement of land; (22)
- (27) "local authority" means a transitional local council or a transitional rural or representative council or a transitional metropolitan substructure as established in terms of the Local Government Transition Act, 1993 (Act 209 of 1993); (39)
- 15 (28) "occupant" means a person who is not the owner of land, but who occupies land with the consent or knowledge of the owner; (10)
- (29) "owner", in relation to land, means the person in whose name that land is registered in a deeds registry, which may include the holder of a registered servitude right or lease and any successor in title of such a person, and includes that person's authorised agent or a person to whom land has
- 20 been made available in terms of a land availability agreement; (14)
- (30) "owners' association" means an association which was established in terms of section 29; (15)
- (31) "planning board" means a board established in terms of section 49; (7)
- 25 (32) "Premier" means the Premier of the Province, acting in terms of the provisions of the Constitution; (40)
- (33) "prescribed" means prescribed by means of regulations or guidelines published in the *Provincial Gazette*, and "prescribe" and "prescribed" have a corresponding meaning; (58)
- 30 (34) "Province" means the Province of Western Cape; (41)
- (35) "public place" means any land indicated as open space or a public space on a plan, diagram or scheme, of which the ownership as such vests in a competent authority in terms of section 28 of this Law or in terms of any other law; (35)
- 35 (36) "public street" means any land which is indicated on a plan, diagram or scheme as having been set aside for street purposes and whose ownership as such vests in a competent authority in terms of section 28 of this Law or in terms of any other law; (36)
- (37) "publish in the press" means to publish a notice in accordance with the provisions of section 68, in either such newspaper or newspapers as the department head or chief executive officer, as the case may be, may from time to time determine or the *Provincial Gazette*, or in both a newspaper or newspapers as contemplated herein and the *Provincial Gazette*, and "publication in the press" has a corresponding meaning; (28)
- 40 (38) "register" means documents held by a competent authority in connection with all departures; (43)
- (39) "regulation" means a regulation promulgated under this Law; (44)
- 45 (40) "Responsible Member" means the member of the Executive Council of the province of Western Cape responsible for planning and related matters or any other member designated by the Premier by notice in the *Provincial Gazette* for a specific function in terms of this Law; (55)
- 50 (41) "restriction" means a servitude or condition registered against the title deed of immovable property and restricting its utilisation and any other statutory restriction on the planning, development or utilisation of immovable property; (6)
- 55 (42) "rezoning" means the amendment of a zoning scheme under section 14(4), 16 or 18 in order to effect a change of zoning in relation to particular land; (25)
- 60 (43) "scheme regulations" means—
(a) scheme regulations made by the Responsible Member in terms of section 7(2) and section 8;

- word of wat vereis dat die aansoeker eers iets moet doen voordat die goedkeuring finaal word; (50)
- (39) "plaaslike owerheid" 'n plaaslike oorgangsraad of 'n landelike of verteenwoordigende oorgangsraad of 'n metropolitaanse oorgangsubstruktuur soos ingestel ingevolge die Oorgangswet op Plaaslike Regering, 1993 (Wet 209 van 1993); (27) 5
- (40) "Premier" die Premier van die Provinsie, handelende ooreenkomstig die bepalings van die Grondwet; (32)
- (41) "Provinsie" die provinsie Wes-Kaap; (34)
- (42) "raad" die oorgangsraad of raad van 'n bevoegde owerheid; (9) 10
- (43) "register" dokumente deur 'n bevoegde owerheid gehou in verband met alle afwykings; (38)
- (44) "regulasie" 'n regulasie kragtens hierdie Wet gemaak; (39)
- (45) "skemaregulasies"—
- (a) skemaregulasies deur die Verantwoordelike Lid ingevolge artikel 7(2) en artikel 8 gemaak; 15
- (b) enige finale staat van 'n dorpsaanlegskema wat ingevolge artikel 7(1) van die Grondgebruik-ordonnansie geag is 'n soneringskema te wees;
- (c) skemaregulasies ingevolge die Grondgebruik-ordonnansie goedgekeur, of 20
- (d) enige dorpsbeplanningsvoorwaardes goedgekeur ingevolge die regulasies van die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984); (43)
- (46) "sone" grond wat deur 'n soneringskema vir 'n bepaalde sonering afgesonder is, ongeag of dit een of meer grondeenhede of 'n deel van 'n grondeenheid omvat; (55) 25
- (47) "soneer", met betrekking tot grond, om die grond vir 'n bepaalde sonering af te sonder; (56)
- (48) "sonering", wanneer dit as 'n selfstandige naamwoord gebruik word, 'n kategorie voorskrifte wat die doel waarvoor grond gebruik mag word en die grondgebruikbeperkings wat ten opsigte van daardie kategorie voorskrifte geld, soos bepaal deur tersaaklike skemaregulasies, uiteensit; (57) 30
- (49) "soneringskaart"— 35
- (a) 'n soneringskaart ingevolge artikel 11 opgestel;
- (b) 'n kaart van 'n dorpsaanlegskema wat ingevolge artikel 7(1) van die Grondgebruik-ordonnansie geag is 'n soneringskema te wees, wat ingevolge regulasie 8(2) van die regulasies gemaak kragtens artikel 60 van die Dorpe-ordonnansie en afgekondig by Provinsiale Kennisgewing 460 van 1937, opgestel is, of 40
- (c) 'n skemakaart ingevolge die regulasies gemaak kragtens die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), opgestel; (58)
- (50) "soneringskema" 'n skema bestaande uit skemaregulasies en 'n register, met of sonder 'n soneringskaart; (59) 45
- (51) "spesifieke ontwikkelingsraamwerk" 'n plan of strategie wat ingevolge artikel 5(1)(b) vir 'n bepaalde onderwerp opgestel is as deel van 'n geïntegreerde ontwikkelingsraamwerk en omvat dit 'n struktuurplan; (45) 50
- (52) "struktuurplan" 'n plan in artikel 5(1)(c) beoog, wat ook bekend staan as 'n ruimtelike ontwikkelingsraamwerk; (46)
- (53) "transportbesorger" 'n transportbesorger soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937); (9)
- (54) "uitoefen" om aan te wend ingevolge 'n gebruiksreg; (18) 55
- (55) "Verantwoordelike Lid" die lid van die Uitvoerende Raad van die provinsie Wes-Kaap verantwoordelik vir beplanning en aanverwante aangeleenthede of enige ander lid deur die Premier by kennisgewing in die *Provinsiale Koerant* aangewys vir 'n spesifieke funksie ingevolge hierdie Wet; (40) 60
- (56) "vergunningsgebruik" 'n gebruik of veranderde grondgebruikbeperking wat ingevolge skemaregulasies in 'n sekere sone toegelaat word slegs met die toestemming van die raad; (7)

- (b) any final statement of a town-planning scheme which is deemed to be a zoning scheme in terms of section 7(1) of the Land Use Ordinance;
- (c) scheme regulations approved in terms of the Land Use Ordinance, or
- 5 (d) any town planning conditions approved in terms of the regulations of the Black Communities Development Act, 1984 (Act 4 of 1984); (45)
- (44) "services agreement" means a written agreement concluded between a developer of immovable property and a competent authority, in terms of which the respective responsibilities of the two parties for the planning, design, provision, installation, financing and maintenance of internal and external engineering services and the standard of such services contemplated in section 62(3) are determined; (11)
- 10 (45) "specific development framework" means a plan or strategy prepared in terms of section 5(1)(a) in respect of a particular subject as part of an integrated development framework and includes a structure plan; (51)
- 15 (46) "structure plan" means a plan contemplated in section 5(1)(c), which is also known as a spatial development framework; (52)
- (47) "subdivide", in relation to land, means to subdivide the land, whether by means of—
- 20 (a) survey;
- (b) the allocation, with a view to the separate registration of land units, of undivided portions thereof in any manner, including the marketing and conclusion of contracts with regard to the alienation, sale or exchange of portions of the property, or
- 25 (c) its preparation for subdivision; (30)
- (48) "substitution scheme" means a zoning map which replaces any other zoning map or portion thereof in terms of section 14(4)(a), or where zonings have not been indicated on a map, a zoning map which replaces the land use rights allocated in terms of section 14; (57)
- 30 (49) "surveyor" means a person registered as a professional land surveyor or a professional engineering surveyor or an engineering surveyor in terms of the Professional Land Surveyors' and Technical Surveyors' Act, 1984 (Act 40 of 1984), whose name has been entered in the register referred to in section 7(4) of that law; (37)
- 35 (50) "suspensive condition" means a condition requiring another or a further approval to be granted or agreement to be concluded or requiring that the applicant should first do something before the approval is made final; (38)
- 40 (51) "this Law" includes the regulations in force in terms thereof; (26)
- (52) "Townships Ordinance" means the Townships Ordinance, 1934 (Ordinance 33 of 1934); (13)
- (53) "use right", in relation to land, means the right to utilise that land in accordance with its zoning, including any lawful departure therefrom or utilisation thereof; (16)
- 45 (54) "utilisation", in relation to land, means the use of land for a purpose or for the improvement of land, and "utilise" has a corresponding meaning; (1)
- (55) "zone", when used as a noun, means land which has been designated for a particular zoning, irrespective of whether it consists of one or more land units or a portion of a land unit; (46)
- 50 (56) "zone", when used as a verb in relation to land, means to designate the land for a particular zoning; (47)
- (57) "zoning", when used as a noun, means a category of directions setting out the purpose for which land may be used and the land use restrictions applicable in respect of that category of directions, as determined by relevant scheme regulations; (48)
- 55 (58) "zoning map" means—
- (a) a zoning map drawn up in terms of section 11;

- (57) "vervangingskema" 'n soneringskaart wat uit hoofde van artikel 14(4)(a) enige ander soneringskaart of deel daarvan vervang, of waar sonerings nog nie te kaart gestel is nie, 'n soneringskaart wat die grondgebruikregte ingevolge artikel 14 toegeken, vervang; (48)
- (58) "voorgeskrif" by wyse van regulasies of riglyne in die Provinsiale Koerant voorgeskryf, en het "voorskryf" en "voorgeskrewe" 'n ooreenstemmende betekenis, en (33)
- (59) "voorlopige eiendomsreg" die titelvorm soos beoog en omskryf in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995 (Wet 67 van 1995). (19)

HOOFTUK I:

ONTWIKKELINGSRAAMWERKE EN STRUKTUURPLANNE

Gesamentlike komitees en tegniese advieskomitees

- 3. (1) Die Verantwoordelike Lid kan ná oorleg met die betrokke plaaslike owerhede en metropolitaanse raad of distriksrade—
 - (a) ten opsigte van grond geleë in die regsgebied van 'n metropolitaanse raad of distriksraad of twee of meer plaaslike owerhede en distriksrade, of 'n metropolitaanse raad en een of meer distriksrade of die deel daarvan wat die Verantwoordelike Lid bepaal, 'n gesamentlike komitee instel waarvan die lede deur die betrokke rade uit hul geledere aangestel word op die grondslag en voorwaardes wat die Verantwoordelike Lid bepaal;
 - (b) bepaal hoe die uitgawes ten opsigte van die bevoegdheide en pligte van 'n gesamentlike komitee beshry moet word;
 - (c) met of sonder enige beperking die bevoegdheide wat daardie owerhede kan uitoefen, insluitend die bevoegdheid om werknemers aan te stel, te ontslaan en te besoldig en om ander diensvoorwaardes op te lê, aan 'n gesamentlike komitee verleen, en
 - (d) 'n gesamentlike komitee afskaf op die grondslag en voorwaardes wat die Verantwoordelike Lid bepaal.
- (2) Die Verantwoordelike Lid kan 'n bevoegde owerheid gelas om ooreenkomstig subartikel (1)(a) lid van 'n gesamentlike komitee te word en om ooreenkomstig 'n bepaling kragtens subartikel (1)(b) geldelike bydraes vir die bestryding van die uitgawes in dié subartikel beoog, te betaal.
- (3) 'n Metropolitaanse raad, distriksraad, plaaslike owerheid of gesamentlike komitee kan tegniese advieskomitees aanstel, bestaande uit amptenare van bevoegde owerhede, staats- en provinsiale departemente of verteenwoordigers van ontwikkelingsrade of enige ander liggaam, op die grondslag en voorwaardes wat daardie owerheid of gesamentlike komitee bepaal.

Opstel van ontwikkelingsraamwerke en struktuurplanne

- 4. (1) 'n Plaaslike owerheid—
 - (a) kan met die toestemming en moet op las van die Verantwoordelike Lid 'n ontwikkelingsraamwerk of struktuurplan ten opsigte van die grond geleë in sy regsgebied of die deel daarvan wat die Verantwoordelike Lid bepaal, opstel en aan die Verantwoordelike Lid vir goedkeuring voorlê, en
 - (b) kan met die toestemming en moet op las van die Verantwoordelike Lid in samewerking met een of meer plaaslike owerhede 'n ontwikkelingsraamwerk of struktuurplan ten opsigte van die grond geleë in hul onderskeie regsgebiede of dele daarvan wat die Verantwoordelike Lid bepaal, opstel en aan die Verantwoordelike Lid vir goedkeuring voorlê.
- (2) 'n Metropolitaanse raad of distriksraad of gesamentlike komitee kan met die toestemming en moet op las van die Verantwoordelike Lid 'n ontwikkelingsraamwerk of struktuurplan ten opsigte van sy regsgebied of die grond waarvoor hy ingestel is of die deel daarvan wat die Verantwoordelike Lid bepaal, opstel en ná oorleg met die betrokke plaaslike owerhede aan die Verantwoordelike Lid vir goedkeuring voorlê.
- (3) Die departementshoof kan met die toestemming van die Verantwoordelike Lid en ná oorleg met die betrokke metropolitaanse raad of distriksraad of plaaslike

- (b) a map of a town-planning scheme deemed to be a zoning scheme in terms of section 7(1) of the Land Use Ordinance, drawn up in terms of regulation 8(2) of the regulations made in terms of section 60 of the Townships Ordinance and published under Provincial Notice 460 of 1937, or
- (c) a scheme map drawn up in terms of the regulations made under the Black Communities Development Act, 1984 (Act 4 of 1984), and (49)
- (59) "zoning scheme" means a scheme consisting of scheme regulations and a register, with or without a zoning map. (50)

CHAPTER I:

DEVELOPMENT FRAMEWORKS AND STRUCTURE PLANS

Joint committees and technical advisory committees

3. (1) The Responsible Member may, after consultation with the local authorities and metropolitan council or district councils concerned—
- (a) establish in respect of land situated in the area of jurisdiction of a metropolitan council or district council or two or more local authorities and district councils, or a metropolitan council and one or more district councils or any part thereof determined by the Responsible Member, a joint committee, the members of which shall be appointed by the councils concerned from their number on the basis and conditions determined by the Responsible Member;
- (b) determine how the expenditure in respect of the powers and duties of a joint committee is to be defrayed;
- (c) confer on a joint committee, with or without any restriction, the powers that those authorities may exercise, including the power to appoint, dismiss and remunerate employees and to impose other conditions of service, and
- (d) abolish a joint committee on the basis and conditions as determined by the Responsible Member.
- (2) The Responsible Member may direct a competent authority to become a member of a joint committee in terms of subsection (1)(a) and to make financial contributions under subsection (1)(b) for the defrayal of the expenditure contemplated in that subsection.
- (3) A metropolitan council, district council, local authority or joint committee may appoint technical advisory committees consisting of persons employed by competent authorities, government and provincial departments or representatives of development boards or any other body on the basis and conditions determined by that authority or joint committee.

Preparation of development frameworks and structure plans

4. (1) A local authority—
- (a) may with the consent and shall on the direction of the Responsible Member prepare and submit to the Responsible Member for approval a development framework or structure plan in respect of the land situated in its area of jurisdiction or any part thereof determined by the Responsible Member, and
- (b) may with the consent and shall on the direction of the Responsible Member prepare, in conjunction with one or more local authorities, and submit to the Responsible Member for approval a development framework or structure plan in respect of the land situated in their respective areas of jurisdiction or any parts thereof determined by the Responsible Member.
- (2) A metropolitan council or district council or joint committee may with the consent and shall on the direction of the Responsible Member prepare and, after consultation with the local authorities concerned, submit to the Responsible Member for approval a development framework or structure plan in respect of the land within its area of jurisdiction or the land for which it has been established or any part thereof determined by the Responsible Member.
- (3) The department head may with the consent of the Responsible Member and after consultation with the metropolitan council or district council or local authorities

owerhede 'n ontwikkelingsraamwerk of struktuurplan ten opsigte van die Provinsie of enige gedeelte daarvan opstel en aan die Verantwoordelike Lid vir goedkeuring voorlê.

(4) Die toestemming en lasgewing in subartikel (1), (2) of (3) vermeld, is onderworpe aan die voorwaardes wat die Verantwoordelike Lid bepaal aangaande die wyse van opstel van die betrokke ontwikkelingsraamwerk of struktuurplan, insluitend voorwaardes aangaande die wyse en stadiums van bekendmaking van die ontwikkelingsraamwerk of struktuurplan en aangaande alle belanghebbendes se betrokkenheid en reg op insae en die rig van vertoë by die opstel van die ontwikkelingsraamwerk of struktuurplan.

(5) 'n Ontwikkelingsraamwerk of struktuurplan moet op die stadiums wat die Verantwoordelike Lid bepaal, voor die datum waarop dit ingevolge subartikel (1), (2) of (3) aan die Verantwoordelike Lid voorgelê word, vir alle belanghebbendes, insluitend die betrokke ontwikkelingsrade, vir insae en die indien van besware of die rig van vertoë by die kantoor van die bevoegde owerheid, gesamentlike komitee of ontwikkelingsrade beskikbaar wees.

(6) Die Verantwoordelike Lid moet 'n ontwikkelingsraamwerk of struktuurplan wat ingevolge subartikel (1), (2) of (3) voorgelê is, na oorweging van besware ingedien of vertoë gerig, goedkeur, in 'n gewysigde vorm goedkeur of dit afkeur en die plaaslike owerheid, metropolitaanse raad of distriksraad of gesamentlike komitee dienoreenkomstig in kennis stel.

(7) 'n Ontwikkelingsraamwerk of struktuurplan aldus goedgekeur kan te eniger tyd deur die bevoegde owerheid of die gesamentlike komitee of die departementshoof op aansoek by of op las van die Verantwoordelike Lid, op die wyse wat die Verantwoordelike Lid bepaal en mits 'n geleentheid aan alle belanghebbendes gegee is om besware in te dien of vertoë te rig, met die goedkeuring van die Verantwoordelike Lid gewysig of ingetrek word.

(8) (a) 'n Ontwikkelingsraamwerk of struktuurplan moet deur die betrokke plaaslike owerheid, metropolitaanse raad of distriksraad, gesamentlike komitee of departementshoof hersien word binne die voorgeskrewe tydperk, maar minstens al om die 10 jaar, op 'n wyse wat die Verantwoordelike Lid bepaal en mits 'n geleentheid aan alle belanghebbendes gegee is om besware in te dien of vertoë te rig, en moet soos aldus hersien aan die Verantwoordelike Lid vir goedkeuring voorgelê word.

(b) 'n Ontwikkelingsraamwerk of struktuurplan verval by verstryking van die voorgeskrewe tydperk of 'n tydperk van 10 jaar, wat ook al die kortste is, nadat dit ingevolge subartikel (6) goedgekeur is of, in die geval van paragraaf (a) van hierdie subartikel, indien die bepalinge van paragraaf (a) nie nagekom word nie; met dien verstande dat struktuurplanne in Bylae VII gelys eers 3 jaar na die inwerkingtreding van hierdie Wet verval.

(9) By die opstel, wysiging, intrekking of hersiening van 'n ontwikkelingsraamwerk of struktuurplan moet die beskerming van die natuurlike en ontwikkelde omgewing, en omgewingsvolhoubare ontwikkeling in die algemeen, in ag geneem word en moet die stappe wat in hierdie verband gedoen is, vermeld word.

(10) (a) (i) Waar 'n raad dit uit hoofde van die bepalinge van artikel 5 gerade ag, kan sy hoof uitvoerende beampte behoudens die bepalinge van paragraaf (c) van hierdie subartikel 'n spesifieke ontwikkelingsraamwerk of struktuurplan ten opsigte van die grond geleë in die regsgebied van die bevoegde owerheid opstel en aan die raad vir goedkeuring voorlê.

(ii) Die goedkeuring in subparagraaf (i) vermeld, is onderworpe aan die voorwaardes wat die raad bepaal aangaande die wyse van opstel van die spesifieke ontwikkelingsraamwerk of struktuurplan, insluitend voorwaardes aangaande die reg op insae en die rig van vertoë van alle belanghebbendes, wat die betrokke ontwikkelingsrade insluit, by die opstel van die ontwikkelingsraamwerk of struktuurplan.

(iii) Waar 'n raad 'n spesifieke ontwikkelingsraamwerk of struktuurplan goedkeur, moet hy dit binne 60 dae aan die departementshoof ter inligting voorlê.

(b) Die bepalinge van subartikels (5), (6), (7), (8) en (9) is *mutatis mutandis* op 'n spesifieke ontwikkelingsraamwerk of struktuurplan van toepassing asof 'n verwysing in daardie artikels na die Verantwoordelike Lid 'n verwysing na die raad is.

(c) Geen spesifieke ontwikkelingsraamwerk of struktuurplan mag onbestaanbaar wees met 'n ontwikkelingsraamwerk of struktuurplan in subartikel (1), (2) of (3) beoog, of mag 'n magtiging in artikel 5(2) beoog, bevat nie.

(11) (a) Die stedelike en streekstruktuurplanne ingevolge die Wet op Fisiese

concerned prepare and submit to the Responsible Member for approval a development framework or structure plan in respect of the Province or any part thereof.

(4) The consent and direction referred to in subsection (1), (2) or (3) shall be subject to the conditions determined by the Responsible Member as to the manner in which the development framework or structure plan concerned is to be prepared, including conditions as to the manner and stages in which the development framework or structure plan is to be made known and as to the involvement and the right to inspection and the making of representations of all interested parties in the preparation of the development framework or structure plan.

(5) A development framework or structure plan shall, at the stages determined by the Responsible Member, be available for inspection and the lodging of objections or the making of representations by all interested parties, including the development councils concerned, at the office of the competent authority, joint committee or development councils before the date on which it is submitted to the Responsible Member in terms of subsection (1), (2) or (3).

(6) The Responsible Member shall, after considering objections lodged or representations made, approve or approve in an amended form or reject a development framework or structure plan submitted in terms of subsection (1), (2) or (3) and notify the local authority, metropolitan council or district council or joint committee accordingly.

(7) A development framework or structure plan so approved may at any time, on application to or on the direction of the Responsible Member, in the manner determined by the Responsible Member and on condition that all interested parties have been afforded an opportunity to lodge objections or make representations, be amended or withdrawn, with the approval of the Responsible Member, by the competent authority or the joint committee or the department head.

(8) (a) A development framework or structure plan shall be reviewed by the local authority, metropolitan council or district council, joint committee or department head concerned within the prescribed period, but at least once every 10 years in the manner determined by the Responsible Member and on condition that all interested parties have been afforded an opportunity to lodge objections or make representations and shall, as so reviewed, be submitted to the Responsible Member for approval.

(b) A development framework or structure plan shall lapse at the expiry of the prescribed period or a period of 10 years, whichever is the shorter period, after the approval in terms of subsection (6), or in the case of paragraph (a) of this subsection, if the provisions of paragraph (a) are not complied with; provided that structure plans listed in Schedule VII shall only lapse 3 years after the commencement of this Law.

(9) In the preparation, amendment, withdrawal or review of a development framework or structure plan regard shall be had to the protection of the natural and developed environment and environmentally sustainable development in general and steps taken in this connection shall be specified.

(10) (a) (i) Where a council deems it advisable by virtue of the provisions of section 5, its chief executive officer may, subject to the provisions of paragraph (c) of this subsection, prepare and submit to the council for approval a specific development framework or structure plan in respect of the land situated in the area of jurisdiction of the competent authority.

(ii) The approval referred to in subparagraph (i) shall be subject to the conditions determined by the council as to the manner in which the specific development framework or structure plan is to be prepared, including conditions as to the right to inspection and the making of representations of all interested parties, which includes the development councils concerned, in the preparation of the development framework or structure plan.

(iii) Where a council approves a specific development framework or structure plan, it shall submit the framework or plan to the department head for information purposes within 60 days.

(b) The provisions of subsections (5), (6), (7), (8) and (9) shall apply *mutatis mutandis* to a specific development framework or structure plan as if a reference in those subsections to the Responsible Member were a reference to the council concerned.

(c) No specific development framework or structure plan shall be inconsistent with a development framework or structure plan contemplated in subsection (1), (2) or (3) or contain an authorisation contemplated in section 5(2).

(11) (a) The urban and regional structure plans in terms of the Physical Planning

Beplanning, 1991 (Wet 125 van 1991), gelys in Bylae VII, word vanaf die inwerkingtreding van hierdie Wet geag struktuurplanne te wees wat ingevolge die bepalings van Hoofstuk I van hierdie Wet tot stand gekom het en ingevolge artikel 4(6) goedgekeur is.

(b) Artikel 27 van die Wet op Fisiese Beplanning, 1991, bly van toepassing op die struktuurplanne vermeld in subartikel (11)(a), totdat die Verantwoordelike Lid regulasies maak ingevolge artikel 5(6) of spesifieke maatreëls voorskryf ingevolge artikel 5(4).

Algemene doel van en spesiale bepalings ten opsigte van ontwikkelingsraamwerke en struktuurplanne

5. (1) (a) Die algemene doel van 'n geïntegreerde ontwikkelingsraamwerk is om ontwikkeling deur middel van ontwikkelingsbeplanning te rig, sodat die algemene beginsels vervat in Bylae IV bevorder word.

(b) Die algemene doel van 'n spesifieke ontwikkelingsraamwerk is om gedetailleerde strategieë voor te skryf vir die spesifieke onderwerp waarvoor dit opgestel word.

(c) Die algemene doel van 'n struktuurplan, as die ruimtelike aspek van 'n geïntegreerde ontwikkelingsraamwerk, is om riglyne voor te skryf vir die toekomstige ruimtelike ontwikkeling van die gebied waarop dit betrekking het (insluitend stadshernuwing, herkonstruksie, integrasie, stadsontwerp of die opstel van ontwikkelingsplanne), sodat die algemene beginsels in Bylae IV en die algemene welsyn van die betrokke gemeenskap en die orde in die gebied op die doeltreffendste wyse bevorder word.

(2) Die Verantwoordelike Lid kan hersonering ooreenkomstig 'n ontwikkelingsraamwerk of struktuurplan wat ingevolge artikel 4(6) goedgekeur is, deur 'n raad magtig.

(3) 'n Ontwikkelingsraamwerk of struktuurplan verleen nie enige reg en neem nie enige reg weg ten opsigte van grond nie, behalwe in die mate waarin subartikels (4) en (6) verdere goedkeurings vir ontwikkeling vereis.

(4) By die goedkeuring van 'n ontwikkelingsraamwerk of struktuurplan kan die Verantwoordelike Lid spesifieke maatreëls, wat slegs op daardie ontwikkelingsraamwerk of struktuurplan van toepassing is, voorskryf—

- (a) waarvolgens goedkeurings ingevolge hierdie Wet of enige ander wet wat die Verantwoordelike Lid vermeld, bestaanbaar moet wees met 'n ontwikkelingsraamwerk of struktuurplan;
- (b) waarvolgens verdere goedkeurings van voorgeskrewe owerhede vereis word vir 'n omskrewe tipe ontwikkeling;
- (c) wat bepaal watter owerheid die goedkeurings moet verleen of die bestaanbaarheid daarvan moet bepaal, en
- (d) wat bepaal hoe die ontwikkelingsraamwerk of struktuurplan geïmplementeer moet word.

(5) Die maatreëls soos voorgeskryf ingevolge subartikel (4) of (6) bind die Staat, tensy die Verantwoordelike Lid die Staat daarvan vrystel in 'n spesifieke geval of kategorie gevalle, onderworpe aan die voorwaardes wat die Verantwoordelike Lid na goëddunke opleë.

(6) Die Verantwoordelike Lid kan regulasies maak ter bereiking van enige doelstelling van hierdie Hoofstuk, insluitend regulasies ten opsigte van—

- (a) maatreëls wat die Verantwoordelike Lid kan instel, waarvolgens 'n aansoek of voorgestelde ontwikkelingsraamwerk of struktuurplan bestaanbaar moet wees met 'n ander ontwikkelingsraamwerk of struktuurplan;
- (b) maatreëls waarvolgens 'n omskrewe tipe ontwikkeling verdere goedkeurings van 'n bepaalde owerheid vereis;
- (c) maatreëls wat bepaal watter owerheid die nodige goedkeurings moet verleen of die bestaanbaarheid daarvan moet bepaal;
- (d) die vereiste dat maatreëls die Staat sal bind;
- (e) die wyse van opstel van ontwikkelingsraamwerke en struktuurplanne;
- (f) die wyse en stadiums van bekendmaking van ontwikkelingsraamwerke en struktuurplanne;
- (g) die implementering, hersiening en wysiging van ontwikkelingsraamwerke en struktuurplanne, en

Act, 1991 (Act 125 of 1991), listed in Schedule VII shall with effect from the commencement of this Law, be deemed to be structure plans prepared in terms of the provisions of Chapter 1 of this Law and approved in terms of section 4 (6).

- 5 (b) Section 27 of the Physical Planning Act, 1991, shall continue to apply to structure plans mentioned in subsection (11)(a), until the Responsible Member makes regulations in terms of section 5(6) or prescribes specific measures in terms of section 5(4).

General purpose of and special provisions regarding development frameworks and structure plans

- 10 5. (1) (a) The general purpose of an integrated development framework shall be to lay down guidelines by means of development planning so that the general principles contained in Schedule IV of this Law can be promoted.

(b) The general purpose of a specific development framework shall be to formulate detailed strategies for the specific subject for which it is prepared.

- 15 (c) The general purpose of a structure plan as the spatial aspect of an integrated development framework shall be to lay down guidelines for the future spatial development of the area to which it relates (including urban renewal, reconstruction, integration, urban design or the preparation of development plans) so that the general principles in Schedule IV and the general welfare of the particular community and order in the area can be promoted in the most effective manner.

(2) The Responsible Member may authorise rezoning by a council in accordance with a development framework or structure plan approved in terms of section 4(6).

- 20 (3) A development framework or structure plan shall not confer or take away any right in respect of land except to the extent that subsections (4) and (6) may require further approvals for development.

(4) In approving a development framework or structure plan, the Responsible Member may prescribe specific measures applicable to that development framework or structure plan only—

- 30 (a) which require approvals in terms of this Law or any other law mentioned by the Responsible Member to be consistent with a development framework or structure plan;
- (b) which require further approvals by a particular authority in respect of a specified type of development;
- 35 (c) which determine the authority that is to grant the necessary approvals or determine the consistency thereof, and
- (d) which determine the manner in which the development framework or structure plan is to be implemented.

- (5) The measures as prescribed in terms of subsection (4) or (6) shall bind the State, unless the Responsible Member exempts the State from them in a particular case or category of cases, subject to the conditions imposed by the Responsible Member in his or her discretion.

(6) The Responsible Member may make regulations with a view to attaining any objective of this Chapter, including regulations relating to:

- 45 (a) the imposition of measures by the Responsible Member requiring an application or proposed development framework or structure plan to be consistent with another development framework or structure plan;
- (b) measures requiring further approvals by a particular authority in respect of a specified type of development;
- 50 (c) measures determining the authority that is to grant the necessary approvals or determine the consistency of the approvals;
- (d) the requirement that measures should bind the State;
- (e) the manner of preparation of development frameworks and structure plans;
- 55 (f) the manner and stages of making known development frameworks and structure plans;
- (g) the implementation, review and amendment of development frameworks and structure plans, and

- (h) verskillende tipes en vlakke van ontwikkelingsraamwerke en struktuurplanne en die inhoud van hierdie raamwerke en planne.

Voortsetting van ontwikkelingsraamwerke en struktuurplanne

6. Waar grond geleë in die regsgebied van een owerheid in die regsgebied van 'n ander owerheid ingelyf word of waar regsgebiede herafgebaken word, bly enige ontwikkelingsraamwerk en struktuurplan wat op dié grond van toepassing is, behoudens die bepalings van hierdie Hoofstuk van krag totdat dit herroep word of totdat die Verantwoordelike Lid ander reëlings daaromtrent tref by kennisgewing in die *Provinsiale Koerant*.

HOOFSTUK II:

SONERINGSKEMAS

Bestaande dorpsaanlegskemas en dorpsbeplanningskemas

7. (1) (a) Enige dorpsaanlegskema gelys in Bylae V, wat ingevolge artikel 7(1) van die Grondgebruik-ordonnansie geag is 'n soneringskema te wees, word vanaf die inwerkingtreding van hierdie Wet geag 'n soneringskema te wees wat ingevolge hierdie Wet van krag is.

(b) Enige dorpsbeplanningskema gelys in Bylae VI, wat ingevolge die regulasies gemaak kragtens die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), goedgekeur is, word vanaf die inwerkingtreding van hierdie Wet geag 'n soneringskema te wees wat ingevolge hierdie Wet van krag is.

(c) Enige bepaling in enige soneringskema wat onbestaanbaar is met bepalings van hierdie Wet ten opsigte van—

- (i) strafbepalings;
- (ii) advertering;
- (iii) appèlreg ten opsigte van vergunningsgebruike of ander tipes aansoeke, en
- (iv) enige ander aspek spesifiek in die regulasies vermeld, word geag herroep te wees met ingang van die datum van inwerkingtreding van hierdie Wet of die datum in die regulasies vermeld.

(2) Die Verantwoordelike Lid kan skemaregulasies soos beoog in artikel 9 maak ter aanvulling van skemaregulasies wat kragtens subartikel (1) van hierdie artikel bestaan, ten einde gevolg te gee aan artikel 9(1).

(3) (a) Met ingang van 1 Julie 1986 word 'n verwysing in enige wet na 'n dorpsaanlegskema, goedgekeur kragtens Hoofstuk 4 van die Dorpe-ordonnansie, geag 'n verwysing na 'n soneringskema te wees.

(b) Met ingang van die datum van inwerkingtreding van hierdie Wet word 'n verwysing in enige wet na 'n dorpsbeplanningskema, goedgekeur ingevolge die regulasies gemaak kragtens die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), geag 'n verwysing na 'n soneringskema te wees.

Skemaregulasies deur Verantwoordelike Lid gemaak

8. (1) Die skemaregulasies soos beoog in artikel 9, ten opsigte van alle grond in die voormalige Provinsie die Kaap die Goeie Hoop waarop die bepalings van artikel 7 nie van toepassing was nie, soos gewysig, wat die Administrateur ingevolge artikel 8 van die Grondgebruik-ordonnansie gemaak het en wat op 1 Julie 1986 in werking getree het, bly binne die provinsie Wes-Kaap voortbestaan ingevolge hierdie Wet.

(2) (a) Skemaregulasies gemaak ingevolge subartikel (1) is nie van toepassing op grond wat binne 'n voormalige ontwikkelingsgebied, goedgekeur ingevolge artikel 33 van die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), geleë is nie.

(b) Skemaregulasies gemaak ingevolge subartikel (1) is nie van toepassing op grond wat binne 'n ingelyfde of bestaande gebied, soos omskryf in die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet 9 van 1984), geleë is nie.

(c) Enige goedkeuring voor die inwerkingtreding van hierdie Wet verleen in die veronderstelling dat die skemaregulasies wel van toepassing was binne daardie

- (h) various types and levels of development frameworks and structure plans and the contents of these frameworks and plans.

Continuation of development frameworks and structure plans

6. Where land situated in the area of jurisdiction of one authority is incorporated in the area of jurisdiction of another authority or where areas of jurisdiction are redefined, any development framework and structure plan applicable to that land shall, subject to the provisions of this Chapter, remain in force until repealed or until the Responsible Member makes other arrangements in respect thereof by notice in the *Provincial Gazette*.

CHAPTER II:

ZONING SCHEMES

Existing town planning schemes and town-planning schemes

7. (1) (a) Any town planning scheme listed in Schedule V which is deemed to be a zoning scheme in terms of section 7(1) of the Land Use Ordinance shall, with effect from the commencement of this Law, be deemed to be a zoning scheme in force in terms of this Law.

- (b) Any town planning scheme listed in Schedule VI which has been approved in terms of the regulations made under the Black Communities Development Act, 1984 (Act 4 of 1984), shall, with effect from the commencement of this Law, be deemed to be a zoning scheme in force in terms of this Law.

- (c) Any provision in any zoning scheme which is not consistent with provisions of this Law regarding—

- (i) penalty provisions;
 - (ii) advertising;
 - (iii) right of appeal in respect of consent uses or other types of applications, and
 - (iv) any other aspect specifically mentioned in the regulations,
- shall be deemed to have been repealed with effect from the date of commencement of this Law or the date stated in the regulations.

- (2) The Responsible Member may make scheme regulations as contemplated in section 9 supplementary to scheme regulations existing under subsection (1) of this section, in order to give effect to section 9(1).

- (3) (a) With effect from 1 July 1986 any reference in any law to a town-planning scheme approved under Chapter 4 of the Townships Ordinance, shall be deemed to be a reference to a zoning scheme.

