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PROVINCIAL NOTICE

Bill: Western Cape Planning and Development Bill, 1997

P.N. 342/1997

3 October 1997

The following Bill is hereby published for general information:—

Western Cape Planning and Development Bill, 1997

Any person or organisation wishing to comment on the said Bill is requested to lodge such comment in writing before or on 31 October 1997:

(a) by posting it to:

The Secretary
P.O. Box 648
Cape Town
8000

(b) by handing it in at:

Room 4-96
Provincial Building
Wale Street
Cape Town

P. J. C. Pretorius
Secretary

INHOUD

PROVINSIALE KENNISGEWING

Wetsontwerp: Wes-Kaapse Wetsontwerp op Beplanning en Ontwikkeling, 1997

P.K. 342/1997

3 Oktober 1997

Die volgende Wetsontwerp word hierby vir algemene inligting gepubliseer:—

Wes-Kaapse Wetsontwerp op Beplanning en Ontwikkeling, 1997

Enige persoon of organisasie wat kommentaar oor die genoemde Wetsontwerp wens te lewer, word versoek om sodanige kommentaar skriftelik te lewer voor of op 31 Oktober 1997:

(a) deur dit te pos aan:

Die Sekretaris
Posbus 648
Kaapstad
8000

(b) deur dit in te handig by:

Kamer 4-96
Provinsiale-gebou
Waalstraat
Kaapstad

P. J. C. Pretorius
Sekretaris

BILL

To replace racially based planning and development legislation; to consolidate to the greatest possible extent legislation in the Province pertaining to urban and rural development, regional planning and development and provincial planning into one law as the first phase of a comprehensive new law on planning and development for the Province; to regulate, monitor and support planning and development at provincial, regional and municipal levels for urban and rural areas; to provide frameworks, norms and standards, *inter alia* with regard to areas where municipalities have legislative power, with a view to establishing and maintaining standards essential to orderly co-ordinated planning and development or to the promotion of integrated social and economic development where provincial or regional interests require; to provide for principles and lay down guidelines and parameters for planning and development where provincial and regional interests require, including environmental protection; to provide for accelerated development processes, especially with regard to the removal of restrictions and land development where health reasons, human need, the restitution of land rights, tenure upgrade or security and other reasons necessitate the acceleration of normal procedures so as to ensure and promote the general wellbeing of inhabitants of the Province, 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 Act

- | | |
|--|----|
| 1. This Act is divided as follows: | 5 |
| CHAPTER I Development frameworks (sections 3 to 6) | |
| CHAPTER II Zoning schemes (sections 7 to 21) | |
| CHAPTER III Subdivision of land (sections 22 to 32) | |
| CHAPTER IV Accelerated development (sections 33 to 42) | |
| CHAPTER V Removal of restrictions (sections 43 to 48) | 10 |
| CHAPTER VI Planning boards (sections 49 to 52) | |
| CHAPTER VII General planning and development principles (section 53) | |
| CHAPTER VIII Advertising (section 54) | |
| CHAPTER IX Appeals and related matters (sections 55 to 57) | |
| CHAPTER X Assignment and Delegation (sections 58 and 59) | 15 |
| CHAPTER XI Penalty provisions (sections 60 to 64) | |
| CHAPTER XII General provisions (sections 65 to 76) | |

Definitions

- | | |
|---|----|
| 2. In this Act, unless the context otherwise indicates— | |
| (1) "Administrator" means— | 20 |
| (a) the person who was appointed as such in terms of the Provincial Government Act, 1986 (Act 69 of 1986); or | |
| (b) 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), or | 25 |
| (c) the Provincial Minister, where powers and duties were entrusted to the Administrator in terms of any law; (3) | |

WETSONTWERP

Om rasgebaseerde wetgewing oor beplanning en ontwikkeling te vervang; om in die grootste moontlike mate wetgewing in die Provinsie met betrekking tot stedelike en landelike ontwikkeling, streeksbeplanning en -ontwikkeling en provinsiale beplanning tot een wet te konsolideer as eerste fase van 'n omvattende nuwe wet oor beplanning en ontwikkeling vir die Provinsie; om beplanning en ontwikkeling op provinsiale, streeks- en munisipale vlak vir stedelike en landelike gebiede te reguleer, te monitor en te ondersteun; om raamwerke, norms en standaarde, onder meer met betrekking tot terreine waar munisipaliteite wetgewende bevoegdheid het, te voorsien met die oog op die bepaling en handhawing van standaarde wat noodsaaklik is vir ordelike gekoördineerde beplanning en ontwikkeling of vir die bevordering van geïntegreerde sosiale en ekonomiese ontwikkeling waar provinsiale of streeksbelange dit vereis; om, waar provinsiale en streeksbelange dit vereis, voorsiening vir beginsels en riglyne te maak en parameters voor te skryf vir beplanning en ontwikkeling, insluitende omgewingsbeskerming; om voorsiening te maak vir versnelde ontwikkelingsprosesse, veral met betrekking tot die verwydering van beperkings en grondontwikkeling waar gesondheidsredes, menslike nood, die herstel van grondregte, die opgradering van grondbesit of sekerheid van verblyfreg en ander redes die versnelling van normale prosedures noodsaak ten einde die algemene welsyn van inwoners van die Provinsie te verseker en te bevorder, 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

- 5 1. Hierdie Wet word as volg ingedeel:
- | | |
|---------------|--|
| HOOFSTUK I | Ontwikkelingsraamwerke (artikels 3 tot 6) |
| HOOFSTUK II | Soneringskemas (artikels 7 tot 21) |
| HOOFSTUK III | Onderverdeling van grond (artikels 22 tot 32) |
| HOOFSTUK IV | Versnelde ontwikkeling (artikels 33 tot 42) |
| 10 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 | Advertering (artikel 54) |
| HOOFSTUK IX | Appelle en verwante aangeleenthede (artikels 55 tot 57) |
| 15 HOOFSTUK X | Opdra en delegering (artikels 58 en 59) |
| HOOFSTUK XI | Strafbepalings (artikels 60 tot 64) |
| HOOFSTUK XII | Algemene bepalinge (artikels 65 tot 76) |

Woordomskrywings

2. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- 20 (1) "aangewese grond" grond wat ingevolge artikel 35 vir versnelde ontwikkeling aangewys is; (13)
- (2) "aanwending", met betrekking tot grond, die gebruik van grond vir 'n doel of vir die verbetering van grond soos verder by regulasie omskryf kan word, en het "aanwend" 'n ooreenstemmende betekenis; (69)
- 25 (3) "Administrateur"—

- (2) "advertise", in relation to making known a matter referred to in this Act, means one or more of the methods of making known which, according to the policy or guidelines of the authority which advertises, is the most suitable method to reach as many people as possible who may have an interest in or be directly affected by the matter and which complies with the provisions of section 54, including— 5
- (a) serving a notice, or
 - (b) displaying a notice board on a land unit, or
 - (c) publishing a notice in the press, or
 - (d) holding public meetings, or 10
 - (e) constituting and implementing consultative forums or entering into social compacts, whether before or after the submission of an application,
- and "advertising" has a corresponding meaning; (4)
- (3) "appeal committee" means an appeal committee established in terms of section 55(1); (6) 15
- (4) "chief executive officer" means the chief executive officer of a municipality, and includes the chief executive officer of the other municipality which deals with the administration of the first-mentioned municipality as an agent or by agreement; (28) 20
- (5) "confirm", in relation to a subdivision or part thereof, means to confirm as contemplated in section 27(3); (9)
- (6) "consent use" means an additional use right or a variation on a development rule permitted in terms of scheme regulations in a particular zone with the consent of the council; (70) 25
- (7) "Constitution" means the Constitution of the Republic of South Africa, 1996 (Act 108 of 1996); (25)
- (8) "consultative forum" means an accredited committee of interested and affected parties constituted with a view to reaching consensus about planning and development issues affecting them, and includes, where relevant, the development councils; (52) 30
- (9) "conveyancer" means a conveyancer as defined in section 102 of the Deeds Registries Act, 1937 (Act 47 of 1937); (67)
- (10) "council" means the transitional council or council of a municipality; (51)
- (11) "department head" means the head of the department of the Provincial Administration of Western Cape which deals with the administration of this Act; (11) 35
- (12) "departure" means—
- (a) an altered development rule -
 - (i) imposed in terms of section 15(1); 40
 - (ii) imposed by virtue of a condition in terms of any provision of this Act, or
 - (iii) which is legal in terms of any provision of this Act, or
 - (b) a use right granted on a temporary basis in terms of section 15; (5)
- (13) "designated land" means land designated for accelerated development in terms of section 35; (1) 45
- (14) "develop land" means to prepare land for occupation or utilisation, *inter alia* by the filling up, draining or levelling of areas; the removal of vegetation; the installation of engineering services; the subdivision of land or the erection, alteration or extension of buildings and structures on land, and "development of land" and "developing land" have a corresponding meaning; (24) 50
- (15) "development councils" means the Western Cape Provincial Development Council and Regional Development Councils established and local development forums recognised as prescribed in terms of the Western Cape Provincial Development Council Law, 1996 (Law 5 of 1996); (39) 55
- (16) "development framework" means a plan or written strategy to attain the objectives of development planning and may be either an integrated development framework as contemplated in section 5(1)(a) or a specific development framework as contemplated in section 5(1)(b) and (c); (38)

- (a) die persoon wat ingevolge die Wet op Provinsiale Regering, 1986 (Wet 69 van 1986), as sodanig aangestel was; of
- (b) die bevoegde gesag aan wie die uitvoering van die Grondgebruik-ordonnansie ingevolge artikel 235(8) van die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet 200 van 1993), opgedra is, of
- (c) die Provinsiale Minister, waar bevoegdheid en pligte ingevolge enige wet aan die Administrateur verleen is; (1)
- (4) "adverteer", met betrekking tot die bekendmaking van 'n aangeleentheid in hierdie Wet bedoel, een of meer van die metodes van bekendmaking wat ooreenkomstig die beleid of riglyne van die owerheid wat adverteer, die mees geskikte metode is om soveel persone as moontlik wat 'n belang het by of regstreeks geraak word deur die aangeleentheid en wat aan die bepalings van artikel 54 voldoen, te bereik, insluitende—
- (a) die betekening van 'n kennisgewing, of
- (b) die vertoning van 'n kennisgewingbord op 'n grondeenheid, of
- (c) die publiserings van 'n kennisgewing in die pers, of
- (d) die hou van openbare vergaderings, of
- (e) die samestelling en implementering van raadplegende forums of die aangaan van sosiale ooreenkomste, hetsy voor of na die indiening van 'n aansoek,
- en het "advertering" 'n ooreenstemmende betekenis; (2)
- (5) "afwyking"—
- (a) 'n veranderde ontwikkelingsreël—
- (i) ingevolge artikel 15(1) opgelê;
- (ii) uit hoofde van 'n voorwaarde ingevolge '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)
- (6) "appèlkomitee" 'n appèlkomitee ingevolge artikel 55(1) ingestel; (3)
- (7) "beperking" 'n serwituut of voorwaarde wat teen die titelakte van onroerende eiendom geregistreer is en die aanwending daarvan beperk, en enige ander wetlike beperking op die beplanning, ontwikkeling of aanwending van onroerende eiendom; (51)
- (8) "beplanningsraad" 'n beplanningsraad ingevolge artikel 49 ingestel; (39)
- (9) "bevestig", met betrekking tot 'n onderverdeling of deel daarvan, om te bevestig soos beoog in artikel 27(3); (5)
- (10) "bewoner" 'n persoon wat nie noodwendig grond wat hy of sy bewoon, besit nie, maar wat daardie grond met die uitdruklike of stilswyende toestemming van die eienaar of persoon in beheer, bewoon; (35)
- (11) "departementshoof" die hoof van die departement van die Provinsiale Administrasie van Wes-Kaap wat met die uitvoering van hierdie Wet handel; (11)
- (12) "diensteooreenkoms" 'n skriftelike ooreenkoms beoog in artikel 69(3), wat tussen 'n ontwikkelaar van onroerende eiendom en 'n munisipaliteit aangaan word en ingevolge waarvan die onderskeie verantwoordelikhede van die twee partye vir die beplanning, ontwerp, voorsiening, installering, finansiering en onderhoud van interne en eksterne ingenieursdienste en die standaard van dié dienste bepaal word; (54)
- (13) "Dorpe-ordonnansie" die Ordonnansie op Dorpe, 1934 (Ordonnansie 33 van 1934); (66)
- (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 'n persoon wat deur die eienaar gemagtig is, enige persoon aan wie die beheer van dié bates regtens toevertrou is of 'n persoon aan wie grond ingevolge 'n grondbeskikbaarheidsooreenkoms beskikbaar gestel is; (37)
- (15) "eienaarsvereniging" 'n vereniging wat ingevolge artikel 29 tot stand gekom het; (38)
- (16) "gebruiksreg", met betrekking tot grond, die reg om daardie grond aan te wend in ooreenstemming met die sonering daarvan, insluitende enige wettige afwyking of aanwending daarvan; (68)

- reconstruction, urban renewal, environmental protection or any other purpose, as set out in scheme regulations, and may add further development rules, and includes a subdivisional area as defined in regulations; (44)
- (37) "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 a person authorised by the owner, any person who in law has been entrusted with the control of such assets or a person to whom land has been made available in terms of a land availability agreement; (14) 5
- (38) "owners' association" means an association which was established in terms of section 29; (15) 10
- (39) "planning board" means a planning board established in terms of section 49; (8)
- (40) "Premier" means the Premier of the Province, acting in terms of the provisions of the Constitution; (48) 15
- (41) "prescribed" means prescribed by means of regulations or guidelines published in the *Provincial Gazette*, and "prescribe" has a corresponding meaning; (73)
- (42) "Province" means the province of Western Cape; (50)
- (43) "Provincial Minister" means the member of the Provincial Cabinet of Western Cape responsible for planning and related matters, except where another Provincial Minister or the full Provincial Cabinet, is designated by the Premier by notice in the *Provincial Gazette* for a specific function in terms of this Act; (49) 20
- (44) "public body" means a national and provincial government department and a prescribed parastatal organisation; (41) 25
- (45) "public place" means any land indicated on a plan, diagram or map as an open space or a public place, of which the ownership as such vests in a municipality in terms of section 28 of this Act or in terms of any other law; (42)
- (46) "public street" means any land indicated on a plan, diagram or map as having been set aside for street purposes, of which the ownership as such vests in a municipality in terms of section 28 of this Act or in terms of any other law; (43) 30
- (47) "publish in the press" means to publish a notice in accordance with the provisions of section 54 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; (30) 35
- (48) "register" means documents held by a municipality in connection with all departures; (53) 40
- (49) "regulation" means a regulation promulgated in terms of this Act; (54)
- (50) "responsible municipality" means a municipality to which a power or function has been assigned or delegated by or in terms of this Act, or which may exercise a power or perform a function in accordance with section 74(9), as the case may be; (69) 45
- (51) "restriction" means a servitude or condition registered against the title deed of immovable property restricting its utilisation, and any other statutory restriction on the planning, development or utilisation of immovable property; (7) 50
- (52) "rezoning" means the amendment of a zoning scheme in terms of section 14(4), 16 or 18 in order to effect a change of zoning in relation to particular land; (26)
- (53) "scheme regulations" means—
- (a) scheme regulations made by the Provincial Minister in terms of section 7(2) and section 8; 55
 - (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
 - (d) any town planning conditions approved in terms of the regulations made under the Black Communities Development Act, 1984 (Act 4 of 1984), and for the purposes of the Western Cape Delegation of Powers Law, 1994 (Law 7 of 1994), scheme regulations are deemed not to be regulations; (56) 60

- bemaking en sluit van kontrakte vir die vervreemding, verkoop of uitruil van gedeeltes van die eiendom, of
- (c) die voorbereiding daarvan vir onderverdeling, insluitende die verrigting van enige voorgeskrewe handeling; (60)
- 5 (35) "onderverdelingsplan" 'n plan wat die voorgeskrewe inligting weergee, insluitende, sonder om beperk te wees tot, die relatiewe ligging van onderverdeelde grondeenhede, openbare plekke en openbare strate op 'n grondeenheid wat onderverdeel sal word; (61)
- 10 (36) "ontwikkelingsbeplanning" 'n strategiese en deelnemende proses om ekonomiese, sektorale, ruimtelike, sosiale, infrastrukturele, institusionele, fiskale, grondhervormings-, vervoer-, omgewings- en ander strategieë te integreer met die oog op die optimale toekenning van skaars hulpbronne aan die verskillende sektore en geografiese gebiede en die ondersteuning van die hele bevolking op 'n wyse wat volhoubare groei en billikheid bevorder, met die klem op die instaatstelling van arm en gemarginaliseerde gemeenskappe; (18)
- 15 (37) "ontwikkelingsdoelwitte" doelwitte wat gestel is om ontwikkeling, insluitende die grondontwikkelingsdoelwitte bedoel in Hoofstuk IV van die Wet op Ontwikkelingsfasilitering, 1995 (Wet 67 van 1995), wat handel oor die onderwerp soos in artikel 28 van daardie Wet uiteengesit, te rig; (17)
- 20 (38) "ontwikkelingsraamwerk" 'n plan of skriftelike strategie om die doelwitte van ontwikkelingsbeplanning te bereik en kan dit óf 'n geïntegreerde ontwikkelingsraamwerk soos in artikel 5(1)(a) beoog óf 'n spesifieke ontwikkelingsraamwerk soos in artikel 5(1)(b) en (c) beoog, wees; (16)
- 25 (39) "ontwikkelingsrade" die Wes-Kaapse Provinsiale Ontwikkelingsraad en Streekontwikkelingsrade ingestel en plaaslike ontwikkelingsforums erken, soos voorgeskryf ingevolge die Wes-Kaapse Wet op die Provinsiale Ontwikkelingsraad, 1996 (Wet 5 van 1996); (15)
- 30 (40) "ontwikkelingsreël" 'n reël of beperking ingevolge 'n sonering wat die toelaatbare omvang van grondverbetering uiteensit; (19)
- (41) "openbare liggaam" 'n nasionale en provinsiale staatsdepartement en 'n voorgeskrewe parastatale organisasie; (44)
- (42) "openbare plek" enige grond wat op 'n plan, diagram of kaart aangedui word as 'n oopruimte of 'n openbare plek ten opsigte waarvan die eiendomsreg as sodanig ingevolge artikel 28 van hierdie Wet of ingevolge enige ander wet by 'n munisipaliteit berus; (45)
- 35 (43) "openbare straat" enige grond wat op 'n plan, diagram of kaart aangedui word as opsy gesit vir straatdoeleindes en waarvan die eiendomsreg as sodanig ingevolge artikel 28 van hierdie Wet of ingevolge enige ander Wet by 'n munisipaliteit berus; (46)
- 40 (44) "oorlegsonering" 'n kategorie voorskrifte van toepassing op 'n spesifieke gebied of distrik, wat nie die onderliggende sonerings van grondeenhede binne die gebied of distrik verander nie, maar die gebied of distrik vir onderverdeling, heropbou, stadsvernuwing, omgewingsbeskerming of enige ander doel soos in skemaregulasies uiteengesit, aanwys en verdere ontwikkelingsreëls kan toevoeg, en omvat dit 'n onderverdelingsgebied soos in regulasies omskryf; (36)
- 45 (45) "opmeter" 'n persoon wat as 'n professionele opmeter of 'n opmeter ingevolge die Wet op Professionele Opmeters en Tegniese Opmeters, (Wet 40 van 1984), geregistreer is, en wie se naam in die register beoog in artikel 7(4) van daardie Wet ingeskryf is; (63)
- 50 (46) "opskortende voorwaarde" 'n voorwaarde wat vereis dat 'n verdere goedkeuring verkry of ooreenkoms aangegaan moet word voordat daar uit hoofde van die goedkeuring opgetree kan word; (64)
- 55 (47) "plaaslike owerheid" 'n plaaslike raad of 'n landelike of verteenwoordigende raad of 'n metropolitaanse plaaslike raad soos omskryf in artikel 10B van die Oorgangswet op Plaaslike Regering, 1993 (Wet 209 van 1993); (33)
- (48) "Premier" die Premier van die Provinsie, wat ingevolge die bepalings van die Grondwet optree; (40)
- 60 (49) "Provinsiale Minister" die lid van die Provinsiale Kabinet van Wes-Kaap wat verantwoordelik is vir beplanning en verwante aangeleenthede, uitsluitend waar enige ander Provinsiale Minister of die volle Provinsiale Kabinet

- (54) "services agreement" means a written agreement contemplated in section 69(3), which is concluded between a developer of immovable property and a municipality, and 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 are determined; (12) 5
- (55) "site development plan" means a plan which reflects full details of the intended development, such as the relative location of existing buildings and structures and the location of engineering services on the land unit concerned and immediately abutting erven, and other prescribed information or details; (66) 10
- (56) "social compact" means an inclusive agreement reached between interested and affected parties about a project, consisting of a beneficiary community, the suppliers of services, infrastructure, finance and housing products and other relevant parties; (62) 15
- (57) "specific development framework" means a category of development frameworks which deals mainly with one of the sectors or elements or particular subjects that form part of an integrated development framework and which may be a spatial development framework or an economic, a land reform, an environmental or a transport plan; (63) 20
- (58) "State" includes the national and provincial government; (64)
- (59) "structure plan" means a plan approved in terms of section 4(6) of the Land Use Ordinance or a plan referred to in Schedule VII; (65)
- (60) "subdivide", in relation to land, means to subdivide the land, whether by means of— 25
- (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 for the alienation, sale or exchange of portions of the property, or 30
- (c) its preparation for subdivision, including the performance of any prescribed act; (34)
- (61) "subdivision plan" means a plan which reflects the prescribed information, including, without being limited to, the relative location of subdivided land units, public places and public streets on a land unit that will be subdivided; (35) 35
- (62) "substitution scheme" means a zoning map which replaces in terms of section 14(4)(a) any other zoning map or portion thereof 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; (71) 40
- (63) "surveyor" means a person registered as a professional surveyor or a surveyor in terms of the Professional Surveyors' and Technical Surveyors' Act, 1984 (Act 40 of 1984), whose name has been entered in the register contemplated in section 7(4) of that Act; (45)
- (64) "suspensive condition" means a condition requiring a further approval to be obtained or agreement to be concluded before the approval may be acted upon; (46) 45
- (65) "this Act" includes the regulations made and proclamations and guidelines issued in terms thereof; (27)
- (66) "Townships Ordinance" means the Townships Ordinance, 1934 (Ordinance 33 of 1934); (13) 50
- (67) "transport plan" means a transport plan approved or to be approved in terms of the Urban Transport Act, 1977 (Act 78 of 1977), or in terms of other provincial legislation; (72)
- (68) "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) 55