- (b) With effect from the date of commencement of this Law, a reference in any law to a town planning scheme approved in terms of the regulations made under the Black Communities Development Act, 1984 (Act 4 of 1984), shall be deemed to be a reference to a zoning scheme.

40 Scheme regulations made by Responsible Member

8. (1) The scheme regulations, as contemplated in section 9, in respect of all land in the former Province of the Cape of Good Hope to which the provisions of section 7 were not applicable, as amended, which the Administrator made in terms of section 8 of the Land Use Ordinance, and which came into operation on 1 July 1986, shall remain in force in the province of Western Cape in terms of this Law.

- (2) (a) Scheme regulations made in terms of subsection (1) shall not apply to land situated within a former development area approved in terms of section 33 of the Black Communities Development Act, 1984 (Act 4 of 1984).

- (b) Scheme regulations made in terms of subsection (1) shall not apply to land situated in an incorporated or existing area, as defined in the Rural Areas (House of Representatives) Act, 1987 (Act 9 of 1987).

- (c) Any approval granted before the date of commencement of this Law on the

gebiede, word geag wettig te wees vir soverre dit te goeder trou goedgekeur is.

(3) Die Verantwoordelike Lid kan skemaregulasies maak ten opsigte van grond waarop subartikel (2)(a) en (b) van toepassing is en waarop daar nie dorpsbeplanningskemas soos vermeld in artikel 7(1)(b) van toepassing is nie.

(4) Niemand mag sonder die voorafverkreë magtiging van óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, die gebruik van enige grond waarop subartikel (3) van toepassing is en waarvoor daar nog nie skemaregulasies afgekondig is nie, verander of die grond ontwikkel nie, tensy vrystelling van hierdie bepaling verleen is.

(5) Die Verantwoordelike Lid of die raad, na gelang van die geval, kan magtiging verleen vir 'n verandering van gebruik of vir ontwikkeling van grond ooreenkomstig subartikel (4), of kan vereis dat aansoek eers ingevolge artikel 16 gedoen moet word voor die beoogde verandering van gebruik of ontwikkeling.

Doel en inhoud van soneringskema en skemaregulasies

9. (1) Die algemene doel van 'n soneringskema en skemaregulasies is om voorsiening te maak vir die bevordering van die beginsels vervat in Bylae IV en in 'n ontwikkelingsraamwerk en struktuurplan wat van toepassing is op die gebied van die soneringskema, en om gebruiksregte te bepaal met die doel om groei en ontwikkeling te bestuur.

(2) (a) Skemaregulasies, saamgelees met die soneringskaart, bind die Staat, tensy die Verantwoordelike Lid in 'n spesifieke geval of kategorie gevalle vrystelling van die nakoming van hierdie bepaling verleen.

(b) Alle grond wat behoort aan die Staat of 'n instelling waarvan die Staat die enigste of grootste aandeelhouer is en wat op die datum van inwerkingtreding van hierdie Wet nie gesoneer is nie of op 'n soneringskema vir staatsdoeleindes aangedui word, word geag gesoneer te wees in ooreenstemming met die wettige aanwending daarvan op daardie datum, soos deur die betrokke raad bepaal.

(c) Ondanks die bepalings van artikel 13 van die Wet op die Regsopvolging van die Suid-Afrikaanse Vervoerdienste, 1989 (Wet 9 van 1989), moet alle grond vermeld in subartikel (b), wat nie reeds op die datum van inwerkingtreding van hierdie Wet aangewend word vir 'n spesifieke gebruik wat in ooreenstemming is met die sonering wat deur die betrokke raad bepaal is nie, eers hersoneer word om die aanwending waarvoor dit beoog word, te magtig, tensy die Verantwoordelike Lid in 'n spesifieke geval of kategorie gevalle vrystelling van die nakoming van hierdie bepaling verleen.

(3) Skemaregulasies kan voorsiening maak vir die volgende aspekte, maar is nie daartoe beperk nie:

- (a) die magtiging van 'n raad om aansoeke om afwykings, vergunningsgebruike, die opheffing van beperkings en onderverdelings toe te staan;
- (b) verskillende metodes waarvolgens grondgebruike gesoneer of bestuur word, insluitend die aanduiding van sones volgens grondgebruike of volgens intensiteit van benutting;
- (c) primêre en vergunningsgebruike in sekere sones en prosedures vir die verkryging van sekere regte wat nie met hierdie Wet onbestaanbaar is nie;
- (d) die neerlê van grondgebruikbeperkings vir sekere grondgebruike of sones, wat ook grondgebruikbeperkings wat op spesifieke tipes natuurlike omgewing van toepassing is, kan insluit;
- (e) voorwaardes waaronder strydige geboue en gebruiksregte bly voortbestaan;
- (f) alternatiewe ontwikkelingsmoontlikhede vir bestaande gebruiksregte, insluitend die oordrag van ontwikkelingsregte en die toekenning van ontwikkelingsbonusse;
- (g) beheer oor estetiese aspekte, met inbegrip van gebouontwerp, advertensie-tekens en grensmure, en ontwerpriglyne;
- (h) beheer oor grondwerke wat ontwikkeling voorafgaan, soos die opvulling, drooglegging of platstoot van gebiede en die sloping van geboue;
- (i) beskermingsmaatreëls ten opsigte van natuurlike omgewingsgebiede soos vloedvlaktes, duine, steil hellings en die omgewing in die algemeen;
- (j) beskermingsmaatreëls ten opsigte van stedelike en landelike gebiede wat van argitektoniese, historiese of besondere belang is;
- (k) die aanmoediging van besighede, veral in die informele sektor, en
- (l) verdere voorgeskrewe aspekte.

assumption that the scheme regulations did in fact apply to those areas shall be deemed to be lawful in so far as they were approved in good faith.

(3) The Responsible Member may make scheme regulations in respect of land to which subsection 2(a) and (b) applies and to which town planning schemes as mentioned in section 7(1)(b) do not apply.

(4) No person shall change the use of land to which subsection (3) applies and land for which no scheme regulations have been promulgated without the prior authority of the Responsible Member or a council, if the council is authorised thereto in terms of scheme regulations or section 67, unless exemption from this provision has been granted.

(5) The Responsible Member or the council, as the case may be, may authorise any change of use or any development of land in terms of subsection (4), or may require that application in terms of section 16 first be made before the change of use or the development contemplated.

15 Purpose and contents of zoning schemes and scheme regulations

9. (1) The general purpose of a zoning scheme and scheme regulations is to provide for the promotion of the principles contained in Schedule IV and in a development framework and structure plan applicable to the area of the zoning scheme and to determine use rights with a view to managing growth and development.

(2) (a) Scheme regulations, read with the zoning map, shall bind the State, unless the Responsible Member exempts the State from complying with this provision in a particular case or category of cases.

(b) All land belonging to the State or to a body of which the State is the only or majority shareholder, which on the date of commencement of this Law, has not been zoned or which has been indicated for State purposes on an zoning scheme, shall be deemed to be zoned in accordance with its lawful utilisation on that particular date, as determined by the council concerned;

(c) Notwithstanding the provisions of section 13 of the Legal Succession to the South African Transport Services Act, 1989 (Act 9 of 1989), all land mentioned in subsection (b) which at the date of commencement of this Law is not utilised for a specific purpose which is in accordance with its zoning as determined by the council concerned, shall first be rezoned to authorise the utilisation for which it is intended, unless the Responsible Member grant exemption from this provision in a particular case or category of cases.

(3) Scheme regulations may provide for the following aspects without being limited to them:

- (a) the authorisation of a council to grant applications for departures, consent uses, the removal of restrictions and subdivisions;
- (b) different methods of zoning or managing land uses, including the indication of zones according to land uses or according to intensity of utilisation;
- (c) primary and consent uses in certain zones and procedures for obtaining certain rights not inconsistent with this Law;
- (d) the imposition of land use restrictions in respect of certain land uses or zones, which may also include land use restrictions applicable to specific types of natural environment;
- (e) the conditions on which non-conforming buildings and use rights may continue to exist;
- (f) alternative development possibilities for existing use rights, including the transfer of development rights and the allocation of development bonuses;
- (g) control over aesthetic aspects, including building design, advertising signs and boundary walls, and design guidelines;
- (h) control over earth works preceding development, such as the filling up, draining or levelling of areas and the demolition of buildings;
- (i) protective measures in respect of areas of natural environmental such as flood plains, dunes, steep slopes and the environment in general;
- (j) protective measures in respect of urban and rural areas of architectural, historical or particular interest;
- (k) the encouragement of businesses, especially in the informal sector, and
- (l) further prescribed aspects.

Wysiging van skemaregulasies

10. (1) Skemaregulasies kan, behoudens die bepalings van subartikel (2), deur die Verantwoordelike Lid gewysig of vervang word nadat die voorgenome wysiging of vervanging vir kommentaar bekend gemaak is op die voorgeskrewe wyse, of by gebrek aan regulasies, op die wyse wat die departementshoof goedvind, indien enigiemand na die mening van die departementshoof belang by die aangeleentheid het. 5

(2) Skemaregulasies word by kennisgewing in die *Provinsiale Koerant* gewysig of vervang; met dien verstande dat die Verantwoordelike Lid kan bepaal dat die wysiging of vervanging nie aldus gepubliseer hoef te word nie, maar dat daar slegs 'n kennisgewing in die *Provinsiale Koerant* gepubliseer moet word ten effekte dat die betrokke skemaregulasies gewysig of vervang is, en dat besonderhede ter insae beskikbaar is op 'n plek in die kennisgewing vermeld. 10

(3) Die betrokke bevoegde owerheid betaal die koste van publikasie van die kennisgewing indien die wysiging of vervanging slegs binne die regsgebied van daardie owerheid geld. 15

(4) 'n Bevoegde owerheid moet te alle tye 'n kopie van sy geldende skemaregulasies beskikbaar hê vir insae deur die publiek, en moet ook kopieë daarvan beskikbaar stel vir verkoop aan die publiek.

Tekaartstel van sonerings

11. (1) 'n Bevoegde owerheid moet binne die voorgeskrewe tydperk 'n soneringskaart opstel wat sones, asook grondeenhede in artikel 12(3) vermeld, aandui ten opsigte van grond geleë in sy regsgebied of die deel daarvan wat die Verantwoordelike Lid bepaal.

(2) 'n Soneringskaart moet, nadat dit opgestel en deur die raad goedgekeur is, vir alle belanghebbendes vir insae en die rig van vertoë by die kantoor van die bevoegde owerheid beskikbaar wees en beswaarmakers moet gewys word op hul reg van appél ingevolge artikel 64. 25

Register

12. (1) 'n Bevoegde owerheid moet 'n register hou en in stand hou. 30

(2) Die register maak deel uit van die soneringskema van die bevoegde owerheid.

(3) Waar 'n soneringskaart ten opsigte van grond opgestel is, moet enige grondeenheid ten opsigte waarvan afwykings in die register vervat is, onderskeibaar aangetoon word.

Strydigheid van provinsiale wette

13. (1) Wanneer enige bepaling van 'n soneringskema strydig is met 'n provinsiale wet of ordonnansie of 'n verordening of regulasie daarkragtens gemaak, geld daardie bepaling behoudens die bepalings van subartikel (2). 35

(2) Die bepalings van enige ander provinsiale wet of ordonnansie, vir sover dit betrekking het op die bepaling van die grense en breedtes van paaie en die oprigting van strukture binne 'n bepaalde afstand van die grense of middellyn van paaie, geniet voorrang bo die bepalings van 'n soneringskema, uitgesonderd vir sover 'n soneringskema— 40

(a) voorsiening maak vir 'n padbreedte wat dié wat ingevolge die ander provinsiale wet of ordonnansie bepaal word, oorskry, of 45

(b) bepaal dat strukture op 'n groter afstand van die grens of middellyn van 'n pad moet wees as dié wat ingevolge die ander provinsiale wet of ordonnansie bepaal word.

(3) Ondanks die bepalings van subartikel (1), kan die Verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant* bepaal dat die bepalings van 'n ander provinsiale wet of ordonnansie of 'n regulasie of verordening daarkragtens gemaak, voorrang geniet bo die bepalings van 'n soneringskema. 50

Amendment of scheme regulations

10. (1) Scheme regulations may, subject to the provisions of subsection (2), be amended or replaced by the Responsible Member after the proposed amendment or replacement has been advertised for comment in the prescribed manner, or in the absence of regulations, in the manner deemed fit by the department head if, in the opinion of the department head, any person has an interest in the matter.

(2) Scheme regulations shall be amended or repealed by notice in the *Provincial Gazette*; provided that the Responsible Member may determine that the amendment or replacement need not be so published, but that a notice need only be published in the *Provincial Gazette* to the effect that the scheme regulations concerned have been amended or replaced and that particulars are available for inspection at a place mentioned in the notice.

(3) The competent authority concerned shall pay the costs of publication of the notice if the amendment or replacement only applies within the area of jurisdiction of that authority.

(4) A competent authority shall at all times have a copy of its current scheme regulations available for inspection by the public, and shall make copies of the scheme regulations available for sale to the public.

Preparation of zoning map

11. (1) A competent authority shall within the prescribed period prepare a zoning map showing zones, and also land units referred to in section 12(3), in respect of land situated in its area of jurisdiction or any part of its area of jurisdiction determined by the Responsible Member.

(2) A zoning map shall, after having been prepared and approved by the council, be made available at the offices of the competent authority for inspection and the making of representations by all interested persons, and the attention of objectors shall be called to their right of appeal in terms of section 64.

Register

12. (1) A competent authority shall keep and maintain a register.

(2) The register shall form part of the zoning scheme of the competent authority.

(3) Where a zoning map has been prepared in respect of land, any land unit in respect of which departures are contained in the register shall be shown in such a way that it is distinguishable.

Conflict of provincial laws

13. (1) When any provision of a zoning scheme is in conflict with a provincial law or ordinance or a by-law or regulation made thereunder, that provision shall prevail, subject to the provisions of subsection (2).

(2) The provisions of any other provincial law or ordinance, in so far as it deals with the determination of road boundaries and road widths and the erection of structures within a specified distance of the boundaries or centre line of roads shall prevail over the provisions of a zoning scheme, except in so far as a zoning scheme—

- (a) provides for a road width exceeding that determined in terms of the other provincial law or ordinance, or
- (b) provides that structures shall be at a greater distance from the boundary or centre line of a road than that provided in terms of the other provincial law or ordinance.

(3) Notwithstanding the provisions of subsection (1), the Responsible Member may by notice in the *Provincial Gazette* determine that the provisions of another provincial law or ordinance or a regulation or by-law made thereunder shall prevail over the provisions of a zoning scheme.

Use rights

14. (1) (a) In terms of section 14(1) of the Land Use Ordinance, all land mentioned in section 8 of that Ordinance were deemed to be zoned according to its utilisation on 1 July 1986, as determined by the council concerned.

Gebruiksregte

14. (1) (a) Ingevolge artikel 14(1) van die Grondgebruik-ordonnansie is alle grond in artikel 8 van daardie Ordonnansie vermeld, geag gesoneer te wees in ooreenstemming met die aanwending daarvan op 1 Julie 1986, soos deur die betrokke raad bepaal.

(b) Met ingang van die datum van inwerkingtreding van hierdie Wet word alle grond in artikel 8 vermeld, waarop subartikel (a) nie van toepassing is nie, geag gesoneer te wees in ooreenstemming met die wettige aanwending daarvan, soos deur die betrokke raad bepaal.

(2) (a) Indien na die verstryking van 'n tydperk van 15 jaar na 1 Julie 1986 enige gebruiksreg ten opsigte van grond waarop die toepaslike bepalings van artikel 7 van toepassing is, nie uitgeoefen is nie, word daardie grond behoudens die bepalings van paragraaf (b) geag gesoneer te wees in ooreenstemming met die aanwending daarvan, soos deur die betrokke raad bepaal, en verval enige toepaslike soneringskaart wat by dié verstryking bestaan.

(b) Behoudens die bepalings van paragraaf (c) moet 'n appèlkomitee of beplanningsraad voor 1 Julie 2001 of voor 'n latere datum deur hulle bepaal, op aansoek van die eienaar van die betrokke grond en, indien die eienaar na die mening van die appèlkomitee of beplanningsraad verlies gely het of nog sal ly, die tydperk wat verstryk op 1 Julie 2001 verleng met die verdere tydperk wat die appèlkomitee of beplanningsraad bepaal; met dien verstande dat die verlenging vir 'n tydperk van hoogstens 5 jaar vanaf 1 Julie 2001 mag wees.

(c) 'n Besluit ingevolge paragraaf (b) of 'n eienaar verlies gely het of nog sal ly, moet op aandrang van die eienaar geneem word soos voorgeskryf ingevolge artikel 35 *ter* van die Dorpe-ordonnansie in Bylae II vervat, en die aangeleentheid word vir die toepassing van artikel 72(2) van hierdie Wet geag nie afgehandel te wees nie.

(3) Wanneer grond geag word gesoneer te wees soos beoog in subartikel (1), (2), (4)(d) of (5) van hierdie artikel of artikel 16(2)(b) of 59(5)(c), moet die mees beperkende sonering ingevolge waarvan die aanwending van die grond toelaatbaar sal wees, ongeag of dit in samehang met 'n afwyking is of nie, na gelang die raad bepaal, toegeken word.

(4) (a) Ondanks die toepaslike bepalings van subartikels (1) en (2) kan óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge die bepalings van 'n struktuurplan of artikel 67 daartoe gemagtig is, vanaf 'n datum deur die Verantwoordelike Lid of die raad bepaal, 'n soneringskaart of deel daarvan vervang deur een ingevolge waarvan grond nie noodwendig in ooreenstemming met die aanwending daarvan gesoneer word nie.

(b) Gebruiksregte wat uit hoofde van die bepalings van paragraaf (a) ontstaan en by die verstryking van 'n tydperk van 5 jaar of 'n verlengde, voorgeskrewe tydperk nadat dit aldus ontstaan het, nie uitgeoefen is nie, verval by dié verstryking en daarop moet die raad die soneringskaart dienooreenkomstig wysig.

(c) Voordat 'n soneringskaart kragtens paragraaf (a) vervang word, is die bepalings van artikel 17 *mutatis mutandis* van toepassing op enige sonering ingevolge die voorgenome vervangingskema wat van 'n bestaande sonering verskil.

(d) Behoudens die toepaslike bepalings van artikel 7 of subartikel (2) van hierdie artikel word grond waarvan die sonering ingevolge paragraaf (b) verval het, geag gesoneer te wees in ooreenstemming met die aanwending daarvan soos deur die betrokke raad bepaal.

(5) Behoudens die toepaslike bepalings van artikel 7 of subartikel (2) of (4)(a) of (b) van hierdie artikel verval enige gebruiksreg indien dit vir 'n ononderbroke tydperk van twee jaar nie uitgeoefen word nie, en word die betrokke grond geag gesoneer te wees in ooreenstemming met die aanwending daarvan soos deur die betrokke raad bepaal.

(6) Waar die wettige aanwending van grond—

(a) op 1 Julie 1986 of by die inwerkingtreding van hierdie Wet en vir enige ononderbroke tydperk daarna nie voldoen het aan die sonering van die grond uit hoofde van die bepalings van artikel 7 nie;

(b) by die opname van die grond in die vervangingskema kragtens subartikel (4) en vir enige ononderbroke tydperk daarna nie voldoen aan die sonering van die grond ingevolge subartikel (4) nie, of

(c) by die toestaan van 'n hersonering ingevolge artikel 16 en vir enige ononderbroke tydperk daarna nie voldoen aan die sonering van die grond ingevolge daardie artikel nie,

(b) With effect from the date of commencement of this Law all land referred to in section 8 to which subsection (a) does not apply shall be deemed to be zoned in accordance with its lawful utilisation, as determined by the council concerned.

(2) (a) If upon the expiry of a period of 15 years after 1 July 1986 any use right in respect of land to which the applicable provisions of section 7 apply has not been exercised, that land shall, subject to the provisions of paragraph (b), be deemed to be zoned in accordance with its utilisation, as determined by the council concerned, and any applicable zoning map existing at that expiry shall lapse.

(b) Subject to the provisions of paragraph (c), an appeal committee or a planning board shall, before 1 July 2001 or before a later date determined by them, on the application of the owner of the land concerned and if, in the opinion of the appeal committee or planning board, the owner has suffered or will suffer loss, extend the period that will expire on 1 July 2001 by the further period determined by the appeal

committee or planning board; provided that the extension shall be for a period not exceeding 5 years from 1 July 2001.

(c) A decision in terms of paragraph (b) as to whether an owner has suffered or will suffer loss shall, at the insistence of the owner, be taken as prescribed in terms of section 35 ter of the Townships Ordinance contained in Schedule II, and the matter shall for the purposes of section 72(2) of this Law be deemed not to have been disposed of.

(3) When land is deemed to be zoned as contemplated in subsection (1), (2), (4)(d) or (5) of this section or section 16(2)(b) or 59(5)(c), the most restrictive zoning permitting of the utilisation of the land, irrespective of whether or not in conjunction with a departure, as the council may determine, shall be granted.

(4) (a) Notwithstanding the applicable provisions of subsections (1) and (2), either the Responsible Member or a council, if authorised thereto in terms of the provisions of a structure plan or section 67, may from a date determined by the Responsible Member or the council substitute a zoning map in terms of which land is not necessarily zoned in accordance with its utilisation for a zoning map or part thereof.

(b) Use rights originating by virtue of the provisions of paragraph (a), which at the expiry of a period of 5 years or an extended, prescribed period after having so originated, have not been exercised shall lapse at that expiry and thereupon the council shall amend the zoning map accordingly.

(c) Before substitution of a zoning map in terms of paragraph (a), the provisions of section 17 shall apply *mutatis mutandis* to any zoning in terms of the proposed substitution scheme which differs from an existing zoning.

(d) Subject to the applicable provisions of section 7 or subsection (2) of this section, land in respect of which the zoning has lapsed in terms of paragraph (b) shall be deemed to be zoned in accordance with its utilisation as determined by the council concerned.

(5) Subject to the applicable provisions of section 7 or subsection (2) or (4)(a) or (b) of this section, any use right shall lapse if not exercised for an uninterrupted period of 2 years, and the land concerned shall be deemed to be zoned in accordance with its utilisation as determined by the council concerned.

(6) Where the lawful utilisation of land—

(a) on 1 July 1986 did not comply with the zoning of the land by virtue of the provisions of section 7 or does not so comply at the commencement of this Law and for any uninterrupted period thereafter;

(b) at the inclusion of the land in the substitution scheme under subsection (4) and for any uninterrupted period thereafter does not comply with the zoning of the land in terms of subsection (4), or

(c) upon the granting of a rezoning in terms of section 16 and for any uninterrupted period thereafter does not comply with the zoning of the land in terms of that section,

word die aanwending geag nie 'n misdryf ooreenkomstig die bedoeling van artikel 69 te wees nie.

(7) Ondanks die toepaslike bepalings van artikels 16(2)(b) en 59(4)(c) en van subartikels (1), (2), (4)(d) en (5) van hierdie artikel, maar behoudens die bepalings van subartikel (6) van hierdie artikel, word grond wat in stryd met die gebruiksreg daarvan aangewend word, geag die wettige gebruiksreg daarvan te hê; met dien verstande dat waar die wettige gebruiksreg nie bepaal kan word nie, 'n gebruiksreg by wyse van hersonering ingevolge artikel 16 of 18 aan die grond toegeken moet word.

(8) Ondanks die toepaslike bepalings van hierdie artikel maar behoudens 'n bepaalde hersonering vervel geen toegestane reg om een woonhuis op 'n grondeenheid op te rig of om 'n grondeenheid vir die bewoning van een woonhuis aan te wend nie.

Afwykingsaansoeke

15. (1) (a) 'n Eienaar van grond kan by die betrokke hoof uitvoerende beampte skriftelik aansoek doen om—

(i) 'n verandering van die grondgebruikbeperkings wat ingevolge die skema-regulasies op 'n bepaalde sone van toepassing is, of

(ii) op 'n tydelike grondslag, vir 'n tydperk van hoogstens 10 jaar of vir 'n verlengde tydperk wat die Verantwoordelike Lid goedkeur, grond aan te wend vir 'n doel waarvoor die skemaregulasies geen voorsiening maak ten opsigte van daardie bepaalde sone nie.

(b) Óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge die skemaregulasies of artikel 67 daartoe gemagtig is, kan 'n aansoek in paragraaf (a) vermeld, toestaan of weier.

(c) Óf die Verantwoordelike Lid óf die raad, na gelang van die geval, kan by die toestaan van 'n aansoek om 'n afwyking ingevolge paragraaf (b) vir die toepassing van paragraaf (a)(i), bepaal dat 'n gebou op die grond, vir die toepassing van artikel 4(5) van die Wet op Deeltitels, 1986 (Wet 95 van 1986), en totdat die gebou gesloop of vernietig word, geag moet word te voldoen aan die voorskrifte van die betrokke soneringskema.

(2) Die hoof uitvoerende beampte moet—

(a) die aansoek laat adverteer indien enigiemand na sy of haar mening nadelig daardeur getref kan word;

(b) die tersaaklike kommentaar van enigiemand wat na sy of haar mening belang by die aansoek het, verkry;

(c) waar kommentaar of besware met betrekking tot die aansoek ontvang word, dit aan die eienaar vir kommentaar voorlê;

(d) waar die raad kragtens subartikel (1)(b) kan optree—

(i) die aansoek en alle tersaaklike stukke aan die raad voorlê, en

(ii) die eienaar en enige beswaarmakers van die raad se besluit in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die raad opgelê en hulle wys op hul reg van appél ingevolge artikel 64, en

(e) waar die Verantwoordelike Lid kragtens subartikel (1)(b) kan optree, die tersaaklike kommentaar van die hoof uitvoerende beampte se raad verkry en die departementshoof van 'n afskrif daarvan en van enige stukke wat die departementshoof verlang, voorsien.

(3) By nie-nakoming van die bepalings van subartikel (2) binne 'n tydperk by regulasie voorgeskryf, moet daar ooreenkomstig die regulasies gehandel word.

(4) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Verantwoordelike Lid kragtens subartikel (1)(b) kan optree—

(a) kommentaar en inligting wat na sy of haar mening nog vereis word, verkry, en

(b) die aansoeker, enige beswaarmakers en die betrokke bevoegde owerheid van die Verantwoordelike Lid se besluit daaromtrent in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die Verantwoordelike Lid opgelê.

(5) 'n Afwyking ten opsigte waarvan die aansoek kragtens hierdie artikel toegestaan is, vervel indien en vir sover dit nie uitgeoefen word nie binne 2 jaar na die datum waarop die aansoek toegestaan is, of binne die verlengde tydperk wat óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, op aansoek van die betrokke eienaar bepaal; met dien

the utilisation shall be deemed not to constitute an offence within the meaning of section 69.

(7) Notwithstanding the applicable provisions of sections 16(2)(b) and 59(4)(c) and of

5 subsections (1), (2), (4)(d) and (5) of this section, but subject to the provisions of subsection (6) of this section, land being utilised in conflict with its use right shall be deemed to have its lawful use right; provided that where the lawful use right cannot be determined, a use right shall be granted to the land by means of rezoning in terms of section 16 or 18.

10 (8) Notwithstanding the applicable provisions of this section, but subject to a particular rezoning, no right granted to erect one dwelling-house on a land unit or to utilise a land unit for the occupation of one dwelling-house shall lapse.

Applications for departures

15 15. (1) (a) An owner of land may apply in writing to the chief executive officer concerned—

(i) for an alteration of the land use restrictions applicable to a particular zone in terms of the scheme regulations, or

20 (ii) to utilise land on a temporary basis, for a period not exceeding 10 years or an extended period approved by the Responsible Member, for a purpose for which no provision has been made in the scheme regulations in respect of that particular zone.

(b) Either the Responsible Member or a council, if the council is authorised thereto in terms of the scheme regulations or section 67, may approve or refuse an application referred to in paragraph (a).

25 (c) Either the Responsible Member or the council, as the case may be, may, when granting an application for a departure in terms of paragraph (b) for the purposes of paragraph (a)(i), determine that a building on the land shall, for the purposes of section 4(5) of the Sectional Titles Act, 1986 (Act 95 of 1986), and until the building is demolished or destroyed, be deemed to comply with the provisions of the zoning
30 scheme concerned.

(2) The chief executive officer shall—

(a) cause the application to be advertised if in his or her opinion any person could be adversely affected by it;

35 (b) obtain the relevant comment of any person who in his or her opinion has an interest in the application;

(c) submit to the owner for comment any comment or objections received in respect of the application;

(d) where the council may act in terms of subsection (1)(b)—

40 (i) submit the application and all relevant documents to the council, and

(ii) notify the owner and any objectors of the council's decision and, where applicable, furnish them with a copy of conditions imposed by the council and call their attention to their right of appeal in terms of section 64, and

45 (e) where the Responsible Member may act under subsection (1)(b), obtain the relevant comment of the chief executive officer's council and furnish the department head with a copy of that comment and of any documents required by the department head.

(3) Failing compliance with the provisions of subsection (2) within a period prescribed by regulation, action shall be taken in accordance with the regulations.

50 (4) The department head, with regard to an application in respect of which the Responsible Member may act under subsection (1)(b), shall—

(a) obtain comment and information which in his or her opinion are still required, and

55 (b) notify the applicant, any objectors and the competent authority concerned of the Responsible Member's decision about the application and, where applicable, furnish them with a copy of conditions imposed by the Responsible Member.

60 (5) A departure in respect of which the application has been granted under this section shall lapse if and in so far as it has not been exercised within 2 years after the date of approval of the application or within the extended period determined by either the Responsible Member or a council, if the council is authorised thereto in terms of the scheme regulations or section 67, on application by the owner concerned;

verstande dat die verlengde tydperk nie die geldigheid van die goedkeuring vir 'n tydperk van meer as 5 jaar, of 'n ander voorgeskrewe tydperk, na die oorspronklike goedkeuring mag verleng nie.

(6) Waar 'n afwyking ingevolge subartikel (5) in sy geheel of gedeeltelik verval het, moet die raad die betrokke register en soneringskaart dienoreenkomstig wysig. 5

Hersonering op aansoek van eienaar van grond

16. (1) Óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge die bepalings van 'n struktuurplan of artikel 67 daartoe gemagtig is, kan 'n aansoek deur 'n eienaar van grond om die hersonering daarvan toestaan of weier.

(2) (a) 'n Hersonering ten opsigte waarvan die aansoek uit hoofde van die bepalings van subartikel (1) toegestaan is— 10

(i) verval indien die betrokke grond nie binne 'n tydperk van 2 jaar na die datum waarop die aansoek om hersonering toegestaan is, aangewend word ingevolge die hersonering nie;

(ii) vir die toepassing van artikel 22, verval— 15

(aa) indien 'n tersaaklike aansoek om onderverdeling in ooreenstemming met die hersonering nie binne 'n tydperk van 2 jaar na die datum waarop die aansoek om hersonering toegestaan is, ingevolge artikel 24 gedoen word nie, of

(bb) waar 'n aansoek om onderverdeling wel aldus gedoen is, indien die betrokke onderverdeling of deel daarvan nie bevestig word nie, 20

tensy óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge die bepalings van 'n struktuurplan of artikel 67 daartoe gemagtig is, die tydperk van 2 jaar verleng, welke verlenging op enige stadium, ook na die verval van die hersonering, toegestaan kan word; met dien verstande dat die verlenging nie die geldigheid van die goedkeuring vir 'n tydperk van meer as 5 jaar of 'n ander voorgeskrewe tydperk na die oorspronklike goedkeuring mag verleng nie. 25

(b) Behoudens die toepaslike bepalings van artikel 7, 14(2) of 14(4)(a) of (b) word grond ten opsigte waarvan 'n sonering ingevolge subartikel (2) van hierdie artikel verval het, geag gesoneer te wees in ooreenstemming met die aanwending daarvan soos deur die raad bepaal. 30

(3) Waar 'n aansoek om hersonering kragtens subartikel (1) toegestaan word of 'n hersonering ingevolge subartikel (2) verval het, moet die bevoegde owerheid die soneringskaart en, waar toepaslik, 'n register in sy besit so gou doenlik dienoreenkomstig wysig. 35

Hersoneringsaansoek

17. (1) 'n Eienaar van grond kan by die betrokke hoof uitvoerende beampte skriftelik aansoek doen om 'n hersonering van die grond kragtens artikel 16.

(2) Die hoof uitvoerende beampte moet— 40

(a) die aansoek laat adverteer;

(b) die tersaaklike kommentaar van enigiemand wat na sy of haar mening belang by die aansoek het, verkry;

(c) waar kommentaar of besware met betrekking tot die aansoek ontvang word, dit aan die eienaar vir kommentaar voorlê; 45

(d) waar die raad kragtens artikel 16(1) kan optree—

(i) die aansoek en alle tersaaklike stukke aan die raad voorlê, en

(ii) die eienaar en enige beswaarmakers van die raad se besluit in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die raad opgelê en hulle wys op hul reg van appél ingevolge artikel 64, en 50

(e) waar die Verantwoordelike Lid kragtens artikel 16(1) kan optree, die tersaaklike kommentaar van die hoof uitvoerende beampte se raad verkry en die departementshoof van 'n afskrif daarvan en van enige stukke wat die departementshoof verlang, voorsien. 55

(3) By nie-nakoming van die bepalings van subartikel (2) binne 'n tydperk by regulasie voorgeskryf, moet daar ooreenkomstig die regulasies gehandel word.

(4) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Verantwoordelike Lid kragtens artikel 16(1) kan optree—

provided that the extended period shall not extend the validity of the approval for a period exceeding 5 years or any other prescribed period after the original approval.

- (6) Where a departure has lapsed wholly or in part in terms of subsection (5), the council shall amend the register and zoning map concerned accordingly.

Rezoning on application of owner of land

16. (1) Either the **Responsible Member** or a council, if the council is authorised thereto in terms of the provisions of a structure plan or section 67, may grant or refuse an application by an owner of land for its rezoning.

- (2) (a) A rezoning in respect of which the application has been granted by virtue of the provisions of subsection (1)—

(i) shall lapse if the land concerned is not utilised in terms of the rezoning within a period of 2 years after the date on which the application for rezoning was granted;

(ii) shall, for the purposes of section 22, lapse—

(aa) if a relevant application for subdivision in accordance with the rezoning is not made in terms of section 24 within a period of 2 years after the date on which the application for rezoning was granted, or

(bb) where such an application for subdivision has in fact been so made, but the subdivision concerned or part thereof is not confirmed,

unless either the **Responsible Member** or the council, if the council is authorised thereto in terms of the provisions of a structure plan or section 67, extends the period of 2 years, which extension may be granted at any stage, also after the rezoning has lapsed; provided that the extension shall not extend the validity of the approval for a period exceeding 5 years or any other prescribed period after the original approval.

(b) Subject to the applicable provisions of section 7, 14(2) or 14(4)(a) or (b), land in respect of which a zoning has lapsed in terms of subsection (2) shall be deemed to be zoned in accordance with its utilisation as determined by the council.

- (3) Where an application for the rezoning under subsection (1) is granted or a rezoning in terms of subsection (2) has lapsed, the competent authority shall amend the zoning map and, where applicable, a register in its possession as soon as possible accordingly.

Application for rezoning

17. (1) An owner of land may apply in writing to the **chief executive officer** concerned for a rezoning of the land under section 16.

(2) The **chief executive officer** shall—

(a) cause the application to be advertised;

(b) obtain the relevant comment of any person who in his or her opinion has an interest in the application;

(c) submit to the owner for comment any comment or objections received in respect of the said application;

(d) where the council may act under section 16(1)—

(i) submit the application and all relevant documents to the council, and

(ii) notify the owner and any objectors of the council's decision and, where applicable, furnish them with a copy of conditions imposed by the council and call their attention to their right of appeal in terms of section 64, and

(e) where the **Responsible Member** may act under section 16(1), obtain the relevant comment of the **chief executive officer's** council and furnish the department head with a copy of that comment and of any documents required by the department head.

(3) Failing compliance with the provisions of subsection (2) within a period prescribed by regulation, action shall be taken in accordance with the regulations.

- (4) The department head shall, with regard to an application in respect of which the **Responsible Member** may act under section 16(1)—

- (a) kommentaar en inligting wat na sy of haar mening nog vereis word, verkry, en
- (b) die aansoeker, enige beswaarmakers en die betrokke bevoegde owerheid van die Verantwoordelike Lid se besluit daaromtrent in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die Verantwoordelike Lid opgelê.

Hersonering op inisiatief van Verantwoordelike Lid of raad

18. (1) 'n Hersonering kan op inisiatief van die Verantwoordelike Lid of 'n raad, deur of die Verantwoordelike Lid ná oorleg met die betrokke raad of die raad, indien die raad ingevolge die bepalings van 'n struktuurplan of artikel 67 daartoe gemagtig is, ten opsigte van grond in sy regsgebied geleë, kragtens artikel 16(1) toegestaan word ongeag of 'n plaaslike owerheid die eienaar van die grond is of nie.

(2) Die bepalings van artikels 16 en 17, vir sover hulle toegepas kan word, is *mutatis mutandis* van toepassing op so 'n hersonering; met dien verstande dat waar die bevoegde owerheid nie die eienaar van die grond is nie, die eienaar, indien sy of haar adres bekend is of verkry kan word, van die voorgenome hersonering in kennis gestel moet word en die geleentheid gebied moet word om kommentaar te lewer; met dien verstande voorts dat die bepalings van artikel 16(2) nie van toepassing is nie op grond wat ingevolge subartikel (1) van hierdie artikel hersoneer word met die oog op die aanskaffing daarvan deur die betrokke raad.