- deur die Premier by kennisgewing in die *Provinsiale Koerant* vir 'n spesifieke funksie ingevolge hierdie Wet aangewys word; (43)
- (50) "Provinsie" die provinsie Wes-Kaap; (42)
- (51) "raad" die oorgangsraad of raad van 'n munisipaliteit; (10)
- 5 (52) "raadplegende forum" 'n geakkrediteerde komitee van belanghebbende en geaffekteerde partye wat saamgestel is met die oog daarop om konsensus te bereik oor beplannings- en ontwikkelingsaangeleenthede wat hulle raak, en omvat dit, waar toepaslik, die ontwikkelingsrade; (8)
- (53) "register" dokumente wat 'n munisipaliteit in verband met alle afwykings hou; (48)
- 10 (54) "regulasie" 'n regulasie ingevolge hierdie Wet afgekondig; (49)
- (55) "riglyn" 'n nie-verpligte voorskrif; (23)
- (56) "skemaregulasies"—
- 15 (a) skemaregulasies deur die Provinsiale Minister ingevolge artikel 7(2) en artikel 8 gemaak;
- (b) enige finale staat van 'n dorpsaanlegskema wat ingevolge artikel 7(1) van die Grondgebruik-ordonnansie geag word 'n soneringskema te wees;
- 20 (c) skemaregulasies ingevolge die Grondgebruik-ordonnansie goedgekeur, of
- (d) enige dorpsbeplanningsvoorwaardes goedgekeur ingevolge die regulasies wat kragtens die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), gemaak is,
- 25 en vir die toepassing van die Wes-Kaapse Wet op die Delegering van Bevoegdthede, 1994 (Wet 7 van 1994), word skemaregulasies geag nie regulasies te wees nie; (53)
- (57) "sone" grond wat vir 'n bepaalde sonering aangewys is, ongeag of dit uit een of meer grondeenhede of 'n deel van 'n grondeenheid bestaan; (70)
- 30 (58) "soneer", met betrekking tot grond, om die grond vir 'n bepaalde sonering aan te wys; (71)
- (59) "sonering", 'n kategorie voorskrifte wat die ontwikkeling van grond reguleer en die doeleindes waarvoor grond gebruik kan word en die ontwikkelingsreëls wat ten opsigte van daardie kategorie voorskrifte geld, soos deur tersaaklike skemaregulasies bepaal, uiteensit, en omvat dit oorlegsonerings, prestasiesonerings, impaksonerings, intensiteitsonerings en ander vorms van buigsame sonerings; (72)
- 35 (60) "soneringskaart"—
- (a) 'n soneringskaart ingevolge artikel 11 opgestel;
- 40 (b) 'n kaart van 'n dorpsaanlegskema, wat uit hoofde van artikel 7(1) van die Grondgebruik-ordonnansie geag was 'n soneringskema te wees en ingevolge regulasie 8(2) van die regulasies gemaak kragtens artikel 60 van die Dorpe-ordonnansie, opgestel is en by Provinsiale Kennisgewing 460 van 1937 afgekondig is, of
- 45 (c) 'n skemakaart wat ingevolge die regulasies gemaak kragtens die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), opgestel is; (73)
- (61) "soneringskema" 'n skema vir die sonering van grond, bestaande uit skemaregulasies en 'n register, met of sonder 'n soneringskaart; (74)
- 50 (62) "sosiale ooreenkoms" 'n omvattende ooreenkoms wat tussen belanghebbende en geaffekteerde partye in verband met 'n projek aangegaan is en wat bestaan uit 'n voordeeltrekkende gemeenskap, die verskaffers van dienste, infrastruktuur, fondse en behuisingsprodukte en ander tersaaklike partye; (56)
- 55 (63) "spesifieke ontwikkelingsraamwerk" 'n kategorie ontwikkelingsraamwerke wat hoofsaaklik handel met een van die sektore of elemente of bepaalde onderwerpe wat deel uitmaak van 'n geïntegreerde ontwikkelingsraamwerk en wat 'n ruimtelike ontwikkelingsraamwerk of 'n ekonomiese, grondhervormings-, omgewings-, of vervoerplan kan wees; (57)
- 60 (64) "Staat" die nasionale en provinsiale regering; (58)
- (65) "struktuurplan" 'n plan goedgekeur ingevolge artikel 4(6) van die Grondgebruik-ordonnansie of 'n plan in Bylae VII bedoel; (59)
- (66) "terreinontwikkelingsplan" 'n plan wat volle besonderhede van die voorgenome ontwikkeling, soos die relatiewe ligging van bestaande geboue en

- (69) "utilisation", in relation to land, means the use of land for a purpose or for the improvement of land as may further be defined by regulation, and "utilise" has a corresponding meaning; (2)
- (70) "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; (57) 5
- (71) "zone", when used as a verb in relation to land, means to designate the land for a particular zoning; (58)
- (72) "zoning", when used as a noun, means a category of directions regulating the development of land and setting out the purposes for which land may be used and the development rules applicable in respect of that category of directions, as determined by relevant scheme regulations, and includes overlay zonings, performance zonings, impact zonings, intensity zonings and other forms of flexible zonings; (59) 10
- (73) "zoning map" means— 15
- (a) a zoning map drawn up in terms of section 11;
- (b) a map of a town-planning scheme which was deemed to be a zoning scheme by virtue of section 7(1) of the Land Use Ordinance, drawn up in terms of regulation 8(2) of the regulations made under section 60 of the Townships Ordinance and published under Provincial Notice 460 of 1937, or 20
- (c) a scheme map drawn up in terms of the regulations made under the Black Communities Development Act, 1984 (Act 4 of 1984), and (60)
- (74) "zoning scheme" means a scheme for the zoning of land, consisting of scheme regulations and a register, with or without a zoning map. (61) 25

CHAPTER I

DEVELOPMENT FRAMEWORKS

Joint committees and technical advisory committees

3. (1) The Provincial Minister may, at the request of a municipality and after consultation with the municipalities concerned— 30
- (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 Provincial Minister, a permanent or ad hoc joint committee, the members of which shall be appointed by the councils concerned from the rank of councillors on the basis and conditions determined by the Provincial Minister, in conjunction with the Provincial Minister for local government; 35
- (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 40
- (d) abolish a joint committee on the basis and conditions as determined by the Provincial Minister.
- (2) The Provincial Minister, in conjunction with the Provincial Minister for local government, may, if considered necessary in the public interest, direct a municipality to become a member of a joint committee in terms of subsection (1)(a) and to make financial contributions in terms of subsection (1)(b) for the defrayal of the expenditure contemplated in that subsection. 45
- (3) A municipality or joint committee may appoint technical advisory committees consisting of persons who are employed by municipalities or government and provincial departments or who are representatives of development boards or any other body on the basis and conditions determined by that authority or joint committee, to advise a joint committee or council on any matter relating to planning and development. 50

- strukture en die plasing van ingenieursdienste op die betrokke grondeenhede en onmiddellik aanliggende erwe, en ander voorgeskrewe inligting of besonderhede weergee; (55)
- 5 (67) "transportbesorger" 'n transportbesorger soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937); (9)
- (68) "uitoefen" om ingevolge 'n gebruiksreg aan te wend, welke aanwending enige voorgeskrewe aktiwiteit kan insluit; (22)
- 10 (69) "verantwoordelike munisipaliteit" 'n munisipaliteit waaraan 'n bevoegdheid of funksie ingevolge hierdie Wet opgedra of gedelegeer is, of wat 'n bevoegdheid mag uitoefen of funksie mag verrig in ooreenstemming met artikel 74(9), na gelang van die geval; (50)
- (70) "vergunningsgebruik" 'n bykomende gebruiksreg of 'n variasie op 'n ontwikkelingsreël wat ingevolge skemaregulasies met die toestemming van die raad in 'n sekere sone toegelaat word; (6)
- 15 (71) "vervangingskema" 'n soneringskaart wat enige ander soneringskaart of 'n gedeelte daarvan ingevolge artikel 14(4)(a) vervang, of waar sonerings nie op 'n kaart aangedui is nie, 'n soneringskaart wat die grondgebruikregte wat ingevolge artikel 14 toegeken is, vervang; (62)
- 20 (72) "vervoerplan" 'n vervoerplan wat goedgekeur is of goedgekeur gaan word ingevolge die Wet op Stedelike Vervoer, 1977 (Wet 78 van 1977) of ingevolge ander provinsiale wetgewing; (67)
- (73) "voorgeskryf" voorgeskryf by wyse van regulasies of riglyne in die *Provinsiale Koerant* gepubliseer, en het "voorskryf" en "voorgeskrewe" 'n ooreenstemmende betekenis, en (41)
- 25 (74) "voorlopige eiendomsreg" die titelvorm soos beoog en omskryf in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995 (Wet 67 van 1995). (25)

HOOFTUK I

ONTWIKKELINGSRAAMWERKE

Gesamentlike komitees en tegniese advieskomitees

- 30 3. (1) Die Provinsiale Minister kan op versoek van 'n munisipaliteit en ná oorleg met die betrokke munisipaliteite—
- (a) ten opsigte van grond geleë in die regsgebied van 'n metropolitaanse raad of distrikraad of twee of meer plaaslike owerhede en distriksrade of 'n metropolitaanse raad en een of meer distriksrade, of 'n deel daarvan wat die
- 35 Provinsiale Minister bepaal, 'n staande of *ad hoc* gesamentlike komitee instel waarvan die lede deur die betrokke rade uit die geledere van raadslede aangestel word op die grondslag en voorwaardes wat die Provinsiale Minister in samewerking met die Provinsiale Minister vir plaaslike bestuur bepaal;
- (b) bepaal hoe die uitgawes ten opsigte van die bevoegdhede en pligte van 'n
- 40 gesamentlike komitee bestry moet word;
- (c) met of sonder enige beperking die bevoegdhede wat daardie owerhede kan uitoefen, insluitende 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
- 45 (d) 'n gesamentlike komitee afskaf op die grondslag en voorwaardes wat die Provinsiale Minister bepaal.
- (2) Die Provinsiale Minister, in samewerking met die Provinsiale Minister vir plaaslike bestuur, kan, indien dit in die openbare belang nodig geag word, 'n munisipaliteit gelas om ingevolge subartikel (1)(a) lid van 'n gesamentlike komitee te
- 50 word en om ingevolge subartikel (1)(b) geldelike bydraes vir die bestryding van die uitgawes in dié subartikel beoog, te betaal.
- (3) 'n Munisipaliteit of gesamentlike komitee kan, op die grondslag en voorwaardes wat daardie owerheid of gesamentlike komitee bepaal, tegniese advieskomitees, bestaande uit persone wat in die diens van munisipaliteite of staats- en provinsiale
- 55 departemente is of verteenwoordigers van ontwikkelingsrade of enige ander liggaam is, aanstel om 'n gesamentlike komitee of raad oor enige aangeleentheid in verband met beplanning en ontwikkeling te adviseer.

Preparation of development frameworks

4. (1) A local authority may, or shall if so prescribed, after consultation with the development councils concerned—

- (a) prepare for the prescribed tier of framework and submit to the Provincial Minister for approval a development framework in respect of the land situated in its area of jurisdiction or any part thereof, and 5
- (b) prepare, in conjunction with one or more local authorities, for the prescribed tier of framework and submit to the Provincial Minister for approval a development framework, in respect of the land situated in their respective areas of jurisdiction or any part thereof. 10

(2) A metropolitan council or district council or joint committee may, or shall if so prescribed, prepare for the prescribed tier of framework and, after consultation with the local authorities and development councils concerned, submit to the Provincial Minister for approval a development framework, in respect of the land within its area of jurisdiction or the land for which it has been established. 15

(3) The department head may, or shall if so prescribed, after consultation with the municipalities and development councils concerned prepare for the prescribed tier of framework and submit to the Provincial Minister for approval a development framework, in respect of the Province or part thereof.

(4) The preparation of a development framework referred to in subsection (1), (2) or (3) shall be subject to the guidelines or regulations prescribed by the Provincial Minister as to the manner in which the development framework concerned is to be prepared, including guidelines or regulations as to the manner in which and the stages at which the development framework is to be made known and as to the participation and the right to inspection and the making of representations of all interested parties, including the development councils concerned, in the preparation of the development framework. 25

(5) A development framework shall, at the prescribed stages, 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 municipality, joint committee or development councils before the date on which it is submitted to the Provincial Minister in terms of subsection (1), (2) or (3). 30

(6) The Provincial Minister shall, after consultation with other Provincial Ministers concerned and after considering objections lodged or representations made, approve or approve in an amended form or reject the prescribed elements of a development framework submitted in terms of subsection (1), (2) or (3) and notify the municipalities concerned or the joint committee of his or her decision, but may reject or approve in an amended form a development framework dealing with municipal planning only if, in the opinion of the Provincial Minister— 35

- (a) the prescribed procedures and other requirements have not been complied with; 40
- (b) the development framework is inconsistent or cannot be reconciled with national or provincial policies, guidelines, norms and standards, and other approved development frameworks or other planning in the process of being done; 45
- (c) the development framework fails to deal adequately with the prescribed subject matter of development frameworks, or
- (d) substantial objections offered against the development framework by other municipalities, public bodies or interested and affected parties have not been addressed.

(7) Should the provisions of a development framework approved in terms of subsection (6) be in conflict with the provisions of an earlier development framework or structure plan, the provisions of the later development framework shall prevail. 50

(8) A development framework so approved may at any time, in the prescribed manner and on condition that all interested parties have been afforded an opportunity to participate, lodge objections or make representations, be amended or withdrawn by the municipality or the joint committee or the department head with the approval of the Provincial Minister, but the Provincial Minister shall not withhold approval except for one of the reasons mentioned in subsection (6). 55

(9) (a) A development framework or structure plan shall be reviewed by the municipality, joint committee or department head concerned—

- (i) before 31 December 2001, if the development framework or structure plan existed on the date of commencement of this Act, and 60
- (ii) thereafter, within the prescribed period but at least once every 5 years,

Opstel van ontwikkelingsraamwerke

4. (1) 'n Plaaslike owerheid kan, of moet indien dit voorgeskryf is, ná oorleg met die betrokke ontwikkelingsrade—
- 5 (a) 'n ontwikkelingsraamwerk ten opsigte van die grond wat in sy regsgebied of enige deel daarvan geleë is, opstel vir die voorgeskrewe vlak van raamwerk en dit aan die Provinsiale Minister voorlê vir goedkeuring, en
- (b) 'n ontwikkelingsraamwerk, in samewerking met een of meer plaaslike owerhede ten opsigte van die grond wat in hul onderskeie regsgebiede of enige deel daarvan geleë is, opstel vir die voorgeskrewe vlak van raamwerk en dit aan die Provinsiale Minister voorlê vir goedkeuring.
- 10 (2) 'n Metropolitaanse raad of distrikraad of gesamentlike komitee kan, of moet indien dit voorgeskryf is, 'n ontwikkelingsraamwerk, ten opsigte van die grond wat geleë is binne sy regsgebied of die grond waarvoor hy gestig is, opstel vir die voorgeskrewe vlak van raamwerk en dit ná oorleg met die betrokke plaaslike owerhede en ontwikkelingsrade aan die Provinsiale Minister voorlê vir goedkeuring.
- 15 (3) Die departementshoof kan, of moet indien dit voorgeskryf is, ná oorleg met die betrokke munisipaliteite en ontwikkelingsrade 'n ontwikkelingsraamwerk ten opsigte van die Provinsie of 'n deel daarvan opstel vir die voorgeskrewe vlak van raamwerk en dit aan die Provinsiale Minister voorlê vir goedkeuring.
- 20 (4) Die opstel van 'n ontwikkelingsraamwerk in subartikel (1), (2) of (3) bedoel, is onderworpe aan die riglyne of regulasies wat die Provinsiale Minister voorskryf aangaande die wyse van opstel van die betrokke ontwikkelingsraamwerk, insluitende riglyne of regulasies aangaande die wyse en stadiums van bekendmaking van die ontwikkelingsraamwerk en aangaande alle belanghebbende partye, insluitende die
- 25 betrokke ontwikkelingsrade, se deelname aan en reg op insae en die rig van vertoë by die opstel van die ontwikkelingsraamwerk.
- (5) 'n Ontwikkelingsraamwerk moet op die voorgeskrewe stadiums, voor die datum waarop dit ingevolge subartikel (1), (2) of (3) aan die Provinsiale Minister voorgelê word, vir alle belanghebbende partye, insluitende die betrokke ontwikkelingsrade, vir
- 30 insae en die indien van besware of die rig van vertoë by die kantoor van die munisipaliteit, gesamentlike komitee of ontwikkelingsrade beskikbaar wees.
- (6) Die Provinsiale Minister moet die voorgeskrewe elemente van 'n ontwikkelingsraamwerk wat ingevolge subartikel (1), (2) of (3) voorgelê is, ná oorleg met ander Provinsiale Ministers wat betrokke is en na oorweging van besware wat ingedien is of
- 35 vertoë wat gerig is, goedkeur of in 'n gewysigde vorm goedkeur of afkeur en die betrokke munisipaliteite of die gesamentlike komitee van sy of haar besluit in kennis stel, maar mag 'n ontwikkelingsraamwerk wat oor munisipale beplanning handel, slegs afkeur of in 'n gewysigde vorm goedkeur indien, na die mening van die Provinsiale Minister—
- 40 (a) die voorgeskrewe prosedures en ander vereistes nie nagekom is nie;
- (b) die ontwikkelingsraamwerk nie met nasionale of provinsiale beleid, riglyne, norms en standaarde, en met ander goedgekeurde ontwikkelingsraamwerke of ander beplanning wat gedoen word, bestaanbaar of versoenbaar is nie;
- (c) die ontwikkelingsraamwerk nie die voorgeskrewe onderwerp van ontwikkelingsraamwerke op voldoende wyse behandel nie, of
- 45 (d) wesenlike besware wat ander munisipaliteite, openbare liggame of belanghebbende en geaffekteerde partye teen die ontwikkelingsraamwerk ingebring het, nie aangespreek is nie.
- (7) Indien die bepaling van 'n ontwikkelingsraamwerk wat ingevolge subartikel (6)
- 50 goedgekeur is, strydig is met die bepaling van 'n vroeëre ontwikkelingsraamwerk of struktuurplan, geld die bepaling van die latere ontwikkelingsraamwerk.
- (8) 'n Ontwikkelingsraamwerk aldus goedgekeur kan te eniger tyd op die voorgeskrewe wyse en mits alle belanghebbende partye 'n geleentheid gegee is om deel te neem, besware in te dien of vertoë te rig, met die goedkeuring van die Provinsiale
- 55 Minister deur die munisipaliteit of die gesamentlike komitee of die departementshoof gewysig of ingetrek word, maar die Provinsiale Minister mag nie goedkeuring weerhou nie uitgesonderd om een van die redes in subartikel (6) gemeld.
- (9) (a) 'n Ontwikkelingsraamwerk of struktuurplan moet deur die betrokke munisipaliteit, gesamentlike komitee of departementshoof hersien word—
- 60 (i) voor 31 Desember 2001, indien die ontwikkelingsraamwerk of struktuurplan op die datum van inwerkingtreding van hierdie Wet bestaan het, en
- (ii) daarna, binne die voorgeskrewe tydperk maar minstens al om die 5 jaar.

in the prescribed manner and on condition that all interested parties have been afforded an opportunity to participate, lodge objections or make representations and shall, as so reviewed, be submitted to the Provincial Minister for approval.

(b) A development framework or structure plan shall lapse if not reviewed in terms of paragraph (a)— 5

(i) on 31 December 2001; or

(ii) at the expiry of the prescribed period or the period of 5 years, whichever is the shorter period.

(10) (a) (i) Where a council deems it advisable by virtue of the provisions of section 5(1), its chief executive officer may, subject to the provisions of paragraph (c) of this subsection, prepare for the prescribed tier of framework and submit to the council for approval a specific development framework in respect of a portion of the land situated in the area of jurisdiction of the municipality. 10

(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 is to be prepared, including conditions as to the right to participation, inspection and the making of representations of all interested parties, which includes the development councils concerned, in the preparation of the specific development framework. 15 20

(iii) Where a council approves a specific development framework, the chief executive officer shall submit the specific development framework to the department head for information purposes within 60 days.

(b) The applicable provisions of subsections (5), (6), (7), (8) and (9) shall apply *mutatis mutandis* to a specific development framework as if a reference in those subsections to the Provincial Minister were a reference to the council concerned. 25

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

(11) When preparing, amending, withdrawing or reviewing a development framework, regard shall be had to the natural and developed environment and ecologically sustainable development in general, and all prescribed steps taken in this connection shall be specified and all prescribed studies shall be carried out. 30

(12) The provisions of subsections (1) to (9) with regard to integrated development frameworks supplement the provisions of section 10D(4)(b), item 3 of Schedule 2 and item 2 of Schedule 2A of the Local Government Transition Act, 1993 (Act 209 of 1993), with regard to the formulation of integrated development plans. 35

(13) (a) The urban and regional structure plans in terms of the Physical Planning Act, 1991 (Act 125 of 1991), listed in Schedule VII, shall with effect from the commencement of this Act be deemed to be structure plans in terms of this Act. 40

(b) Subject to the provisions of subsection (7), section 27 of the Physical Planning Act, 1991, shall continue to apply to structure plans mentioned in paragraph (a), until the Provincial Minister makes regulations in terms of section 5(6) or prescribes specific measures in terms of section 5(4) relating to consistency measures.

General purpose of and special provisions regarding development frameworks 45

5. (1) (a) The general purpose of an integrated development framework shall be to lay down strategies, proposals and guidelines including development objectives and implementation plans by means of development planning so that the general principles contained in Schedule IV of this Act are promoted.

(b) The general purpose of a specific development framework shall be to lay down detailed strategies, proposals and guidelines for the specific sector, element or subject for which it is prepared. 50

(c) The general purpose of a spatial development framework shall be to indicate the spatial implications of an integrated development framework and lay down strategies, proposals and guidelines for the future spatial development of the area to which it relates (including, without being limited to, development objectives, proposals for land reform, urban renewal, reconstruction, integration, environmental planning, transport planning, infrastructural planning and urban design) so that the general principles in Schedule IV and the general wellbeing of the particular community and order in the area are promoted in the most effective manner. 55 60

- op die voorgeskrewe wyse en mits alle belanghebbende partye 'n geleentheid gegee is om deel te neem, besware in te dien of verhoë te rig, en moet, soos aldus hersien, aan die Provinsiale Minister voorgelê word vir goedkeuring.
- (b) 'n Ontwikkelingsraamwerk of struktuurplan verval indien dit nie ingevolge 5 paragraaf (a) hersien is nie—
- (i) op 31 Desember 2001, of
- (ii) by verstryking van die voorgeskrewe tydperk of die tydperk van 5 jaar, wat ook al die kortste tydperk is.
- (10) (a) (i) Waar 'n raad uit hoofde van die bepalings van artikel 5(1) dit gerade ag, 10 kan sy hoof uitvoerende beampte behoudens die bepalings van paragraaf (c) van hierdie subartikel 'n spesifieke ontwikkelingsraamwerk ten opsigte van 'n deel van die grond wat in die regsgebied van die munisipaliteit geleë is, opstel vir die voorgeskrewe vlak van raamwerk en dit aan die raad voorlê vir goedkeuring.
- (ii) Die goedkeuring in subparagraaf (i) bedoel, is onderworpe aan die voorwaardes 15 wat die raad bepaal aangaande die wyse van opstel van die spesifieke ontwikkelingsraamwerk, insluitende voorwaardes aangaande die reg op deelname, insae en die rig van verhoë van alle belanghebbende partye, wat die betrokke ontwikkelingsrade insluit, by die opstel van die spesifieke ontwikkelingsraamwerk.
- (iii) Waar 'n raad 'n spesifieke ontwikkelingsraamwerk goedkeur, moet die hoof 20 uitvoerende beampte die spesifieke ontwikkelingsraamwerk binne 60 dae aan die departementshoof ter inligting voorlê.
- (b) Die toepaslike bepalings van subartikels (5), (6), (7), (8) en (9) is *mutatis mutandis* op 'n spesifieke ontwikkelingsraamwerk van toepassing asof 'n verwysing in daardie artikels na die Provinsiale Minister 'n verwysing na die betrokke raad is.
- (c) Geen so 'n spesifieke ontwikkelingsraamwerk mag onbestaanbaar wees met 'n 25 ontwikkelingsraamwerk in subartikel (1), (2) of (3) beoog of 'n magtiging beoog in artikel 5(2) bevat nie.
- (11) Wanneer 'n ontwikkelingsraamwerk opgestel, gewysig, ingetrek of hersien word, moet die natuurlike en ontwikkelde omgewing en ekologies-volhoubare 30 ontwikkeling in die algemeen in ag geneem word, en alle voorgeskrewe stappe wat in hierdie verband gedoen is, moet vermeld word en alle voorgeskrewe studies moet gemaak word.
- (12) Die bepalings van subartikels (1) tot (9) met betrekking tot geïntegreerde ontwikkelingsraamwerke is aanvullend by die bepalings van artikel 10D(4)(b), item 3 35 van Bylae 2 en item 2 van Bylae 2A van die Oorgangswet op Plaaslike Regering, 1993 (Wet 209 van 1993), met betrekking tot die formulering van geïntegreerde ontwikkelingsplanne.
- (13) (a) Die stedelike en streekstruktuurplanne ingevolge die Wet op Fisiese Beplanning, 1991 (Wet 125 van 1991), gelys in Bylae VII, word vanaf die inwer- 40 kingtreding van hierdie Wet geag struktuurplanne te wees ingevolge hierdie Wet.
- (b) Onderworpe aan die bepalings van subartikel (7), bly artikel 27 van die Wet op Fisiese Beplanning, 1991, van toepassing op struktuurplanne in paragraaf (a) vermeld, totdat die Provinsiale Minister regulasies ingevolge artikel 5(6) maak of spesifieke 45 maatreëls ingevolge artikel 5(4) voorskryf met betrekking tot bestaanbaarheidsmaatreëls.