Vergoeding

19. (1) 'n Eienaar wie se grond waardevermindering ondergaan omdat die grond of 'n deel daarvan in stryd met sy of haar wense ingevolge artikel 14(4)(a) of 18 hersoneer word, of omdat 'n plan vir 'n gebou wat in ooreenstemming is met die gebruiksreg van die betrokke grond, afgekeur word, behalwe ingevolge die bepalings van 'n ander wet, kan vergoeding daarvoor van die betrokke bevoegde owerheid eis.

(2) Die bevoegde owerheid moet aan die eienaar die bedrag aan vergoeding betaal waartoe die eienaar en die owerheid ooreenkom.

(3) Waar 'n eienaar geregtig is om vergoeding te eis kragtens subartikel (1) en ook kragtens 'n ander wet, is hy of sy nie geregtig om vergoeding kragtens albei te ontvang nie.

(4) Indien daar nie tot 'n ooreenkoms in subartikel (2) beoog, gekom word binne 90 dae nadat 'n eis om vergoeding by die bevoegde owerheid uit hoofde van die bepalings van subartikel (1) ingedien is nie, moet enige vraag of die grond waardevermindering ondergaan en betreffende die bedrag aan vergoeding op versoek van of die eienaar of die bevoegde owerheid deur 'n appèlkomitee of beplanningsraad of, indien of die eienaar of die bevoegde owerheid dit verkies, by wyse van arbitrasie oorweeg en beslis word.

(5) Waar op 1 Julie 1986 gevolg nie gegee is nie aan die bepalings van artikel 35 ter (1) in Bylae II vervat, of artikel 57(4) van die Dorpe-ordonnansie, onderskeidelik met betrekking tot 'n verhogingsheffing verskuldig aan of vergoeding verskuldig deur 'n bevoegde owerheid of die aanskaffing van grond deur 'n bevoegde owerheid, word die aangeleentheid vir die toepassing van artikel 72(2) geag nie afgehandel te wees nie.

Aanskaffing van eiendom

20. (1) Die bepalings van artikel 19 belet nie 'n raad om grond wat ingevolge artikel 18 hersoneer is, aan te skaf nie.

(2) Wanneer 'n beplanningsraad, 'n appèlkomitee of 'n arbiter 'n vraag in artikel 19(4) beoog, oorweeg met betrekking tot grond wat ingevolge artikel 18(1) hersoneer is met die oog op die aanskaffing daarvan deur 'n raad, kan die appèlkomitee, beplanningsraad of arbiter gelas dat die raad die grond aanskaf.

Voortsetting van soneringskema

21. Waar grond geleë in die regsgebied van 'n bepaalde bevoegde owerheid in die regsgebied van 'n ander bevoegde owerheid ingelyf word of waar regsgebiede herafgebaken word of 'n ander bevoegde owerheid aangewys word ten opsigte van die grond, bly enige soneringskema wat op dié grond van toepassing is, behoudens die

- (a) obtain comment and information which in his or her opinion are still required, and
 - (b) notify the applicant, any objectors and the competent authority concerned of
- 5 the Responsible Member's decision about the application and, where applicable, furnish them with a copy of conditions imposed by the Responsible Member.

Rezoning on initiative of Responsible Member or council

18. (1) A rezoning may, on the initiative of the Responsible Member or a council, be granted under section 16(1) by either the Responsible Member after consultation with the council concerned or the council, if the council is authorised thereto in terms of the provisions of a structure plan or section 67, in respect of land situated in its area of jurisdiction, irrespective of whether or not a local authority is the owner of the land.

(2) The provisions of sections 16 and 17 shall, in so far as they can be applied, apply *mutatis mutandis* to such a rezoning; provided that where the competent authority is not the owner of the land, the owner, if his or her address is known or can be ascertained, shall be notified of the proposed rezoning and be afforded an opportunity to comment; provided further that the provisions of section 16(2) shall not apply to land which is rezoned in terms of subsection (1) of this section with a view to its acquisition by the council concerned.

Compensation

19. (1) An owner whose land sustains a decrease in value because the land or a part thereof is rezoned contrary to his or her wishes in terms of section 14(4)(a) or 18 or because a plan for a building which is in accordance with the use right of the land concerned, is rejected, except in terms of the provisions of another law, may claim compensation for it from the competent authority concerned.

(2) The competent authority shall pay to the owner the amount of compensation agreed upon by the owner and the authority.

(3) Where an owner is entitled to claim compensation under subsection (1) and also under another law, he or she shall not be entitled to receive compensation under both.

(4) If an agreement contemplated in subsection (2) is not reached within 90 days after a claim for compensation has been lodged with the competent authority by virtue of the provisions of subsection (1), any question as to whether the land had sustained a decrease in value and regarding the amount of compensation shall at the request of either the owner or the competent authority be considered and decided by an appeal committee or a planning board or, if either the owner or the competent authority so requires, by means of arbitration.

(5) Where on 1 July 1986 effect had not been given to the provisions of section 35 ter (1), contained in Schedule II or section 57(4) of the Townships Ordinance in relation to an enhancement levy or compensation due to or by a competent authority or the acquisition of land by a competent authority respectively, the matter shall for the purposes of section 72(2) be deemed not to have been disposed of.

Acquisition of property

20. (1) The provisions of section 19 shall not preclude a council from acquiring land rezoned in terms of section 18.

(2) When a planning board, an appeal committee or an arbitrator considers a question contemplated in section 19(4) in relation to land rezoned in terms of section 18(1) with a view to its acquisition by a council, the appeal committee, planning board or arbitrator may direct that the council shall acquire the land.

Continuation of zoning scheme

21. Where land situated in the area of jurisdiction of a particular competent authority is incorporated into the area of jurisdiction of another competent authority or where areas of jurisdiction have been redefined or another competent authority is designated in respect of the land, any zoning scheme applicable to that land shall,

bepalings van hierdie Hoofstuk van krag totdat die Verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant* ander reëlins tref.

HOOFSTUK III:

ONDERVERDELING VAN GROND

Sonering moet onderverdeling voorafgaan

5

22. (1) (a) Geen aansoek om onderverdeling waarby 'n verandering van sonering betrokke is, insluitend die skepping van openbare of private plekke of strate, mag ingevolge hierdie Hoofstuk oorweeg word nie, tensy en totdat die betrokke grond ingevolge Hoofstuk II gesoneer is op 'n wyse wat die beginsel van onderverdeling uitdruklik magtig.

10

(b) Die bepaling van paragraaf (a) belet nie die gelyktydige oorweging van aansoeke om hersonering en onderverdeling nie.

(c) Die Verantwoordelike Lid kan, indien die vereiste in subartikel (1)(a) aansoeke sal vertraag, 'n spesifieke aansoek of kategorie aansoeke of 'n deel van 'n owerheid se regsgebied vrystel van daardie vereiste.

15

(d) Alle aansoeke wat van daardie vereiste vrygestel is, moet ingevolge artikel 24(2)(a) geadverteer word.

(2) By die bevestiging van 'n onderverdeling of deel daarvan word die onderverdeling of deel daarvan geag 'n vervangingskema te wees; met dien verstande dat die bepaling van artikel 14(4) in hierdie geval nie geld nie.

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(3) Waar 'n onderverdeling of deel daarvan ingevolge subartikel (2) geag word 'n vervangingskema te wees, moet die raad die soneringskaart en, waar van toepassing, 'n register in sy besit so gou doenlik dienooreenkomstig wysig.

(4) Die Verantwoordelike Lid kan regulasies maak aangaande sonerings wat onderverdeling uitdruklik magtig, en kan voorskryf dat, by die goedkeuring van 'n sonering soos beoog in subartikel (1), openbare plekke en openbare strate ingevolge ander provinsiale wette geag word gesluit te wees.

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Onderverdeling van grond

23. (1) Behoudens die bepaling van artikel 22 van hierdie Wet en van enige ander wet mag niemand, insluitend die Staat, vanaf die inwerkingtreding van hierdie Wet enige grond in die Provinsie onderverdeel nie behalwe in ooreenstemming met 'n aansoek kragtens artikel 25 of Hoofstuk IV toegestaan deur óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, tensy die Verantwoordelike Lid dié onderverdeling van die bepaling van hierdie Hoofstuk of Hoofstuk IV vrystel; met dien verstande dat óf die Verantwoordelike Lid óf die raad, na gelang van die geval, 'n eienaar van grond kan magtig om met sy of haar grond te handel soos uiteengesit in paragraaf (b) van die omskrywing van "onderverdeel".

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(2) Grond wat op die datum van inwerkingtreding van die Dorpe-ordonnansie as 'n dorp uitgelê was of deur middel van werklike opmeting in grondeenhede en openbare plekke onderverdeel was en waarvan die plan in die kantoor van 'n Landmeter-generaal geregistreer is, word geag 'n bevestigde onderverdeling te wees vir die toepassing van hierdie Wet, uitgesonderd vir sover 'n gedeelte daarvan of 'n grondeenheid daarin verder onderverdeel, uitgelê of verander word.

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Onderverdelingsaansoeke

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24. (1) 'n Eienaar van grond kan by die betrokke hoof uitvoerende beampte skriftelik aansoek doen om die toestaan van 'n onderverdeling kragtens artikel 25.

(2) Die hoof uitvoerende beampte moet—

(a) die aansoek laat adverteer indien enigiemand na sy of haar mening nadelig daardeur getref kan word;

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(b) die tersaaklike kommentaar van enigiemand wat na sy of haar mening belang by die aansoek het, verkry;

(c) waar kommentaar oor of besware teen die aansoek ontvang word, dit aan die eienaar vir kommentaar voorlê;

(d) waar die raad kragtens artikel 25(1) kan optree—

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subject to the provisions of this Chapter, remain in force until the Responsible Member makes other arrangements by notice in the *Provincial Gazette*.

CHAPTER III:

SUBDIVISION OF LAND

5 Zoning to precede subdivision

22. (1) (a) No application for subdivision involving a change of zoning, including the establishment of public or private places or streets, shall be considered in terms of this Chapter, unless and until the land concerned has been zoned in terms of Chapter II in a manner expressly authorising the principle of subdivision.

10 (b) The provisions of paragraph (a) shall not preclude applications for rezoning and subdivision from being considered simultaneously.

(c) The Responsible Member may, if the requirement in subsection (1)(a) will delay applications, exempt a particular application or category of applications or a portion of the area of jurisdiction of an authority from that requirement.

15 (d) All applications exempted from that requirement shall be advertised in terms of section 24(2)(a).

(2) On the confirmation of a subdivision or part thereof, the subdivision or part thereof shall be deemed to be a substitution scheme; provided that the provisions of section 14(4) shall not apply in this instance.

20 (3) Where a subdivision or part thereof is in terms of subsection (2) deemed to be a substitution scheme, the council shall as soon as practicable amend the zoning map and, where applicable, a register in its possession.

(4) The Responsible Member may make regulations relating to zonings which expressly authorise subdivision and may prescribe that, upon the approval of a zoning as contemplated in subsection (1), public places and public streets shall be deemed to be closed in terms of other provincial laws.

Subdivision of land

23. (1) Subject to the provisions of section 22 of this Law and of any other law, no person, including the State, shall from the commencement of this Law subdivide any land in the Province except in accordance with an application granted under section 25 or Chapter IV by either the Responsible Member or a council, if the council is authorised thereto in terms of the scheme regulations or section 67, unless the Responsible Member exempts that subdivision from the provisions of this Chapter or Chapter IV; provided that either the Responsible Member or the council, as the case may be, may authorise an owner of land to deal with his or her land as referred to in paragraph (b) of the definition of "subdivide".

(2) Land which on the date of commencement of the Townships Ordinance had been laid out as a township or had been subdivided by means of an actual survey into land units and public places and the plan of which has been registered in the office of a Surveyor-General shall be deemed to be a confirmed subdivision for the purposes of this Law, except in so far as a portion thereof or a land unit therein is further subdivided, laid out or amended.

Applications for subdivision

24. (1) An owner of land may apply in writing to the chief executive officer concerned for the granting of a subdivision under section 25.

(2) The chief executive officer shall—

- (a) cause the application to be advertised if, in his or her opinion, any person could be adversely by it;
- (b) obtain the relevant comment of any person who in his or her opinion has an interest in the application;
- (c) submit to the owner for comment any comment or objections received in respect of the application;
- (d) where the council may act under section 25(1)—

- (i) die aansoek en alle tersaaklike stukke aan die raad voorlê, en
- (ii) die eienaar, enige beswaarmakers en die Landmeter-generaal van die raad se besluit in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die raad opgelê en hulle wys op hul reg van appèl ingevolge artikel 64, en 5
- (e) waar die Verantwoordelike Lid kragtens artikel 25(1) kan optree, die tersaaklike kommentaar van die hoof uitvoerende beamppte se raad verkry en die departementshoof van 'n afskrif daarvan en van enige stukke wat die departementshoof verlang, voorsien.
- (3) By nie-nakoming van die bepalings van subartikel (2) binne 'n tydperk by regulasie voorgeskryf, moet daar ooreenkomstig die regulasies gehandel word. 10
- (4) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Verantwoordelike Lid kragtens artikel 25(1) kan optree—
- (a) kommentaar en inligting wat na sy of haar mening nog vereis word, verkry, en 15
- (b) die aansoeker, enige beswaarmakers, die betrokke bevoegde owerheid en die betrokke Landmeter-Generaal van die Verantwoordelike Lid se besluit daaromtrent in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die Verantwoordelike Lid opgelê. 20

Toestaan of weiering van aansoek

25. (1) Óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, kan 'n aansoek om die onderverdeling van grond toestaan of weier.
- (2) By die toestaan van so 'n aansoek moet óf die Verantwoordelike Lid óf die raad, na gelang van die geval, tersaaklike sonerings met betrekking tot die onderverdeling aandui vir die toepassing van artikel 22(2). 25

Goedkeuring van algemene plan of kaart

26. Indien 'n aansoek kragtens artikel 25 toegestaan word, moet die eienaar van die grond 'n algemene plan of kaart, soos deur die Landmeter-generaal aangedui, by die Landmeter-generaal vir goedkeuring indien. 30

Bevestiging van onderverdeling

27. (1) Indien 'n Landmeter-generaal 'n algemene plan of kaart soos beoog in artikel 26 goedgekeur het, moet die eienaar binne 'n tydperk van 5 jaar nadat die aansoek kragtens artikel 25 toegestaan is, of 5 jaar nadat alle opskortende voorwaardes nagekom is, of binne die langer tydperk wat die Verantwoordelike Lid of 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, bepaal, aan die Registrateur van Aktes die stukke en inligting wat hy of sy vereis, verstrek, die Registrateur van Aktes se vereistes in verband met die rojering van bestaande titelvoorwaardes nakom, dienste ooreenkomstig 'n voorwaarde opgelê kragtens artikel 62(1) ten opsigte van die onderverdeling voorsien en die registrasie van minstens een grondeenheid verkry. 35 40
- (2) Waar 'n eienaar versuim het om die bepalings van subartikel (1) na te kom met betrekking tot 'n onderverdeling of deel daarvan, verval die goedkeuring van die aansoek kragtens artikel 25 met betrekking tot die onderverdeling of deel daarvan by verstryking van die tydperk in subartikel (1) beoog, en moet die betrokke kaart of algemene plan ooreenkomstig die vereistes van die Landmeter-generaal gewysig word. 45
- (3) Sodra daar met betrekking tot 'n onderverdeling of deel daarvan op so 'n wyse aan die bepalings van subartikel (1) voldoen is dat die goedkeuring van die aansoek nie ingevolge subartikel (2) kan verval nie, word die onderverdeling of deel daarvan geag bevestig te wees. 50

Eiendomsreg op openbare strate en openbare plekke

28. Die eiendomsreg op alle grond wat beslaan word deur openbare strate en openbare plekke soos aangedui op 'n onderverdelingsplan goedgekeur kragtens artikel 25 of Hoofstuk IV, berus na die bevestiging van die onderverdeling of deel daarvan by die bevoegde owerheid in wie se regsgebied die grond geleë is, en daardie 55

- (i) submit the application and all relevant documents to the council, and
 - (ii) notify the owner, any objectors and the Surveyor-General of the council's decision and, where applicable, furnish them with a copy of any
- 5 conditions imposed by the council and call their attention to their right of appeal in terms of section 64, and
- (e) where the Responsible Member may act under section 25(1), obtain the relevant comment of the chief executive officer's council and furnish the department head with a copy of that comment and of any documents
- 10 required by the department head.
- (3) Failing compliance with the provisions of subsection (2) within a period prescribed by regulation, action shall be taken in accordance with the regulations.
- (4) The department head, with regard to an application in respect of which the Responsible Member may act under section 25(1), shall—
- 15 (a) obtain comment and information which in his or her opinion are still required, and
 - (b) notify the applicant, any objectors, the competent authority concerned and the Surveyor-General concerned about the Responsible Member's decision
- 20 about the application and, where applicable, furnish them with a copy of conditions imposed by the Responsible Member.

Granting or refusal of application

25. (1) Either the Responsible Member or a council, if the council is authorised thereto in terms of scheme regulations or section 67, may grant or refuse an application for the subdivision of land.
- 25 (2) In granting such an application either the Responsible Member or the council, as the case may be, shall indicate relevant zonings with regard to the subdivision for the purposes of section 22(2).

Approval of general plan or diagram

26. If an application is granted in terms of section 25, the owner of the land shall
- 30 submit a general plan or diagram, as indicated by the Surveyor-General, to the Surveyor-General for approval.

Confirmation of subdivision

27. (1) If a Surveyor-General has approved a general plan or diagram as contemplated in section 26, the owner shall, within a period of 5 years after the application has
- 35 been granted under section 25, or 5 years after all suspensive conditions have been complied with, or within a longer period determined by the Responsible Member or the council, if the council is authorised thereto in terms of the scheme regulations or section 67, furnish the Registrar of Deeds with the documents and information required by the Registrar of Deeds, comply with the requirements of the Registrar of
- 40 Deeds in connection with the cancellation of existing conditions of title, provide services in accordance with a condition imposed in terms of section 62(1) in respect of the subdivision and effect the registration of at least one land unit.
- (2) Where an owner has failed to comply with the provisions of subsection (1) with regard to a subdivision or part thereof, the approval of the application under section
- 45 25 shall lapse with regard to the said subdivision or part thereof at the expiry of the period contemplated in subsection (1), and the diagram or general plan concerned shall be amended in accordance with the requirements of the Surveyor-General.
- (3) As soon as the provisions of subsection (1) have with regard to a subdivision or part thereof been complied with in such a way that the approval of the application
- 50 cannot lapse in terms of subsection (2), the subdivision or part thereof shall be deemed to be confirmed.

Ownership of public streets and public places

28. The ownership of all land taken up by public streets and public places as indicated on a subdivisional diagram approved in terms of section 25 or Chapter
- 55 IV shall, after the confirmation of the subdivision or part thereof, vest in the competent

owerheid betaal nie vergoeding daarvoor nie indien die voorsiening van die openbare strate en openbare plekke gegrond is op die normale behoefte daaraan wat ontstaan uit die onderverdeling of die voorsiening van openbare strate en plekke in ooreenstemming met 'n beleid wat van tyd tot tyd deur die Verantwoordelike Lid bepaal word met inagneming van daardie behoefte, en die Registrateur van Aktes moet die berusting in sy of haar registers aanteken en 'n paslike endossement teen die titelbewys van die betrokke grond aanbring. 5

Eienaarsvereniging

29. (1) Óf die Verantwoordelike Lid óf die betrokke raad, na gelang van die geval, kan kragtens artikel 62 by die toestaan van 'n aansoek om onderverdeling ingevolge artikel 25(1), voorwaardes op lê met betrekking tot die verpligte stigting deur die aansoeker om onderverdeling van 'n eienaarsvereniging. 10

(2) 'n Eienaarsvereniging wat uit hoofde van die bepalings van subartikel (1) tot stand kom—

(a) is 'n regspersoon; 15

(b) moet 'n grondwet hê wat—

(i) die beheer oor en instandhouding van geboue, dienste en geriewe wat uit die onderverdeling ontstaan, ten doel het;

(ii) voorsiening maak vir die uitvoering van die bepalings van paragraaf (c), en 20

(iii) deur die raad goedgekeur is ten einde te verseker dat aan die bepalings van subparagrafe (i) en (ii) voldoen word, en

(c) het al die eienaars van grondeenhede wat uit die onderverdeling ontstaan as lede, wat mede-aanspreeklik is vir uitgawes aangegaan in verband met die vereniging. 25

(3) 'n Eienaarsvereniging of huiseienaarsvereniging wat uit hoofde van 'n voorwaarde opgelê kragtens enige ander wet gelys in Bylae III tot stand gekom het en wat by die inwerkingtreding van hierdie Wet bestaan, word geag 'n eienaarsvereniging te wees wat uit hoofde van die bepalings van subartikel (1) tot stand gekom het.

(4) (a) Indien 'n eienaarsvereniging in subartikel (2) of (3) vermeld, versuim om enige verpligting na te kom wat uit hoofde van die bepalings van subartikel (2)(b)(i) of (c) op hom rus en die gemeenskap na die mening van die raad nadelig getref word deur daardie versuim, kan die raad alle stappe doen wat nodig is om die versuim reg te stel en die bedrag aan enige uitgawes wat die raad met betrekking tot daardie stappe aangegaan het, op die eienaars in subartikel (2)(c) vermeld, verhaal. 30

(b) Bedrae aldus verhaal, word vir die toepassing van subartikel (2)(c) geag uitgawes in verband met die betrokke eienaarsvereniging aangegaan, te wees. 35

Wysiging of rojering van plan van onderverdeling

30. (1) Óf die Verantwoordelike Lid óf 'n raad, na gelang van die geval, kan, nadat 'n aansoek kragtens artikel 25 toegestaan is, na oorweging van besware ontvang ten gevolge van 'n advertensie ingevolge subartikel (2) en ná oorleg met die eienaar van die grond en die Landmeter-generaal en, in die geval van die Verantwoordelike Lid, met die bevoegde owerheid oor grondeenhede wat nog nie uit hoofde van 'n toegestane aansoek geregistreer is nie, die plan van die onderverdeling, insluitend 'n kaart of algemene plan, wysig of gedeeltelik rojeer of rojeer mits elke openbare straat of openbare plek ten opsigte van 'n bevestigde deel van 'n onderverdeling gesluit word ingevolge enige wet ten opsigte van plaaslike owerheidsaangeleenthede. 40 45

(2) Die departementshoof, waar die Verantwoordelike Lid kragtens subartikel (1) kan optree, of die hoof uitvoerende beampte, waar 'n raad aldus kan optree, na gelang van die geval, moet, indien hy of sy van mening is dat die wysiging of rojering van die plan van die onderverdeling kragtens subartikel (1) die belang wat enigiemand by grond het, nadelig tref, die voorgestelde wysiging of rojering van die plan van die onderverdeling adverteer, en daarna is die bepalings van artikel 24(2)(d)(ii) of (4) *mutatis mutandis* van toepassing. 50

(3) Die bepalings van subartikels (1) en (2) is *mutatis mutandis* van toepassing op alle algemene planne wat by die inwerkingtreding van hierdie Wet van krag was. 55

authority in whose area of jurisdiction the land is situated, and that authority shall not pay compensation for it if the provision of the public streets and public places is based on the normal need for them arising from the subdivision, or the provision of public streets and places is in accordance with a policy determined by the Responsible Member from time to time with due regard to that need, and the Registrar of Deeds shall note the vesting in his or her registers and make a suitable endorsement on the title deed of the land concerned.

Owners' association

29. (1) Either the Responsible Member or the council concerned, as the case may be, may, when granting an application for subdivision in terms of section 25(1), impose conditions under section 62 relating to the compulsory establishment of an owners' association by the applicant for subdivision.

(2) An owners' association coming into being by virtue of the provisions of subsection (1)—

- 15 (a) shall be a body corporate;
- (b) shall have a constitution which—
 - (i) has as its object the control over and maintenance of buildings, services and amenities arising from the subdivision;
 - (ii) provides for the implementation of the provisions of paragraph (c), and
 - 20 (iii) has been approved by the council in order to ensure compliance with the provisions of subparagraphs (i) and (ii), and
- (c) shall have as its members all the owners of land units originating from the subdivision, who shall be jointly liable for expenditure incurred in connection with the association.

25 (3) An owners' association or home owners' association which came into being by virtue of a condition imposed in terms of any other law listed in Schedule III and which exists at the commencement of this Law, shall be deemed to be an owners' association which came into being by virtue of the provisions of subsection (1).

(4) (a) If an owners' association referred to in subsection (2) or (3) fails to meet any of its obligations by virtue of the provisions of subsection (2)(b)(i) or (c) and the community, in the opinion of the council, is adversely affected by that failure, the council may take all steps required to rectify the failure and recover from the owners referred to in subsection (2)(c) the amount of any expenditure incurred by it in respect of those steps.

35 (b) Amounts so recovered shall, for the purposes of subsection (2)(c), be deemed to be expenditure incurred in connection with the owners' association concerned.

Amendment or cancellation of plan of subdivision

30. (1) Either the Responsible Member or a council, as the case may be, may, after an application has been granted under section 25, after consideration of objections received in consequence of an advertisement in terms of subsection (2) and after consultation with the owner of the land and the Surveyor-General and, in the case of the Responsible Member, with the competent authority about land units not yet registered by virtue of an application that has been granted, amend or partially cancel or cancel the plan of the subdivision, including a diagram or general plan, on condition that every public street or public place in respect of a confirmed portion of a subdivision is closed in terms of any law relating to local government matters or in terms of this Law.

(2) The department head, where the Responsible Member may act under subsection (1), or the chief executive officer, where a council may so act, as the case may be, shall, if he or she is of the opinion that the amendment or cancellation of the plan of the subdivision in terms of subsection (1) adversely affects the interests that any person has in land, advertise the proposed amendment or cancellation of the plan of the subdivision, and thereupon the provisions of section 24(2)(d)(ii) or (4) shall apply *mutatis mutandis*.

55 (3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to all general plans in force at the commencement of this Law.

Registrasie en bebouing van grondeenhede

31. (1) Voordat registrasie uit hoofde van 'n onderverdeling **ten opsigte** waarvan 'n aansoek kragtens artikel 25 toegestaan is, deur die Registrateur van Aktes bewerkstellig word, moet die transportgewer aan die bevoegde owerheid bewys lewer dat **alle** voorwaardes waarop die aansoek om onderverdeling toegestaan is, nagekom is, en geen skriftelike magtiging om onroerende eiendom oor te dra, soos vereis in enige wet ten opsigte van plaaslike owerheidsaangeleenthede, word uitgereik nie, tensy daardie bewys gelewer is. 5

(2) Behalwe met die goedkeuring van óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, mag 'n gebou of struktuur slegs opgerig word op 'n grondeenheid wat deel uitmaak van 'n onderverdeling wat bevestig is. 10

(3) Enige aansoeker ingevolge hierdie Hoofstuk kan by die Verantwoordelike Lid of raad, na gelang van die geval, aansoek doen om goedkeuring van die registrasiereëling wat bekend staan as voorlopige eiendomsreg, en dan geld die bepalings van artikel 39 *mutatis mutandis*. 15

Terugval van sekere plekke en grond

32. Indien die plan van 'n onderverdeling, insluitend 'n kaart of 'n algemene plan, ingevolge artikel 27 geag word heeltemal of gedeeltelik te verval het of kragtens artikel 30 heeltemal of gedeeltelik gerojêer word, val die eiendomsreg op **die grond** wat beslaan word deur die openbare strate en openbare plekke soos aangedui op die plan of deel daarvan, wat aldus geag word te verval het of wat aldus gerojêer word, terug aan die eienaar van die grond en die Registrateur van Aktes moet die berusting in sy of haar registers aanteken en 'n paslike endossement teen die titelbewys van die grond aanbring. 20 25

HOOFSTUK IV:

VERSNELDE ONTWIKKELING

Identifikasie van grond vir versnelde ontwikkeling

33. (1) Hierdie Hoofstuk is van toepassing waar die provinsiale regering wil ingryp in die normale prosedures om grond vir behuising of kleinskaalboerdery dringend beskikbaar te stel om gesondheidsredes, weens menslike nood, vir die herstel van grondregte, vir stedelike hernuwing, asook vir enige omstandighede wat na die oordeel van die Uitvoerende Raad van die Provinsie versnelde ontwikkeling vereis, in welke geval daardie omstandighede by kennisgewing in die *Provinsiale Koerant* bekend gemaak moet word. 30 35

(2) 'n Bevoegde owerheid kan, en moet op las van die Verantwoordelike Lid, grond volgens die voorgeskrewe prosedures identifiseer vir aanwysing ingevolge artikel 35.

(3) Voordat grond aangewys word, moet die voorgeskrewe dokumente en inligting ingedien word en op die voorgeskrewe wyse mee gehandel word, en moet die Verantwoordelike Lid eers die voorneme om die grond aan te wys, bekend maak op die voorgeskrewe wyse, of by gebrek aan regulasies, op die wyse wat die Verantwoordelike Lid bepaal. 40

Beskikbaarstelling van grond vir toepassing van Hoofstuk

34. (1) Enige lid van die Uitvoerende Raad van die Provinsie kan Staatsgrond wat deur die Provinsie beheer word of grond wat deur die Provinsie by wyse van aankoop of onteiening of op 'n ander wyse verkry is of in die proses van verkryging is, vir moontlike aanwysing kragtens artikel 35 beskikbaar stel. 45

(2) 'n Statutêre liggaam of bevoegde owerheid of enige ander persoon kan grond waarvan hy of sy die eienaar is, of wat in die proses van oordrag aan hom of haar is, of ten opsigte waarvan 'n grondbeskikbaarheidsooreenkoms onderteken is, vir moontlike aanwysing kragtens artikel 35 beskikbaar stel. 50

(3) Grond kan beskikbaar gestel word vir moontlike aanwysing kragtens artikel 35 ten spyte daarvan dat onwettige onderverdeling by wyse van die vestiging van

Registration of and erection of buildings on land units

31. (1) Before registration by virtue of a subdivision in respect of which an application has been granted in terms of section 25 is effected by the Registrar of Deeds,
- 5 the transferor shall furnish proof to the competent authority that all conditions on which the application for subdivision was granted, have been complied with, and no written authority to transfer immovable property as required in any law relating to local government matters shall be issued unless that proof has been furnished.
- (2) Except with the approval of either the Responsible Member or a council, if the
- 10 council is authorised thereto in terms of scheme regulations or section 67, a building or structure shall only be erected on a land unit forming part of a subdivision which has been confirmed.
- (3) Any applicant in terms of this Chapter may apply to the Responsible Member or council, as the case may be, for the approval of a registration
- 15 arrangement known as initial ownership, in which event the provisions of section 39 shall apply mutatis mutandis.

Reversion of certain places and land

32. If the plan of a subdivision, including a diagram or a general plan, is deemed to have lapsed wholly or in part in terms of section 27 or is cancelled wholly or in part
- 20 in terms of section 30, the ownership of the land taken up by public streets and public places, as shown on the plan or part thereof which is so deemed to have lapsed or which is so cancelled, shall revert to the owner of the land and the Registrar of Deeds shall note the vesting in his or her registers and make a suitable endorsement on the title deed of the land.

25

CHAPTER IV:

ACCELERATED DEVELOPMENT

Identification of land for accelerated development

33. (1) This Chapter shall be applicable where the provincial government wishes to intervene in the normal procedures to make land available urgently for housing
- 30 or small scale farming, for health reasons, on account of human needs or for the restitution of land rights or for urban renewal and also for any other circumstances which in the opinion of the Executive Council of the Province requires accelerated development, in which case these circumstances shall be made known by notice in the *Provincial Gazette*.
- 35 (2) A competent authority may, and shall on the direction of the Responsible Member, identify land according to the prescribed procedures for designation in terms of section 35.
- (3) Before land is designated, the prescribed documents and information shall be submitted and be dealt within the prescribed manner, and the Responsible
- 40 Member shall first publish the intention to designate the land in the prescribed manner, or in the absence of regulations, in the manner determined by the Responsible Member.

Making land available for purposes of Chapter

34. (1) Any member of the Executive Council of the Province may make
- 45 available for possible designation in terms of section 35 State land under the control of the Province or land acquired by the Province by means of purchase or expropriation or by any other means or which is in the process of being acquired.
- (2) A statutory body or competent authority or any other person may make available for possible designation in terms of section 35 land of which he or she or
- 50 it is the owner, or which is being transferred to him or her or it, or in respect of which a land availability agreement has been signed.
- (3) Land may be made available for possible designation in terms of section 35 despite the fact that illegal subdivision by means of the settlement of people on it

mense daarop plaasgevind het, mits 'n ondersoek en verdere stappe, soos beoog in artikel 58, gedoen word voor die aanwysing van die grond.

(4) Die bepalings van artikels 6 tot en met 23 van die Onteieningswet, 1975 (Wet 63 van 1975), is *mutatis mutandis* van toepassing op die onteiening van grond kragtens subartikel (1), en by die toepassing daarvan word 'n verwysing in daardie artikels na— 5

- (a) "Minister" en "Staat" uitgelê as 'n verwysing na die betrokke Verantwoordelike Lid en die provinsiale regering, onderskeidelik, en
- (b) "artikel 2" uitgelê as 'n verwysing na subartikel (1).

Aanwysing van grond vir versnelde ontwikkeling 10

35. (1) Wanneer die Verantwoordelike Lid oortuig is dat daar in 'n gebied 'n behoefte bestaan aan versnelde ontwikkeling van grond en dat versnelde ontwikkeling wenslik is op daardie grond, kan hy of sy by kennisgewing in die *Provinsiale Koerant* en op die voorwaardes in die kennisgewing vermeld, daardie grond kragtens artikel 34 beskikbaar gestel, vir versnelde ontwikkeling aanwys, en daarna word die gebied ingevolge die bepalings van hierdie Hoofstuk verder beplan en ontwikkel. 15

(2) Die Verantwoordelike Lid kan die kennisgewing in subartikel (1) bedoel te eniger tyd wysig en dit intrek voordat vestiging ingevolge artikel 41 'n aanvang neem; met dien verstande dat die opskorting van 'n serwituut of beperking kragtens Hoofstuk V, hetsy voor of na die aanvang van vestiging, opgehef kan word. 20

(3) Ondanks artikel 33(3) kan grond wat ingevolge die Wet op die Beschikbaarstelling van Sekere Grond vir Vestiging, 1993 (Wet 126 van 1993), aangewys is vir vestiging, sonder enige verdere stappe deur die Verantwoordelike Lid aangewys word as grond vir versnelde ontwikkeling. 25

Opskorting en opheffing van beperkings

36. Die bepalings van artikel 48 ten opsigte van die opskorting en opheffing van beperkings is *mutatis mutandis* van toepassing op aangewese grond, en opskorting of opheffing kan saam met die aanwysing van grond of te eniger tyd daarvoor of daarna geskied. 30

Beplanning en ontwikkeling van aangewese grond

37. (1) Grond wat ingevolge die Wet op die Beschikbaarstelling van Sekere Grond vir Vestiging, 1993 (Wet 126 van 1993), aangewys is vir vestiging, word verder beplan en ontwikkel ingevolge hierdie Hoofstuk. 35

(2) 'n Eienaar van grond, insluitend die Staat, en enigiemand deur die eienaar daartoe gemagtig (hierna "ontwikkelaar" genoem), moet 'n uitlegplan of onderverdelingsplan, vergesel van die voorgeskrewe dokumente en inligting, by die voorgeskrewe owerheid indien vir oorweging.

(3) Die uitlegplan of onderverdelingsplan word op die voorgeskrewe wyse bekend gemaak of, by gebrek aan regulasies, op die wyse soos bepaal deur die owerheid wat gemagtig is om die onderverdeling of ontwikkeling goed te keur. 40

(4) Óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge artikel 67 daartoe gemagtig is, kan die onderverdeling of ontwikkeling van aangewese grond goedkeur en moet by die toepassing van hierdie artikel toesien dat die grond beplan en ontwikkel word op 'n wyse wat die latere opgradering van ingenieursdienste daarop moontlik maak. 45

(5) Die beplanning en ontwikkeling van aangewese grond word onderneem deur die ontwikkelaar, behoudens die voorwaardes wat die Verantwoordelike Lid of raad, na gelang van die geval, bepaal. 50

(6) Enige lid van die Uitvoerende Raad van die Provinsie, of die Provinsiale Behuisingsraad of 'n bevoegde owerheid, kan aangewese grond wat deur daardie lid, Raad of owerheid beheer word of by wyse van aankoop of onteiening of op 'n ander wyse verkry is of in die proses van verkryging is, of ten opsigte waarvan daar 'n ooreenkoms aangegaan is, beplan en ontwikkel, of kan 'n ooreenkoms met enige persoon aangaan om die aangewese grond te beplan en te ontwikkel. 55

(7) Waar 'n lid van die Uitvoerende Raad van die Provinsie ingevolge subartikel

has occurred, on condition that an inquiry shall be held and steps shall be taken as contemplated in section 58 before the designation of the land.