Algemene doel van en spesiale bepalings aangaande ontwikkelingsraamwerke

5. (1) (a) Die algemene doel van 'n geïntegreerde ontwikkelingsraamwerk is om strategieë, voorstelle en riglyne, insluitende ontwikkelingsdoelwitte en implementeringsplanne, deur middel van ontwikkelingsbeplanning voor te skryf sodat die 50 algemene beginsels vervat in Bylae IV van hierdie Wet bevorder word.
- (b) Die algemene doel van 'n spesifieke ontwikkelingsraamwerk is om gedetailleerde strategieë, voorstelle en riglyne voor te skryf vir die spesifieke sektor, element of onderwerp waarvoor dit opgestel word.
- (c) Die algemene doel van 'n ruimtelike ontwikkelingsraamwerk is om die 55 ruimtelike implikasies van 'n geïntegreerde ontwikkelingsraamwerk aan te dui en om strategieë, voorstelle en riglyne voor te skryf vir die toekomstige ruimtelike ontwikkeling van die gebied waarop dit betrekking het (insluitende, sonder om beperk te wees tot, ontwikkelingsdoelwitte, voorstelle vir grondhervorming, stadshernuwing, heropbou, integrasie, omgewingsbeplanning, vervoerbeplanning, infrastruktuurbeplanning 60 en stadsontwerp), sodat die algemene beginsels in Bylae IV en die algemene welsyn

(2) The Provincial Minister may authorise decision-making about rezoning by a council of a responsible municipality in accordance with the development guidelines included in a development framework which has been approved in terms of section 4(6), or a structure plan.

(3) A development framework 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. 5

(4) When approving a development framework, the Provincial Minister may, after consultation with other Provincial Ministers concerned and on the recommendation of the relevant municipality, prescribe specific measures only applicable to that development framework- 10

- (a) which require approvals prescribed in terms of this Act or any other prescribed law to be consistent with a development framework;
- (b) which require further approvals by a particular authority for a specified type of development; 15
- (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 is to be implemented.

(5) The measures as prescribed in terms of subsection (4) or (6) shall bind the State, unless the Provincial Minister exempts the State from them in a particular case or category of cases, subject to the conditions imposed by the Provincial Minister in his or her discretion. 20

(6) The Provincial Minister may make regulations and issue guidelines with a view to attaining any objective of this Chapter, including regulations and guidelines relating to- 25

- (a) the contents and manner of preparation of development frameworks, including development objectives and what the process of compilation involves;
- (b) the manner in which and stages at which interested and affected parties may participate in the process; 30
- (c) the implementation, review and amendment of development frameworks and structure plans;
- (d) various types and tiers of development frameworks and the contents of those frameworks, the authority responsible for compiling each tier and the designation of the relevant Provincial Minister responsible for each type of development framework; 35
- (e) the funding of development frameworks;
- (f) the obligation of municipalities to draft development frameworks within prescribed periods;
- (g) the imposition of measures by the Provincial Minister requiring an application or proposed development framework to be consistent with another development framework; 40
- (h) measures whereby a specified type of development requires further approvals by a particular authority;
- (i) measures determining the authority that is to grant the necessary approvals or determine the consistency of the approvals, and 45
- (j) the requirement that measures should bind the State.

Continuation of development frameworks and structure plans

6. Where land situated in the area of jurisdiction of one municipality is incorporated into the area of jurisdiction of another municipality 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 withdrawn or until the Provincial Minister, after consultation with the municipality in whose area of jurisdiction the land is situated, makes other arrangements in respect thereof by notice in the *Provincial Gazette*. 55

CHAPTER II

ZONING SCHEMES

Existing town-planning schemes and town planning schemes

7. (1) (a) Any town-planning scheme listed in Schedule V and deemed to be a zoning

van die betrokke gemeenskap en orde in die gebied op die doeltreffendste wyse bevorder word.

(2) Die Provinsiale Minister kan besluitneming oor hersonering in ooreenstemming met die ontwikkelingsriglyne vervat in 'n ontwikkelingsraamwerk wat ingevolge artikel 4(6) goedgekeur is, of 'n struktuurplan, deur 'n raad magtig.

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

(4) Wanneer die Provinsiale Minister 'n ontwikkelingsraamwerk goedkeur, kan hy of sy, ná oorleg met ander Provinsiale Ministers wat betrokke is en op aanbeveling van die tersaaklike munisipaliteit, spesifieke maatreëls, wat slegs op daardie ontwikkelingsraamwerk van toepassing is, voorskryf—

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

(5) Die maatreëls soos voorgeskryf ingevolge subartikel (4) of (6) bind die Staat, tensy die Provinsiale Minister die Staat daarvan vrystel in 'n bepaalde geval of kategorie gevalle, onderworpe aan die voorwaardes wat die Provinsiale Minister na goeddunke oplê.

(6) Die Provinsiale Minister kan regulasies maak en riglyne uitreik ter bereiking van enige oogmerk van hierdie Hoofstuk, insluitende regulasies en riglyne betreffende—

- (a) die inhoud en wyse van opstel van ontwikkelingsraamwerke, insluitende ontwikkelingsdielwitte en wát die proses van opstel behels;
- (b) die wyse en stadiums waarop belanghebbende en geaffekteerde partye aan die proses kan deelneem;
- (c) die implementering, hersiening en wysiging van ontwikkelingsraamwerke en struktuurplanne;
- (d) verskillende tipes en vlakke van ontwikkelingsraamwerke en die inhoud van daardie raamwerke, die owerheid wat vir die opstel van elke vlak verantwoordelik is en die aanwysing van die relevante Provinsiale Minister wat vir elke tipe ontwikkelingsraamwerk verantwoordelik is;
- (e) die befondsing van ontwikkelingsraamwerke;
- (f) die verpligting van munisipaliteite om ontwikkelingsraamwerke binne voorgeskrewe tydperke op te stel;
- (g) maatreëls wat die Provinsiale Minister kan instel, waarvolgens 'n aansoek of voorgestelde ontwikkelingsraamwerk bestaanbaar moet wees met 'n ander ontwikkelingsraamwerk;
- (h) maatreëls waarvolgens 'n omskrewe tipe ontwikkeling verdere goedkeurings van 'n bepaalde owerheid vereis;
- (i) maatreëls wat bepaal watter owerheid die nodige goedkeurings moet verleen of die bestaanbaarheid van die goedkeurings bepaal, en
- (j) die vereiste dat maatreëls die Staat moet bind.

Voortsetting van ontwikkelingsraamwerke en struktuurplanne

6. Waar grond geleë in die regsgebied van een munisipaliteit in die regsgebied van 'n ander munisipaliteit 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 ingetrek word of totdat die Provinsiale Minister ná oorleg met die munisipaliteit in wie se regsgebied die grond geleë is, ander reëlins daaromtrent tref by kennisgewing in die *Provinsiale Koerant*.

HOOFTUK II

55

SONERINGSKEMAS

Bestaande dorpsaanlegskemas en dorpsbeplanningskemas

7. (1) (a) Enige dorpsaanlegskema gelys in Bylae V, wat ingevolge artikel 7(1) van

scheme in terms of section 7(1) of the Land Use Ordinance shall, with effect from the commencement of this Act, be deemed to be a zoning scheme in force in terms of this Act.

(b) Any town planning scheme listed in Schedule VI and 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 Act, be deemed to be a zoning scheme in force in terms of this Act. 5

(c) Any provision in any zoning scheme which is not consistent with the provisions of this Act, including—

- (i) penalty provisions; 10
- (ii) advertising, and
- (iii) the right of appeal in respect of consent uses or other types of applications, shall be deemed to have been repealed with effect from the date of commencement of this Act.

(d) Any provision in any zoning scheme which is not consistent with the provisions of this Act regarding any other prescribed aspect shall be repealed with effect from the prescribed date. 15

(2) The Provincial Minister may make scheme regulations, as contemplated in section 9, supplementary to existing scheme regulations in order to give effect to section 9(1) with regard to aspects that he or she deems to be of regional or provincial interest. 20

(3) Any reference in any law to—

- (a) a town-planning scheme approved under Chapter 4 of the Townships Ordinance, or
 - (b) a town planning scheme approved in terms of the regulations made under the Black Communities Development Act, 1984 (Act 4 of 1984), 25
- shall be deemed to be a reference to a zoning scheme.

Scheme regulations made by Provincial Minister and interim development control

8. (1) The scheme regulations in respect of all land in the former Province of the Cape of Good Hope to which the provisions of section 7 of the Land Use Ordinance were not applicable, which the Administrator made in terms of section 8 of the said Ordinance, as amended, shall remain in force in the Province. 30

(2) Scheme regulations referred to in subsection (1) shall not apply to land situated—

- (a) within a former development area approved in terms of section 33 of the Black Communities Development Act, 1984 (Act 4 of 1984), or
- (b) in an incorporated or existing area, as defined in the Rural Areas (House of Representatives) Act, 1987 (Act 9 of 1987); 35

provided that any approval granted before the date of commencement of this Act on the assumption that the scheme regulations did in fact apply to those areas shall be deemed to be lawful.

(3) The Provincial Minister may, after consultation with the municipality concerned, 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. 40

(4) No person shall develop land to which subsection (3) applies and for which no scheme regulations have been promulgated without the prior authority of the Provincial Minister or the council of a responsible municipality, unless exemption from this provision has been granted. 45

(5) The Provincial Minister or a 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 this Act first be made before the change of use or the development contemplated. 50

Purpose and contents of zoning schemes and scheme regulations and zoning of State land

9. (1) The general purpose of a zoning scheme and scheme regulations is to promote and implement the principles contained in Schedule IV and in a development framework

die Grondgebruikordonnansie 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 die bepalings van hierdie Wet, insluitende—

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

- (d) Enige bepaling in enige soneringskema wat onbestaanbaar is met die bepalings van hierdie Wet aangaande enige ander voorgeskrewe aspek word met ingang van die voorgeskrewe datum herroep.

- (2) Die Provinsiale Minister kan skemaregulasies, soos beoog in artikel 9, met betrekking tot aspekte wat hy of sy ag van streeks- of provinsiale belang te wees, ter aanvulling van bestaande skemaregulasies maak ten einde gevolg te gee aan artikel 9(1).

(3) 'n Verwysing in enige wet na—

- (a) 'n dorpsaanlegskema, goedgekeur ingevolge Hoofstuk 4 van die Dorpe-ordonnansie, of
(b) 'n dorpsbeplanningskema, goedgekeur ingevolge die regulasies kragtens die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), word geag 'n verwysing na 'n soneringskema te wees.

Skemaregulasies deur Provinsiale Minister gemaak en tussentydse ontwikkelings-beheer

8. (1) Die skemaregulasies ten opsigte van alle grond in die voormalige Provinsie die Kaap die Goeie Hoop waarop die bepalings van artikel 7 van die Grondgebruik-ordonnansie nie van toepassing was nie, wat die Administrateur ingevolge artikel 8 van die gemelde Ordonnansie, soos gewysig, gemaak het, bly van krag binne die Provinsie.

(2) Skemaregulasies bedoel in subartikel (1) is nie van toepassing nie op grond geleë—

- (a) binne 'n voormalige ontwikkelingsgebied, goedgekeur ingevolge artikel 33 van die Wet op die Ontwikkeling van Swart Gemeenskappe, 1984 (Wet 4 van 1984), en

- (b) binne 'n ingelyfde of bestaande gebied, soos omskryf in die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet 9 van 1984); met dien verstande dat enige goedkeuring voor die datum van inwerkingtreding van hierdie Wet verleen in die veronderstelling dat die skemaregulasies wel van toepassing was binne daardie gebiede, geag word wettig te wees.

- (3) Die Provinsiale Minister kan ná oorleg met die betrokke munisipaliteit skemaregulasies maak ten opsigte van grond waarop subartikel (2)(a) en (b) van toepassing is en waarop dorpsbeplanningskemas, soos vermeld in artikel 7(1)(b), nie van toepassing is nie.

- (4) Niemand mag grond waarop subartikel (3) van toepassing is en waarvoor geen skemaregulasies afgekondig is nie, sonder die voorafverkreë magtiging van die Provinsiale Minister of die raad van 'n verantwoordelike munisipaliteit ontwikkel nie, tensy vrystelling van hierdie bepaling verleen is.

- (5) Die Provinsiale Minister of 'n raad, na gelang van die geval, kan magtiging verleen vir enige verandering van gebruik of vir enige ontwikkeling van grond ingevolge subartikel (4), of kan vereis dat aansoek eers ingevolge hierdie Wet gedoen moet word voor die beoogde verandering van gebruik of ontwikkeling.

Doel en inhoud van soneringskemas en skemaregulasies en sonering van Staatsgrond

9. (1) Die algemene doel van 'n soneringskema en skemaregulasies is om die beginsels vervat in Bylae IV en in 'n ontwikkelingsraamwerk wat op die gebied van die

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 Provincial Minister exempts the State from complying with this provision in a particular case or category of cases.

(b) Notwithstanding any law to the contrary, unless exempted in terms of paragraph (a), all land belonging to the State or to a body of which the State is or was the only or majority shareholder-

(i) which on the date of commencement of this Act has not been zoned in terms of provincial legislation, or

(ii) which has been indicated on a zoning scheme for State purposes or for a zoning or reservation without development rules or for a zoning for which the land is not being utilised,

shall be deemed to be zoned by agreement between the council and the public body only after its utilisation on the date of commencement of this Act has been taken into account and after any further or additional proposed use rights have been advertised and all comments received have been taken into account when finalising the agreement.

(c) If an agreement cannot be reached, either party may refer the matter to the Provincial Minister for determination and the determination shall be deemed to be an agreement contemplated in paragraph (b) and shall be final and binding on the parties.

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

(a) different methods of zoning or managing land uses, including the indication of zones according to land uses or according to intensity of utilisation, the use of overlay zones, performance zones or any other method of managing development, and procedures for obtaining certain rights not inconsistent with the intent of this Act;

(b) primary and consent uses in certain zones and procedures for obtaining certain rights not inconsistent with the intent of this Act;

(c) the imposition of development rules in respect of certain land uses, districts or zones, which may also include development rules applicable to a specific type of natural and developed environment;

(d) the consolidation of land units;

(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, as prescribed;

(g) control over aesthetic aspects, including building design, advertising signs and boundary walls, and design guidelines;

(h) control over earthworks preceding development, such as the filling up, draining or levelling of areas, the removal of vegetation and the demolition of buildings;

(i) protective measures in respect of areas of the natural environment such as flood plains, dunes, steep slopes and the environment in general;

(j) protective measures in respect of the urban edge, agricultural land, and urban and rural areas of cultural significance, including, without being limited to, architectural, historical, social or scientific significance;

(k) the encouragement of economic activity, especially in the informal sector, and mixed land uses;

(l) the promotion of urban renewal or reconstruction, integration and upgrading by means of overlay zones or any other method;

(m) measures to promote accessibility for persons with disabilities;

(n) the authorisation of a council to grant applications for departures, consent uses, the removal of restrictions, subdivision and the consolidation of land units, and any other method of development management, and

(o) further prescribed aspects.

soneringskema van toepassing is, te bevorder en te implementeer 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 Provinsiale Minister in 'n bepaalde geval of kategorie gevalle die Staat vrystel van 5 voldoening aan hierdie bepaling.

(b) Ondanks enige andersluidende wet, tensy ingevolge paragraaf (a) vrygestel, word alle grond wat behoort aan die Staat of 'n liggaam waarvan die Staat die enigste of grootste aandeelhouer is of was en—

10 (i) wat op die datum van inwerkingtreding van hierdie Wet nie ingevolge provinsiale wetgewing gesoneer was nie, of -

(ii) wat op 'n soneringskema aangedui was vir Staatsdoeleindes of vir 'n sonering of reservering sonder ontwikkelingsreëls of vir 'n sonering waarvoor die grond nie aangewend word nie,

15 geag gesoneer te wees volgens ooreenkoms tussen die raad en die openbare liggaam, maar eers nadat die aanwending daarvan op die datum van inwerkingtreding van hierdie Wet in ag geneem is en nadat enige verdere of bykomende voorgestelde gebruiksregte geadverteer is en alle kommentaar wat ontvang is, in ag geneem is by die bekragtiging van die ooreenkoms.

20 (c) Indien 'n ooreenkoms nie bereik kan word nie, kan enige van die partye die aangeleentheid na die Provinsiale Minister verwys vir 'n bepaling, en die bepaling word geag 'n ooreenkoms in paragraaf (b) beoog, te wees en is afdoende en bindend vir die partye.

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

25 (a) verskillende metodes waarvolgens grondgebruike gesoneer of bestuur word, insluitende die aanduiding van sones volgens grondgebruike of volgens intensiteit van aanwending, die gebruik van oorlegsonering, impaksonering of enige ander metode waarvolgens ontwikkeling bestuur word, en procedures om sekere regte, wat nie met die bedoeling van hierdie Wet onbestaanbaar is nie, te verkry;

30 (b) primêre en vergunningsgebruike in sekere sones en prosedures vir die verkryging van sekere regte, wat nie met die bedoeling van hierdie Wet onbestaanbaar is nie;

35 (c) die voorskryf van ontwikkelingsreëls vir sekere grondgebruike, distrikte of sones, wat ook ontwikkelingsreëls wat op 'n omskrewe tipe natuurlike en ontwikkelde omgewing van toepassing is, kan insluit;

(d) die konsolidering van grondeenhede;

(e) die voorwaardes waarop strydige geboue en gebruiksregte kan voortbestaan;

40 (f) alternatiewe ontwikkelingsmoontlikhede vir bestaande gebruiksregte, insluitende die oordrag van ontwikkelingsregte en die toekenning van ontwikkelingsbonusse, soos voorgeskryf;

(g) beheer oor estetiese aspekte, insluitende gebouontwerp, advertensietekens en grensmure, en ontwerpriglyne;

45 (h) beheer oor grondwerke wat ontwikkeling voorafgaan, soos die opvulling, drooglegging of platstoot van gebiede, die verwydering van plantegroei en die sloping van geboue;

(i) beskermingsmaatreëls ten opsigte van gebiede van die natuurlike omgewing, soos vloedvlaktes, duine, steil hellings en die omgewing in die algemeen;

50 (j) beskermingsmaatreëls ten opsigte van die stadsrand, landbougrond, en stedelike en landelike gebiede wat van kulturele belang is, insluitende, sonder om beperk te wees tot, argitektoniese, historiese, sosiale of wetenskaplike belang;

(k) die aanmoediging van ekonomiese aktiwiteit, veral in die informele sektor, en gemengde grondgebruike;

55 (l) die bevordering van stadsvernuwing of heropbou, integrasie en opgradering deur middel van oorlegsonerings of enige ander metode;

(m) maatreëls om toeganklikheid vir persone met gestremdhede te bevorder;

60 (n) die magtiging van 'n raad om aansoeke om afwykings, vergunningsgebruike, die opheffing van beperkings, onderverdeling en die konsolidering van grondeenhede toe te staan, en enige ander metode van ontwikkelingsbestuur, en

(o) verdere voorgeskrewe aspekte.

(4) In order to minimise the duplication of restrictions, conditions relating to aspects dealt with in zoning schemes or regulations shall not be included in the title deed of any land unit.

Review and amendment of scheme regulations

10. (1) All responsible municipalities shall combine and review the scheme regulations applicable to their respective areas of jurisdiction, with the exception of supplementary regulations made in terms of section 7(2), within 4 years of the commencement of this Act, or within the longer period allowed by the Provincial Minister. 5

(2) A responsible municipality may apply to the Provincial Minister for the amendment or replacement of scheme regulations applicable to its area of jurisdiction, and the Provincial Minister may, subject to the provisions of subsections (3) and (4), amend or replace the scheme regulations, but may only refuse to amend or replace scheme regulations if, in the opinion of the Provincial Minister- 10

(a) the prescribed procedures and other requirements have not been complied with; 15

(b) the scheme regulations are inconsistent or cannot be reconciled with national or provincial policies, guidelines, norms and standards, and with scheme regulations dealing with aspects that he or she deems to be of regional or provincial interest; 20

(c) the scheme regulations fail to deal adequately with the prescribed subject matter of scheme regulations, or

(d) substantial objections offered against the scheme regulations by other municipalities, public bodies and interested and affected parties have not been addressed. 25

(3) The Provincial Minister may amend or replace supplementary scheme regulations, including supplementary scheme regulations in force or made in terms of this Act, after consultation with the municipalities concerned.

(4) The proposed amendment or replacement of scheme regulations shall be advertised in the prescribed manner, or in the absence of regulations or guidelines, 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. 30

(5) Scheme regulations shall be amended or repealed by notice in the *Provincial Gazette*; provided that the Provincial Minister 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. 35

(6) The municipality 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. 40

(7) A municipality 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 responsible municipality 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 Provincial Minister. 45

(2) A zoning map shall, after having been prepared and approved by the council, be made available at the offices of the municipality 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 56. 50

Register

12. (1) A responsible municipality shall keep and maintain a register containing all the prescribed particulars relating to approved departures in accordance with the prescribed guidelines or regulations. 55

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

(4) Ten einde die duplisering van beperkings tot die minimum te beperk, mag voorwaardes met betrekking tot aspekte waarmee in soneringskemas of regulasies gehandel word, nie in die titelakte van enige grondeenheid ingesluit word nie.

Hersiening en wysiging van skemaregulasies

- 5 10. (1) Alle verantwoordelike munisipaliteite moet die skemaregulasies wat op hul onderskeie regsgebiede van toepassing is, uitgesonderd aanvullende skemaregulasies ingevolge artikel 7(2) gemaak, binne 4 jaar vanaf die inwerkingtreding van hierdie Wet, of binne die langer tydperk wat die Provinsiale Minister toelaat, kombineer en hersien.
- 10 (2) 'n Verantwoordelike munisipaliteit kan by die Provinsiale Minister aansoek doen om die wysiging of vervanging van skemaregulasies wat op sy regsgebied van toepassing is, en die Provinsiale Minister kan, behoudens die bepalings van subartikels (3) en (4), die skemaregulasies wysig of vervang, maar mag slegs weier om skemaregulasies te wysig of te vervang indien, na die mening van die Provinsiale Minister—
- 15 (a) die voorgeskrewe prosedures en ander vereistes nie nagekom is nie;
- (b) die skemaregulasies nie met nasionale en provinsiale beleid, riglyne, norms en standaarde, en met skemaregulasies wat handel oor aspekte wat hy of sy ag van streeks- of provinsiale belang te wees, bestaanbaar of versoenbaar is nie;
- 20 (c) die skemaregulasies die voorgeskrewe onderwerp van skemaregulasies nie op voldoende wyse behandel nie, of
- (d) wesenlike besware wat ander munisipaliteite, openbare liggame en belanghebbende en geaffekteerde partye teen die skemaregulasies ingebring het, nie aangespreek is nie.
- 25 (3) Die Provinsiale Minister kan aanvullende skemaregulasies, insluitende aanvullende skemaregulasies van krag of gemaak ingevolge hierdie Wet, ná oorleg met die betrokke munisipaliteite wysig of vervang.
- (4) Die voorgestelde wysiging of vervanging van skemaregulasies moet op die voorgeskrewe wyse geadverteer word, of by gebrek aan regulasies of riglyne, op die
- 30 wyse wat die departementshoof goedvind, indien enige persoon na die mening van die departementshoof belang by die aangeleentheid het.
- (5) Skemaregulasies word by kennisgewing in die *Provinsiale Koerant* gewysig of herroep; met dien verstande dat die Provinsiale Minister kan bepaal dat die wysiging of vervanging nie op dié wyse gepubliseer hoef te word nie, maar dat daar slegs 'n
- 35 kennisgewing in die *Provinsiale Koerant* gepubliseer hoef te word ten effekte dat die betrokke skemaregulasies gewysig of vervang is en dat besonderhede ter insae is op 'n plek wat in die kennisgewing vermeld word.
- (6) Die betrokke munisipaliteit betaal die koste van publikasie van die kennisgewing indien die wysiging of vervanging slegs binne die regsgebied van daardie owerheid
- 40 geld.
- (7) 'n Munisipaliteit moet te alle tye 'n afskrif van sy geldende skemaregulasies ter insae van die publiek beskikbaar hê en moet afskrifte van die skemaregulasies beskikbaar stel vir verkoop aan die publiek.

Opstel van soneringskaart

- 45 11. (1) 'n Verantwoordelike munisipaliteit moet binne die voorgeskrewe tydperk 'n soneringskaart opstel wat sones, asook grondeenhede in artikel 12(3) bedoel, aandui ten opsigte van grond wat in sy regsgebied of enige deel daarvan wat die Provinsiale Minister bepaal, geleë is.
- (2) 'n Soneringskaart moet, nadat dit opgestel en deur die raad goedgekeur is, ter
- 50 insae van en vir die rig van vertoë deur alle belanghebbendes by die kantoor van die munisipaliteit beskikbaar gestel word, en beswaarmakers moet gewys word op hul reg van appèl ingevolge artikel 56.