(4) The provisions of sections 6 up to and including 23 of the Expropriation Act, 1975 (Act 63 of 1975), shall apply *mutatis mutandis* to the expropriation of land in terms of subsection (1), and in its application any reference in those sections to—

- (a) “minister” and “State” shall be construed as being a reference to the Responsible Member concerned and the provincial government, respectively, and
- (b) “section 2” shall be construed as being a reference to subsection (1).

Designation of land for accelerated development

35. (1) If the Responsible Member is convinced that there is a need for the accelerated development of land in an area and that accelerated development is desirable on that land, he or she may by notice in the *Provincial Gazette* and on the conditions set out in the notice designate that land, made available in terms of section 34, for accelerated development, whereupon the area shall be further planned and developed in terms of the provisions of this Chapter.

(2) The Responsible Member may at any time amend the notice referred to in subsection (1) and cancel it before settlement in terms of section 41 commences; provided that the suspension of a servitude or restriction in terms of Chapter V may be lifted either before or after the commencement of settlement.

(3) Notwithstanding the provisions of section 33(3), land designated for settlement in terms of the Provision of Certain Land for Settlement Act, 1993 (Act 126 of 1993), may, without any further steps having been taken, be designated by the Responsible Member as land for accelerated development.

Suspension and removal of restrictions

36. The provisions of section 48 with regard to the suspension and removal of restrictions shall apply *mutatis mutandis* to designated land, and suspension or removal may occur simultaneously with or at any time before or after the designation of land.

Planning and development of designated land

37. (1) Land designated for settlement in terms of the Provision of Certain Land for Settlement Act, 1993 (Act 126 of 1993), shall be further planned and developed in terms of this Chapter.

(2) An owner of land, including the State, and any person authorised thereto by the owner (hereinafter referred to as “developer”), shall submit a layout plan or subdivision plan, together with the prescribed documents and information, to the prescribed authority for consideration.

(3) The layout plan or subdivision plan shall be published in the prescribed manner or, in the absence of regulations, in the manner as determined by the authority which is authorised to approve the subdivision or development.

(4) Either the Responsible Member or a council, if the council is authorised thereto in terms of section 67, may approve the subdivision or development of designated land and shall, in applying this section, ensure that the land is planned and developed in such a way as to make possible the subsequent upgrading of engineering services on the land.

(5) The planning and development of designated land shall be undertaken by the developer, subject to the conditions determined by the Responsible Member or council, as the case may be.

(6) Any member of the Executive Council of the Province, or the Provincial Housing Board or a competent authority, may plan and develop designated land under the control of that member, Board or authority or land which has been acquired by means of purchase or expropriation or by any other means, or is in the process of being acquired, or in respect of which an agreement has been concluded, or may conclude an agreement with any person to plan or develop the designated land.

(7) Where a member of the Executive Council of the Province undertakes the

(6) die ontwikkeling van die aangewese grond onderneem, kan daardie lid fondse van die Provinsiale Behuisingsraad of uit enige ander bron bekom om die ontwikkeling te onderneem.

(8) Die verantwoordelike nasionale Minister kan uit geld wat deur die Parlement vir dié doel bewillig is, op die voorgeskrewe wyse 'n voorskot of subsidie toestaan aan enige persoon, trust, groep persone of regspersoon vir die verkryging van aangewese grond of grond wat aangewys gaan word en die beplanning en ontwikkeling daarvan.

Opmeting en goedkeuring van algemene plan

38. Die ontwikkelaar van aangewese grond wat onderverdeel gaan word, moet na goedkeuring van 'n uitlegplan of onderverdelingsplan ingevolge artikel 37 en goedkeuring van 'n aansoek ingevolge artikel 39, 'n algemene plan by die betrokke Landmeter-generaal vir goedkeuring of voorlopige goedkeuring indien en, nadat goedkeuring verkry is, die plan by die betrokke Registrateur van Aktes vir registrasie indien.

Voorlopige eiendomsreg

39. (1) Enige aansoeker ingevolge hierdie Hoofstuk kan by die Verantwoordelike Lid of 'n raad, na gelang van die geval, indien die raad ingevolge artikel 67 daartoe gemagtig is, aansoek doen om goedkeuring van die registrasiereëling wat bekend staan as voorlopige eiendomsreg.

(2) Die Verantwoordelike Lid of die raad, na gelang van die geval, kan 'n aansoek ingevolge subartikel (1) goedkeur of afkeur; met dien verstande dat 'n aansoek nie geweier word nie indien—

(a) die bepaling van subartikel (3) nagekom is, en

(b) die Verantwoordelike Lid of die raad, na gelang van die geval, tevrede is dat die transportbesorger of professionele landmeter wat verantwoordelik is vir die uitreiking van sertifikate, oor voldoende versekering beskik wat hulle in staat stel om die sertifikate uit te reik.

(3) Die bepaling van artikel 38(2), (3) en (4) van die Wet op Ontwikkelingsfasilitering, 1995 (Wet 67 van 1995), is *mutatis mutandis* van toepassing op aansoeke ingevolge hierdie Wet.

(4) Nadat 'n aansoek ingevolge subartikel (2) goedgekeur is, kan die titelvorm, wat as voorlopige eiendomsreg bekend staan, in die registrasiekantoor geregistreer word sodra die professionele landmeter die prosedures voorgeskryf in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995, nagekom het.

(5) (a) Die eerste oordrag van voorlopige eiendomsreg word geregistreer ooreenkomstig die bepaling van die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937), en geskied by wyse van 'n transportakte in die vorm wat kragtens daardie Wet voorgeskryf word.

(b) Registrasie van oordrag van voorlopige eiendomsreg vestig in die houer van die voorlopige eiendomsreg die regte uiteengesit in artikel 62(4) van die Wet op Ontwikkelingsfasilitering, 1995.

(c) Die bepaling van artikel 62(5), (6), (7), (8) en (9) van die Wet op Ontwikkelingsfasilitering, 1995, is *mutatis mutandis* van toepassing op aansoeke ingevolge hierdie Wet.

(6) Die bepaling van artikel 63 van die Wet op Ontwikkelingsfasilitering, 1995, betreffende die omskepping van informele titelreëlings in eiendomsreg is *mutatis mutandis* van toepassing op aansoeke ingevolge hierdie Wet.

(7) Die bepaling van spesiale transportaktes in artikel 64 van die Wet op Ontwikkelingsfasilitering, 1995, is *mutatis mutandis* van toepassing op aansoeke ingevolge hierdie Wet.

(8) Vir die toepassing van Hoofstuk VII van die Wet op Ontwikkelingsfasilitering, 1995, word, ten opsigte van 'n aansoek in die Provinsie, enige verwysing na—

(a) 'n grondontwikkelingsaansoek, -applikant en -gebied uitgelê as sou dit 'n aansoek, 'n eienaar en aangewese grond of die grond waarop 'n aansoek ingevolge hierdie Wet betrekking het, beteken;

(b) 'n tribunaal uitgelê as sou dit die Verantwoordelike Lid of 'n bevoegde owerheid of 'n beplanningsraad, indien die Verantwoordelike Lid hierdie

development of the designated land in terms of subsection (6), that member may obtain funds from the Provincial Housing Board or from any other source to undertake the development.

- 5 (8) The responsible national Minister may in the prescribed manner grant an advance or subsidy from money appropriated by Parliament for that purpose to any person, trust, group of persons or legal person to acquire designated land or land to be designated and to plan and develop that land.

Survey and approval of general plan

- 10 38. The developer of designated land to be subdivided shall, after approval of a layout plan or subdivision plan in terms of section 37 and approval of an application in terms of section 39, submit a general plan to the Surveyor-General concerned for approval or provisional approval and, after approval has been obtained, lodge the plan with the Registrar of Deeds concerned for registration.

Initial ownership

- 15 39. (1) Any applicant in terms of this Chapter may apply to the Responsible Member or a council, if the council is authorised thereto in terms of section 67, for the approval of the registration arrangement known as initial ownership.

- 20 (2) The Responsible Member or the council, as the case may be, may approve or refuse an application in terms of subsection (1); provided that an application shall not be refused if—

- 25 (a) the terms of subsection (3) have been complied with, and
(b) the Responsible Member or the council, as the case may be, is satisfied that the conveyancer or professional land surveyor responsible for the issuing of certificates has sufficient insurance to enable them to issue the certificates.

- (3) The provisions of section 38(2), (3) and (4) of the Development Facilitation Act, 1995 (Act 67 of 1995), shall apply *mutatis mutandis* to applications in terms of this Law.

- 30 (4) After an application in terms of subsection (2) has been approved, the form of title known as initial ownership may be registered in the registration office as soon as the professional land surveyor has followed the procedures prescribed in section 62 of the Development Facilitation Act, 1995.

- 35 (5) (a) The first transfer of initial ownership shall be registered in accordance with the provisions of the Deeds Registries Act, 1937 (Act 47 of 1937), and shall be by means of a deed of transfer in the form prescribed in that law.

- (b) Registration of transfer of initial ownership shall vest in the holder of the initial ownership the rights set out in section 62(4) of the Development Facilitation Act, 1995.

- 40 (c) The provisions of section 62(5), (6), (7), (8) and (9) of the Development Facilitation Act, 1995 shall apply *mutatis mutandis* to applications in terms of this Law.

- (6) The provisions of section 63 of the Development Facilitation Act, 1995, relating to the conversion of informal title arrangements into ownership shall apply *mutatis mutandis* to applications in terms of this Law.

- 45 (7) The provisions in respect of special deeds of transfer in section 64 of the Development Facilitation Act, 1995 shall apply *mutatis mutandis* to applications in terms of this Law.

- (8) For the purposes of Chapter VII of the Development Facilitation Act, 1995, any reference in connection with an application in the Province to—

- 50 (a) a land development application, applicant and area shall be construed as being an application, an owner and designated land or the land to which the application in terms of this Law relates;
(b) a tribunal shall be construed as being the Responsible Member or a competent authority or a planning board, if the Responsible Member has

- bevoegdheid ingevolge artikel 67 aan 'n raad of 'n beplanningsraad opgedra het, beteken;
- (c) 'n plaaslike owerheidsliggaam uitgelê as sou dit 'n bevoegde owerheid ingevolge hierdie Wet beteken;
 - (d) 'n aangewese beamppte uitgelê as sou dit 'n departementshoof of hoof uitvoerende beamppte, na gelang van die geval, ingevolge hierdie Wet beteken;
 - (e) 'n stigtingsvoorwaarde uitgelê as sou dit 'n voorwaarde ingevolge artikel 62 beteken, en
 - (f) enige goedkeuring, vereiste, aksie, bepaling of enigiets in daardie Wet bedoel, uitgelê as sou dit die ooreenstemmende goedkeuring, vereiste, aksie, bepaling of enigiets ingevolge hierdie Wet bedoel, beteken.
- (9) Die Verantwoordelike Lid kan prosedures voorskryf ten opsigte van die toekenning van voorlopige eiendomsreg en alle aspekte in hierdie artikel genoem.

Registrasie van algemene plan en regsgevolge

15

40. (1) Sodra 'n goedgekeurde algemene plan deur die Registrateur van Aktes geregistreer is soos beoog in artikel 38—
- (a) word die aangewese grond, behoudens die bepalinge van hierdie Wet, geag 'n bevestigde onderverdeling te wees ooreenkomstig Hoofstuk III, en is die verdere bepalinge van Hoofstuk III daarna daarop van toepassing;
 - (b) word 'n serwituut of beperking wat kragtens artikel 36 opgeskort is, gerojê;
 - (c) berus die eiendomsreg op alle grond wat beslaan word deur openbare strate en openbare plekke aangedui op daardie plan, ooreenkomstig die bepalinge van artikel 28 by die bevoegde owerheid in wie se regsgebied die grond geleë is, en die Registrateur van Aktes maak op die wyse wat hy of sy nodig ag 'n aantekening van daardie berusting in die stukke onder sy of haar beheer of wat aan hom of haar voorgelê word.
- (2) Waar grond nie onderverdeel gaan word nie, word 'n serwituut of beperking wat kragtens artikel 36 opgeskort is, gerojê binne die tydperk wat die Verantwoordelike Lid bepaal.

Vestiging van persone op aangewese grond

41. (1) Die ontwikkelaar van aangewese grond kan, behoudens subartikel (2), 'n grondeenheid op daardie grond aan 'n persoon vir vestiging toeken.
- (2) Vestiging van 'n persoon kragtens subartikel (1) mag alleen plaasvind nadat 'n opmeter, met die oog op die opstel van 'n algemene plan, die grondeenheid opgemeet het en die erfbakens geplaas het; met dien verstande dat die Verantwoordelike Lid of 'n raad, indien die raad ingevolge artikel 67 daartoe gemagtig is, in 'n bepaalde geval toestemming kan verleen dat vestiging op 'n wyse wat hy of sy bepaal, kan plaasvind, selfs al is die betrokke erfbakens nog nie geplaas nie.
- (3) Die bepalinge van subartikel (2) verhoed nie die opgradering van bestaande onwettig gevestigde gebiede nie.
- (4) Vestiging ingevolge subartikel (1) kan plaasvind voordat die algemene plan vir die aangewese grond ooreenkomstig die bedoeling van artikel 38 goedgekeur of voorlopig goedgekeur is.
- (5) 'n Grondeenheid word toegeken met of sonder die betaling van vergoeding, na gelang die ontwikkelaar bepaal.

Registrasie van eiendomsreg

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42. (1) Indien die ontwikkelaar by 'n toekenning kragtens artikel 41(1) voornemens is om eiendomsreg op 'n grondeenheid oor te dra, dien hy of sy, sodra die algemene plan vir die aangewese grond deur die Registrateur van Aktes kragtens artikel 38 geregistreer is en na die toekenning, 'n transportakte, uitgemaak in die naam van die persoon aan wie die grondeenheid toegeken is, op die vorm wat kragtens die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937), vir

- delegated this power to a council or a planning board in terms of section 67;
- (c) a local government body shall be construed as being a competent authority in terms of this Law;
 - 5 (d) a designated officer shall be construed as being a department head or chief executive officer, as the case may be, in terms of this Law;
 - (e) a condition of establishment shall be construed as being a condition in terms of section 62, and
 - 10 (f) any approval, requirement, action, provision or anything contemplated in that law, shall be construed as being the corresponding approval, requirement, action, provision or anything contemplated in this Law.
- (9) The Responsible Member may prescribe procedures in respect of the allocation of initial ownership and all aspects mentioned in this section.

Registration of general plan and legal consequences

- 15 40. (1) As soon as a general plan has been registered by the Registrar of Deeds as contemplated in section 38—
- (a) the designated land shall, subject to the provisions of this Law, be deemed to be a confirmed subdivision in accordance with Chapter III, and the further provisions of Chapter III shall thereafter apply to it;
 - 20 (b) a servitude or restriction suspended under section 36 shall be cancelled;
 - (c) the ownership of all land taken up by public streets and public places indicated on that plan shall vest in accordance with the provisions of section 28 in the competent authority in whose area of jurisdiction the land is situated, and the Registrar of Deeds shall record that vesting in
 - 25 the documents that are under his or her control or on the documents submitted to him or her, in the manner deemed necessary by him or her.
- (2) Where land is not to be subdivided, a servitude or restriction suspended in terms of section 36 shall be cancelled within the period determined by the Responsible Member.

30 Settlement of persons on designated land

41. (1) The developer of designated land may, subject to subsection (2), allocate a land unit on that land to a person for settlement.
- (2) Settlement of a person under subsection (1) shall take place only after a surveyor, with a view to the preparation of a general plan, has surveyed the land
- 35 unit and placed the erf beacons; provided that the Responsible Member or a council, if the council is authorised thereto in terms of section 67, may in a particular case grant permission that settlement may take place in a manner determined by him or her even though the erf beacons concerned may not have been placed.
- 40 (3) The provisions of subsection (2) shall not prevent the upgrading of existing illegally settled areas.
- (4) Settlement under subsection (1) may take place before the general plan for the designated land has been approved or provisionally approved in accordance with the meaning of section 38.
- 45 (5) A land unit shall be allocated with or without the payment of compensation, as the developer may determine.

Registration of ownership

42. (1) If, at an allocation under section 41(1), the developer intends to transfer ownership of a land unit, he or she shall, as soon as the general plan in respect of
- 50 the designated land has been registered by the Registrar of Deeds in terms of section 38 and after the allocation, lodge a deed of transfer, made out in the name of the person to whom the land unit has been allocated, on the form prescribed for that purpose in terms of the Deeds Registries Act, 1937 (Act 47 of 1937), at the

die doel voorgeskryf is, by die registrasiekantoor in, waarna die Registrateur van Aktes die grondeenheid in die naam van daardie persoon registreer.

(2) 'n Transportakte bedoel in subartikel (1) word opgestel deur—

- (a) 'n transportbesorger, of
- (b) indien die eienaar van die grondeenheid die Staat of 'n bevoegde owerheid is, enige persoon in diens van die Staat of daardie owerheid, wat deur die Verantwoordelike Lid of die raad, na gelang van die geval, vir die doel aangewys is.

(3) Die vorm van 'n transportakte bedoel in subartikel (1) word kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf en word deur die eienaar van die grondeenheid of sy of haar behoorlik gevolmagtigde agent onderteken in die teenwoordigheid van 'n transportbesorger of 'n persoon bedoel in subartikel (2) op die wyse kragtens daardie Wet voorgeskryf.

(4) 'n Persoon bedoel in subartikel (2)—

- (a) maak die feit dat die transportakte bedoel in subartikel (1), of 'n volmag, aansoek of toestemming wat die Registrateur van Aktes vir die doel van die registrasie van die oordrag kan vereis, deur hom of haar opgestel is, openbaar deur 'n endossement te dien effekte op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, te onderteken en aanvaar uit hoofde van so 'n ondertekening *mutatis mutandis* ingevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in so 'n dokument vervat, en
- (b) kan, ondanks andersluidende bepalinge van enige ander wet, al die pligte van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte, soos gemeld in hierdie artikel, verrig.

(5) 'n Transportbesorger of persoon bedoel in subartikel (2) dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.

(6) Die Registrateur van Aktes beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (5) asof dié transportakte in die teenwoordigheid van die Registrateur van Aktes onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.

(7) Eiendomsreg op 'n grondeenheid word geag oorgedra te wees deur die Registrateur van Aktes op die datum van registrasie van 'n transportakte bedoel in subartikel (1).

(8) Die Verantwoordelike Lid kan, met die toestemming van die verantwoordelike nasionale Minister, by kennisgewing in die *Provinsiale Koerant* verklaar dat geen bepaling van artikel 15 of 17 van die Registrasie van Aktes Wet, 1937, van toepassing is, en dat geen hereregte, seëlregte of ander gelde betaalbaar is, ten opsigte van die oordrag van eiendomsreg op 'n grondeenheid ingevolge hierdie artikel nie.

HOOFTUK V:

OPHEFFING VAN BEPERKINGS

Opheffingsaansoeke

43. (1) 'n Eienaar van grond kan by die betrokke hoof uitvoerende beamppte skriftelik aansoek doen om die wysiging, opskorting of opheffing kragtens artikel 44 van 'n beperking wat teen die titelakte van die grond of enige tersaaklike register, kaart of plan geregistreer is.

(2) Die hoof uitvoerende beamppte moet—

- (a) die aansoek laat adverteer;
- (b) die tersaaklike kommentaar van enigiemand wat na sy of haar mening belang by die aansoek het, verkry;
- (c) waar kommentaar of besware teen die aansoek ontvang word, dit aan die eienaar vir kommentaar voorlê;
- (d) waar die raad kragtens artikel 44 kan optree—
 - (i) die aansoek en alle tersaaklike stukke aan die raad voorlê, en
 - (ii) die aansoeker en enige beswaarmakers van die raad se besluit in

deeds registry, whereupon the Registrar of Deeds shall register the land unit in the name of that person.

(2) A deed of transfer referred to in subsection (1) shall be prepared by—

- (a) a conveyancer, or
- 5 (b) if the owner of the land unit is the State or a competent authority, any person in the employ of the State or that authority, who has been designated for that purpose by the Responsible Member or the council, as the case may be.

(3) The form of a deed of transfer as contemplated in subsection (1) shall be
10 prescribed in terms of the Deeds Registries Act, 1937, and shall be signed by the owner of the land unit or his or her duly authorised agent in the presence of a conveyancer or a person referred to in subsection (2) in the manner prescribed in terms of that law.

(4) A person as contemplated in subsection (2)—

- 15 (a) shall disclose the fact that the deed of transfer referred to in subsection (1), or a power of attorney, an application or a consent, which may be required by the Registrar of Deeds for purposes of the registration of the transfer has been prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or
20 consent, as the case may be, and by virtue of such signing accepts *mutatis mutandis* responsibility in terms of section 15A (1) and (2) of the Deeds Registries Act, 1937, for the correctness of the facts stated in such a document, and
- 25 (b) may, notwithstanding anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section.

(5) A conveyancer or person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at the deeds registry in the manner prescribed in terms of the Deeds Registries Act, 1937.

30 (6) The Registrar of Deeds shall deal with the deed of transfer and the other documents referred to in subsection (5) as if that deed of transfer were executed in the presence of the Registrar of Deeds in terms of section 20 of the Deeds Registries Act, 1937.

35 (7) Ownership of a land unit shall be deemed to have been transferred by the Registrar of Deeds on the date of registration of a deed of transfer referred to in subsection (1).

(8) The Responsible Member may, with the consent of the responsible national Ministers, by notice in the *Provincial Gazette*, declare that no provision of section 15 or 17 of the Deeds Registries Act, 1937 shall apply and that no transfer duties,
40 stamp duties or other money shall be payable in respect of the transfer of ownership of a land unit in terms of this section.

CHAPTER V:

REMOVAL OF RESTRICTIONS

Applications for removal

45 43. (1) An owner of land may apply in writing to the chief executive officer concerned for the amendment, suspension or removal in terms of section 44 of a restriction registered against the title deed of the land or any relevant register, diagram or plan.

(2) The chief executive officer shall—

- 50 (a) cause the application to be advertised;
- (b) obtain the relevant comment of any person who in his or her opinion has an interest in the application;
- (c) submit to the owner for comment any comment or objections received in respect of the application;
- 55 (d) where the council may act in terms of section 44—
 - (i) submit the application and all relevant documents to the council, and
 - (ii) notify the applicant and any objectors of the council's decision and,

kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes, insluitend vervangende titelvoorwaardes, deur die raad opgelê, en hulle wys op hul reg van appèl ingevolge artikel 64, en

- (e) waar die Verantwoordelike Lid kragtens artikel 44 kan optree, die tersaaklike kommentaar van die hoof uitvoerende beampte se raad verkry en die departementshoof van 'n afskrif daarvan en van enige stukke wat die departementshoof verlang, voorsien.

(3) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Verantwoordelike Lid kragtens artikel 44 kan optree—

- (a) kommentaar en inligting wat na sy of haar mening nog vereis word, verkry, en
- (b) die aansoeker, enige beswaarmakers en die betrokke bevoegde owerheid van die Verantwoordelike Lid se besluit daaromtrent in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes, insluitend vervangende titelvoorwaardes, deur die Verantwoordelike Lid opgelê.

Toestaan of weiering van aansoek

44. Óf die Verantwoordelike Lid óf 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, kan 'n aansoek om die wysiging, opskorting of opheffing van 'n beperking wat die beplanning, ontwikkeling of aanwending van enige grondeenheid beperk, toestaan of weier.

Bekendmaking van besluite

45. (1) Indien daar nie 'n reg van appèl bestaan nie of indien 'n reg van appèl nie uitgeoefen word nie, maak die raad, handelende kragtens artikel 44, binne die voorgeskrewe tydperk sy besluit aan die betrokke partye en aan die Registrateur van Aktes en die Landmeter-generaal en by kennisgewing in die *Provinsiale Koerant* bekend.

(2) Indien 'n reg van appèl uitgeoefen word ten opsigte van 'n raadsbesluit geneem ingevolge artikel 44 of indien die Verantwoordelike Lid handel kragtens artikel 44, maak die Verantwoordelike Lid sy of haar besluit aan die betrokke partye en aan die Registrateur van Aktes en die Landmeter-generaal en by kennisgewing in die *Provinsiale Koerant* bekend.

Optrede van Registrateur van Aktes en Landmeter-generaal

46. Die betrokke Registrateur van Aktes en Landmeter-generaal moet so gou moontlik nadat hulle skriftelik van 'n raad of die Verantwoordelike Lid, na gelang van die geval, se besluit ingevolge artikel 45 verwittig is, die gepaste inskrywings wat nodig is om die uitwerking van die raad of die Verantwoordelike Lid se besluit weer te gee, kosteloos maak in of op enige ter sake dienende register, titelbewys, kaart of plan wat in hul onderskeie kantore is of aan hulle voorgelê word en die nodige endossemente daarop aanbring.

Vergoeding

47. (1) 'n Persoon wat skade gely het omdat 'n titelbeperking ingevolge artikel 44 of 48 gewysig, opgeskort of opgehef is in stryd met sy of haar wense, kan binne die voorgeskrewe tydperk skadevergoeding daarvoor eis van die persoon wat ten tyde van die wysiging, opskorting of opheffing die eienaar van die grond was ten opsigte waarvan die titelbeperking gewysig, opgeskort of opgehef is.

(2) Indien die betrokke eiser en eienaar nie binne 90 dae nadat 'n eis om vergoeding uit hoofde van die bepaling van subartikel (1) ingedien is, onderling tot 'n ooreenkoms kom oor die bedrag aan skadevergoeding betaalbaar nie, moet enige vraag of die persoon skade in subartikel (1) vermeld, gely het en betreffende die omvang van daardie skade, op versoek van enigeen van die partye bepaal word deur 'n appèlkomitee of beplanningsraad of, indien enigeen van die partye dit verkies, by wyse van arbitrasie oorweeg en beslis word.

where applicable, furnish them with a copy of conditions, including substituted title conditions, imposed by the council, and call their attention to their right of appeal in terms of section 64, and

- 5 (e) where the Responsible Member may act in terms of section 44, obtain the relevant comment of the chief executive officer's council and furnish the department head with a copy of that comment and of any documents required by the department head.

(3) The department head shall, with regard to an application in respect of which the Responsible Member may act in terms of section 44—

- 10 (a) obtain comment and information which in his or her opinion may still be required, and
(b) notify the applicant, any objectors and the competent authority concerned of the Responsible Member's decision about the application and, where applicable, furnish them with a copy of conditions, including
15 substituted title conditions, imposed by the Responsible Member.

Approval or refusal of application

44. Either the Responsible Member or a council, if the council is authorised thereto in terms of scheme regulations or section 67, may approve or refuse an application for the amendment, suspension or removal of a restriction limiting the
20 planning, development or utilisation of any property.

Notification of decisions

45. (1) If there is no right of appeal or if a right of appeal is not exercised, the council, acting in terms of section 44, shall notify the parties concerned and the Registrar of Deeds and the Surveyor-General of its decision and by notice in the
25 *Provincial Gazette* within the prescribed period.

- (2) If a right of appeal is exercised in respect of a council decision in terms of section 44 or if the Responsible Member acts in terms of section 44, the Responsible Member shall notify the parties concerned and the Registrar of Deeds and the Surveyor-General of his or her decision and by notice in the *Provincial*
30 *Gazette*.

Actions of Registrar of Deeds and Surveyor-General

46. The Registrar of Deeds and Surveyor-General concerned shall, as soon as possible after having been notified in writing of the decision of a council or the Responsible Member, as the case may be, in terms of section 45, make the
35 appropriate entries required to reflect the effect of the council's or the Responsible Member's decision, free of charge in or on any relevant current register, title deed, diagram or plan registered in their respective offices or submitted to them and endorse them as required.

Compensation

47. (1) A person who suffered damage as a result of the amendment, suspension or removal of a title condition in terms of section 44 or 48 against his or her wishes, may within the prescribed period claim compensation for it from the person who, at the time of the amendment, suspension or removal had been the owner of the land in respect of which the title condition was amended, suspended or removed.
45 (2) If the plaintiff and the owner concerned fail to reach an agreement regarding the amount of damages payable within 90 days after the institution of a claim for damages in terms of the provisions of subsection (1), any question as to whether the person has suffered damage mentioned in subsection (1) and regarding the extent of the damage shall be determined at the instance of either party by an
50 appeal committee or planning board or, at the option of either of the parties, by means of arbitration.

Opskorting en opheffing van beperkings deur Verantwoordelike Lid

48. (1) 'n Eienaar van grond of enige owerheidsliggaam kan by die Verantwoordelike Lid skriftelik aansoek doen om die opskorting of opheffing van enige wetsbepaling wat binne die Provinsiale Wetgewer se wetgewende bevoegdheid val of enige beperking wat betrekking het op beplanning, ontwikkeling of die aanwending van grond. 5

(2) Die Verantwoordelike Lid kan uit eie beweging of op aansoek by kennisgewing in die *Provinsiale Koerant* enige wetsbepaling of beperking soos bedoel in subartikel (1), in die algemeen of ten opsigte van enige bepaalde ontwikkeling of gebied opskort of ophef, indien die Verantwoordelike Lid van oordeel is dat daardie wetsbepaling of beperking 'n onnodige vertragende uitwerking sal hê op die afhandeling van aansoeke of die ontwikkeling of aanwending van grond of andersins onvanpas sal wees. 10

(3) Die verantwoordelike nasionale Minister kan op versoek van die Verantwoordelike Lid by kennisgewing in die *Provinsiale Koerant* ten opsigte van 'n wet wat buite die wetgewende bevoegdheid van die Provinsiale Wetgewer val, 'n soortgelyke bevoegdheid uitoefen as dié wat aan die Verantwoordelike Lid kragtens subartikel (1) verleen word. 15

(4) Ondanks andersluidende wetsbepalings kan die Verantwoordelike Lid uit eie beweging of op aansoek by kennisgewing in die *Provinsiale Koerant* enige beperking wat geregistreer is teen die titelbewys van onroerende eiendom wat na sy of haar mening nie voordelig benut word nie of, met die oog op die gebruik of ontwikkeling van die grond, nie meer voordelig benut sal kan word nie, geheel en al of gedeeltelik opskort of ophef indien hy of sy van oordeel is dat so 'n beperking strydig is met, of 'n onnodige vertragende uitwerking sal hê op, die afhandeling van aansoeke of die ontwikkeling of gebruik van grond. 20 25

(5) Voordat die Verantwoordelike Lid of die verantwoordelike nasionale Minister, na gelang van die geval, optree soos in subartikel (2), (3) of (4) bedoel, moet hy of sy die voorgenome optrede eers op die voorgeskrewe wyse bekend maak of, by gebrek aan regulasies, op die wyse wat hy of sy goedvind. 30

(6) Subartikels (2), (3) en (4) word nie uitgelê as sou dit die opskorting van 'n geregistreerde reg op minerale magtig nie.

(7) Die Verantwoordelike Lid of die verantwoordelike nasionale minister, na gelang van die geval, kan 'n kennisgewing in subartikels (2), (3) en (4) bedoel, by kennisgewing in die *Provinsiale Koerant* wysig of intrek. 35

(8) Die bepaling van artikels 45, 46 en 47 is *mutatis mutandis* van toepassing op enige beperking wat ingevolge subartikel (2), (3) of (4) opgeskort of opgehef is, en by die registrasie van 'n algemene plan deur die Registrateur van Aktes of, in die geval van hersonering, binne die tydperk wat die Verantwoordelike Lid bepaal, word enige beperking wat kragtens subartikel (2), (3) of (4) opgeskort of opgehef is, gerojêr. 40

HOOFTUK VI:

BEPLANNINGSRADE

Instelling van beplanningsrade

49. (1) (a) Die Verantwoordelike Lid kan 'n beplanningsraad of -rade vir die gebied of gebiede soos by kennisgewing in die *Provinsiale Koerant* omskryf, instel. 45

(b) Die Verantwoordelike Lid kan een of meer staande komitees wat uit enige getal lede van 'n beplanningsraad mag bestaan, instel met die doel om enige bevoegdheid van die beplanningsraad ingevolge hierdie Wet wat die Verantwoordelike Lid bepaal, uit te oefen of enige plig van die beplanningsraad ingevolge hierdie Wet wat die Verantwoordelike Lid bepaal, te verrig. 50

(2) 'n Beplanningsraad bestaan uit die getal lede wat die Verantwoordelike Lid van tyd tot tyd bepaal.

(3) Die lede van 'n beplanningsraad word deur die Verantwoordelike Lid uit persone wat beskik oor kennis en ondervinding van aangeleenthede wat met die toepassing van hierdie Wet in verband staan, aangestel in ooreenstemming met die voorgeskrewe-prosedure, wat voorsiening moet maak vir openbare deelname aan die benoeming van kandidate vir aanstelling. 55

Suspension and removal of restrictions by Responsible Member

48. (1) An owner of land or any government body may apply in writing to the Responsible Member for the suspension or removal of any legal provision which falls within the legislative competence of the Provincial Legislature or any restriction regarding planning, development or the utilisation of land.

(2) The Responsible Member may of his or her own accord or on application by notice in the *Provincial Gazette* suspend or remove any legal provision or restriction as contemplated in subsection (1), in general or in respect of any particular development or area, if the Responsible Member is of the opinion that that legal provision or restriction will unnecessarily delay the finalisation of applications or the development or utilisation of land or will be otherwise inappropriate.

(3) The responsible national Minister may on application by the Responsible Member by notice in the *Provincial Gazette* in respect of a law which falls outside the legislative competence of the Provincial Legislature exercise a power similar to that conferred upon the Responsible Member in terms of subsection (1).

(4) Notwithstanding any provisions of any law to the contrary, the Responsible Member may of his or her own accord or on application by notice in the *Provincial Gazette*, wholly or in part remove or suspend any restriction registered against the title deed of immovable property which in his or her opinion is not being beneficially utilised or, with a view to the use or development of the land, will not be capable of being beneficially utilised in future, if he or she is of the opinion that such a restriction is contrary to or will unnecessarily delay the finalisation of applications or the development or use of land.

(5) Before the Responsible Member or the responsible national Minister, as the case may be, acts as contemplated in subsection (2), (3) or (4), he or she shall first make known the proposed action in the prescribed manner or, in the absence of regulations, in the manner which he or she may deem fit.

(6) Subsections (2), (3) and (4) shall not be construed as authorising the suspension of a registered mineral right.

(7) The Responsible Member or the responsible national Minister, as the case may be, may amend or revoke a notice contemplated in subsections (2), (3) and (4) by notice in the *Provincial Gazette*.

(8) The provisions of sections 45, 46 and 47 shall apply *mutatis mutandis* to any restriction suspended or removed in terms of subsection (2), (3) or (4), and upon registration of a general plan by the Registrar of Deeds or in the event of rezoning, within the period determined by the Responsible Member, any restriction which has been suspended or removed in terms of subsection (2), (3) or (4) shall be cancelled.

CHAPTER VI:

PLANNING BOARDS

Establishment of planning boards

49. (1) (a) The Responsible Member may establish a planning board or boards for the area or areas as defined by notice in the *Provincial Gazette*.

(b) The Responsible Member may establish one or more standing committees comprising any number of members of a planning board for the purpose of exercising any power or performing any duty of the planning board in terms of this Law, determined by the Responsible Member.

(2) A planning board shall consist of the number of members determined by the Responsible Member from time to time.

(3) The members of a planning board shall be appointed by the Responsible Member from persons who have knowledge and experience of matters connected with the implementation of this Law, in accordance with the prescribed procedure, which shall provide for public participation in the nomination of candidates for appointment.

(4) Die Verantwoordelike Lid stel elke lid van 'n beplanningsraad aan op die voorwaardes, insluitend voorwaardes aangaande die betaling van besoldiging en toelaes, wat die Verantwoordelike Lid ten tyde van die lid se aanstelling met die instemming van die lid van die Uitvoerende Raad verantwoordelik vir Finansies bepaal.

(5) Die Verantwoordelike Lid wys 'n lid van 'n beplanningsraad as voorsitter daarvan aan en 'n ander lid as ondervoorsitter daarvan.

(6) Wanneer die voorsitter van 'n beplanningsraad afwesig is of nie sy of haar pligte kan verrig nie, tree die ondervoorsitter behoudens die bepalings van subartikel (9) in die plek van die voorsitter op, en wanneer die ondervoorsitter aldus optree, kan hy of sy enige bevoegdheid of plig van die voorsitter uitoefen of verrig.

(7) (a) Hoogstens elke vierde jaar na die instelling van 'n beplanningsraad ontruim die lede daarvan wat deur die Verantwoordelike Lid aangewys word (uitgesonderd die voorsitter, wat die amp van voorsitter vir 6 jaar beklee) hul amp as lede van die beplanningsraad en moet die Verantwoordelike Lid, behoudens die bepalings van subartikel (3), nuwe lede in hul plek aanstel.

(b) Geen lid van 'n beplanningsraad beklee die amp vir 'n ononderbroke tydperk van meer as 6 jaar nie.

(8) Ondanks die bepalings van subartikel (7), ontruim 'n lid van 'n beplanningsraad die amp as hy of sy sonder die verlof van die beplanningsraad van twee opeenvolgende vergaderings daarvan afwesig is of as die Verantwoordelike Lid te eniger tyd die ampstermyn van die lid beëindig omdat daar na die mening van die Verantwoordelike Lid gegronde redes daarvoor bestaan.

(9) Die Verantwoordelike Lid kan 'n lid van 'n beplanningsraad as waarnemende voorsitter aanwys om die bevoegdhede en pligte van die voorsitter uit te oefen en te verrig wanneer die voorsitter dit nie kan doen nie.

(10) Wanneer 'n ander lid van 'n beplanningsraad om die een of ander rede afwesig is of nie die ampspligte kan verrig nie, kan die Verantwoordelike Lid, behoudens die bepalings van subartikel (3), 'n ander geskikte persoon aanstel om op te tree in die plek van daardie lid gedurende sy of haar afwesigheid of solank hy of sy nie die ampspligte kan verrig nie.

(11) (a) Die vergaderings van 'n beplanningsraad word gehou op die tye en plekke wat die voorsitter bepaal.

(b) Indien die voorsitter en die ondervoorsitter om die een of ander rede nie 'n vergadering van 'n beplanningsraad bywoon nie, kies die lede wat daarop teenwoordig is, behoudens die bepalings van subartikel (9), een uit hul geledere om op daardie vergadering voor te sit.

(c) Die persoon wat op 'n vergadering van 'n beplanningsraad voorsit, bepaal die prosedure op so 'n vergadering.

(d) Die kworum vir 'n vergadering van 'n beplanningsraad is die meerderheid van die lede van die beplanningsraad soos op die datum van daardie vergadering.

(e) Die beslissing van 'n meerderheid van die lede van 'n beplanningsraad wat op 'n vergadering daarvan aanwesig is, maak die besluit van die beplanningsraad uit en by 'n staking van stemme het die persoon wat op die vergadering voorsit, 'n beslissende stem benewens sy of haar beraadslagende stem.

(12) 'n Lid van 'n beplanningsraad mag nie aanwesig wees by of deelneem aan die bespreking van of 'n stemming oor 'n aangeleentheid voor die beplanningsraad waarby hy of sy regstreeks of onregstreeks 'n geldelike of ander belang het nie.

(13) Met ingang van die datum van inwerkingtreding van hierdie Wet word 'n verwysing in enige wet na die Dorpekommissie, saamgestel ingevolge artikel 2 van die Dorpe-ordonnansie, of die beplanningsadviesraad, saamgestel ingevolge artikel 33 van die Grondgebruik-ordonnansie, geag 'n verwysing na 'n beplanningsraad te wees.

Pligte van Verantwoordelike Lid met betrekking tot beplanningsraad

50. (1) Die Verantwoordelike Lid kan die volgende na 'n beplanningsraad verwys:

- (a) behoudens die bepalings van paragrafe (b), (c) en (d), 'n aangeleentheid aan hom of haar voorgelê vir 'n beslissing daaromtrent ingevolge hierdie Wet;
- (b) 'n ontwikkelingsraamwerk of struktuurplan aan hom of haar voorgelê vir goedkeuring ingevolge artikel 4(6) of (8), met betrekking waartoe besware ingevolge artikel 4(5) of 8(a) ingedien is;

- (4) The Responsible Member shall appoint every member of a planning board on the conditions, including conditions as to the payment of remuneration and allowances, determined by the Responsible Member at the time of the member's appointment with the consent of the member of the Executive Council responsible for Finance.
- 5 (5) The Responsible Member shall designate a member of a planning board as its chairperson and another member as its vice-chairperson.
- (6) When the chairperson of a planning board is absent or is unable to perform his or her duties, the vice-chairperson shall, subject to the provisions of subsection (9), act in the place of the chairperson and when the vice-chairperson so acts, he or she
- 10 may exercise or perform any power or duty of the chairperson.
- (7) (a) Every fourth year at the most after the establishment of a planning board, the members of that board who are designated by the Responsible Member (except the chairperson, who shall hold office as chairperson for 6 years) shall vacate their office as members of the planning board and the Responsible Member shall, subject
- 15 to the provisions of subsection (3), appoint new members in their place.
- (b) No member of a planning board shall hold office for an uninterrupted period exceeding 6 years.
- (8) Notwithstanding the provisions of subsection (7), a member of a planning board shall vacate the office if he or she is absent from two consecutive meetings of the
- 20 planning board without leave of the planning board or if the Responsible Member at any time terminates the member's term of office if in the opinion of the Responsible Member there are sound reasons for doing so.
- (9) The Responsible Member may appoint a member of a planning board as acting chairperson to exercise and perform the powers and duties of the chairperson when
- 25 the chairperson is unable to do so.
- (10) When another member of a planning board is for some reason or other absent or unable to discharge the duties of office, the Responsible Member may, subject to the provisions of subsection (3), appoint another suitable person to act in the place of that member during his or her absence or as long as he or she is unable to discharge
- 30 the duties of office.
- (11) (a) The meetings of a planning board shall be held at the times and places determined by the chairperson.
- (b) If the chairperson and the vice-chairperson for some reason or other fail to attend a meeting of a planning board, the members who are present at the meeting
- 35 shall, subject to the provisions of subsection (9), elect one from their number to preside at that meeting.
- (c) The person presiding at a meeting of a planning board shall determine the procedure at such a meeting.
- (d) The quorum for a meeting of a planning board shall be the majority of the
- 40 members of the planning board as at the date of that meeting.
- (e) The resolution of a majority of the members of a planning board present at a meeting of the board shall constitute the decision of the planning board and in the event of an equality of votes the person presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.
- 45 (12) A member of a planning board shall not be present at or take part in the discussion of or voting on a matter before the planning board in which he or she has a direct or indirect pecuniary or other interest.
- (13) With effect from the date of commencement of this Law a reference in any law to the Townships Board, established in terms of section 2 of the Townships Ordinance,
- 50 or the planning advisory board, established in terms of section 33 of the Land Use Ordinance, shall be deemed to be a reference to a planning board.

Duties of Responsible Member with regard to planning board

50. (1) The Responsible Member may refer the following to a planning board:
- 55 (a) subject to the provisions of paragraphs (b), (c) and (d), a matter submitted to him or her for a decision on it in terms of this Law;
- (b) a development framework or structure plan submitted to him or her for approval in terms of section 4(6) or (8), in respect of which objections have been lodged in terms of section 4(5) or 8(a);

- (c) 'n aansoek aan hom of haar voorgelê vir 'n beslissing ingevolge hierdie Wet, met betrekking waartoe enige besware ontvang is;
 - (d) 'n appèl by hom of haar aangeteken ingevolge hierdie Wet, en
 - (e) 'n voorgeskrewe aansoek of aangeleentheid.
- (2) Die Verantwoordelike Lid mag nie aan die departementshoof die bevoegdheid verleen om van 'n aanbeveling van 'n beplanningsraad af te wyk nie. 5
- (3) Die Verantwoordelike Lid kan, as hy of sy van mening is dat dit nodig is vir die beskerming en behoud van enige persoon se fundamentele grondwetlike regte, by skriftelike bevel die betrokke owerheid, liggaam of 'n persoon in diens van die Staat, 'n owerheid of liggaam gelas om sy of haar statutêre bevoegdheid uit te oefen en kommentaar of inligting te verstrek en kan, by die uitreiking van daardie lasgewing, na goëddunke die voorwaardes en vereistes stel wat wettig uitgevoer kan word deur daardie owerheid, liggaam of persoon. 10
- (4) Die administratiewe pligte van 'n beplanningsraad of -rade word verrig deur 'n sekretariaat bestaande uit persone in die diens van die Provinsiale Administrasie van die Wes-Kaap of bevoegde owerhede. 15

Pligte van beplanningsraad

51. (1) 'n Beplanningsraad—
- (a) moet by voltooiing van 'n ondersoek ingevolge artikel 52 'n verslag oor sy bevindinge en aanbevelings aan die Verantwoordelike Lid voorlê; 20
 - (b) kan na goëddunke 'n aanbeveling aan die Verantwoordelike Lid doen oor enige aangeleentheid rakende die toepassing van hierdie Wet;
 - (c) kan, indien hy bykomende inligting of die advies van enigiemand verlang ten einde aan paragraaf (a) of (b) gevolg te gee, by die Verantwoordelike Lid daarom aansoek doen, en 25
 - (d) kan enige hulpkomitee wat uit enige getal lede van die beplanningsraad bestaan, instel met die doel om die beplanningsraad by te staan in die uitvoering van sy pligte ingevolge hierdie artikel.
- (2) Geen lid of 'n plaasvervanger van 'n lid mag die inhoud van 'n aanbeveling van 'n beplanningsraad openbaar maak voordat die Verantwoordelike Lid se beslissing daaromtrent bekend gemaak is nie, tensy die Verantwoordelike Lid toestemming daartoe verleen. 30

Ondersoeke deur beplanningsraad

52. (1) As die Verantwoordelike Lid 'n aangeleentheid ingevolge artikel 50(1) na 'n beplanningsraad verwys, moet die beplanningsraad 'n ondersoek oor daardie aangeleentheid hou. 35
- (2) Die prosedure wat by die hou van 'n ondersoek gevolg moet word, word na goëddunke deur 'n beplanningsraad bepaal, met inagneming van die voorskrifte wat die Verantwoordelike Lid van tyd tot tyd uitreik en die omstandighede van elke geval. 40
- (3) Die verrigtinge en getuienis by 'n ondersoek word genotuleer op die wyse wat 'n beplanningsraad goëdvind, met inagneming van die voorskrifte wat die Verantwoordelike Lid van tyd tot tyd uitreik.
- (4) Vir die doeleindes van 'n ondersoek—
- (a) kan 'n beplanningsraad enige persoon wat vermoedelik inligting oor die onderwerp van die ondersoek kan verstrek of 'n boek, dokument of ander voorwerp wat op daardie onderwerp betrekking het, in sy of haar besit of onder sy of haar beheer het, dagvaar om op 'n tyd en plek in die dagvaarding vermeld voor die beplanningsraad te verskyn om ondervra te word of om daardie boek, dokument of ander voorwerp voor te lê, en 50
 - (b) kan 'n beplanningsraad of iemand deur die beplanningsraad aangewys daardie persoon ondervra onder eed of bevestiging opgelê deur die voorsitter van die beplanningsraad, en daardie boek, dokument of ander voorwerp ondersoek of vir verdere ondersoek of vir veilige bewaring behou. 55
- (5) 'n Dagvaarding bedoel in subartikel (4) moet—
- (a) in die voorgeskrewe vorm wees;
 - (b) besonderhede bevat van die aangeleentheid in verband waarmee die betrokke persoon voor die beplanningsraad moet verskyn;

- (c) an application submitted to him or her for a decision in terms of this Law, in respect of which any objections have been received;
 - (d) an appeal noted with him or her in terms of this Law; and
 - (e) a prescribed application or matter.
- 5 (2) The Responsible Member shall not vest the department head with the power to deviate from a recommendation of a planning board.
- (3) The Responsible Member may, if he or she is of the opinion that it is required for the protection and maintenance of any person's fundamental constitutional rights, by written decree order the authority, body or person concerned in the
- 10 employ of the State, an authority or a body to exercise his or her statutory power and to furnish comment or information and may in his or her discretion, when issuing that direction, impose any conditions and requirements that can be lawfully executed by that authority, body or person.
- (4) The administrative duties of a planning board or boards shall be performed
- 15 by a secretariat consisting of persons employed by the Provincial Administration of the Western Cape or competent authorities.

Duties of planning board

51. (1) A planning board—
- (a) shall furnish the Responsible Member with a report on its findings and recommendations upon completion of an inquiry in terms of section 52;
 - (b) may at its discretion furnish the Responsible Member with a recommendation on any matter affecting the implementation of this Law;
 - (c) may, if it requires additional information or the advice of any person to give effect to paragraph (a) or (b), apply to the Responsible Member for it, and
 - 25 (d) may establish any auxiliary committee comprising any number of members of the planning board for the purpose of assisting the planning board in performing its functions in terms of this section.
- (2) No member or alternate member shall disclose the contents of a recommendation of a planning board before the Responsible Member's decision on it has been made
- 30 known, unless the Responsible Member gives his consent thereto.

Inquiries by planning board

52. (1) If the Responsible Member refers a matter in terms of section 50(1) to a planning board, the planning board shall conduct an inquiry into that matter.
- (2) The procedure to be followed in conducting an inquiry shall be determined
- 35 by a planning board at its discretion, with due regard to the directions issued by the Responsible Member from time to time and the circumstances of each case.
- (3) The proceedings and evidence at an inquiry shall be minuted in the manner deemed fit by the planning board, with due regard to the directions issued by the Responsible Member from time to time.
- 40 (4) For the purposes of an inquiry—
- (a) a planning board may subpoena any person who could presumably furnish information on the subject of the inquiry or who has in his or her possession or under his or her control a book, document or other object which relates to that subject, to appear before the planning board at a
 - 45 time and venue mentioned in the subpoena to be questioned or to submit that book, document or other object, and
 - (b) a planning board or a person designated by the planning board may question that person under oath or affirmation administered by the chairperson of the planning board and examine that book, document or other object or keep it for further examination or safekeeping.
- 50 (5) A subpoena contemplated in subsection (4) shall—
- (a) be in the prescribed form;
 - (b) contain particulars of the matter in connection with which the person concerned shall appear before the planning board;

- (c) deur die voorsitter van die beplanningsraad of 'n persoon deur hom of haar gemagtig, onderteken word, en
- (d) op die voorgeskrewe wyse beteken word.
- (6) Enigiemand wat gedagvaar is om voor 'n beplanningsraad te verskyn en wat— 5
 - (a) sonder voldoende rede (waarvan die bewyslas op hom of haar rus) versuim om op die tyd en plek in die dagvaarding vermeld, te verskyn of om aanwesig te bly totdat hy of sy deur die voorsitter van die beplanningsraad van verdere bywoning onthef word;
 - (b) by sy of haar verskyning voor die beplanningsraad— 10
 - (i) versuim om 'n boek, dokument of ander voorwerp voor te lê wat in sy of haar besit of onder sy of haar beheer is en wat volgens voorskrif van die dagvaarding voorgelê moet word, of
 - (ii) weier om die eed af te lê of 'n bevestiging te doen nadat hy of sy deur die voorsitter van die beplanningsraad gevra is om dit te doen, óf 15
 - (c) na eedaflegging of bevestiging—
 - (i) versuim om enige vraag wat wettig aan hom of haar gestel word, ten volle en na sy of haar beste vermoë te beantwoord, óf
 - (ii) valse getuienis aflê wetende dat daardie getuienis vals is of terwyl hy of sy nie weet of nie glo dat dit juis is nie, 20

HOOFSTUK VII:

ALGEMENE BEGINSELS VIR BEPLANNING EN ONTWIKKELING

Toepassing van beginsels

- 53. (1) Die algemene beginsels in Bylae IV uiteengesit, is oor die hele Provinsie 25 van toepassing en—
 - (a) bind ook die Staat en 'n bevoegde owerheid;
 - (b) word toegepas by die opstel en toepassing van regulasies, skemaregulasies, riglyne en verordeninge, en is ook van toepassing op administratiewe praktyk; 30
 - (c) word toegepas by die opstel en administrasie van 'n ontwikkelingsraamwerk, struktuurplan, soneringskema, vervoerplan of soortgelyke plan of skema deur 'n bevoegde owerheid ingevolge 'n wet wat daardie owerheid administreer, en
 - (d) is van toepassing wanneer 'n bevoegde owerheid 'n diskresie uitoefen of 'n besluit neem ingevolge hierdie Wet of enige ander wet wat op beplanning en ontwikkeling betrekking het, insluitend so 'n wet wat op die onderverdeling, aanwending en beplanning van grond betrekking het. 35
- (2) Die Verantwoordelike Lid kan by proklamasie in die *Provinsiale Koerant*—
 - (a) benewens die beginsels in Bylae IV uiteengesit, maar nie in stryd daarmee nie, enige beginsel vir beplanning en ontwikkeling voorskryf, en 40
 - (b) enige beginsel in Bylae IV uiteengesit, in meer besonderhede, maar nie in stryd daarmee nie, voorskryf, en daarna geld daardie beginsel of beleid in die Provinsie op die grondslag in subartikel (1) uiteengesit en word dit geag deel uit te maak van die beginsels in Bylae IV vervat. 45
- (3) Voordat 'n proklamasie bedoel in subartikel (2) gepubliseer word, moet die Verantwoordelike Lid eers alle belanghebbendes die geleentheid bied om besware in te dien of verhoë te rig.

HOOFSTUK VIII:

ALGEMENE BEPALINGS

Grondslag van oorweging van aansoeke en besonderhede toepaslik by toestaan daarvan

- 54. (1) By die oorweging van enige aansoek kragtens hierdie Wet kan die gebrek aan wenslikheid van die beoogde aanwending van grond, insluitend die beginsels in 55

- (c) be signed by the chairperson of the planning board or a person authorised thereto by him or her, and
- (d) be served in the prescribed manner.
- (6) Any person who has been subpoenaed to appear before a planning board and who—
 - (a) without sufficient reason (for which the onus of proof shall rest on him or her) fails to appear on the date and at the venue mentioned in the subpoena, or to remain present until he or she has been excused by the chairperson of the planning board from further attendance;
 - (b) at his or her appearance before the planning board—
 - (i) fails to submit a book, document or other object which is in or under his or her possession or control and which shall according to the direction in the subpoena, be submitted, or
 - (ii) refuses to take the oath or affirmation after having been asked by the chairperson of the planning board to do so, or
 - (c) after having taken the oath or affirmation—
 - (i) fails to answer any question lawfully put to him or her in full or to the best of his or her ability, or
 - (ii) gives false evidence knowing that that evidence is false or not knowing or believing that it is true, shall be guilty of an offence.

CHAPTER VII:

GENERAL PLANNING AND DEVELOPMENT PRINCIPLES

Application of principles

- 53. (1) The general principles set out in Schedule IV shall apply throughout the Province and—
 - (a) shall also bind the State and a competent authority;
 - (b) shall be applied in the drafting and implementation of regulations, scheme regulations, guidelines and by-laws and shall also apply to administrative practice;
 - (c) shall be applied in the preparation and administration of a development framework, structure plan, zoning scheme, transport plan or similar plan or scheme by a competent authority in terms of any law administered by that authority, and
 - (d) shall apply when a competent authority exercises a discretion or makes a decision in terms of this Law or any other law relating to planning and development, including a law relating to the subdivision, utilisation and planning of land.
- (2) The Responsible Member may by proclamation in the *Provincial Gazette*—
 - (a) in addition to the principles set out in Schedule IV, but not inconsistent with them, prescribe any planning and development principle, and
 - (b) prescribe any principle set out in Schedule IV in more detail, but not inconsistent with it;and thereafter that principle or policy shall apply in the Province on the basis set out in subsection (1) and shall be deemed to form part of the principles contained in Schedule IV.
- (3) Before publication of a proclamation as contemplated in subsection (2) the Responsible Member shall afford all interested persons an opportunity to lodge objections or make representations.

CHAPTER VIII:

GENERAL PROVISIONS

Basis of consideration of applications and particulars applicable to granting applications

- 54. (1) In considering any application in terms of this Law the lack of desirability of the contemplated utilisation of land, including the principles contained in Schedule

Bylae IV vervat en riglynvoorstelle in 'n tersaaklike ontwikkelingsraamwerk en struktuurplan vervat, vir sover dit op wenslikheid betrekking het, of die uitwerking daarvan op die bestaande regte (uitgesonderd enige beweerde reg op beskerming teen handelskonkurrensie) in ag geneem word, maar die behoefte aan en aanvraag na die betrokke ontwikkeling en enige beweerde reg op beskerming teen handelskonkurrensie mag nie in ag geneem word nie. 5

(2) Waar 'n aansoek kragtens hierdie Wet nie geweier word uit hoofde van die aangeleenthede in subartikel (1) bedoel nie, mag enige beweerde reg op beskerming teen handelskonkurrensie nie in ag geneem word by die oorweging van tersaaklike besonderhede nie. 10

(3) Alle aansoeke ingevolge hierdie Wet wat betrekking het op die voorgenome ontwikkeling of aanwending van grond of geboue, moet sover prakties moontlik gelyktydig ingedien, geadverteer of bekend gemaak en oorweeg word, tensy die Verantwoordelike Lid die aansoeke van die bepalings van hierdie subartikel vrystel; met dien verstande dat 'n aansoek om die sonering van grond wat die beginsel van onderverdeling uitdruklik magtig, 'n aansoek om onderverdeling van daardie grond mag voorafgaan. 15

Verstreking van kommentaar en inligting

55. (1) As 'n persoon van wie die Verantwoordelike Lid of 'n raad of die departementshoof of 'n hoof uitvoerende beampte ingevolge hierdie Wet vereis dat hy of sy enige kommentaar of ander inligting ingevolge hierdie Wet moet verstrek, daardie kommentaar of ander inligting nie binne 'n tydperk van 60 dae vanaf die datum waarop daardie kommentaar of ander inligting aldus vereis is, verstrek nie, kan die persoon geag word geen kommentaar of ander inligting te gehad het om te verstrek nie. 20

(2) Die tydperk van 60 dae gemeld in subartikel (1) is nie van toepassing by advertering nie, maar wel die tydperk vermeld in die betrokke kennisgewing. 25

(3) Die Verantwoordelike Lid kan by wyse van regulasie die verpligting om ondersoek in te stel na die weiering of versuim van 'n persoon om kommentaar te lewer of inligting te verstrek, aan 'n beplanningsraad of 'n bevoegde owerheid oplaë, in welke geval die bepalings van artikel 52 *mutatis mutandis* op so 'n ondersoek van toepassing is. 30

Indiening van aansoek

56. (1) Die departementshoof of hoof uitvoerende beampte, na gelang van die geval, kan by gebrek aan regulasies oor die onderwerp van tyd tot tyd die vorm van enige aansoek wat ingevolge hierdie Wet by hom of haar gedoen moet word, voorskryf. 35

(2) Waar enige aansoek ingevolge hierdie Wet by 'n bepaalde persoon ingedien moet word, kan die departementshoof of hoof uitvoerende beampte, na gelang van die geval, gelas dat dit tegelykertyd by 'n ander persoon wat daarby betrokke is, ingedien moet word. 40

(3) Die departementshoof of hoof uitvoerende beampte, na gelang van die geval, moet toesien dat verskillende tipes aansoeke ten opsigte van dieselfde grondeenheid gelyktydig ingedien, geadverteer en oorweeg moet word, soos vereis kragtens artikel 54(3).

(4) Die Verantwoordelike Lid kan maksimum aansoekgelde voorskryf wat deur bevoegde owerhede gehef kan word vir die oorweging van enige aansoek ingevolge hierdie Wet. 45

Nakoming van bepalings van soneringskema en van voorwaardes van onderverdeling

57. (1) Elke bevoegde owerheid moet voldoen aan en nakoming afdwing van— 50

(a) die bepalings van hierdie Wet of, vir sover dit ingevolge hierdie Wet van toepassing is, die bepalings van enige wet gelys in Bylae III;

(b) die bepalings ingevolge hierdie Wet in 'n soneringskema opgeneem, of

(c) voorwaardes, met inbegrip van titelvoorwaardes, ingevolge hierdie Wet of ingevolge enige wet in Bylae III gelys, opgelê, 55

en mag niks doen wat die uitwerking sal hê dat dit in stryd met die bedoeling van hierdie subartikel sal wees nie.

IV and guidelines contained in a relevant development framework and structure plan, in so far as these relate to desirability, or its effect on existing rights (except any alleged right to protection against trading competition) may be considered, but the need and demand for the development concerned and any alleged right to protection against trading competition shall not be taken into account.

(2) Where an application in terms of this Law is not refused by virtue of the matters contemplated in subsection (1), regard shall not be had to any alleged right to protection against trading competition in considering relevant particulars.

(3) All applications in terms of this Law with regard to the proposed development or utilisation of land or buildings shall, in so far as may be practicable, be lodged, advertised or made known and considered simultaneously, unless the Responsible Member exempts the applications from the provisions of this subsection; provided that an application for the zoning of land which expressly authorises the principle of subdivision may precede an application for subdivision of that land.

Furnishing of comment and information

55. (1) If a person required by the Responsible Member or a council or the department head or a chief executive officer in terms of this Law to furnish any comment or other information in terms of this Law fails to furnish that comment or other information within a period of 60 days from the date on which that comment or other information was so required, that person may be deemed to have had no comment or other information to furnish.

(2) The period of 60 days mentioned in subsection (1) shall not apply to advertising, but the period mentioned in the notice concerned shall so apply.

(3) The Responsible Member may by regulation impose on a planning board or a competent authority the obligation to investigate the refusal or failure of a person to furnish comment or information, in which event the provisions of section 52 shall apply *mutatis mutandis* to such an inquiry.

Submission of application

56. (1) The department head or chief executive officer, as the case may be, may, in the absence of regulations on the subject, from time to time prescribe the form of any application to be made to him or her in terms of this Law.

(2) Where any application in terms of this Law is required to be submitted to any person in particular, the department head or chief executive officer, as the case may be, may direct that it shall be submitted simultaneously to another person involved in it.

(3) The department head or chief executive officer, as the case may be, shall ensure that different types of applications in respect of the same land unit are lodged, advertised and considered simultaneously, as required in terms of section 54(3).

(4) The Responsible Member may prescribe maximum application fees which may be charged by competent authorities for the consideration of any application in terms of this Law.

Compliance with provisions of zoning scheme and of conditions of subdivision

57. (1) Every competent authority shall comply and enforce compliance with—
(a) the provisions of this Law or, in so far as they may apply in terms of this Law, the provisions of any law listed in Schedule III;
(b) the provisions incorporated in a zoning scheme in terms of this Law, or
(c) conditions including title conditions, imposed in terms of this Law or in terms of any law listed in Schedule III,
and shall not do anything, the effect of which is in conflict with the intention of this subsection.

(2) Niemand mag—

- (a) (i) die bepalings ingevolge hierdie Wet in 'n soneringskema opgeneem;
- (ii) voorwaardes, insluitend titelvoorwaardes, ingevolge hierdie Wet of ingevolge enige wet in Bylae III gelys, opgelê, of
- (iii) die bepalings van hierdie Wet of van enige wet gelys in Bylae III wat ingevolge hierdie Wet van toepassing is, oortree of versuim om daaraan te voldoen nie, of
- (b) enige grond aanwend vir 'n ander doel of op 'n ander wyse as dié wat op 'n soneringskaart aangedui word nie, of waar 'n sonering nog nie op 'n kaart aangedui word nie, as volgens die wettige aanwending van die grond nie.

(3) Indien 'n bevoegde owerheid na die mening van die Verantwoordelike Lid versuim om sy bevoegdhede of pligte ingevolge subartikel (1) bevredigend uit te oefen of te verrig, kan die Verantwoordelike Lid na kennisgewing aan daardie bevoegde owerheid enige goedkeuring of magtiging wat die bevoegde owerheid verleen, intrek, die bevoegde owerheid se bevoegdhede uitoefen of pligte verrig, en enige bedrag wat die Verantwoordelike Lid in dié verband bestee, op die bevoegde owerheid verhaal, of die bevoegde owerheid opdrag gee watter stappe hy moet doen ten einde nakoming van subartikel (1) te verseker, en so 'n opdrag het groter regsrag as enige besluit van die raad van daardie bevoegde owerheid.

(4) Geen bepaling van subartikels (1) en (2) magtig die bevoegde owerheid om regstelling van 'n strydigheid te eis of 'n strydigheidsheffing te bepaal ten opsigte van 'n plan vir 'n gebou wat in stryd met 'n bepaling van of 'n voorwaarde ingevolge hierdie Wet of 'n soneringskema, verkeerdlik goedgekeur is vir sover so 'n plan reeds uitgevoer is wanneer die verkeerde goedkeuring aan die eenaar uitgewys is nie.

Ondersoek en magtiging van oortredings

58. (1) Enige belanghebbende party wat redelike gronde het om te glo dat artikel 57(2) oortree word, kan die betrokke raad skriftelik versoek om uitvoering te gee aan die bepalings van artikel 57(1), en indien die raad na ondersoek bevind dat daardie artikel oortree is, moet die raad behoudens subartikel (2), ingevolge artikel 59(1) optree.

(2) Indien 'n versoek soos bedoel in subartikel (1) voortspruit uit die werklike of waarskynlike informele vestiging van persone op grond of die oprigting of okkupasie van enige struktuur daarop deur daardie persone, moet die hoof uitvoerende beampte van die raad—

- (a) 'n ondersoek laat uitvoer oor die wyse waarop en tydperk waarbinne regstelling daarvan kan plaasvind;
- (b) die tersaaklike kommentaar van enigiemand wat na sy of haar mening belang daarby het, aanvra, en
- (c) die versoek en alle tersaaklike stukke aan die raad voorlê.

(3) Indien die raad bevind dat 'n oortreding wel begaan is, kan die raad gelas dat dit binne 'n tydperk wat vermeld word, reg gestel moet word by wyse van die opgradering van die grond of op 'n ander wyse wat die raad gelas.

(4) Die hoof uitvoerende beampte moet die belanghebbende partye binne die voorgeskrewe tydperk van die raad se besluit in kennis stel.

(5) Indien die hoof uitvoerende beampte nalaat om binne die voorgeskrewe tydperk uitvoering te gee aan die bepalings van subartikel (4), of indien die raad na die mening van die belanghebbende party steeds versuim om sy bevoegdhede of pligte bevredigend uit te oefen of te verrig, moet die Verantwoordelike Lid op skriftelike versoek van die belanghebbende party en, indien hy of sy bevind dat die raad versuim om daardie bevoegdhede of pligte bevredigend uit te voer of te verrig, ingevolge artikel 57(3) optree.

Regstelling van strydighede

59. (1) (a) Indien grond of 'n gebou of enige deel daarvan ontwikkel of aangewend is of enige ander handeling uitgevoer is in stryd met artikel 57(2), moet die bevoegde owerheid 'n lasgewing (hierna "lasgewing" genoem) aan die eenaar beteken om daardie strydigheid reg te stel voor 'n datum in die lasgewing vermeld wat nie later as 2 maande na die datum van die lasgewing is nie.

(b) Die Verantwoordelike Lid of 'n raad, indien die raad ingevolge artikel 67

- (2) No person shall—
- (a) contravene or fail to comply with—
 - (i) the provisions incorporated in a zoning scheme in terms of this Law;
 - (ii) conditions, including title conditions, imposed in terms of this Law or in terms of any law listed in Schedule III, or
 - (iii) the provisions of this Law, or of any law listed in Schedule III which apply in terms of this Law, or
 - (b) utilise any land for a purpose or in a manner other than that indicated on a zoning map, or where a zoning has not yet been indicated on a map, according to the lawful utilisation of the land.
- (3) If a competent authority in the opinion of the Responsible Member fails to exercise or perform satisfactorily its powers or duties in terms of subsection (1), the Responsible Member may, after notice to that competent authority, withdraw any approval or authorisation granted by the competent authority, exercise the powers and perform the duties of the competent authority and recover from the competent authority any amount spent by the Responsible Member in that connection, or instruct the competent authority as to the steps to be taken by it in order to ensure compliance with subsection (1), and such an instruction shall in law override any decision of the council of that competent authority.
- (4) No provision of subsections (1) and (2) shall authorise the competent authority to demand rectification of a contravention or to fix a contravention levy in respect of a plan for a building which has been mistakenly approved in conflict with a provision of, or a condition in terms of this Law, or a zoning scheme, in so far as such a plan had already been executed when the mistaken approval was brought to the owner's attention.

Investigation and authorization of contraventions

58. (1) Any interested party having reasonable grounds for believing that section 57(2) is being contravened, may in writing request the council concerned to give effect to the provisions of section 57(1), and if the council, after investigation, finds that that section has been contravened, the council, shall subject to subsection (2), act in terms of section 59(1).
- (2) If a request as contemplated in subsection (1) originates from the actual or likely informal settlement of persons on land or the erection or occupation of any structure on land by those persons, the chief executive officer of the council shall—
- (a) cause an inquiry to be held regarding the manner in which and the period during which rectification thereof can be effected;
 - (b) request the relevant comment of any person who in his or her opinion has an interest therein, and
 - (c) submit the request and all relevant documents to the council.
- (3) If the council finds that a contravention has occurred, the council may direct that it shall be rectified within a stated period by means of the upgrading of the land or by any other means directed by the council.
- (4) The chief executive officer shall notify the interested parties within the prescribed period of the council's decision.
- (5) If the chief executive officer fails to give effect to the provisions of subsection (4) within the prescribed period or, if the council in the opinion of the interested party continues to fail to exercise or perform its powers or duties satisfactorily, the Responsible Member shall at the written request of the interested party, and if he or she finds that the council has failed to exercise or perform those powers or duties satisfactorily, act in terms of section 57(3).

Rectification of contraventions

59. (1) (a) If land or a building or any part thereof was developed or utilised or any other action was taken in contravention of section 57(2), the competent authority shall serve an instruction (hereinafter referred to as "instruction") on the owner to rectify that contravention before a date specified in the instruction, being not more than 2 months after the date of the instruction.
- (b) The Responsible Member or a council, if the council is authorised thereto in

daartoe gemagtig is, kan op aansoek of uit eie beweging uitstel verleen vir die regstelling van die strydigheid tot nadat 'n besluit soos in subartikel (5) of (7) vermeld, geneem is; met dien verstande dat uitstel verleen moet word indien regstelling van 'n strydigheid die afbreek van 'n gebou vereis.

(c) Enige aansoek om goedkeuring van 'n vergunningsgebruik, 'n afwyking, 'n hersonering, 'n onderverdeling of 'n opheffing van 'n beperking na aanleiding van 'n lasgewing, moet by die bevoegde owerheid ingedien word binne die tydperk in subartikel (1)(a) bedoel. 5

(2) Indien die eenaar versuim om aan die lasgewing te voldoen, moet die bevoegde owerheid, behoudens die bepalings van subartikel (3), alle verdere stappe doen wat nodig is om die strydigheid reg te stel. 10

(3) Indien die eenaar die bestaan of die aard en omvang van die strydigheid waarop die lasgewing betrekking het, betwis, moet hy of sy voor of op die datum in subartikel (1)(a) vermeld 'n skriftelike verklaring oor die aangeleentheid by die departementshoof en die betrokke hoof uitvoerende beampte indien. 15

(4) Wanneer die eenaar die bestaan of die aard of omvang van die strydigheid waarop die lasgewing betrekking het, betwis of aansoek doen om 'n goedkeuring ingevolge hierdie Wet, moet die hoof uitvoerende beampte die tersaaklike kommentaar van enigiemand wat na sy of haar mening belang by die aansoek het, verkry. 20

(5) Die raad moet daarop met inagneming van al die feite en die openbare belang, die stand van sake oorweeg en—

(a) 'n besluit neem met betrekking tot die bestaan of die aard en omvang van die strydigheid;

(b) indien die strydigheid bestaan en indien aansoek gedoen is om 'n goedkeuring ingevolge hierdie Wet, besluit of daardie aansoek afgekeur en die strydigheid reggestel moet word en of die betrokke aansoek goedgekeur en 'n strydigheidshewing terselfdertyd betaal moet word; 25

(c) indien die strydigheid reggestel moet word, besluit oor die tydperk waarbinne dit moet geskied, en 30

(d) indien 'n strydigheidshewing betaal moet word, die bedrag van die heffing vasstel.

(6) Indien iemand verontreg voel deur 'n besluit van 'n raad ingevolge subartikel (5), kan hy of sy op die voorgeskrewe wyse en binne die voorgeskrewe tydperk by die Verantwoordelike Lid teen die besluit appelleer. 35

(7) Die Verantwoordelike Lid moet daarna, met inagneming van al die feite en die openbare belang en ná oorleg met die raad, die stand van sake heroorweeg en 'n afdoende beslissing neem oor enige aangeleentheid in subartikel (5) vermeld en die bevoegde owerheid en alle ander belanghebbendes van sy of haar beslissing in kennis stel. 40

(8) 'n Strydigheidshewing word verskuldig en betaalbaar—

(i) in een gekapitaliseerde som voor of op die datum, of

(ii) periodiek by die tussenpose,

wat die Verantwoordelike Lid of raad, na gelang van die geval, bepaal en moet bereken word met terugwerkende krag vanaf die datum waarop die betrokke grond of gebou of enige deel daarvan ontwikkel of gebruik is of enige ander handeling uitgevoer is in stryd met artikel 57(2). 45

(9) Die Verantwoordelike Lid kan na goeddunke en ná oorleg met die bevoegde owerheid, die betaling van 'n strydigheidshewing ophef of so 'n strydigheidshewing wysig. 50

(10) Die persoon wat op die datum van betekening van 'n lasgewing die eenaar is van die betrokke grond of gebou, is aanspreeklik vir die betaling van die strydigheidshewing.

(11) Eiendomsreg op onroerende eiendom ten opsigte waarvan 'n lasgewing ingevolge subartikel (1) beteken is, mag slegs oorgedra word nadat die strydigheidshewing gekapitaliseer is. 55

(12) Enige goedkeuring verleen ingevolge subartikel (5)(b) word eers van krag wanneer die strydigheidshewing, gekapitaliseer is, waarna, indien van toepassing, dit op die soneringskaart en register aangeteken word.

(13) Enige bedrag wat ingevolge subartikel (2) deur 'n bevoegde owerheid bestee word, is deur daardie owerheid op die eenaar verhaalbaar. 60

terms of section 67, may on application or of his or her or its own accord, consent to the extension of the period within which the contravention is to be rectified until a decision contemplated in subsection (5) or (7) has been made; provided that extension shall be granted if a building has to be demolished to rectify the contravention.