Register

- 55 12. (1) 'n Verantwoordelike munisipaliteit moet 'n register wat al die voorgeskrewe besonderhede met betrekking tot goedgekeurde afwykings bevat, in oorstemming met die voorgeskrewe riglyne of regulasies hou en in stand hou.
- (2) Die register maak deel uit van die munisipaliteit se soneringskema.

(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 with provincial laws

13. (1) When any provision of a zoning scheme is in conflict with any other provincial law or ordinance or a bylaw or regulation made thereunder, that provision as contained in the zoning scheme shall prevail, subject to the provisions of subsections (2) and (3). 5

(2) The provisions of any other provincial law or ordinance, in so far as they deal 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— 10

- (a) a zoning scheme provides for a road width exceeding that determined in terms of the other provincial law or ordinance;
- (b) a zoning scheme provides that structures shall be at a greater distance from the boundary or centre line of a road than that provided for in terms of the other provincial law or ordinance, or 15
- (c) the Provincial Minister determines otherwise in a particular case or category of cases by notice in the *Provincial Gazette*.

(3) Notwithstanding the provisions of subsection (1), the Provincial Minister may by notice in the *Provincial Gazette* determine that the provisions of another provincial law or ordinance or a regulation or bylaw made thereunder shall prevail over the provisions of a zoning scheme. 20

Use rights

14. (1) (a) With effect from the commencement of this Act, all land referred to in section 8 of the Land Use Ordinance in respect of which no determination of utilisation has been made in terms of section 14(1) thereof shall be deemed to be zoned in accordance with its utilisation on 1 July 1986, as determined by the council concerned. 25

(b) With effect from the date of commencement of this Act, all land referred to in section 8 to which subsection (a) did not apply shall be deemed to be zoned in accordance with its lawful utilisation, as determined by the council concerned. 30

(2) (a) If on 2 July 2001 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. 35

(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. 40

(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 73(2) of this Act be deemed not to have been disposed of. 45

(3) When land is deemed to be zoned as contemplated in subsection (1), (2), (4)(d) or (5) of this section or section 9(2) or 16(2)(b), the most restrictive zoning permitting of the utilisation of the land, whether or not in conjunction with a departure, as the council may determine, shall be granted. 50

(4) (a) Notwithstanding the applicable provisions of subsections (1) and (2), either the Provincial Minister or a council of a responsible municipality, may from a date determined by the Provincial Minister 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. 55

(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 met provinsiale wette

- 5 13. (1) Wanneer enige bepaling van 'n soneringskema strydig is met enige ander provinsiale wet of ordonnansie of 'n verordening of regulasie ingevolge daarvan gemaak, geld daardie bepaling soos in die soneringskema vervat, behoudens die bepalings van subartikels (2) en (3).
- (2) Die bepalings van enige ander provinsiale wet of ordonnansie, vir sover dit
- 10 handel oor 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—
- (a) 'n soneringskema voorsiening maak vir 'n padbreedte wat dié wat ingevolge die ander provinsiale wet of ordonnansie bepaal word, oorskry;
- 15 (b) 'n soneringskema bepaal dat strukture op 'n groter afstand van die grens of middellyn van 'n pad moet wees as dié waarvoor ingevolge die ander provinsiale wet of ordonnansie voorsiening gemaak word, of
- (c) die Provinsiale Minister in 'n bepaalde geval of kategorie gevalle anders bepaal by kennisgewing in die *Provinsiale Koerant*.
- 20 (3) Ondanks die bepalings van subartikel (1), kan die Provinsiale Minister by kennisgewing in die *Provinsiale Koerant* bepaal dat die bepalings van 'n ander provinsiale wet of ordonnansie of 'n regulasie of verordening ingevolge daarvan gemaak, voorrang geniet bo die bepalings van 'n soneringskema.

Gebruiksregte

- 25 14. (1) (a) Met ingang van die inwerkingtreding van hierdie Wet word alle grond in artikel 8 van die Grondgebruik-ordonnansie bedoel, ten opsigte waarvan geen aanwendingsbepaling ingevolge artikel 14(1) daarvan gedoen is nie, geag gesoneer te wees in ooreenstemming met die aanwending daarvan op 1 Julie 1986, soos deur die betrokke raad bepaal.
- 30 (b) Met ingang van die datum van inwerkingtreding van hierdie Wet word alle grond in artikel 8 bedoel, waarop subartikel (a) nie van toepassing was nie, geag gesoneer te wees in ooreenstemming met die wettige aanwending daarvan, soos deur die betrokke raad bepaal.
- (2) (a) Indien, op 2 Julie 2001, enige gebruiksreg ten opsigte van grond waarop die
- 35 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 enige toepaslike soneringskaart wat by dié verstryking bestaan, vervat.
- (b) Behoudens die bepalings van paragraaf (c), moet 'n appèlkomitee of 'n
- 40 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 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 uitstel vir 'n tydperk van hoogstens
- 45 5 jaar vanaf 1 Julie 2001 moet wees.
- (c) 'n Besluit ingevolge paragraaf (b) of 'n eienaar verlies gely het of 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 73(2) van hierdie Wet geag nie afgehandel te wees nie.
- 50 (3) Wanneer grond geag word gesoneer te wees soos beoog in subartikel (1), (2), (4)(d) of (5) van hierdie artikel of artikel 9(2) of 16(2)(b), moet die mees beperkende sonering waarvolgens die aanwending van die grond toelaatbaar sal wees, hetsy met of sonder 'n afwyking, na gelang die raad bepaal, toegestaan word.
- (4) (a) Ondanks die toepaslike bepalings van subartikels (1) en (2), kan óf die
- 55 Provinsiale Minister óf 'n raad van 'n verantwoordelike owerheid, vanaf 'n datum deur die Provinsiale Minister 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) 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. 5

(d) Subject to the applicable provisions of section 7 or subsection (2) of this section, land 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. 10

(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— 15

(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 Act and for any uninterrupted period thereafter;

(b) at the inclusion of the land in the substitution scheme in terms of subsection (4) and for any uninterrupted period thereafter does not comply with the zoning of the land in terms of subsection (4), or 20

(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,

the utilisation shall be deemed not to constitute an offence within the meaning of section 64, and the owner of such land may utilise the land according to the lawful use right of that land before the inclusion of the land in a town-planning or zoning scheme, or the granting of a rezoning, or the inclusion of the land in a substitution scheme. 25

(7) Notwithstanding the applicable provisions of section 16(2)(b) and of 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 under section 16 or 18. 30

(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. 35

(9) Any question concerning the lawful use right not otherwise provided for in this Act shall be determined by the Provincial Minister after consultation with the relevant municipalities and other persons concerned, and such determination shall be binding and have the force of law. 40

Applications for departures

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

(i) for an alteration of the development rules applicable to a particular zone in terms of the scheme regulations, or 45

(ii) to utilise land on a temporary basis, for a period not exceeding 10 years or an extended period approved by the Provincial Minister, for a purpose for which no provision has been made in the scheme regulations in respect of that particular zone. 50

(b) Either the Provincial Minister or the council of a responsible municipality may approve or refuse an application referred to in paragraph (a).

(c) Either the Provincial Minister 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 scheme concerned. 55

(2) The chief executive officer shall—

- (b) Gebruiksregte wat uit hoofde van die bepalinge 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.
- 5 (c) Voordat 'n soneringskaart ingevolge paragraaf (a) vervang word, is die bepalinge van artikel 17 *mutatis mutandis* van toepassing op enige sonering ingevolge die voorgename vervangingskema wat van 'n bestaande sonering verskil.
- (d) Behoudens die toepaslike bepalinge van artikel 7 of subartikel (2) van hierdie artikel word grond waarvan die sonering ingevolge paragraaf (b) verval het, geag
- 10 gesoneer te wees in ooreenstemming met die aanwending daarvan soos deur die betrokke raad bepaal.
- (5) Behoudens die toepaslike bepalinge van artikel 7 of subartikel (2) of (4)(a) of (b) van hierdie artikel verval enige gebruiksreg indien dit vir 'n ononderbroke tydperk van 2 jaar nie uitgeoefen word nie, en word die betrokke grond geag gesoneer te wees in
- 15 ooreenstemming met die aanwending daarvan soos deur die betrokke raad bepaal.
- (6) Waar die wettige aanwending van grond—
- (a) op 1 Julie 1986 nie voldoen het aan die sonering van die grond uit hoofde van die bepalinge van artikel 7 nie of by die inwerkingtreding van hierdie Wet en vir enige ononderbroke tydperk daarna nie aldus voldoen nie;
- 20 (b) by die opname van die grond in die vervangingskema ingevolge 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
- 25 ingevolge daardie artikel nie,
- word die aanwending geag nie 'n misdryf ooreenkomstig die betekenis van artikel 64 te wees nie, en die eienaar van dié grond kan die grond ooreenkomstig die wettige gebruiksreg daarvan voor die opname van die grond in 'n dorpsaanleg- of soneringskema, of die toestaan van 'n hersonering, of die opname van die grond
- 30 in 'n vervangingskema, aanwend.
- (7) Ondanks die toepaslike bepalinge van artikels 16(2)(b) en van subartikels (1), (2), (4)(d) en (5) van hierdie artikel maar behoudens die bepalinge 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
- 35 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 bepalinge van hierdie artikel maar behoudens 'n bepaalde hersonering, verval 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.
- 40 (9) Enige vraag aangaande die wettige gebruiksreg waarvoor daar nie andersins in hierdie Wet voorsiening gemaak word nie, word deur die Provinsiale Minister bepaal ná oorleg met die betrokke munisipaliteite en ander persone, en so 'n bepaling is bindend en het die krag van wet.

Afwykingaansoeke

- 45 15. (1) (a) 'n Eienaar van grond kan by die betrokke hoof uitvoerende beampte skriftelik aansoek doen om—
- (i) 'n verandering van die ontwikkelingsreëls wat ingevolge die skemaregulasies op 'n bepaalde sone van toepassing is, of
- 50 (ii) op 'n tydelike grondslag, vir 'n tydperk van hoogstens 10 jaar of 'n verlengde tydperk wat die Provinsiale Minister goedkeur, grond aan te wend vir 'n doel waarvoor geen voorsiening in die skemaregulasies ten opsigte van daardie bepaalde sone gemaak word nie.
- (b) Of die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit kan 'n aansoek in paragraaf (a) bedoel, toestaan of weier.
- 55 (c) Of die Provinsiale Minister 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 word te voldoen aan die bepalinge van die betrokke soneringsskema.
- 60 (2) Die hoof uitvoerende beampte moet—

- (a) cause the application to be advertised if in his or her opinion any person or body may be adversely affected by it;
 - (b) obtain the relevant comment of any public body which in his or her opinion has an interest in the application, or as prescribed;
 - (c) submit to the owner for comment any objections or comment received in respect of the application; 5
 - (d) where the council may act in terms of subsection (1)(b)-
 - (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 the reasons therefor 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 56, and 10
 - (e) where the Provincial Minister may act in terms of subsection (1)(b), obtain the relevant recommendation, and the reasons therefor, of the chief executive officer's council and furnish the department head with a copy of that recommendation and of any documents required by the department head. 15
- (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 Provincial Minister may act under subsection (1)(b), shall- 20
- (a) obtain comment and information which in his or her opinion are still required, and
 - (b) notify the applicant, any objectors and the municipality concerned of the Provincial Minister's decision about the application and the reasons therefor and, where applicable, furnish them with a copy of conditions imposed by the Provincial Minister. 25
- (5) A departure or a part or phase thereof 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 3 years after the date of approval of the application or within the extended period determined by either the Provincial Minister or a council in accordance with section 68(4) on application by the owner concerned. 30
- (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 Provincial Minister or the council of a responsible municipality may grant or refuse an application by an owner of land for its rezoning. 35
- (2) (a) A rezoning in respect of which the application has been granted by virtue of the provisions of subsection (1) or a part or phase thereof-
- (i) shall lapse if the land concerned is not utilised in terms of the rezoning within a period of 3 years after the date on which the application for rezoning was granted; 40
 - (ii) shall, where section 22 is applicable, 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 3 years after the date on which the application for rezoning was granted, or 45
 - (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 Provincial Minister or the council of a responsible municipality extends the period of 3 years in accordance with section 68(4). 50
- (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 a rezoning under subsection (1) is granted or a rezoning has lapsed in terms of subsection (2), the municipality shall amend the zoning map and, where applicable, a register in its possession as soon as possible accordingly. 55