(c) Any application for the approval of a consent use, a departure, a rezoning, a subdivision or a removal of a restriction as a result of an instruction shall be lodged with the competent authority within the period referred to in subsection (1)(a).

(2) If the owner fails to comply with the instruction, the competent authority shall, subject to the provisions of subsection (3), take all further steps required to rectify the contravention.

(3) If the owner disputes the existence or the nature and extent of the contravention to which the instruction relates, he or she shall on or before the date referred to in subsection (1)(a) submit a written statement on the matter to the department head and to the chief executive officer concerned.

(4) If the owner disputes the existence or the nature or extent of the contravention to which the instruction relates, or applies for an approval in terms of this Law, the chief executive officer shall obtain the relevant comment of any person who in his or her opinion has an interest in the matter.

(5) The council shall thereupon consider the state of affairs, with due regard to all the facts and the public interest, and—

(a) make a decision with regard to the existence or the nature and extent of the contravention;

(b) if the contravention exists and if an application has been made for an approval in terms of this Law, decide whether that application shall be refused and the contravention rectified or whether the application concerned shall be approved and a contravention levy paid simultaneously;

(c) if the contravention is to be rectified, determine the period within which it shall be done, and

(d) if a contravention levy is to be paid, determine the amount of the levy.

(6) If any person feels aggrieved by a decision of a council in terms of subsection (5), he or she may in the prescribed manner and within the prescribed period appeal to the Responsible Member against the decision.

(7) The Responsible Member shall thereafter, with due regard to all the facts and the public interest and after consultation with the council, reconsider the state of affairs and make a final decision on any matter mentioned in subsection (5) and notify the competent authority and all other interested parties of his or her decision.

(8) A contravention levy shall become due and payable—

(i) in one capitalised sum on or before the date, or

(ii) periodically at the intervals,

determined by the Responsible Member or council, as the case may be, and shall be calculated with retrospective effect from the date on which the land or building concerned or any portion thereof has been developed or used or any other action taken in contravention of section 57(2).

(9) The Responsible Member may in his sole discretion and after consultation with the competent authority, cancel the payment of a contravention levy or adjust such a contravention levy.

(10) The person who is the owner of the land or building concerned on the date when the instruction is served shall be liable for the payment of the contravention levy.

(11) Ownership of immovable property in respect of which an instruction in terms of subsection (1) has been served, shall only be transferred after the contravention levy has been capitalised.

(12) Any approval granted in terms of subsection (5)(b) shall only take effect after the capitalisation of the contravention levy, whereafter it shall, if applicable, be endorsed on the zoning map and register.

(13) Any amount expended by a competent authority in terms of subsection (2) shall be recoverable by that authority from the owner.

Geregte bevel, ople van afkoopboetes en ander strafbepalings

60. Ondanks andersluidende wetsbepalings met betrekking tot geregshoue het 'n regter en 'n landdros die regsbevoegdheid om op aansoek van die Verantwoordelike Lid of 'n bevoegde owerheid, en indien die regsprekende beampte oortuig is dat die ontwikkeling of aanwending van grond in stryd is met of nie voldoen nie aan die bepaling van hierdie Wet of 'n goedkeuring of magtiging daarkragtens verleen of dat die betrokke omgewing beskadig is vanweë 'n handeling of versuim wat 'n misdryf ingevolge hierdie Wet uitmaak, 'n bevel gee—
- (a) wat enige persoon verbied om te begin of voort te gaan met die ontwikkeling of aanwending van grond; 10
 - (b) wat die Verantwoordelike Lid of bevoegde owerheid, na gelang van die geval, magtig om enige struktuur of enige gedeelte daarvan af te breek; met dien verstande dat 'n magtiging alleenlik verleen mag word nadat 'n besluit soos bedoel in artikel 59(5) of (7), geneem is;
 - (c) wat 'n persoon gelas om die omgewing te herstel op die grondslag en voorwaardes wat die regsprekende beampte goedvind; 15
 - (d) wat die Verantwoordelike Lid of bevoegde owerheid, na gelang van die geval, magtig om die herstelwerk soos bedoel in paragraaf (c) uit te voer as die persoon daarin vermeld sou nalaat om die herstelwerk op die grondslag en voorwaardes in die bevel uiteengesit, uit te voer, en 20
 - (e) wat in die omstandighede soos bedoel in paragraaf (d), vergoeding aan die Verantwoordelike Lid of bevoegde owerheid, na gelang van die geval, vir die bedoelde herstelwerk toeken, en daarna is die bepaling van artikel 300(2), (3), (4) en (5) van die Strafproseswet, 1977 (Wet 51 van 1977), *mutatis mutandis* van toepassing. 25

Reg van betreding

61. Enigiemand wat skriftelik deur die Verantwoordelike Lid of 'n departementshoof of 'n raad daartoe gemagtig is, kan behoudens die reg tot privaatheid ingevolge die Grondwet verleen, op enige redelike tyd, ná redelike kennisgewing en met veroorsaking van so min ongerief as moontlik, enige grond betree ten einde—
- (a) enigiets te doen wat die Verantwoordelike Lid of departementshoof of raad, na gelang van die geval, ingevolge hierdie Wet kan of moet doen, of
 - (b) navraag, ondersoek of opmetings te doen wat verband hou met die bevoegdhede of pligte van die Verantwoordelike Lid of departementshoof of raad, na gelang van die geval, ingevolge hierdie Wet. 35

Voorwaardes

62. (1) Wanneer die Verantwoordelike Lid of 'n raad kragtens hierdie Wet of ingevolge skemaregulasies magtiging of vrystelling verleen of 'n aansoek toestaan of oor 'n appèl beslis, kan hulle dit doen onderworpe aan die voorwaardes wat die Verantwoordelike Lid of 'n raad goedvind. 40
- (2) Die voorwaardes kan, met inagneming van—
- (a) die gemeenskapsbehoefes en openbare uitgawes wat na die mening van die Verantwoordelike Lid of die raad kan ontstaan uit die betrokke magtiging, vrystelling, goedkeuring of appèl en die openbare uitgawes wat in die verlede aangegaan is en wat na die mening van die Verantwoordelike Lid of die raad die magtiging, vrystelling, goedkeuring of appèl vergemaklik, en 45
 - (b) die onderskeie belastings en heffings wat in die verlede betaal is of in die toekoms betaal sal moet word deur die eienaar van die betrokke grond, 50
- voorwaardes insluit met betrekking tot die afstaan van grond of die betaling van geld, wat direk of indirek in verband staan met die behoeftes en verpligtinge wat voortspruit uit die magtiging, vrystelling, goedkeuring of appèl ten opsigte van die voorsiening van ingenieursdienste of fasiliteite ingevolge die regulasies of riglyne wat die Verantwoordelike Lid van tyd tot tyd maak.
- (3) Die betrokke raad moet voorwaardes ten opsigte van ingenieursdienste insluit in 'n diensteooreenkoms wat die raad opstel ingevolge die regulasies of riglyne wat die Verantwoordelike Lid van tyd tot tyd hieroor maak. 55
- (4) Behoudens die bepaling van hierdie Wet ten opsigte van die opheffing van titelvoorwaardes, kan—

Judicial Order, imposition of spot fines and other penalty provisions

60. Notwithstanding any legal provisions to the contrary with regard to courts of law, a judge and a magistrate shall have the jurisdiction to make an order on application by the Responsible Member or a competent authority, and if the judicial officer is convinced that the development or use of land is in contravention of or does not comply with the provisions of this Law or an approval or authorisation granted in terms thereof or that the environment concerned has been damaged as a result of an act or omission which constitutes an offence in terms of this Law—

- 10 (a) prohibiting any person from commencing or proceeding with the development or use of land;
- (b) authorising the Responsible Member or competent authority, as the case may be, to demolish any structure or any portion thereof; provided that an authorisation may only be granted after a decision as contemplated in
- 15 subsection 59(5) or (7) has been made;
- (c) ordering a person to restore the environment on the basis and conditions deemed fit by the judicial officer;
- (d) authorising the Responsible Member or competent authority, as the case may be, to execute the repairs as contemplated in paragraph (c) if the
- 20 person mentioned therein should fail to execute the repairs on the basis and conditions set out in the order, and
- (e) awarding compensation to the Responsible Member or competent authority, as the case may be, for the repairs in the circumstances as contemplated in paragraph (d), and thereafter the provisions of section
- 25 300(2), (3), (4) and (5) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall apply *mutatis mutandis*.

Right of entry

61. Any person authorised thereto in writing by the Responsible Member or department head or a council may at any reasonable time, after reasonable notice and causing as little inconvenience as possible, subject to the right to privacy conferred in terms of the Constitution, enter upon any land in order to—

- (a) do anything which the Responsible Member or department head or a council, as the case may be, is permitted or required to do in terms of this Law, or
- 35 (b) make enquiries or conduct an investigation or survey in connection with the powers or duties of the Responsible Member or department head or council, as the case may be, in terms of this Law.

Conditions

62. (1) When the Responsible Member or a council grants authorisation, exemption or an application or adjudicates an appeal in terms of this Law or in accordance with scheme regulations, they may do so subject to the conditions that the Responsible Member or a council may think fit.

(2) The conditions may, with due regard to—

- 45 (a) the community needs and public expenditure which in the opinion of the Responsible Member or the council may arise from the authorisation, exemption, approval or appeal concerned and the public expenditure incurred in the past which in the opinion of the Responsible Member or the council facilitates the authorisation, exemption, approval or appeal, and
 - 50 (b) the various rates and levies paid in the past or to be paid in the future by the owner of the land concerned,
- include conditions relating to the cession of land or the payment of money which are directly or indirectly related to the needs and obligations resulting from the authorisation, exemption, approval or appeal in respect of the provision of engineering services or amenities in terms of the regulations or guidelines
- 55 made by the Responsible Member from time to time.

(3) The council concerned shall include conditions relating to engineering services in a services agreement drafted by the council in terms of the regulations or guidelines on this matter laid down by the Responsible Member from time to time.

60 (4) Subject to the provisions of this Law in respect of the removal of title conditions—

- (a) óf die Verantwoordelike Lid óf 'n raad, na gelang van die geval, met betrekking tot 'n voorwaarde kragtens subartikel (1) of kragtens 'n wet gelys in Bylae III opgelê, óf
- (b) 'n raad, indien die raad ingevolge skemaregulasies of artikel 67 daartoe gemagtig is, met betrekking tot 'n voorwaarde deur die Verantwoordelike Lid opgelê, na oorweging van besware ontvang ten gevolge van 'n advertensie ingevolge subartikel (5) en ná oorleg met die eienaar van die betrokke grond en, in die geval van die Verantwoordelike Lid, met die betrokke plaaslike owerheid—
- (i) afstand doen van enige voorwaarde of dit wysig, en
- (ii) bykomende voorwaardes van die soort in subartikel (1) beoog, opelê, wat geag word ingevolge daardie subartikel opgelê te gewees het.
- (5) Die departementshoof, waar die Verantwoordelike Lid kragtens subartikel (4) kan optree, of die hoof uitvoerende beampte, waar 'n raad aldus kan optree, na gelang van die geval, moet, indien hy of sy van mening is dat die afstanddoening of wysiging van voorwaardes of die oplegging van bykomende voorwaardes kragtens subartikel (4) die belang wat enigiemand by grond het, nadelig tref, die voorgestelde afstanddoening of wysiging van voorwaardes of die oplegging van bykomende voorwaardes adverteer.
- (6) (a) Voorwaardes opgelê ingevolge subartikel (1) kan opskortende voorwaardes insluit.
- (b) By die oplegging van opskortende voorwaardes word 'n aansoek geag eers goedgekeur te wees wanneer die voorwaardes nagekom is, en tydperke ten opsigte van die verval van enige gebruiksreg of goedkeuring tree eers in werking by nakoming.
- (c) 'n Goedkeuring verval indien die opskortende voorwaarde nie binne 3 jaar nagekom word nie, tensy óf die Verantwoordelike Lid óf die raad, indien die raad ingevolge artikel 67 daartoe gemagtig is, die tydperk van 3 jaar verleng, welke verlenging op enige tydstip toegestaan kan word; met dien verstande dat die verlenging nie die geldigheid van die goedkeuring vir 'n tydperk van meer as 5 jaar, of 'n ander voorgeskrewe tydperk, na die oorspronklike goedkeuring mag verleng nie.

Appèlkomitee

63. (1) Die Verantwoordelike Lid kan een of meer appèlkomitees instel.
- (2) Buite en behalwe sy bevoegdhede en pligte ingevolge artikel 14(2) of 19(4) moet 'n appèlkomitee of beplanningsraad, na gelang van die geval, wanneer 'n vraag—
- (a) ontstaan aangaande die uitleg en betekenis van 'n voorwaarde, of die redelikheid en toepaslikheid van 'n voorwaarde kragtens artikel 62 (1) opgelê met betrekking tot—
- (i) die standaard van ingenieursdienste of fasiliteite of die grootte van grond vereis, of
- (ii) die verdeling tussen 'n eienaar van grond en 'n bevoegde owerheid van die koste verbonde aan daardie dienste of fasiliteite;
- (b) ontstaan aangaande 'n geskil tussen twee of meer owerhede oor 'n voorwaarde, of
- (c) deur die departementshoof aan hom gestel word,
- die vraag oorweeg en beslis, en kan hy enige voorwaarde tersyde stel of wysig, of advies gee ten opsigte van 'n vraag deur die departementshoof gestel.
- (3) 'n Appèlkomitee bestaan uit 'n voorsitter wat die Verantwoordelike Lid uit persone met 'n regsagtergrond aanstel, en soveel bykomende lede as wat die Verantwoordelike Lid na goeë dunks aanstel vanuit persone wat behoort tot beroepsgroepe wat toepaslike kundigheid bied.
- (4) Die bepalings van artikel 49(4), (7) en (12) is *mutatis mutandis* van toepassing ten opsigte van 'n appèlkomitee.
- (5) Die Verantwoordelike Lid kan te eniger tyd die ampstermyn van 'n lid van 'n appèlkomitee beëindig indien daar na die mening van die Verantwoordelike Lid gegronde redes daarvoor bestaan.
- (6) Wanneer 'n lid van 'n appèlkomitee om die een of ander rede afwesig is of nie die ampspligte kan verrig nie, moet die Verantwoordelike Lid, behoudens die bepalings van subartikel (3), 'n geskikte persoon aanstel om op te tree tydens dié lid se afwesigheid of tydens die lid se onvermoë om ampspligte te verrig.
- (7) Die voorsitter van 'n appèlkomitee en soveel bykomende lede as wat die

- (a) either the **Responsible Member** or a council, as the case may be, with regard to a condition imposed in terms of subsection (1) or in terms of a law listed in Schedule III, or
- 5 (b) a council, if the council is authorised thereto in terms of scheme regulations or section 67, with regard to a condition imposed by the **Responsible Member**, after consideration of objections received as a result of an advertisement in terms of subsection (5) and after consultation with the owner of the land concerned and, in the case of the **Responsible Member**, with the local authority concerned—
- 10 (i) may waive or amend any condition, and
- (ii) may impose additional conditions of the kind contemplated in subsection (1), which additional conditions shall be deemed to have been imposed in terms of that subsection.
- (5) The department head, where the **Responsible Member** may act under subsection (4), or the chief executive officer, where a council may so act, as the case may be, shall, if he or she is of the opinion that the waiver or amendment of conditions or the imposition of additional conditions under subsection (4) adversely affects the interest that any person has in land, advertise the proposed waiver or amendment of conditions or the imposition of additional conditions.
- 20 (6) (a) Conditions imposed in terms of subsection (1) may include suspensive conditions.
- (b) When suspensive conditions are imposed, an application shall only be deemed to be approved once the conditions have been complied with, and periods in respect of the lapsing of any use right or approval shall only come into effect
- 25 upon compliance.
- (c) An approval shall lapse if the suspensive condition is not complied with within 3 years, unless either the **Responsible Member** or the council, if the council is authorised thereto in terms of section 67, extends the period of 3 years, which extension may be granted at any stage; provided that the extension shall not
- 30 extend the validity of the approval for a period exceeding 5 years, or another prescribed period, after the original approval.

Appeal committee

63. (1) The **Responsible Member** may establish one or more appeal committees.
- (2) In addition to its powers and duties in terms of section 14(2) or 19(4), an appeal
- 35 committee or planning board, as the case may be, shall, when a question—
- (a) arises as to the construction and meaning of a condition, or the reasonableness and applicability of a condition imposed under section 62(1) relating to—
- 40 (i) the required standard of engineering services or amenities or the extent of land, or
- (ii) the division between an owner of land and a competent authority of the expenses incidental to those services or amenities;
- (b) arises as to a dispute between two or more authorities about a condition, or
- (c) is put to it by the department head
- 45 consider and settle such question and remove or amend any condition or give advice in respect of a question posed by the department head.
- (3) An appeal committee shall consist of a chairperson appointed by the **Responsible Member** from persons with a legal background, and as many additional members as the **Responsible Member** in his or her discretion may appoint from persons
- 50 belonging to occupational groups which afford appropriate expertise.
- (4) The provisions of section 49(4), (7) and (12) shall apply *mutatis mutandis* in respect of an appeal committee.
- (5) The **Responsible Member** may at any time terminate the period of office of a member of an appeal committee if in the opinion of the **Responsible Member** there are
- 55 sound reasons for doing so.
- (6) When a member of an appeal committee is for some or other reason absent or unable to discharge the duties of office, the **Responsible Member** shall, subject to the provisions of subsection (3), appoint a suitable person to act in the absence of that member or for as long as the member is unable to discharge the duties of office.
- 60 (7) The chairperson of an appeal committee and as many additional members as

voorsitter aanwys, vergader binne 'n tydperk van 14 dae nadat kennis van 'n vraag of aansoek aan die voorsitter gegee is, en daarna op die tye en plekke wat die voorsitter bepaal, ten einde die voorsitter se antwoord op die vraag of aansoek te oorweeg.

(8) Die beslissing van die voorsitter van 'n appèlkomitee maak die besluit van die appèlkomitee uit en is, behoudens hersiening deur of appèl by 'n bevoegde hof, 5 afdoende en bindend vir die betrokke eienaar en plaaslike owerheid.

(9) Die appèlkomitee of beplanningsraad, na gelang van die geval, se besluit moet in ooreenstemming wees met die doelwitte en beginsels vervat in Bylae IV en 'n tersaaklike ontwikkelingsraamwerk, 'n struktuurplan of riglyne uitgereik 10 kragtens artikel 70 (4) en, waar van toepassing, met inagneming van enige verslag bedoel in artikel 65 (5).

(10) Indien enige aansoek ingevolge artikel 64 (4) vir bemiddeling verwys word, word enige handeling ingevolge subartikel (2) hiervan onmiddellik gestaak.

Appèl by Verantwoordelike Lid

64. (1) (a) 'n Aansoeker ten opsigte van 'n aansoek by regulasie omskryf of, by 15 gebrek aan regulasies, 'n aansoek om 'n afwyking, hersonering, opheffing, onderverdeling of vergunningsgebruik ingevolge hierdie Wet by 'n raad, en iemand wat beswaar teen die toestaan van so 'n aansoek ingevolge hierdie Wet gemaak het, kan op die voorgeskrewe wyse en binne die voorgeskrewe tydperk en teen betaling van die voorgeskrewe gelde by die Verantwoordelike Lid teen die weiering of toestaan of 20 voorwaardelike toestaan van die aansoek of besluit appelleer.

(b) Iemand wat hom veronreg voel deur 'n besluit van 'n raad ingevolge artikel 14(1), (2), (3), (4)(d) of (5); artikel 16(2)(b); artikel 37(4); artikel 58 (3); artikel 59(4)(c) of 25 enige ander besluit van 'n raad by regulasie gemagtig, kan op die voorgeskrewe wyse en binne die voorgeskrewe tydperk en teen betaling van die voorgeskrewe gelde by die Verantwoordelike Lid teen daardie besluit appelleer.

(c) Iemand wat hom veronreg voel deur 'n besluit van 'n raad by die toepassing van artikel 18 kan insgelyks by die Verantwoordelike Lid teen daardie besluit appelleer.

(d) Vir die toepassing van artikels 15(3), 17(3) en 24(3) kan daar by regulasie aldaar 30 genoem voorsiening gemaak word vir 'n reg van appèl by die Verantwoordelike Lid op die wyse ingevolge daardie regulasie voorgeskryf.

(2) Die Verantwoordelike Lid kan ná oorleg met die betrokke raad na goeddunke 'n appèl in subartikel (1)(a), (b), (c) of (d) beoog, van die hand wys of in sy geheel of gedeeltelik handhaaf of met betrekking daartoe 'n besluit neem wat die raad kon geneem 35 het, en kan ook dié besluitnemingsbevoegdheid opdra aan 'n beplanningsraad onderworpe aan die voorwaardes wat hy of sy bepaal.

(3) Vir die toepassing van hierdie Wet—

(a) word 'n aansoek in subartikel (1)(a) bedoel, geag deur die betrokke raad toegestaan of voorwaardelik toegestaan of geweier te gewees het, na gelang 40 van die Verantwoordelike Lid se optrede kragtens die bepaling van subartikel (2);

(b) word 'n besluit in subartikel (1)(b) of (c) bedoel, geag 'n besluit van die betrokke raad te wees na gelang van die Verantwoordelike Lid se optrede kragtens die bepaling van subartikel (2), en

(c) word 'n besluit kragtens die bepaling van subartikel (2) deur die 45 Verantwoordelike Lid geneem, geag deur die betrokke raad geneem te gewees het.

(4) Die Verantwoordelike Lid kan enige aansoek waarteen geappelleer word, ná oorleg met die betrokke partye by geskil en nadat die voorgeskrewe vereistes en 50 prosedures vir bemiddeling gevolg is, eers vir bemiddeling verwys.

Bemiddeling

65. (1) Die Verantwoordelike Lid of 'n raad voor wie 'n geskil dien, kan op aansoek van enige party by die geskil of, indien dit na die oordeel, van die Verantwoordelike Lid of die raad wenslik is, ná oorleg met die partye by 'n geskil 55 'n persoon wat vir alle partye by die geskil aanvaarbaar is, as 'n bemiddelaar in daardie geskil aanwys.

(2) Indien al die partye by die geskil nie ooreen kan kom oor die persoon wat aldus aangestel moet word nie, kan die Verantwoordelike Lid of die raad, na gelang van die geval, 'n persoon uit die paniel van bemiddelaars in subartikel (3) beoog,

may be designated by the chairperson shall meet within a period of 14 days after notice of a question or an application has been given to the chairperson, and thereafter at the times and places determined by the chairperson in order to consider the chairperson's response to the question or application.

- 5 (8) The ruling of the chairperson of an appeal committee shall constitute the decision of the appeal committee which shall, subject to review by or appeal to a competent court, be final and binding on the owner and local authority concerned.

- (9) The appeal committee or planning board, as the case may be, shall make its decision in accordance with the objectives and principles contained in Schedule IV and a relevant development framework, a structure plan or guidelines issued in terms of section 70(4) and, where applicable, with due regard to any report contemplated in section 65(5).

- (10) If any application in terms of section 64(4) is referred for mediation, any action in terms of subsection (2) hereof, shall immediately be terminated.

15 Appeal to Responsible Member

64. (1) (a) An applicant in respect of an application defined by regulation or, in the absence of regulations, an application for a departure, rezoning, removal, subdivision or consent use to a council in terms of this Law, and a person who has objected to the approval of such an application in terms of this Law, may appeal to the Responsible Member in the prescribed manner and within the prescribed period and against payment of the prescribed sum of money, against the refusal or approval or conditional approval of the application or decision.

- (b) A person aggrieved by a decision of a council in terms of section 14(1), (2), (3), (4)(d) or (5); section 16(2)(b); section 37(4); section 58(3); section 59(4)(c) or any other decision of a council authorised by regulation may appeal against such decision to the Responsible Member in the prescribed manner and within the prescribed period and against payment of the prescribed sum of money.

- (c) A person aggrieved by a decision of a council in the application of section 18 may similarly appeal to the Responsible Member against that decision.

- (d) For the purposes of sections 15(3), 17(3) and 24(3) provision may be made by regulation therein referred to for a right of appeal to the Responsible Member in the manner prescribed in terms of that regulation.

- (2) The Responsible Member may, after consultation with the council concerned, in his or her discretion dismiss an appeal contemplated in subsection (1)(a), (b), (c) or (d) or uphold it wholly or in part or in respect thereof make a decision which the council could have made, and may also assign that decision-making power to a planning board subject to the conditions he or she may impose.

- (3) For the purposes of this Law—

- (a) an application referred to in subsection (1)(a) shall be deemed to have been granted or conditionally granted or refused by the council concerned in accordance with action taken by the Responsible Member under the provisions of subsection (2);

- (b) a decision referred to in subsection (1)(b) or (c) shall be deemed to be a decision of the council concerned in accordance with action taken by the Responsible Member under the provisions of subsection (2), and

- (c) a decision made by the Responsible Member under the provisions of subsection (2) shall be deemed to have been made by the council concerned.

- (4) The Responsible Member may, in respect of any application against which an appeal has been lodged, first refer it for mediation after consultation with the parties involved in a dispute and after the prescribed requirements and procedures for mediation have been followed.

Mediation

65. (1) The Responsible Member or a council by whom a dispute is being heard may on application by any party to the dispute or, if in the opinion of the Responsible Member or the council it is desirable, after consultation with the parties to a dispute, appoint a person acceptable to all parties to the dispute as mediator in that dispute.

- (2) If all the parties to the dispute are not able to agree on a person to be appointed as such, the Responsible Member or the council, as the case may be,

aanwys volgens die voorgeskrewe bepalings om as bemiddelaar in daardie geskil op te tree.

(3) Die Verantwoordelike Lid stel 'n paneel van bemiddelaars aan op grond van hul kwalifikasies en ondervinding in of kennis van bemiddeling van beplannings en ontwikkelings- of soortgelyke geskille, met inbegrip van ingenieursgeskille, met die doel om as bemiddelaars ingevolge subartikel (1) aangestel te word. 5

(4) Die Verantwoordelike lid stel die paneel van bemiddelaars aan vir die tydperk wat die Verantwoordelike Lid by hul aanstelling bepaal en op die voorwaardes, insluitend voorwaardes met betrekking tot die betaling van vergoeding of toelaes, wat die Verantwoordelike Lid bepaal. 10

(5) 'n Bemiddelaar kragtens subartikel (1) aangestel, moet met die partye by 'n geskil beraadslaag, die navrae doen en ondersoek instel wat hy of sy nodig ag, poog om die geskil te besleg en 'n verslag aan die partye by die geskil opstel rakende die uitslag van die bemiddeling.

(6) Die bepalings van artikel 52 (4), (5) en (6) is *mutatis mutandis* van toepassing op 'n ondersoek kragtens subartikel (5) van hierdie artikel en by die toepassing daarvan word 'n verwysing in artikel 52 (4), (5) en (6) na "beplanningsraad" en "voorsitter" uitgê as 'n verwysing na die bemiddelaar. 15

(7) Alle besprekings, onthullings en voorleggings tydens bemiddeling is geprivilegieerd, tensy die partye tot die teendeel ooreenkom. 20

(8) Enige party by 'n geskil oor 'n vraag soos bedoel in artikel 63 (2)(a) of (b) of ten opsigte van 'n appèl ingevolge artikel 64 kan binne die voorgeskrewe tydperk by die Verantwoordelike Lid aansoek doen om stuiting van enige ondersoek daaromtrent en, indien die Verantwoordelike Lid oortuig is dat daar geen voldoende rede bestaan waarom die geskil nie vir bemiddeling verwys moet word nie, kan hy of sy gelas dat daardie ondersoek gestuit en vir bemiddeling verwys word onderworpe aan die bedinge en voorwaardes wat die Verantwoordelike Lid billik ag. 25

Regstelling van foute

66. Waar enigiets wat ooreenkomstig die bepalings van hierdie Wet of 'n wet in Bylae III herroep, gedoen of uitgevoer moet word voor of op 'n dag of op 'n tydstip of gedurende 'n tydperk wat vermeld word, maar dit nie aldus gedoen of uitgevoer is nie, kan die Verantwoordelike Lid, indien hy of sy daarvan oortuig is dat so iets nie aldus gedoen of uitgevoer kan word nie of dat die versuim te wyte was aan 'n fout of vergissing, magtiging daarvoor verleen dat so iets gedoen of uitgevoer moet word voor of op 'n ander dag of op 'n ander tydstip of gedurende 'n ander tydperk wat hy of sy aandui of dat dit nie gedoen of uitgevoer hoef te word nie, en enigiets aldus gedoen of uitgevoer of wat nie gedoen of uitgevoer hoef te word nie, is van volle krag en word geag wettig gedoen of uitgevoer te gewees het ooreenkomstig die bepalings van hierdie Wet. 30 35

Delegasie en opdra van bevoegdheid en pligte

67. (1) Die Verantwoordelike Lid kan alle of enige van die bevoegdheid en pligte wat hierdie Wet aan hom of haar verleen, aan die raad van 'n bevoegde owerheid opdra of deleger, nieëstaande die feit dat daar geen goedgekeurde ontwikkelingsraamwerk of struktuurplanne bestaan of dat die skemaregulasies geen bevoegdheid aan die raad opdra nie. 40 45

(2) Die Verantwoordelike Lid, waar van toepassing, kan alle of enige van die bevoegdheid en pligte wat hierdie Wet aan hom of haar verleen, aan enige persone in diens van die Provinsiale Administrasie van die Wes-Kaap deleger.

(3) 'n Raad kan alle of enige van die bevoegdheid en pligte wat hierdie Wet aan hom verleen, asook bevoegdheid en pligte ingevolge 'n ontwikkelingsraamwerk of skemaregulasies of subartikel (1) aan die raad opgedra, aan enige persone in diens van die raad deleger. 50

(4) 'n Hoof uitvoerende beampte en departementshoof kan alle of enige van die bevoegdheid en pligte wat hierdie Wet aan hom of haar verleen, aan enige persone in diens van die raad of die Provinsiale Administrasie van die Wes-Kaap, na gelang van die geval, deleger. 55

(5) Die Verantwoordelike Lid kan by kennisgewing in die *Provinsiale Koerant* 'n bevoegde owerheid vir die toepassing van hierdie Wet aanwys.

may designate a person from the panel of mediators contemplated in subsection (3) to act as mediator in that dispute, in accordance with the prescribed provisions.

5 (3) The Responsible Member shall appoint a panel of mediators on the basis of their qualifications in and experience or knowledge of mediation of planning and development or related disputes, including engineering disputes, for the purpose of being appointed mediators in terms of subsection (1).

10 (4) The Responsible Member shall appoint the panel of mediators for the period determined by the Responsible Member upon their appointment and on the conditions, including conditions relating to the payment of remuneration or allowances, determined by the Responsible Member.

15 (5) A mediator appointed in terms of subsection (1) shall consult with the parties to a dispute, make any enquiries and conduct any inquiries he or she may deem necessary, attempt to settle the dispute and prepare a report to the parties to the dispute regarding the outcome of the mediation.

(6) The provisions of section 52(4), (5) and (6) shall apply *mutatis mutandis* to an inquiry in terms of subsection (5) of this section, and in its implementation a reference in section 52(4), (5) and (6) to "planning board" and "chairman" shall be construed as being a reference to the mediator.

20 (7) All discussions, disclosures and submissions in the course of mediation shall be privileged, unless the parties agree to the contrary.

25 (8) Any party to a dispute regarding a question as contemplated in section 63(2)(a) or (b) or in respect of an appeal in terms of section 64 may, within the prescribed period apply to the Responsible Member for the staying of any inquiry into that matter and, if the Responsible Member is convinced that no sufficient grounds exist why the dispute should not be referred for mediation, he or she may order that inquiry to be stayed and referred for mediation subject to the terms and conditions deemed equitable by the Responsible Member.

Rectification of errors

30 66. Where anything which in accordance with the provisions of this Law or a law repealed in Schedule III is required to be done or performed on or before a day or at a time or during a stipulated period, has not been so done or performed, the Responsible Member, if he or she is satisfied that such thing cannot be so done or performed or that the failure was due to an error or oversight, may authorise such thing
35 to be done or performed on or before some other day or at some other time or during some other period specified by him or her, or that it need not be done or performed, and anything so done or performed or that need not be done or performed shall be of full force and effect and shall be deemed to have been lawfully done or performed in accordance with the provisions of this Law.

40 Delegation and assignment of powers and duties

45 67. (1) The Responsible Member may delegate or assign all or any of the powers and duties vested in him or her in terms of this Law on or to the council of a competent authority, notwithstanding the absence of an approved development framework or structure plans or that the scheme regulations do not confer any powers on the council.

(2) The Responsible Member may, where applicable, delegate all or any of the powers and duties vested in him or her by this Law to any persons in the service of the Provincial Administration of the Western Cape.

50 (3) A council may delegate all or any of the powers and duties vested in it in terms of this Law, and powers and duties conferred on the council in terms of a development framework or scheme regulations or subsection (1) to any persons employed by the council.

55 (4) A chief executive officer and department head may delegate all or any of the powers and duties vested in him or her by this Law to any persons in the employ of the council or the Provincial Administration of the Western Cape, as the case may be.

(5) The Responsible Member may by notice in the *Provincial Gazette* designate a competent authority for the purposes of this Law.

Kennisgewings

68. (1) (a) Elke kennisgewing ingevolge hierdie Wet vereis of gemagtig, moet in ten minste twee van die drie provinsiale tale wees, naamlik Afrikaans, Engels of isiXhosa, volgens die beleid van die Verantwoordelike lid of raad of, by gebrek aan beleid, wat na die oordeel van die departementshoof of hoof uitvoerende beampte, na gelang van die geval, die geskikste vir die besondere doel is. 5

(b) 'n Kennisgewing moet—

(i) die plek waar en die ure waartussen besonderhede van die aangeleentheid ter insae beskikbaar sal wees, aandui;

(ii) meld dat besware ingedien kan word by iemand in die kennisgewing aangedui voor 'n datum insgelyks aangedui, wat minstens 21 dae, maar hoogstens 60 dae, moet wees na die datum waarop die kennisgewing aldus beteken word of aldus gepubliseer word, en 10

(iii) voldoen aan die voorgeskrewe vereistes.

(2) Wanneer ook al die betekening van 'n kennisgewing aan 'n persoon ingevolge hierdie Wet gemagtig of vereis word, word dit beteken aan elke eienaar of bewoner van grond wat na die mening van die departementshoof of hoof uitvoerende beampte belang by die aangeleentheid het en wie se adres hy of sy ken of kan verkry. 15

(3) Wanneer ook al die betekening van 'n kennisgewing aan 'n persoon ingevolge hierdie Wet gemagtig of vereis word, word dit geag doeltreffend en voldoende aan daardie persoon beteken te gewees het indien dit in twee of meer van die tale in subartikel (1)(a) vermeld, was en— 20

(a) indien dit aan die geadresseerde persoonlik afgelewer is;

(b) indien dit by die geadresseerde se woon- of besigheidsplek in die Republiek by 'n persoon vermoedelik bo die ouderdom van 16 jaar gelaat is en 'n geskrewe ontvangserkenning daarvoor aan die bevoegde owerheid voorgelê is; 25

(c) indien dit gepos is per geregistreerde of gesertifiseerde pos aan die persoon se jongsbekende woon- of besigheidsadres in die Republiek en 'n tersaaklike bewys van inlewering daarvan voorgelê word; 30

(d) as die persoon se adres in die Republiek onbekend is, indien dit beteken is aan sy of haar agent of verteenwoordiger in die Republiek op die wyse in paragraaf (a), (b) of (c) bepaal, of

(e) as die persoon se adres en agent in die Republiek onbekend is, indien dit op die onroerende eiendom (indien daar is) waarop dit betrekking het, vertoon word op die voorgeskrewe wyse of die wyse soos andersins goedgekeur deur die Verantwoordelike Lid. 35

(4) 'n Kennisgewing wat op 'n grondeenheid vertoon word, moet aan die voorgeskrewe vereistes voldoen of, by gebrek aan regulasies, aan die algemene werkswyse soos goedgekeur deur die Verantwoordelike Lid. 40

Misdrywe en strawwe

69. (1) Iemand wat—

(a) enige bepaling van hierdie Wet, of enige bevel, lasgewing, verbod, voorwaarde, vereiste of kennisgewing daarkragtens gegee, opgelê, gestel of uitgereik, oortree of versuim om daaraan te voldoen, of 45

(b) 'n persoon by die uitoefening van 'n bevoegdheid kragtens artikel 61 dreig, weerstaan, hinder of belemmer, of vuil, beledigende of skeltaal teenoor die persoon gebruik, of weier of versuim om na sy of haar beste vermoë te antwoord op 'n vraag wat ingevolge daardie artikel aan hom of haar gestel is, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n geskikte boete van hoogstens R500 000 of met gevangenisstraf vir 'n tydperk van hoogstens 5 jaar of met daardie boete sowel as daardie gevangenisstraf. 50

(2) Iemand wat aan 'n misdryf kragtens hierdie Wet skuldig bevind is en wat na skuldigbevinding voortgaan met die handelwyse ten opsigte waarvan hy of sy aldus skuldig bevind is, is aan 'n voortdurende misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R10 000 ten opsigte van elke dag waarop hy of sy aldus daarmee voortgaan of voortgegaan het. 55

(3) Die bepalinge van artikel 341 van die Strafproseswet, 1977 (Wet 51 van 1977), is *mutatis mutandis* van toepassing met betrekking tot 'n oortreding van enige 60

Notices

68. (1) (a) Every notice required or authorised in terms of this Law shall be in at least two of the three provincial languages, namely English, Afrikaans or isiXhosa in accordance with the policy of the Responsible Member or council or, in the absence of policy, in the languages which in the opinion of the department head or chief executive officer, as the case may be, are the most appropriate for a particular purpose.

(b) A notice shall—

- (i) specify the place where and the hours during which particulars of the matter will be available for inspection;
- (ii) mention that objections may be lodged with a person indicated in the notice before a date likewise indicated, which date shall be at least 21 days, but not more than 60 days after the date on which the notice shall be so served or published, and
- (iii) comply with the prescribed requirements.

(2) Whenever the service of a notice on a person is authorised or required in terms of this Law, it shall be served on every owner or occupant of land who in the opinion of the department head or chief executive officer may have an interest in the matter and whose address he or she knows or can obtain.

(3) Whenever the service of a notice to a person is authorised or required in terms of this Law, it shall be deemed to have been efficiently and sufficiently served on that person if it was in two or more of the languages mentioned in subsection (1)(a) and—

- (a) if it has been delivered to the addressee in person;
- (b) if it has been left with a person presumably above the age of 16 years at the addressee's place of residence or business in the Republic and a written acknowledgement of receipt for it has been submitted to the competent authority;
- (c) if it has been sent by registered or certified mail to the person's latest known residential or business address in the Republic and a relevant proof of its posting is submitted;
- (d) when the person's address in the Republic is unknown, if it has been served on his or her agent or representative in the Republic in the manner determined in paragraph (a), (b) or (c), or
- (e) when the person's address and agent in the Republic is unknown, if it is displayed on the immovable property (if any) to which it relates, in the prescribed manner or the manner otherwise approved by the Responsible Member.

(4) A notice displayed on a land unit shall comply with the prescribed requirements or, in the absence of regulations, with the general *modus operandi* as approved by the Responsible Member.

Offences and penalties

69. (1) Any person who—
- (a) contravenes or fails to comply with any provision of this Law, or any order, instruction, prohibition, condition, requirement or notice made, issued, imposed, stipulated or given in terms thereof, or
 - (b) threatens, resists, hinders or obstructs, or uses foul, insulting or abusive language towards, a person in the exercise of a power under section 61 or refuses or fails to answer to the best of his or her ability a question put to him or her in terms of that section,

shall be guilty of an offence and liable on conviction to an appropriate fine not exceeding R500 000 or to imprisonment for a period not exceeding 5 years or to both such fine and such imprisonment.

(2) A person convicted of an offence under this Law who, after conviction, continues with the conduct in respect of which he or she was so convicted shall be guilty of a continuing offence and liable on conviction to a fine not exceeding R10 000 in respect of each day on which he or she so continues or has continued with it.

(3) The provisions of section 341 of the Criminal Procedure Act, 1977 (Act 51 of 1971) shall apply *mutatis mutandis* with regard to a contravention of any provision of

bepaling van hierdie Wet.

Regulasies en riglyne

70. (1) (a) Behoudens die bepalings van hierdie Wet kan die Verantwoordelike Lid regulasies maak aangaande aangeleenthede wat ingevolge hierdie Wet by regulasie voorgeskryf moet of kan word, en in die algemeen, aangaande alle aangeleenthede wat hy of sy nodig of raadsaam ag om voor te skryf ten einde die oogmerke van hierdie Wet te verwesenlik. 5

(b) Sonder om aan die algemeenheid van subartikel (1)(a) afbreuk te doen, kan regulasies oor enige van die volgende aspekte gemaak word:

- (i) maatreëls ter beskerming van die omgewing, insluitend omgewingsvolhoubare aansoekprosedures; 10
- (ii) aspekte wat in skemaregulasies aangespreek kan word;
- (iii) standaarde en riglyne ten opsigte van ingenieursdienste wat verskaf moet word en die hoeveelheid grond wat afgestaan moet word vir fasiliteite;
- (iv) die verdeling van die koste van ingenieursdienste tussen die plaaslike owerheid en die aansoeker; 15
- (v) diensteooreenkomste, grondbesikbaarheidsooreenkomste, omgewingskontrakte en die instel van omgewingsmoniteringskomitees;
- (vi) die bevoegdhede en pligte van 'n appèlkomitee of beplanningsraad en die verhalings van uitgawes op enige party deur die komitee of raad; 20
- (vii) die bevoegdhede en pligte van eenaarsverenigings; en
- (viii) maatreëls ten opsigte van die bepaling en betaling van skulderkenningsboetes.

(2) Verskillende regulasies kan aldus ten opsigte van verskillende bevoegde owerhede of kategorieë owerhede gemaak word. 25

(3) 'n Regulasie kragtens subartikel (1) gemaak, kan vir 'n oortreding daarvan of 'n versuim om daaraan te voldoen 'n straf voorskryf wat nie 'n boete van R10 000 of gevangenisstraf vir 'n tydperk van een jaar, en in die geval van 'n voortdurende misdryf, 'n boete van R250 ten opsigte van elke dag waarop met die voortdurende misdryf voortgegaan is, oorskryf nie. 30

(4) Die Verantwoordelike Lid kan riglyne oor enige aspek maak wat hy of sy nodig ag ter aanvulling van regulasies of by gebrek aan regulasies.

(5) 'n Lys van regulasies, algemene beginsels en riglyne gemaak kragtens hierdie Wet moet op dieselfde wyse as die lys bedoel in artikel 17 van die Interpretasiewet, 1957 (Wet 33 van 1957), in die Provinsiale Wetgewer ter tafel gelê word, en indien die Provinsiale Wetgewer by besluit so 'n regulasie, algemene beginsel of riglyn of enige bepaling daarvan afkeur, verval daardie regulasie, algemene beginsel of riglyn of bepaling, maar sonder om afbreuk te doen aan die geldigheid van enigiets daarvolgens gedoen voordat dit verval het, of enige reg of verpligting verkry of opgedoen ingevolge daarvan voordat dit aldus verval het. 40

Oorgangsbepalings

71. Enige proklamasie, kennisgewing, sertifikaat of ander dokument uitgereik, enige lasgewing, goedkeuring, toestemming of magtiging uitgereik of verleen, enige vrystelling, lisensie of permit toegestaan of uitgereik, enige aanstelling gedoen of regulasie gemaak of enige ander stap of ding gedoen kragtens die bepalings van enige wet wat by hierdie Wet herroep word, word geag kragtens die bepalings van hierdie Wet uitgereik, verleen, toegestaan, gedoen of gemaak te gewees het. 45

Herroeping van wette

72. (1) Die wette, ordonnansies en regulasies in Bylae I gelys word herroep vanaf die datums in Bylae I vermeld. 50

(2) 'n Aangeleentheid in verband waarmee voor die inwerkingtreding van hierdie Wet opgetree is ingevolge 'n wet gelys in Bylae I of III en wat by die inwerkingtreding van hierdie Wet nie afgehandel is nie, kan vanaf dié inwerkingtreding afgehandel word ingevolge daardie wet of hierdie Wet, soos deur die Verantwoordelike Lid bepaal word. 55

this Law.

Regulations and guidelines

70. (1) (a) Subject to the provisions of this Law, the Responsible Member may make regulations relating to matters which shall or may be prescribed by regulation in terms of this Law and, generally, relating to all matters which he or she may deem necessary or expedient to prescribe in order to achieve the purposes of this Law.

(b) Without derogating from the generality of subsection (1)(a), regulations may be made on any of the following aspects:

- (i) measures to protect the environment, including environmentally sustainable application procedures;
- (ii) aspects which can be addressed in scheme regulations;
- (iii) standards and guidelines in respect of engineering services to be provided and the extent of land to be made available for amenities;
- (iv) the division of costs of engineering services between the local authority and the applicant;
- (v) services agreements, land availability agreements, environmental contracts and the establishment of environmental monitoring committees;
- (vi) the powers and duties of an appeal committee or planning board and the recovery of expenditure from any party by the committee or board;
- (vii) the powers and duties of owners' associations, and
- (viii) measures in respect of the determination and payment of spot fines.

(2) Different regulations may be so made in respect of different local or regional authorities or categories of authorities.

(3) A regulation made under subsection (1) may, for a contravention thereof or failure to comply therewith prescribe a penalty not exceeding a fine of R10 000 or imprisonment for a period of one year, and, in the case of a continuing offence, a fine not exceeding R250 in respect of each day on which the continuing offence is continued.

(4) The Responsible Member may issue guidelines on any aspect he or she deems necessary to supplement regulations or in the absence of regulations.

(5) A list of regulations, general principles and guidelines made in terms of this Law shall be tabled in the Provincial Legislature in the same manner as the list contemplated in section 17 of the Interpretation Act, 1957 (Act 33 of 1957), and if the Provincial Legislature by resolution does not approve such regulation, general principle or guideline or any of its provisions, that regulation, general principle or guideline or provision shall lapse, but without prejudicing the validity of anything done in terms thereof before it lapsed, or any right or obligation obtained or incurred in terms thereof before it so lapsed.

Transitional provisions

71. Any proclamation, notice, certificate or other document issued, any instruction, approval, consent or authorisation issued or granted, any exemption, licence or permit issued, any appointment or regulation made or any other step taken or thing done in terms of the provisions of any law repealed by this Law, shall be deemed to have been issued, granted, made, taken or done in terms of the provisions of this Law.

Repeal of laws

72. (1) The laws, ordinances and regulations listed in Schedule I are repealed with effect from the dates mentioned in Schedule I.

(2) A matter in connection with which, before the commencement of this Law, action was taken in terms of a law listed in Schedule I or III and which has not been disposed of at the commencement of this Law, may, from the commencement, be finalised in terms of that law or this Law, as determined by the Responsible Member.

Toepassing van Wet

73. (1) Enige aansoek om die beplanning, ontwikkeling of aanwending van grond in die Provinsie word na die inwerkingtreding van hierdie Wet slegs ingevolge die bepalings van hierdie Wet gedoen, tensy die Verantwoordelike Lid goedkeuring verleen dat die aansoek ingevolge 'n ander wet gedoen word. 5
- (2) Die bepalings van Hoofstukke III, V en VI van die Wet op Ontwikkelingsfasilitering, 1995 (Wet 67 van 1995), word met ingang van die inwerkingtreding van hierdie Wet ten opsigte van die Provinsie opgeskort.
- (3) Die bepalings van die wette in Deel B van Bylae III gemeld word met ingang van die inwerkingtreding van hierdie Wet ten opsigte van die Provinsie opgeskort in die mate soos daarin aangedui. 10
- (4) Enige aansoek ingedien ingevolge 'n wet waarvan die bepalings ingevolge hierdie Wet opgeskort is, word met ingang van die inwerkingtreding van hierdie Wet afgehandel ingevolge daardie wet of hierdie Wet, soos deur die Verantwoordelike Lid bepaal. 15
- (5) Ondanks die bepalings van subartikels (3) en (4) kan die Verantwoordelike Lid so 'n opskorting te eniger tyd by kennisgewing in die *Provinsiale Koerant* geheel en al of gedeeltelik ophef en op dergelike wyse die toepassing van enige bepalings van hierdie Wet in die gebied en vir die tydperk, indien daar is, in daardie kennisgewing beskryf of vermeld, opskort. 20
- (6) Die Verantwoordelike Lid kan by kennisgewing in die *Provinsiale Koerant* bepaal dat die hele Wet of sekere gedeeltes daarvan nie van toepassing is nie in die gebied en vir die tydperk daarin vermeld.

Kort titel en datum van inwerkingtreding

74. (1) Hierdie Wet heet die Wes-Kaapse Wet op Beplanning en Ontwikkeling, 1996, en tree in werking op die datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal. 25
- (2) Enige verwysing in enige wet of dokument na die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985), of na enige van die wette wat herroep is deur hierdie Wet, word met ingang van die inwerkingtreding van hierdie Wet geag 'n verwysing te wees na hierdie Wet. 30

Application of Law

73. (1) Any application for the planning, development or utilisation of land in the Province shall, after the commencement of this Law, be made in terms of the provisions of this Law only, unless the Responsible Member consents to the application being made in terms of another law.

(2) The provisions of Chapters III, V and VI of the Development Facilitation Act, 1995 (Act 67 of 1995), shall with effect from the commencement of this Law be suspended in respect of the Province.

(3) The provisions of the laws mentioned in Part B of Schedule III shall with effect from the commencement of this Law be suspended in respect of the Province to the extent as indicated therein.

(4) Any application submitted in terms of a law, the provisions of which have been suspended by this Law, shall with effect from the commencement of this Law be disposed of in terms of that law or this Law, as determined by the Responsible Member.

(5) Notwithstanding the provisions of subsections (3) and (4), the Responsible Member may at any time revoke such suspension wholly or in part by notice in the *Provincial Gazette* and may in the same way suspend the application of any provisions of this Law in the area and for the period, if any, described or mentioned in that notice.

(6) The Responsible Member may by notice in the *Provincial Gazette* determine that the entire Law or certain portions of this Law shall not apply in the area and for the period mentioned in the notice.

Short title and date of commencement

74. (1) This Law shall be called the Western Cape Planning and Development Law, 1996 and shall commence on a date to be determined by the Premier by proclamation in the *Provincial Gazette*.

(2) Any reference in any law or document to the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), or to any of the other laws repealed by this Law shall with effect from the commencement of this Law be deemed to be a reference to this Law.

BYLAE I:

WETTE, ORDONNANSIES EN REGULASIES HERROEP

NOMMER EN JAAR VAN WET OF ORDONNANSIE	KORT TITEL	DATUM WAAROP HERROEPING IN WERKING TREE
15 van 1985	Ordonnansie op Grondgebruikbeplanning, 1985	Datum van inwerkingtreding van hierdie Wet
No100/1987 van 30 Oktober 1987 (Provinsiale Koerant 4505)	Wysigingsproklamasie PK100/1987	Datum van inwerkingtreding van hierdie Wet
No 6/1992 van 7 Februarie 1992 (Provinsiale Koerant 4734)	Wysigingsproklamasie 6/1992	Datum van inwerkingtreding van hierdie Wet
R168/1994 van 31 Oktober 1994 (Staatskoerant 16049)	Wysigingproklamasie R168/1994	Datum van inwerkingtreding van hierdie Wet
R.1897 van 12 September 1986	Regulasies betreffende dorpstigting en grondgebruik ingevolge die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), vir sover dit in die Provinsie van toepassing is.	Datum soos bepaal deur die Premier by proklamasie
Provinsiale Kennisgewing 733 van 22 September 1989	Regulasies betreffende instelling en wysiging van dorpsbeplanningskemas vir die Provinsie die Kaap die Goeie Hoop ingevolge die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984)	Datum soos bepaal deur die Premier by proklamasie
84 van 1967	Wet op Opheffing van Beperkings, 1967, vir sover dit in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie
70 van 1968	Algemene Regswysigingswet, 1968, vir sover dit betrekking het op die Wet op Opheffing van Beperkings, 1967, en in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie
96 van 1969	Wet op Onteining van Mineraalregte, (Dorpe), 1969, vir sover dit betrekking het op die Wet op Opheffing van Beperkings, 1967, en in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie
55 van 1977	Wysigingswet op Opheffing van Beperkings, 1977, vir sover dit in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie

**SCHEDULE I:
LAWS, ORDINANCES AND REGULATIONS REPEALED**

NUMBER AND YEAR OF LAW OR ORDINANCE	SHORT TITLE	DATE ON WHICH REPEAL COMES INTO EFFECT
15 of 1985	Land Use Planning Ordinance, 1985	Date of commencement of this Law
No 100/1987 of 30 October 1987 (Provincial Gazette 4505)	Amendment proclamation PK100/1987	Date of commencement of this Law
No 6/1992 of 7 February 1992 (Provincial Gazette 4734)	Amendment proclamation 6/1992	Date of commencement of this Law
R168/1994 of 31 October 1994 (Government Gazette 16049)	Amendment proclamation R168/1994	Date of commencement of this Law
R1897 of 12 Sep- tember 1986	Regulations regarding township settlement and land use in terms of the Black Communities Development Act, 1984 (Act 4 of 1984), in so far as it applies in the Province	Date as determined by the Premier by proclamation
Provincial Notice 733 of 22 Sep- tember 1989	Regulations regarding the imposition and amendment of town planning schemes for the Province of the Cape of Good Hope in terms of the Black Communities Development Act, 1984 (Act 4 of 1984)	Date as determined by the Premier Proclamation
84 of 1967	Removal of Restrictions Act, 1967 in so far as it applies in the Province	Date as determined by the Premier by proclamation
70 of 1968	General Law Amendment Act, 1968, in so far as it affects the Removal of Restrictions Act, 1967, and applies in the Province	Date as determined by the Premier by proclamation
96 of 1969	Expropriation of Mineral Rights (Townships) Act, 1969, in so far as it affects the Removal of Restrictions Act, 1967, and applies in the Province	Date as determined by the Premier by proclamation
55 of 1977	Removal of Restrictions Amendment Act, 1977, in so far as it applies in the Province	Date as determined by the Premier by proclamation

18 van 1984	Wysigingswet op Opheffing van Beperkings, 1984, sover dit in die Provinsie van toepassing is	Datum soos bepaal vir deur die Premier by proklamasie
113 van 1991	Wet op Minder Formele Dorpstigting, 1991	Datum soos bepaal deur die Premier byproklamasie
84 van 1991	Wysigingswet op Opheffing van Beperkings (Volksraad), 1991, vir sover dit in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie
108 van 1993	Tweede Algemene Regswysigingswet, 1993, vir sover dit betrekking het op die Wet op Opheffing van Beperkings, 1967, en in die Provinsie van toepassing is.	Datum soos bepaal deur die Premier by proklamasie
117 van 1993	Tweede Wysigingswet op Plaaslike Owerheidsaangeleenthede, 1993, vir sover dit betrekking het op die Wet op Opheffing van Beperkings, 1967, en in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie
R106 van 1994	Wysigingsproklamasie vir sover dit betrekking het op die Wet op Opheffing van Beperkings, 1967, en in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie
R159 van 31 Oktober 1994	Wysigingsproklamasie R159/1994	Datum soos bepaal deur die Premier by proklamasie
67 van 1995	Wet op Ontwikkelingsfasilitering, 1995, vir sover dit betrekking het op die Wet op Minder Formele Dorpstigting, 1991, en in die Provinsie van toepassing is	Datum soos bepaal deur die Premier by proklamasie

18 of 1984	Removal of Restrictions Amendment Act, 1984, in so far as it applies in the Province	Date as determined by the Premier by proclamation
113 of 1991	Informal Township Establishment Act, 1991	Date as determined by the Premier by proclamation
84 of 1991	Removal of Restrictions Amendment Act (House of Assembly), 1991, in so far as it applies in the Province	Date as determined by the Premier by Proclamation
108 of 1993	General Law Second Amendment Act, 1993, in so far as it affects the Removal of Restrictions Act, 1967, and applies in the Province	Date as determined by the Premier by proclamation
117 of 1993	Local Government Affairs Second Amendment Act, 1993, in so far as it affects the Removal of Restrictions Act, 1967, and applies in the Province	Date as determined by the Premier by proclamation
R106 of 1994	Amendment Proclamation in so far as it affects the Removal of Restrictions Act, 1967, and applies in the Province	Date as determined by the Premier by proclamation
R159 of October 1994	31 Amendment Proclamation R159/1994	Date as determined by the Premier by proclamation
67 of 1995	Development Facilitation Act, 1995, in so far as it affects the Less Formal Township Establishment Act, 1991, and applies in the Province	Date as determined by the Premier by proclamation

BYLAE II

Artikel 35 van Ordonnansie 33 van 1934

35 *ter* (1) Ten opsigte van elke bepaling wat na die inwerkingtreding van die Wysigingsordonnansie op Dorpe, 1969 (Ordonnansie 25 van 1969), deur die Administrateur ingevolge artikel 35 *bis* voorgeskryf word of is vir 'n plaaslike owerheid se skema wat opgestel word of op goedkeuring wag, is daar, behoudens die bepaling van subartikels (8), (9), en (10)—

- (a) 'n verhogingsheffing aan sodanige plaaslike owerheid verskuldig deur die eienaar van enige grond waarvan die waarde vermeerder word of is ten gevolge daarvan dat sodanige bepaling aldus voorgeskryf word of is, en
- (b) vergoeding deur sodanige plaaslike owerheid verskuldig aan die eienaar van enige grond waarvan die waarde verminder word of is ten gevolge daarvan dat sodanige bepaling aldus voorgeskryf word of is.

(2) 'n Verhogingsheffing by subartikel (1)(a) beoog, is 'n bedrag gelyk aan vyftig persent van die geraamde verskil.

(3) Die vergoeding by subartikel (1)(b) beoog, is 'n bedrag gelyk aan die hele geraamde verskil.

(4) (a) Die geraamde verskil kan by ooreenkoms tussen die plaaslike owerheid en die eienaar vasgestel word en elke sodanige ooreenkoms—

- (i) moet aan die Administrateur voorgelê word tesame met 'n verslag van die plaaslike owerheid oor die redes, feite en omstandighede wat daartoe gelei het dat hy en die eienaar die geraamde verskil op die ooreengekome bedrag vasgestel het, en
- (ii) is onderworpe aan die goedkeuring van die Administrateur.

(b) Die Administrateur kan, na oorweging van die verslag by paragraaf (a) beoog en as hy, na oorleg met die plaaslike owerheid en die eienaar van mening is dat die bedrag waartoe hulle ooreengekom het, nie 'n ware weergawe van die geraamde verskil is nie, gelas dat, tensy 'n verdere ooreenkoms soos by paragraaf (a) beoog, deur die plaaslike owerheid en die eienaar getref word binne 'n tydperk van drie maande vanaf die datum van sodanige lasgewing en deur hom goedgekeur word, die geraamde verskil vasgestel moet word deur die skattingshof saamgestel kragtens Hoofstuk II van die Skattingsordonnansie, 1944 (Ordonnansie 26 van 1944), wat ingevolge genoemde ordonnansie regsbevoegdheid het in die gebied waar die betrokke grond geleë is, en die bepalings van genoemde hoofstuk (uitgesonderd artikels 17, 19 en 21(4) en van artikels 81 en 82(2) van genoemde ordonnansie is *mutatis mutandis* van toepassing ten opsigte van sodanige hof en sy bevoegdhede, funksies en pligte.

(c) As geen sodanige ooreenkoms getref is nie na verstryking van die tydperk by paragraaf (b) beoog, moet die plaaslike owerheid die betrokke skattingshof skriftelik in kennis stel van dié feit en sodanige hof bepaal daarna 'n tyd wanneer en 'n plek waar hy sal sit om die geraamde verskil vas te stel en gee skriftelike kennis van minstens een-en-twintig dae aan die Administrateur, die plaaslike owerheid en die eienaar van die tyd en plek aldus bepaal.

(d) Die skattingshof ontvang en oorweeg, op die tyd en plek ingevolge paragraaf (c) bepaal, die getuienis wat die Administrateur, die plaaslike owerheid en die eienaar, hetsy persoonlik of deur middel van 'n verteenwoordiger, aanbied en stel daarna die geraamde verskil vas.

(e) Die bedrag ingevolge paragraaf (d) vasgestel, is afdoende en bindend vir die plaaslike owerheid en die eienaar en word vir alle doeleindes geag die bedrag te wees waartoe die plaaslike owerheid en die eienaar ooreengekom het en die bepalings van paragraaf (b) is, na sodanige vasstelling, nie van toepassing nie ten opsigte van die bedrag aldus vasgestel.

(f) 'n Behoorlike verrekening moet gedoen word ten opsigte van enige bedrag wat voor 'n vasstelling ingevolge paragraaf (d) betaal is ten gevolge van 'n ooreenkoms by paragraaf (a) beoog en enige bedrag wat ingevolge subartikel (9) geag word betaal te gewees het ter volle of gedeeltelike vereffening van 'n verhogingsheffing.

(5) (a) Die plaaslike owerheid of die eienaar kan, as 'n ooreenkoms soos by subartikel (4) beoog, nie binne 'n tydperk van drie maande vanaf die vasgestelde datum getref is nie, die ander skriftelik in kennis stel dat 'n geskil in verband met die geraamde verskil tussen hulle ontstaan het en vereis dat sodanige geskil deur middel van arbitrasie besleg word en moet die Administrateur van sodanige geskil in kennis stel.

(b) Indien, binne 'n tydperk van nege maande vanaf die vasgestelde datum, geen

SCHEDULE II

Section 35 of Ordinance 33 of 1934

35 *ter* (1) In respect of every provision which is or has been prescribed by the Administrator after the commencement of the Townships Amendment Ordinance, 1969 (Ordinance 25 of 1969), in terms of section 35 bis for a local authority's scheme in the course of preparation or awaiting approval, there shall, subject to the provisions of subsections (8), (9) and (10)—

- (a) be an enhancement levy due to such local authority by the owner of any land of which the value is or has increased in consequence of such provision being or having been so prescribed, and
- (b) be compensation due by such local authority to the owner of any land of which the value is or has decreased in consequence of such provision being or having been so prescribed.

(2) An enhancement levy contemplated by subsection (1)(a) shall be an amount equal to fifty per cent of the estimated difference.

(3) The compensation contemplated by subsection (1)(b) shall be an amount equal to the whole of the estimated difference.

(4) (a) The estimated difference may be determined by agreement between the local authority and the owner and every such agreement shall—

- (i) be submitted to the Administrator together with a report by the local authority as to the reasons, facts and circumstances which led it and the owner to determine the estimated difference in the amount agreed upon, and
- (ii) be subject to the approval of the Administrator.

(b) The Administrator may, after consideration of the report contemplated by paragraph (a) and if he is, after consultation with the local authority and the owner, of opinion that the amount agreed upon between them is not a true reflection of the estimated difference, direct that, unless a further agreement as contemplated by paragraph (a) is reached by the local authority and the owner within a period of three months from the date of such direction and is approved by him, the estimated difference shall be determined by the valuation court constituted under Chapter II of the Valuation Ordinance, 1944 (Ordinance 26 of 1944), which has jurisdiction in terms of the said ordinance in the area where the land concerned is situate, and the provisions of the said Chapter (other than sections 17, 19 and 21(4)) and of sections 81 and 82(2) of the said ordinance shall *mutatis mutandis* apply in respect of such court and its powers, functions and duties.

(c) If, after the expiration of the period contemplated by paragraph (b) no such agreement has been reached, the local authority shall in writing notify the valuation court concerned of that fact and such court shall thereupon fix a time when and place where it will sit to determine the estimated difference and shall give not less than twenty-one days written notice to the Administrator, the local authority and the owner of the time and place so fixed.

(d) The valuation court shall, at the time and place fixed in terms of paragraph (c), receive and consider such evidence as the Administrator, the local authority and the owner may tender, either personally or through a representative, and shall thereafter determine the estimated difference.

(e) The amount determined in terms of paragraph (d) shall be final and binding upon the local authority and the owner and shall for all purposes be deemed to be the amount agreed upon by the local authority and the owner and the provisions of paragraph (b) shall, after such determination, not apply in respect of the amount so determined.

(f) A due adjustment shall be made in respect of any amount paid prior to a determination in terms of paragraph (d) in consequence of an agreement contemplated by paragraph (a) and any amount deemed, in terms of subsection (9), to have been paid in full or partial settlement of an enhancement levy.

(5) (a) The local authority or the owner may, if no agreement as contemplated by subsection (4) has been reached within a period of three months from the fixed date, notify the other in writing that a dispute in regard to the estimated difference has arisen between them and require that such dispute be determined by arbitration and shall notify the Administrator of such dispute.

(b) If, within a period of nine months from the fixed date, no agreement as

ooreenkoms soos by subartikel (4) beoog, aan die Administrateur voorgelê is nie of hy nie in kennis gestel is dat 'n geskil soos by paragraaf (a) beoog, ontstaan het nie, kan hy, deur middel van 'n skriftelike kennisgewing aan die plaaslike owerheid en die eienaar gelas dat, tensy so 'n ooreenkoms getref word of òf die plaaslike owerheid òf die eienaar ingevolge paragraaf (a) optree binne 'n tydperk van drie maande vanaf die datum van sodanige lasgewing, dit geag sal word dat 'n geskil in verband met die geraamde verskil ontstaan het tussen die plaaslike owerheid en die eienaar en dat sodanige geskil deur middel van arbitrasie besleg moet word.

(c) Ingeval enige geskil soos by hierdie subartikel beoog, ontstaan of geag word te ontstaan het, word die geraamde verskil deur middel van arbitrasie ingevolge die Wet op Arbitrasie, 1965 (Wet 42 van 1965), vasgestel deur 'n enkele arbiter wat aangestel word by ooreenkoms tussen die plaaslike owerheid en die eienaar of, by ontstentenis van sodanige ooreenkoms, deur die Administrateur wie se beslissing in verband met sodanige aanstelling afdoende en bindend vir die plaaslike owerheid en die eienaar is.

(6) 'n Arbiter wat aangestel is om 'n geskil by subartikel (5) beoog, te besleg, ken die koste van die arbitrasieverrigtinge toe—

(a) in die geval van 'n geskil by subartikel (5)(a) beoog—

(i) teen die plaaslike owerheid as die geraamde verskil soos deur die arbiter vasgestel—

(aa) in die geval van 'n verhogingsheffing, gelyk is aan of minder is as, en

(bb) in die geval van vergoeding, gelyk is aan of meer is as, die bedrag wat laas deur die eienaar skriftelik as die geraamde verskil voorgestel is voordat sodanige geskil ontstaan het;

(ii) teen die eienaar as die geraamde verskil soos deur die arbiter vasgestel—

(aa) in die geval van 'n verhogingsheffing, gelyk is aan of meer is as, en

(bb) in die geval van vergoeding, gelyk is aan of minder is as die bedrag wat laas deur die plaaslike owerheid skriftelik as die geraamde verskil voorgestel is voordat sodanige geskil ontstaan het, en

(iii) in enige geval nie by subparagraawe (i) en (ii) beoog nie, teen die plaaslike owerheid en die eienaar onderskeidelik met inagneming veral van die verhouding waarin—

(aa) in die geval van 'n verhogingsheffing, die bedrag waarmee die geraamde verskil soos deur die arbiter vasgestel, minder is as die bedrag wat laas deur die plaaslike owerheid skriftelik as die geraamde verskil voorgestel is voordat sodanige geskil ontstaan het, staan tot die bedrag waarmee die geraamde verskil aldus vasgestel, meer is as die bedrag wat laas deur die eienaar skriftelik as 'n geraamde verskil voorgestel is voordat sodanige geskil ontstaan het, en

(bb) in die geval van vergoeding, die bedrag waarmee die geraamde verskil soos deur die arbiter vasgestel, meer is as die bedrag wat laas deur die plaaslike owerheid skriftelik as die geraamde verskil voorgestel is voordat sodanige geskil ontstaan het, staan tot die bedrag waarmee die geraamde verskil aldus vasgestel, minder is as die bedrag wat laas deur die eienaar skriftelik as die geraamde verskil voorgestel is voordat sodanige geskil ontstaan het, en

(b) in die geval van 'n geskil wat ingevolge subartikel (5)(b) geag word te ontstaan het, teen die plaaslike owerheid en die eienaar, wat gesamentlik en afsonderlik daarvoor aanspreeklik is.

(7) Die betaling van 'n verhogingsheffing of vergoeding te benewens enige ander verpligting wat aan die plaaslike owerheid of die eienaar van die betrokke grond opgelê word ten gevolge van die bepalinge van die betrokke skema en sodanige heffing of vergoeding is betaalbaar—

(a) in die geval van 'n verhogingsheffing—

(i) voordat sodanige grond of enige gedeelte daarvan aangewend of omgeskep word vir enige gebruik wat gemagtig of toegelaat word by die bepaling by subartikel (1) beoog maar wat nie aldus gemagtig of toegelaat was voor die vasgestelde datum nie, of

contemplated by subsection (4) has been submitted to the Administrator or he has not been notified that a dispute as contemplated by paragraph (a) has arisen he may, by notice in writing to the local authority and the owner direct that, unless such an agreement is reached or either the local authority or the owner acts in terms of paragraph (a) within a period of three months from the date of such direction, a dispute in regard to the estimated difference shall be deemed to have arisen between the local authority and the owner and that such dispute shall be determined by arbitration.

(c) In the event of any dispute as contemplated by the subsection arising or being deemed to have arisen, the estimated difference shall be determined by arbitration in terms of the Arbitration Act, 1965 (Act 42 of 1965), by a single arbitrator appointed by agreement between the local authority and the owner or, in the absence of such agreement, by the Administrator whose decision in regard to such appointment shall be final and binding upon the local authority and the owner.

(6) An arbitrator appointed to determine a dispute contemplated by subsection (5) shall award the costs of the arbitration proceedings—

- (a) in the case of a dispute contemplated by subsection (5)(a)—
 - (i) against the local authority if the estimated difference as determined by the arbitrator is—
 - (aa) in the case of an enhancement levy, equal to or less than, and
 - (bb) in the case of compensation, equal to or greater than, the amount last proposed in writing as the estimated difference by the owner before such dispute arose;
 - (ii) against the owner if the estimated difference as determined by the arbitrator is—
 - (aa) in the case of an enhancement levy, equal to or greater than, and
 - (bb) in the case of compensation, equal to or less than, the amount last proposed in writing as the estimated difference by the local authority before such dispute arose, and
 - (iii) in any case not contemplated by subparagraphs (i) and (ii), against the local authority and the owner respectively having regard particularly to the proportion which—
 - (aa) in the case of an enhancement levy, the amount by which the estimated difference as determined by the arbitrator is less than the amount last proposed in writing as the estimated difference by the local authority before such dispute arose bears to the amount by which the estimated difference so determined is greater than the amount last proposed in writing as the estimated difference by the owner before such dispute arose, and
 - (bb) in the case of compensation, the amount by which the estimated difference as determined by the arbitrator is greater than the amount last proposed in writing as the estimated difference by the local authority before such dispute arose bears to the amount by which the estimated difference so determined is less than the amount last proposed in writing as the estimated difference by the owner before such dispute arose, and
- (b) in the case of a dispute deemed in terms of subsection (5)(b) to have arisen, against the local authority and the owner, who shall be jointly and severally liable therefor.

(7) The payment of an enhancement levy or compensation shall be in addition to any other obligation imposed on the local authority or the owner of the land concerned in consequence of the provisions of the relevant scheme and such levy or compensation shall be payable—

- (a) in the case of an enhancement levy—
 - (i) before such land or any portion thereof is put or converted to any use which is authorized or permitted by the provision contemplated by subsection (1) but which was not so authorized or permitted before the fixed date, or

(ii) voordat sodanige grond of enige gedeelte daarvan, uitgesonderd 'n gedeelte wat onderworpe is aan 'n lasgewing ingevolge subartikel (9) uitgereik, aan enige persoon oorgedra word, en

(b) in die geval van vergoeding, binne 'n tydperk van ses maande vanaf die datum van die ooreenkoms by subartikel (4) of (5)(b) beoog of van die toekenning deur 'n arbiter ingevolge hierdie artikel gedoen, na gelang van die geval.

(8) Wanneer dit ook al die voorneme is om grond oor te dra ten opsigte waarvan 'n verhogingsheffing verskuldig is maar nog nie betaal is nie of om enige gedeelte van sodanige grond oor te dra en—

(a) die verpligting om sodanige grond of sodanige gedeelte oor te dra, ontstaan uit of ten gevolge van 'n kontrak wat deur die eienaar en die voornemende transportnemer aangegaan is voor die vasgestelde datum, of

(b) die eienaar van sodanige grond en die voornemende transportnemer skriftelik ooreengekom het dat sodanige transportnemer aanspreeklikheid vir die betaling van sodanige heffing aanvaar,

kan die Administrateur, na oorleg met die eienaar, die voornemende transportnemer en die plaaslike owerheid, beslis dat sodanige eienaar, by die oordrag van sodanige grond of van sodanige gedeelte aan sodanige transportnemer, geheel en al of gedeeltelik vrygestel word van aanspreeklikheid vir die betaling van sodanige heffing, en by sodanige oordrag word sodanige transportnemer, behoudens enige verdere sodanige vrystelling, aanspreeklik vir die betaling, by die voorkoms van enige gebeure by subartikel (7)(a) beoog, van sodanige heffing in die mate waarin sodanige heffing nie deur sodanige eienaar betaal is nie.

(9) (a) Waar die plaaslike owerheid 'n gedeelte van die grond in subartikel (1)(a) genoem, nodig het vir enige doel wat ook al wat hy van tyd tot tyd by wet gemagtig of verplig word om uit te voer, kan die plaaslike owerheid, deur middel van 'n skriftelike kennisgewing wat aan die eienaar beteken word voordat enige ooreenkoms soos by subartikel (4) beoog, getref word, die eienaar in kennis stel dat hy voornemens is om die Administrateur te versoek om ingevolge paragraaf (c) te gelas dat sodanige gedeelte van die plaaslike owerheid oorgedra moet word.

(b) Die plaaslike owerheid en die eienaar moet daarna die waarde onmiddellik voor die vasgestelde datum van die gedeelte van grond by paragraaf (a) beoog, vasstel ooreenkomstig die bepalinge van subartikels (4), (5) en (6) en vir die doeleindes daarvan—

(i) word enige verwysing in genoemde subartikels na die geraamde verskil geag 'n verwysing na die waarde van sodanige gedeelte te wees;

(ii) is die bepalinge van genoemde subartikel (6) van toepassing asof die vasstelling van sodanige waarde betrekking het op die betaling van vergoeding, en

(iii) word die tydperk by subartikel (5)(a) beoog, geag 'n aanvang te geneem het op die datum waarop die kennis in paragraaf (a) genoem, gegee word.

(c) Die plaaslike owerheid moet die Administrateur skriftelik in kennis stel van die waarde vasgestel ooreenkomstig die voorafgaande bepalinge van hierdie subartikel en die Administrateur kan gelas dat, as die waarde aldus vasgestel gelyk is aan of minder is as die bedrag van die verhogingsheffing wat ten opsigte van die betrokke grond verskuldig is, die gedeelte in paragraaf (a) genoem, oorgedra moet word aan die plaaslike owerheid en, by die oordrag van sodanige gedeelte aan die plaaslike owerheid, word die waarde aldus vasgestel, geag 'n bedrag te wees wat betaal is ter volle of gedeeltelike vereffening, na gelang van die geval, van sodanige verhogingsheffing.

(d) 'n Behoorlike verrekening ten opsigte van enige bedrag betaal ten opsigte van die betrokke verhogingsheffing moet gedoen word by die oordrag aan die plaaslike owerheid van die gedeelte van grond by paragraaf (a) beoog.

(10) (a) Die Administrateur kan, of in die algemeen of met betrekking tot die regsgebied van enige plaaslike owerheid, beslis dat die bepalinge van subartikel (1) nie van toepassing is nie ten opsigte van enige klas of tipe van bepaling wat ingevolge artikel 35*bis* voorgeskryf kan word en enige beslissing ingevolge hierdie paragraaf gedoen, kan—

(i) gedoen word met terugwerkende krag tot 'n datum wat nie vroeër is nie as die ses-en-twintigste dag van September 1969, en

(ii) te eniger tyd deur hom verander of ingetrek word.

(b) Die Administrateur kan, op skriftelike aansoek van die plaaslike owerheid of die eienaar en as hy van mening is, na oorleg met die plaaslike owerheid en die eienaar, dat spesiale omstandighede bestaan wat sodanige optrede regverdig, beslis dat, ongeag of

- (ii) before such land or any portion thereof, other than a portion which is subject to a direction issued in terms of subsection (9), is transferred to any person, and
 - (b) in the case of compensation, within a period of six months from the date of the agreement contemplated by subsection (4) or (5)(b) or of the award made by an arbitrator in terms of this section, as the case may be.
- (8) Whenever it is proposed to transfer land in respect of which an enhancement levy is due but has not yet been paid or to transfer any portion of such land and—
 - (a) the obligation to transfer such land or such portions arises from or in consequence of a contract which was entered into by the owner and the proposed transferee before the fixed date, or
 - (b) the owner of such land and the proposed transferee have in writing agreed that such transferee accepts liability for payment of such levy,the Administrator may, after consultation with the owner, the proposed transferee and the local authority, determine that such owner shall, on the transfer of such land or of such portion to such transferee, be wholly or partly exempt from liability for payment of such levy and upon such transfer such transferee shall, subject to any further such exemption, become liable for payment, on the occurrence of any event contemplated by subsection (7)(a), of such levy to the extent to which such levy has not been paid by such owner.
- (9) (a) Where a portion of the land referred to in subsection (1)(a) is required by the local authority for any purpose whatsoever which it is from time to time by law empowered or required to carry out, the local authority may, by notice in writing served on the owner before any agreement as contemplated by subsection (4) is reached inform the owner that it intends requesting the Administrator to direct in terms of paragraph (c) that such portion shall be transferred to it.
- (b) The local authority and the owner shall thereafter determine the value immediately prior to the fixed date of the portion of land contemplated by paragraph (a) in accordance with the provisions of subsections (4), (5) and (6) and for the purposes thereof—
 - (i) any reference in the said subsections to the estimated difference shall be deemed to be a reference to the value of such portion;
 - (ii) the provisions of the said subsection (6) shall apply as if the determination of such value related to the payment of compensation, and
 - (iii) the period contemplated by subsection (5)(a) shall be deemed to have commenced on the date on which the notice referred to in paragraph (a) is given.
- (c) The local authority shall notify the Administrator in writing of the value determined in accordance with the preceding provisions of this subsection and the Administrator may direct that, if the value so determined is equal to or less than the amount of the enhancement levy due in respect of the land concerned, the portion referred to in paragraph (a) shall be transferred to the local authority and upon the transfer of such portion to the local authority, the value so determined shall be deemed to be an amount paid in full or partial settlement, as the case may be, of such enhancement levy.
- (d) A due adjustment in respect of any amount paid in respect of the enhancement levy concerned shall be made upon the transfer to the local authority of the portion of land contemplated by paragraph (a).
- (10) (a) The Administrator may, either generally or in relation to the area of jurisdiction of any local authority, determine that the provisions of subsection (1) shall not apply in respect of any class or type of provision which may be prescribed in terms of section 35bis and any determination made in terms of this paragraph may—
 - (i) be made with retrospective effect to a date not earlier than the twenty-sixth day of September, 1969, and
 - (ii) at any time be altered or withdrawn by him.
- (b) The Administrator may, on the written application of the local authority or the owner and if he is of opinion, after consultation with the local authority and the owner, that special circumstances justifying such action exist, determine that, whether or not

die geraamde verskil ingevolge hierdie artikel vasgestel is of nie—

- (i) die bepaling van subartikel (1) nie van toepassing is of geag word nie van toepassing te gewees het nie ten opsigte van die betrokke grond;
- (ii) in die geval van 'n verhogingsheffing, die persentasie beoog by subartikel (2) verminder word of geag word verminder te gewees het tot 'n persentasie deur hom gespesifiseer, of
- (iii) in die geval van vergoeding, net dié proporsie van die geraamde verskil wat hy gelas, verskuldig is of geag word verskuldig te gewees het aan sodanige eienaar,

en in sodanige geval moet 'n behoorlike verrekening gedoen word ten opsigte van enige bedrag wat voor sodanige beslissing betaal is as 'n verhogingsheffing of vergoeding en enige bedrag wat ingevolge subartikel (9) geag word betaal te gewees het ter volle of gedeeltelike vereffening van 'n verhogingsheffing.

(11) Waar die goedkeuring van 'n plaaslike owerheid by wet vereis word vir—

- (a) die oprigting of verandering of uitbreiding van 'n gebou op grond ten opsigte waarvan 'n verhogingsheffing verskuldig is of op enige gedeelte van sodanige grond;
- (b) die uitvoering van enige werk wat ook al op sodanige grond of op enige gedeelte daarvan, of
- (c) die aanwending of omskepping van sodanige grond of enige gedeelte daarvan of enige gebou daarop vir enige gebruik,

wat gemagtig of toegelaat word by die bepaling by subartikel (1) beoog maar wat nie aldus gemagtig of toegelaat was voor die vasgestelde datum nie, word sodanige goedkeuring nietemin nie toegestaan nie tensy—

- (i) sodanige verhogingsheffing betaal is;
- (ii) en enige grond wat onderworpe is aan 'n lasgewing ingevolge subartikel (9) uitgereik, aan sodanige plaaslike owerheid oorgedra is, of
- (iii) sekuriteit vir die betaling van sodanige verhogingsheffing of vir die oordrag van die grond in paragraaf (ii) genoem, ten genoeg van sodanige plaaslike owerheid aan hom verstrekkend is.

(12) Ondanks die bepaling van enige ander ordonnansie insake die storting van gelde in of die bestryding van uitgawe uit enige besondere fonds of rekening van 'n plaaslike owerheid, moet elke verhogingsheffing gestort word in 'n afsonderlike rekening en aangewend word alleenlik—

- (a) om uitgawe te beskryf wat, na die mening van die plaaslike owerheid, betrekking het op of in verband staan met of nodig is vir die uitvoering van sy skema, met inbegrip van die betaling van vergoeding ingevolge hierdie artikel verskuldig en die bestryding van die koste van arbitrasieverrigtinge wat teen sodanige plaaslike owerheid toegeken word, of
- (b) met die goedkeuring van die Administrateur, om uitgawe te bestry wat deur die plaaslike owerheid aangegaan is met betrekking tot die voorsiening van kapitaalwerke of geriewe binne sy regsgebied.

(13) Vir die toepassing van hierdie artikel beteken—

“eienaar” die persoon wie se naam in 'n Registrasiekantoor van Aktes geregistreer is as die eienaar van die betrokke grond op die vasgestelde datum;

“geraamde verskil” die verskil tussen die waarde van die betrokke grond onmiddellik voor en onmiddellik na die vasgestelde datum, met inagneming van die bepaling van die skema van toepassing op sodanige grond;

“koste van arbitrasieverrigtinge” die koste van en verbonde aan arbitrasieverrigtinge wat deur enige party daarby aangegaan is en omvat dit die besoldiging van die arbiter en takseergelde;

“vasgestelde datum” die datum waarop die bepaling by subartikel (1) beoog, voorgeskryf word of is, en

“waarde” die bedrag wat die betrokke grond sou behaal het as dit op die oop mark deur 'n gewillige verkoper aan 'n gewillige koper verkoop was.”

the estimated difference has been determined in terms of this section—

- (i) the provisions of subsection (1) shall not apply or be deemed not to have applied in respect of the land concerned;
- (ii) in the case of an enhancement levy, the percentage contemplated by subsection (2) shall be reduced or be deemed to have been reduced to a percentage specified by him, or
- (iii) in the case of compensation, only such proportion of the estimated difference as he may direct shall be due or be deemed to have been due to such owner, and in such event a due adjustment shall be made in respect of any amount paid prior to such determination as an enhancement levy or compensation and any amount deemed, in terms of subsection (9), to have been paid in full or partial settlement of an enhancement levy.

(11) Where the approval of a local authority is in law required for—

- (a) the erection or alteration of or addition to a building on land in respect of which an enhancement levy is due or on any portion of such land;
- (b) the carrying out of any work whatsoever on such land or on any portion thereof, or
- (c) such land or any portion thereof or any building thereon being put or converted to any use,

which is authorized or permitted by the provision contemplated by subsection (1) but which was not so authorized or permitted before the fixed date, such approval shall nevertheless not be granted unless—

- (i) such enhancement levy has been paid;
- (ii) any land which is subject to a direction issued in terms of subsection (9) has been transferred to such local authority, or
- (iii) security for the payment of such enhancement levy or for the transfer of the land transferred to in paragraph (ii) has been furnished to such local authority to its satisfaction.

(12) Notwithstanding the provisions of any other ordinance relating to the payment of moneys into or the meeting of expenditure from any particular fund or account of a local authority, every enhancement levy shall be paid into a separate account and applied solely—

- (a) to meeting expenditure which, in the opinion of the local authority, is related or incidental to or necessary for the implementation of its scheme, including the payment of compensation due in terms of this section and the defrayment of the costs of arbitration proceedings awarded against such local authority, or
- (b) with the approval of the Administrator, to meeting expenditure incurred by the local authority in relation to the provision of capital works or amenities within its area of jurisdiction.

(13) For the purposes of this section—

“costs of arbitration proceedings” means the costs of and incidental to arbitration proceedings incurred by any party thereto and includes the remuneration of the arbitrator and taxation fees;

“estimated difference” means the difference between the value of the land concerned immediately prior to and immediately subsequent to the fixed date, having regard to the provisions of the scheme applicable to such land;

“fixed date” means the date on which the provision contemplated by subsection (1) is or was prescribed;

“owner” means the person whose name is registered in a Deeds Registry as the owner of the land concerned on the fixed date, and

“value” means the amount which the land concerned would have realized if sold in the open market by a willing seller to a willing buyer.”

BYLAE III:**WETTE EN ORDONNANSIES TEN OPSIGTE WAARVAN AANSOEKE
VERDER GEHANTEER KAN WORD KRAGTENS HIERDIE WET****DEEL A:**

- Ordonnansie op Dorpe, 1934 (Ordonnansie 33 van 1934)
- Wet op Opheffing van Beperkings, 1967 (Wet 84 van 1967)
- Regulasies ingevolge die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984)
- Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985)
- Wet op Minder Formele Dorpstigting, 1991 (Wet 113 van 1991)

DEEL B:

- Wet op Landelike Gebiede, 1987 (Wet 9 van 1987) (Voormalige Raad van Verteenwoordigers)—artikel 20(2)(a)
- Wet op Fisiese Beplanning, 1991 (Wet 125 van 1991)
- Wet op die Beskikbaarstelling van Sekere Grond vir Vestiging, 1993 (Wet 126 van 1993)—artikels 4, 5, 6, 7, 8 en 9

SCHEDULE III**LAWS AND ORDINANCES IN RESPECT OF WHICH APPLICATIONS MAY
BE FURTHER DEALT WITH IN TERMS OF THIS LAW****PART A**

- Townships Ordinance, 1934 (Ordinance 33 of 1934)
- Removal of Restrictions Act, 1967 (Act 84 of 1967)
- Regulations in terms of the Black Communities Development Act, 1994 (Act 4 of 1984)
- Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)
- Less Formal Township Establishment Act, 1991 (Act 113 of 1991)

PART B

- Rural Areas Act, 1987 (Act 9 of 1987) (Former House of Representatives)—section 20(2)(a).
- Physical Planning Act, 1991 (Act 125 of 1991)
- Provision of Certain Land for Settlement Act, 1993 (Act 126 of 1993)—sections 4, 5, 6, 7, 8 and 9

BYLAE IV:**ALGEMENE BEGINSELS VIR BEPLANNING EN ONTWIKKELING
BEGINSELS VIR HERSTRUKTURERING VAN DIE RUIMTELIKE
OMGEWING**

Daar moet vir landelike en stedelike beplanning en ontwikkeling voorsiening gemaak word en die ontwikkeling van formele en informele bestaande en nuwe vestigings moet gefasiliteer word.

Die onwettige okkupasie van grond, met behoorlike inagneming van informele ontwikkelingsprosesse, moet ontmoedig word.

Voldoende grond vir permanente ontwikkeling en tydelike deurgangsgebiede moet geïdentifiseer en ontwikkel word.

Die integrasie van die sosiale, ekonomiese, institusionele en fisiese aspekte van beplanning en ontwikkeling behoort bevorder te word.

Geïntegreerde ontwikkeling en beplanning in landelike en stedelike gebiede met die oog op onderlinge ondersteuning behoort bevorder te word.

Die beskikbaarheid van nabygeleë of geïntegreerde residensiële en indiensnemingsgeleenthede behoort bevorder te word.

Die gebruik van bestaande hulpbronne, insluitend hulpbronne met betrekking tot landbou, grond, minerale, grootmaatinfrastruktuur, paaie, vervoer en sosiale fasiliteite, behoort geoptimaliseer te word.

'n Diverse kombinasie van grondgebruike, waar toepaslik, behoort bevorder te word.

Die verskynsel van stadspreiding behoort ontmoedig te word en 'n bydrae behoort gelewer te word tot die ontwikkeling van meer kompakte stede.

'n Bydrae behoort gelewer te word tot die regstelling van historiese verwronge ruimtelike vestigingspatrone in die Wes-Kaap en tot die optimale gebruik van bestaande infrastruktuur.

Omgewingsvolhoubare beplannings- en ontwikkelingspraktyke en -prosesse behoort aangemoedig te word.

BEGINSELS VIR VOLHOUBARE ONTWIKKELING

Volhoubare ontwikkeling behoort bevorder te word deur—

ontwikkeling binne die fiskale, institusionele en administratiewe vermoë van die Provinsie te bevorder

die vestiging van lewensvatbare gemeenskappe te bevorder

volgehoue beskerming van die omgewing te bevorder

op 'n bekostigbare wyse te voorsien in die basiese behoefte van alle gemeenskappe

die veilige gebruik van grond, met inagneming van faktore soos geologiese formasies, gevaarlik ondermynde gebiede en vloedvlaktes, te verseker.

BEGINSELS VIR ONTWIKKELING IN DIE ALGEMEEN

Spoedige ontwikkeling behoort bevorder te word.

Ontwikkeling behoort in gevalle waar gemeenskappe dit verkies, sekerheid van titel tot gevolg te hê, en vir die wydste moontlike verskeidenheid titelalternatiewe, insluitend individuele en gemeenskaplike titel, voorsiening te maak.

By ontwikkeling van enige grond moet die regmatige belange van enige okkuppeerders van daardie grond behoorlik in ag geneem word.

Die verskillende owerheidsvlakke behoort die belange van die verskillende sektore wat betrokke is by of geraak word deur ontwikkeling te koördineer ten einde strydige aansprake op skaars hulpbronne te minimaliseer.

Die effektiewe funksionering van 'n ontwikkelingsmark, gebaseer op ope mededinging tussen verskaffers van goedere en dienste, behoort gestimuleer te word.

SCHEDULE IV:**GENERAL PLANNING AND DEVELOPMENT PRINCIPLES****PRINCIPLES WITH REGARD TO SPATIAL ENVIRONMENT
RESTRUCTURING**

Provision should be made for rural and urban planning and development, and the development of formal and informal existing and new settlements should be facilitated.

The illegal occupation of land should be discouraged, with due regard to informal development processes.

Sufficient land for permanent development and temporary transit areas should be identified and developed.

The integration of social, economic, institutional and physical aspects of planning and development should be promoted.

Integrated development and planning in rural and urban areas with a view to mutual support should be promoted.

The availability of nearby or integrated residential and employment opportunities should be promoted.

The utilisation of existing resources, including resources with regard to agriculture, land, minerals, bulk infrastructure, roads, transport and social facilities should be optimised.

A diverse combination of land uses should be promoted, where applicable.

The phenomenon of urban sprawl should be discouraged and a contribution should be made towards the development of more compact cities.

A contribution should be made towards the correction of historically distorted spatial patterns of settlement in the Western Cape and towards the optimal use of existing infrastructure.

Environmentally sustainable planning and development practices and processes should be encouraged.

PRINCIPLES WITH REGARD TO SUSTAINABLE DEVELOPMENT

Sustainable development should be promoted by

- promoting development within the fiscal, institutional and administrative means of the Province;
- promoting the establishment of viable communities;
- promoting sustained protection of the environment;
- meeting the basic needs of all communities in an affordable manner;
- ensuring the safe use of land, with due regard to factors such as geological formations, dangerously undermined areas and flood plains.

PRINCIPLES WITH REGARD TO DEVELOPMENT IN GENERAL

Accelerated development should be promoted.

In cases where communities so prefer, development should result in security of title and should provide for the widest possible variety of title alternatives, including individual and joint title.

In the development of land the rightful interests of any occupants of that land should be duly taken into account.

The various levels of government should co-ordinate the interests of the various sectors involved in or affected by development so as to minimise conflicting claims to scarce resources.

The effective functioning of a development market based on open competition between suppliers of goods and services should be stimulated.

BEGINSELS VIR ROLSPELERDEELNAME EN VAN MENSLIKE-HULP-BRONONTWIKKELING

Lede van gemeenskappe wat deur beplanning en ontwikkeling geraak word, behoort aktief aan die proses van beplanning en ontwikkeling te kan deelneem.

Die vaardighede en vermoëns van alle persone, insluitend minderbevoorregte persone, wat betrokke is by beplanning en ontwikkeling behoort ontwikkel te word.

Alle sektore van die ekonomie (regerings- en nie-regeringsektore) behoort aangemoedig te word om tot beplanning en ontwikkeling by te dra ten einde die Provinsie se vermoë om beplanning en ontwikkeling te onderneem, te maksimaliseer.

Owerhede moet daarna streef om alle sektore van die ekonomie se funksies en verantwoordelikhede met betrekking tot beplanning en ontwikkeling, en die gewenste verhouding tussen daardie sektore, duidelik te omskryf en bekend te maak.

'n Owerheid wat verantwoordelik is vir die administrasie van hierdie en enige ander wet met betrekking tot beplanning en ontwikkeling, moet besonderhede van die betrokke wetgewing en van die persone wat verantwoordelik is vir die administrasie van daardie wetgewing, verstrek aan enige persoon wat die inligting verlang.

BEGINSELS VIR WETGEWING, BELEID, ADMINISTRATIEWE PRAKTYK, REGULASIES EN VERORDENINGE TEN OPSIGTE VAN BEPLANNING EN ONTWIKKELING

Wette, regulasies en beleids- en riglyndokumente ten opsigte van beplanning en ontwikkeling behoort—

- duidelik, asook algemeen beskikbaar, te wees vir diegene wat waarskynlik daardeur geraak sal word;
- ook voorligting en inligting aan diegene wat daardeur geraak word, te verskaf, benewens om as regulerende maatreëls te dien;
- daarop gemik te wees om vertroue en aanvaarding by diegene wat waarskynlik daardeur geraak sal word, te bevorder, en
- verdere inhoud te gee aan die fundamentele grondwetlike regte.

BEGINSELS VIR BESLUITNEMING EN GESKILBESLEGTING

Elke voorgestelde ontwikkeling behoort op meriete beoordeel te word en geen spesifieke grondgebruik behoort vooruit of in die algemeen as minder belangrik of wenslik beskou te word as enige ander grondgebruik nie.

Besluite word geneem op advies van geskikte persone in die diens van die betrokke owerheid en deskundiges op die gebied van die landbou, beplanning, die ingenieurswese, die geologie, die mynbou, omgewingsbestuur, die reg, opmeting of enige ander gebied wat die Verantwoordelike Lid bepaal.

Voordat 'n besluit geneem word, word eers ondersoek ingestel na die wenslikheid daarvan om 'n geskil tussen twee of meer partye met betrekking tot ontwikkeling of beplanning vir bemiddeling te verwys.

As die betrokke owerheid van oordeel is dat bemiddeling wenslik is, word die geskil vir bemiddeling verwys, maar as bemiddeling onwenslik is, of as bemiddeling misluk het, word 'n openbare ondersoek gehou of word 'n besluit geneem.

Voordat enige belangrike besluit ingevolge hierdie Wet geneem word, moet daar sover prakties moontlik 'n openbare ondersoek oor die aangeleentheid gehou word.

As 'n openbare ondersoek gehou word voordat 'n besluit geneem word, is die ondersoek toeganklik vir die publiek en kan enige persoon wat geregtig is om by die ondersoek te verskyn, deur enige ander persoon verteenwoordig word.

Skriftelike redes vir 'n besluit ingevolge hierdie Wet geneem, word op versoek voorsien.

Die departementshoof hou 'n rekord van redes verskaf vir besluite deur die Provinsiale Administrasie van Wes-Kaap geneem, en die hoof uitvoerende beampte vir besluite deur die betrokke raad geneem.

PRINCIPLES WITH REGARD TO ROLE PLAYER PARTICIPATION AND HUMAN RESOURCES DEVELOPMENT

Members of communities affected by planning and development should be actively involved in the planning and development process.

The skills and capacities of all persons involved in planning and development, including the disadvantaged, should be developed.

All sectors of the economy (government and non-government sectors) should be encouraged to contribute toward planning and development so as to maximise the Province's ability to undertake planning and development.

Authorities should endeavour to clearly define and make known the functions and responsibilities of all sectors of the economy with regard to planning and development and the desired relationship between these sectors.

An authority which is responsible for the administration of this and any other law in connection with planning and development should furnish particulars of the legislation concerned and of the persons responsible for its administration to any person requiring such information.

PRINCIPLES WITH REGARD TO PLANNING AND DEVELOPMENT LEGISLATION, POLICY, ADMINISTRATIVE PRACTICE, REGULATIONS AND BY-LAWS

Laws, regulations and policy and guideline documents in respect of planning and development should—

- be clear and generally available to those who are likely to be affected by them;
- provide guidance and information to those affected by them in addition to serving as regulatory measures;
- be aimed at promoting trust and acceptance among those likely to be affected by them, and
- give further content to fundamental rights as set out in the Constitution.

PRINCIPLES WITH REGARD TO DECISION-MAKING AND DISPUTE RESOLUTION

Each proposed development should be judged on its merits and no specific land use should be regarded in advance or in general as being less important or desirable than any other land use.

Decisions should be taken on the advice of suitable persons in the employ of the authority concerned and experts in agriculture, planning, engineering, geology, mining, management of the environment, law, surveying or any other area determined by the Responsible Member.

Before a decision is taken, the desirability of referring for mediation a dispute between two or more parties with regard to development or planning should be investigated.

If the authority concerned considers mediation to be desirable, the dispute should be referred for mediation, but if mediation is undesirable, or if mediation has failed, a public inquiry should be conducted or a decision taken.

Before any important decision is taken in terms of this Law, a public inquiry into the matter should be conducted if practicable.

If a public inquiry is to be conducted before a decision is taken, it should be open to the public, and any person entitled to appear at the inquiry may be represented by any other person.

Reasons in writing for a decision in terms of this Law should be furnished on request.

The department head should keep a record of reasons given for decisions taken by the Provincial Administration of the Western Cape, and the chief executive officer for decisions taken by the council concerned.

So 'n rekord word beskikbaar gestel vir inspeksie deur lede van die publiek en die redes kan deur enige persoon of liggaam gepubliseer word.

'n Besluit ingevolge hierdie Wet geneem, is onderworpe aan hersiening deur enige bevoegde afdeling van die Hooggeregshof van Suid-Afrika.

BYLAE V:

**DORPSAANLEGSKEMAS INGEVOLGE DIE ORDONNANSIE OP DORPE,
1934, WAT OP 1 JULIE 1986 NA DIE MENING VAN DIE ADMINISTRATEUR
VAN KRAG WAS**

SKEMA

Ashton
Bellville
Brackenfell
Bredasdorp
Ceres
Citrusdal
Durbanville
Franschhoek

George
Goodwood
Gordonsbaai
Grabouw
Hartenbos
Heidelberg
Hermanus
Hopfield
Kapaastad
Kaa Afdeling
Kleinmond
Knysna
Kraaifontein
Kuilsvier
Langebaan
Malmesbury
Milnerton Self, Table View en Montague
Gardens en Metro Industriële Dorpe
Montagu
Moorreesburg
Mosselbaai
Oudtshoorn
Paarl
Parow
Pinelands
Plettenbergbaai

Robertson
Sedgefield
Simonstad
Somerset-Wes
Stellenbosch
Stellenbosch
St Helenabaai
Stilbaai
Strand
Swellendam
Velddrif
Villiersdorp
Vishoek
Vredenburg-Saldanha
Vredendal
Waenhuiskrans
Wellington
Wildernis
Worcester

BEVOEGDE OWERHEID

Munisipaliteit Ashton
Tygerberg Substruktuur
Oostelike Substruktuur
Munisipaliteit Bredasdorp
Munisipaliteit Ceres
Citrusdal Plaaslike Oorgangsraad
Tygerberg Substruktuur
Munisipaliteit vir die Gebied van
Franschhoek
Munisipaliteit George
Tygerberg Substruktuur
Helderberg Substruktuur
Munisipaliteit Grabouw
Munisipaliteit Mosselbaai
Heidelberg Oorgangsraad
Groter Hermanus Plaaslike Oorgangsraad
Munisipaliteit Hopfield
Sentrale Substruktuur
Kaapse Metropolitaanse Owerheid
Munisipaliteit Hangklip/Kleinmond
Munisipaliteit Knysna
Oostelike Substruktuur
Oostelike Substruktuur
Munisipaliteit Langebaan
Malmesbury Plaaslike Oorgangsraad
Noordelike Substruktuur

Munisipaliteit Montagu
Munisipaliteit Moorreesburg
Munisipaliteit Mosselbaai
Munisipaliteit Oudtshoorn
Munisipaliteit Paarl
Tygerberg Substruktuur
Sentrale Substruktuur
Groter Plettenbergbaai Plaaslike Oorgangs-
raad
Munisipaliteit Robertson
Sedgefield Plaaslike Oorgangsraad
Suidelike Substruktuur
Helderberg Substruktuur
Stellenbosch Plaaslike Oorgangsraad
Afdeling Wynland Distriksraad
Weskus Skiereiland Oorgangsraad
Munisipaliteit Stilbaai
Helderberg Substruktuur
Swellendam Oorgangsraad
Munisipaliteit Velddrif
Munisipaliteit Villiersdorp
Suidelike Substruktuur
Weskus Skiereiland Oorgangsraad
Munisipaliteit vir die Gebied van Vredendal
Munisipaliteit Bredasdorp
Wellington Oorgangsraad
Wildernis Distriksraad
Worcester Plaaslike Oorgangsraad

SCHEDULE V:

**TOWN-PLANNING SCHEMES IN TERMS OF THE TOWNSHIPS
ORDINANCE, 1934, WHICH IN THE OPINION OF THE ADMINISTRATOR
WERE OF FORCE AND EFFECT ON 1 JULY 1986.**

SCHEME	COMPETENT AUTHORITY
Ashton	Ashton Municipality
Bellville	Tygerberg Substructure
Brackenfell	Eastern Substructure
Bredasdorp	Bredasdorp Municipality
Ceres	Ceres Municipality
Citrusdal	Citrusdal Transitional Local Council
Durbanville	Tygerberg Substructure
Franschhoek	Municipality for the Area of Franschhoek
George	George Municipality
Goodwood	Tygerberg Substructure
Gordons Bay	Helderberg Substructure
Grabouw	Grabouw Municipality
Hartenbos	Mossel Bay Municipality
Heidelberg	Heidelberg Transitional Council
Hermanus	Greater Hermanus Transitional Local Council
Hopefield	Hopefield Municipality
Cape Town	Central Substructure
Cape Division	Cape Metropolitan Council
Kleinmond	Hangklip/Kleinmond Municipality
Knysna	Knysna Municipality
Kraaifontein	Eastern Substructure
Kuils River	Eastern Substructure
Langebaan	Langebaan Municipality
Malmesbury	Malmesbury Transitional Local Council
Milnerton Proper, Table View and Montague Gardens and Metro Industrial Townships	Northern Substructure
Montagu	Montagu Municipality
Moorreesburg	Moorreesburg Municipality
Mossel Bay	Mossel Bay Municipality
Oudtshoorn	Oudtshoorn Municipality
Paarl	Paarl Municipality
Parow	Tygerberg Substructure
Pinelands	Central Substructure
Plettenberg Bay	Greater Plettenberg Bay Transitional Local Council
Robertson	Robertson Municipality
Sedgefield	Sedgefield Transitional Local Council
Simon's Town	Southern Substructure
Somerset West	Helderberg Substructure
Stellenbosch	Stellenbosch Transitional Local Council
Stellenbosch Division	Winelands District Council
St Helena Bay	West Coast Peninsula Transitional Council
Still Bay	Still Bay Municipality
Strand	Helderberg Substructure
Swellendam	Swellendam Transitional Council
Velddrif	Velddrif Municipality
Villiersdorp	Villiersdorp Municipality
Fish Hoek	Southern Substructure
Vredenburg-Saldanha	West Coast Peninsula Transitional Council
Vredendal	Municipality for the Area of Vredendal
Waenhuiskrans	Bredasdorp Municipality
Wellington	Wellington Transitional Council
Wilderness	Wilderness District Council
Worcester	Worcester Transitional Local Council

BYLAE VI:

**GOEDGEKEURDE DORPSBEPLANNINGSKEMAS INGEVOLGE DIE
REGULASIES VAN DIE WET OP DIE ONTWIKKELING VAN SWART
GEMEENSKAPPE, 1984 (WET 4 VAN 1984)**

SKEMA	PLAASLIKE OORGANGSRAAD/ SUBSTRUKTUUR
Bongelethu	Munisipaliteit Oudtshoorn
Crossroads	Sentrale Substruktuur
Ikapa	Sentrale Substruktuur
Kaya Mandi	Stellenbosch Plaaslike Oorgangsraad
Kwanonqaba	Mosselbaai Munisipaliteit
Lingelethu-Wes	Tygerberg Substruktuur
Lwandle	Helderberg Substruktuur
Mbekweni	Munisipaliteit van die Paarl
Mfuleni	Tygerberg Substruktuur
Nduli	Munisipaliteit Ceres
Nkqubela	Munisipaliteit Robertson
KwaMandlenkosi (Sidesaviwa)	Munisipaliteit van Beaufort-Wes
Thembaletu	Munisipaliteit George
Zolani	Munisipaliteit Ashton
Zweletemba	Worcester Plaaslike Oorgangsraad
Zwelihle	Groter Hermanus Plaaslike Oorgangsraad

SCHEDULE VI:

**APPROVED TOWN PLANNING SCHEMES IN TERMS OF THE
REGULATIONS OF THE BLACK COMMUNITIES DEVELOPMENT ACT,
1984 (ACT 4 OF 1984)**

SCHEME	TRANSITIONAL LOCAL COUNCIL/SUBSTRUCTURE
Bongelethu	Oudtshoorn Municipality
Crossroads	Central Substructure
Ikapa	Central Substructure
Kaya Mandi	Stellenbosch Transitional Local Council
Kwanonqaba	Mossel Bay Municipality
Lingeletu West	Tygerberg Substructure
Lwandle	Helderberg Substructure
Mbekweni	Paarl Municipality
Mfuleni	Tygerberg Substructure
Nduli	Ceres Municipality
Nkqubela	Robertson Municipality
KwaMandlenkosi(Sidesaviwa)	Municipality of Beaufort West
Thembaletu	George Municipality
Zolani	Ashton Municipality
Zweletemba	Worcester Transitional Local Council
Zwelihle	Greater Hermanus Transitional Local Council

BYLAE VII:

STEDELIKE EN STREEKSTRUKTUURPLASSE (VOORMALIGE
GIDSPLASSE) INGEVOLGE DIE FISIESE BEPLANNINGSWET, 1991 (WET
125 VAN 1991)

NAAM EN DATUM VAN GOEDKEURING	TIPE PLAN
1 Kaapse Metropool Volume 1: Skiereiland (1988)	Stedelike struktuurplan
2 Kaapse Metropool Volume 2: Stellenbosch (1988)	Stedelike struktuurplan
3 Kaapse Metropool Volume 3: Hottentots-Hollandkom (1988)	Stedelike struktuurplan
4 Kaapse Metropool Volume 4: Paarl/Wellington (1991)	Stedelike struktuurplan
5 Atlantis en Omgewing (1981)	Stedelike struktuurplan
6 Worcester en omgewing (1990)	Stedelike struktuurplan
7 Oudtshoorn en Omgewing (1985)	Stedelike struktuurplan
8 George en Omgewing (1982)	Stedelike struktuurplan
9 Knysna-Wildernis-Plettenbergbaai (1983)	Streekstruktuurplan
10 Mosselbaai/Riversdal Substreek (1994)	Streekstruktuurplan

**SCHEDULE VII:
URBAN AND REGIONAL STRUCTURE PLANS (FORMER GUIDE PLANS)
IN TERMS OF THE PHYSICAL PLANNING ACT, 1991 (ACT 125 OF 1991)**

NAME AND DATE OF APPROVAL	TYPE OF PLAN
1. Cape Metropole Volume 1: Peninsula (1988)	Urban structure plan
2. Cape Metropole Volume 2: Stellenbosch (1988)	Urban structure plan
3. Cape Metropole Volume 3: Hottentots Holland Basin (1988)	Urban structure plan
4. Cape Metropole Volume 4: Paarl/Wellington (1991)	Urban structure plan
5. Atlantis and environs (1981)	Urban structure plan
6. Worcester and environs (1990)	Urban structure plan
7. Oudtshoorn and environs (1985)	Urban structure plan
8. George and environs (1982)	Urban structure plan
9. Knysna—Wilderness —Plettenberg Bay (1983)	Regional structure plan
10. Mossel Bay/Riversdale subregion (1994)	Regional structure plan

INHOUD (vervolg)

Geliewe daarop te let dat 'n verdere geleentheid om kommentaar op die wetsontwerp te lewer voorsien sal word voordat dit na 'n Staande Komitee van die Wes-Kaapse Wetgewer verwys word.

Die oogmerke van hierdie wetgewing is—

- om rasgebaseerde beplannings- en ontwikkelingswetgewing te herroep
- om alle beplannings- en ontwikkelingswetgewing in die Provinsie saam te vat in een wet;
- om as oorgangswetgewing te dien totdat 'n oorkoepelende nuwe Wet op Beplanning en Ontwikkeling vir die Provinsie opgestel kan word;
- om voorsiening te maak vir versnelde ontwikkelingsprosesse, veral ten opsigte van die opheffing van beperkings en ontwikkelings waar gesondheidsredes, menslike nood, herstel van grondregte en ander redes vereis dat normale prosedures versnel moet word; en
- om bepaalde algemene beginsels voor te skryf waaraan alle beplanning en ontwikkeling in die Provinsie gemeet kan word.

D du Plessis
Waarnemende Sekretaris
Wes-Kaapse Wetgewer

CONTENTS (continued)

Please note that a further opportunity to comment on this Bill will be provided before it is to be referred to a Standing Committee of the Western Cape Legislature.

The objects of this legislation are—

- to repeal racially based planning and development legislation;
- to merge all planning and development legislation in the Province into one law;
- to serve as transitional legislation until a comprehensive new Law on Planning and Development can be drafted for the Province;
- to provide for accelerated development processes, especially regarding the removal of restrictions and developments where health reasons, human need, restitution of land rights and other reasons necessitates that normal procedures be accelerated; and
- to prescribe certain general principles which all planning and development in the Province can be measured against.

D. du Plessis
Acting Secretary
Western Cape Legislature