- (a) die aansoek laat adverteer indien enige persoon of liggaam na sy of haar mening nadelig daardeur getref kan word;
- (b) die tersaaklike kommentaar van enige openbare liggaam wat na sy of haar mening belang by die aansoek het, of soos voorgeskryf, verkry;
- 5 (c) enige besware of kommentaar wat ten opsigte van die aansoek ontvang word, aan die eienaar voorlê vir kommentaar;
- (d) waar die raad ingevolge subartikel (1)(b) kan optree—
- (i) die aansoek en alle tersaaklike dokumente aan die raad voorlê, en
- 10 (ii) die eienaar en enige beswaarmakers van die raad se besluit en die redes daarvoor 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 56, en
- (e) waar die Provinsiale Minister ingevolge subartikel (1)(b) kan optree, die tersaaklike aanbeveling, en die redes daarvoor, van die hoof uitvoerende beampte se raad verkry en die departementshoof voorsien van 'n afskrif van daardie aanbeveling en van enige dokumente wat die departementshoof verlang.
- 15 (3) By nie-voldoening aan die bepalings van subartikel (2) binne 'n tydperk by regulasie voorgeskryf, moet daar in ooreenstemming met die regulasies opgetree word.
- 20 (4) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Provinsiale Minister ingevolge subartikel (1)(b) kan optree—
- (a) kommentaar en inligting wat na sy of haar mening nog vereis word, verkry, en
- 25 (b) die aansoeker, enige beswaarmakers en die betrokke munisipaliteit van die Provinsiale Minister se besluit oor die aansoek en die redes daarvoor in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die Provinsiale Minister opgelê.
- (5) 'n Afwyking of 'n deel of fase daarvan ten opsigte waarvan die aansoek ingevolge hierdie artikel toegestaan is, verval indien en vir sover dit nie uitgeoefen word nie binne 3 jaar na die datum waarop die aansoek goedgekeur is, of binne die verlengde tydperk wat óf die Provinsiale Minister óf 'n raad in ooreenstemming met artikel 68(4) op aansoek van die betrokke eienaar bepaal.
- 30 (6) Waar 'n afwyking ingevolge subartikel (5) in sy geheel of gedeeltelik verval het, moet die raad die betrokke register en soneringskaart dienoreenkomstig wysig.

35 Hersonering op aansoek van eienaar van grond

16. (1) Óf die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit kan 'n aansoek van '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 of 'n deel of fase daarvan—
- 40 (i) verval indien die betrokke grond nie binne 'n tydperk van 3 jaar na die datum waarop die aansoek om hersonering toegestaan is, aangewend word ingevolge die hersonering nie;
- (ii) verval, waar artikel 22 van toepassing is—
- 45 (aa) indien 'n tersaaklike aansoek om onderverdeling in ooreenstemming met die hersonering nie binne 'n tydperk van 3 jaar na die datum waarop die aansoek om hersonering toegestaan is, ingevolge artikel 24 gedoen word nie, of
- (bb) waar so 'n aansoek om onderverdeling wel aldus gedoen is, maar die betrokke onderverdeling of deel daarvan nie bevestig word nie,
- 50 tensy óf die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit die tydperk van 3 jaar in ooreenstemming met artikel 68(4) verleng.
- (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) verval het, geag gesoneer te wees in ooreenstemming met die aanwending daarvan soos deur die raad bepaal.
- 55 (3) Waar 'n aansoek om 'n hersonering ingevolge subartikel (1) toegestaan word of 'n hersonering ingevolge subartikel (2) verval het, moet die munisipaliteit die soneringskaart en, waar toepaslik, 'n register in sy besit so gou doenlik dienoreen-
- 60 komstig wysig.

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; 5
- (b) obtain the relevant comment of any public body which in his or her opinion has an interest in the application, or as prescribed;
- (c) submit to the owner for comment any objections or comment received in respect of the said application;
- (d) where the council may act under section 16(1)— 10
 - (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 the reasons therefor 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 56, and 15
- (e) where the Provincial Minister may act under section 16(1), obtain the relevant recommendation, and the reasons therefor, of the chief executive officer's council and furnish the department head with a copy of that recommendation and of any documents required by the department head. 15

(3) Failing compliance with the provisions of subsection (2) within a period prescribed by regulation, action shall be taken in accordance with the regulations. 20

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

- (a) obtain comment and information which in his or her opinion are still required, and 25
- (b) notify the applicant, any objectors and the responsible municipality concerned of the Provincial Minister's decision about the application and the reasons therefor and, where applicable, furnish them with a copy of conditions imposed by the Provincial Minister.

Rezoning on initiative of Provincial Minister or council

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18. (1) A rezoning may, on the initiative of the Provincial Minister or a council, be granted under section 16(1) by either the Provincial Minister after consultation with the council concerned, or the council of a responsible municipality, in respect of land situated in its area of jurisdiction, irrespective of whether or not a municipality is the owner of the land, if, in the opinion of the Provincial Minister or the council concerned, the rezoning is in the public interest. 35

(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 municipality 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. 40

Compensation and acquisition of property

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 under 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, if the plan is rejected on the grounds of the provisions of any other law or title condition, may claim compensation for it from the municipality concerned. 45

(2) The municipality shall pay to the owner the amount of compensation agreed upon by the owner and the municipality. 50

(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

Hersoneringsaansoek

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

(2) Die hoof uitvoerende beampte moet—

- 5 (a) die aansoek laat adverteer;
- (b) die tersaaklike kommentaar van enige openbare liggaam wat na sy of haar mening belang by die aansoek het, of soos voorgeskryf, verkry;
- (c) enige besware of kommentaar wat ten opsigte van dié aansoek ontvang word, aan die eienaar voorlê vir kommentaar;
- 10 (d) waar die raad ingevolge artikel 16(1) kan optree—
 - (i) die aansoek en alle tersaaklike dokumente aan die raad voorlê, en
 - (ii) die eienaar en enige beswaarmakers van die raad se besluit en die redes daarvoor in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes deur die raad opgelê en hulle wys op hul reg
- 15 (e) waar die Provinsiale Minister ingevolge artikel 16(1) kan optree, die tersaaklike aanbeveling, en die redes daarvoor, van die hoof uitvoerende beampte se raad verkry en die departementshoof voorsien van 'n afskrif van daardie aanbeveling, en van enige dokumente wat die departementshoof verlang.
- 20 (3) By nie-voldoening aan die bepalinge van subartikel (2) binne 'n tydperk by regulasie voorgeskryf, moet daar in ooreenstemming met die regulasies opgetree word.
- (4) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Provinsiale Minister ingevolge artikel 16(1) kan optree—
- 25 (a) kommentaar en inligting wat na sy of haar mening nog vereis word, verkry, en
- (b) die aansoeker, enige beswaarmakers en die betrokke verantwoordelike munisipaliteit van die Provinsiale Minister se besluit oor die aansoek en die redes daarvoor in kennis stel en, waar van toepassing, hulle voorsien van 'n
- 30 afskrif van voorwaardes deur die Provinsiale Minister opgelê.

Hersonering op inisiatief van Provinsiale Minister of raad

18. (1) 'n Hersonering kan op inisiatief van die Provinsiale Minister of 'n raad deur of die Provinsiale Minister ná oorleg met die betrokke raad of die raad van 'n verantwoordelike munisipaliteit ten opsigte van grond in sy regsgebied geleë, ingevolge artikel 16(1) toegestaan word, ongeag of 'n munisipaliteit die eienaar van die grond is, al dan nie, indien die hersonering na die mening van die Provinsiale Minister of die betrokke raad in die openbare belang is.

(2) Die bepalinge 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 munisipaliteit 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 bepalinge 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

45 aanskaffing daarvan deur die betrokke raad.

Vergoeding en aanskaffing van eiendom

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 met die gebruiksreg van die betrokke grond is, afgekeur word, behalwe as die plan op grond van die bepalinge van enige ander wet of titelvoorwaarde afgekeur word, kan vergoeding daarvoor van die betrokke munisipaliteit eis.

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

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

(4) Indien daar nie tot 'n ooreenkoms in subartikel (2) beoog, gekom word binne 90

a claim for compensation has been lodged with the municipality by virtue of the provisions of subsection (1), any question as to whether the land has sustained a decrease in value and as to the amount of compensation shall at the request of either the owner or the municipality be considered and decided by an appeal committee or a planning board or, if either the owner or the municipality so requires, by means of arbitration. 5

(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 municipality or the acquisition of land by a municipality respectively, and the matter has not been disposed of on the date of commencement of this Act, it shall for the purposes of section 73(2) be deemed not to have been disposed of. 10

(6) The provisions of subsections (1) to (5) shall not preclude a council from acquiring land rezoned under section 18.

(7) When a planning board, an appeal committee or an arbitrator considers a question contemplated in subsection (4) in relation to land rezoned under 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 purchase or expropriate the land. 15

Transfer of, and erection of buildings on, land units

20. Before transfer of any right in a building in respect of which an application has been granted in terms of section 15, 16 or 18 is effected by the Registrar of Deeds, the owner shall furnish proof to the municipality that- 20

- (a) all conditions on which the application for a departure or rezoning was granted have been complied with, or
 - (b) where such approval was granted in terms of a phased development, all such conditions in terms of the relevant phase have been complied with and engineering services linking such phase with existing municipal services have been provided to the satisfaction of the municipality, 25
- 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. 30

Continuation of zoning scheme

21. Where land situated in the area of jurisdiction of one municipality is incorporated into the area of jurisdiction of another municipality or where areas of jurisdiction are redefined or another municipality is designated in respect of the land, any zoning scheme applicable to that land shall, subject to the provisions of this Chapter, remain in force until the Provincial Minister makes other arrangements in respect thereof by notice in the *Provincial Gazette* after consultation with the new municipality. 35

CHAPTER III

SUBDIVISION OF LAND

40

Zoning to precede subdivision

22. (1) (a) No application for subdivision 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.

(b) The provisions of paragraph (a) shall not preclude applications for rezoning and subdivision from being considered simultaneously. 45

(c) The Provincial Minister may, if the requirement in paragraph (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.

(d) All applications exempted in terms of subsection (c) shall be advertised in terms of section 24(2)(a). 50

(2) Upon 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 that instance.

dae nadat 'n eis om vergoeding by die munisipaliteit uit hoofde van die bepalings van subartikel (1) ingedien is nie, moet enige vraag of die grond waardevermindering ondergaan het en betreffende die bedrag aan vergoeding op versoek van of die eienaar of die munisipaliteit deur 'n appèlkomitee of 'n beplanningsraad of, indien of die eienaar of die munisipaliteit 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, met betrekking tot 'n verhogingsheffing verskuldig aan of vergoeding verskuldig deur 'n munisipaliteit of die aanskaffing van grond deur 'n munisipaliteit, en die aangeleentheid nie op die datum van inwerkingtreding van hierdie Wet afgehandel is nie, word dit vir die toepassing van artikel 73(2) geag nie afgehandel te wees nie.

(6) Die bepalings van subartikels (1) tot (5) belet nie 'n raad om grond wat ingevolge artikel 18 hersoneer is, aan te skaf nie.

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

Oordrag en oprigting van geboue op grondeenhede

20. Voordat oordrag van enige reg op 'n gebou ten opsigte waarvan 'n aansoek ingevolge artikel 15, 16 of 18 toegestaan is, deur die Registrateur van Aktes gedoen word, moet die eienaar bewys aan die munisipaliteit lewer dat—

- (a) alle voorwaardes waarop die aansoek om 'n afwyking of hersonering toegestaan is, nagekom is, of
 - (b) waar dié goedkeuring ingevolge 'n gefaseerde ontwikkeling toegestaan is, al die voorwaardes ingevolge die tersaaklike fase nagekom is en ingenieur-dienste wat dié fase by bestaande munisipale dienste aansluit, ten genoeë van die munisipaliteit voorsien is,
- en geen skriftelike magtiging om onroerende eiendom oor te dra, soos vereis word in enige wet met betrekking tot plaaslike regeringsaangeleenthede, word uitgereik nie tensy dié bewys gelewer is.

Voortsetting van soneringskema

21. Waar grond geleë in die regsgebied van een munisipaliteit in die regsgebied van 'n ander munisipaliteit ingelyf word of waar regsgebiede herafgebaken word of 'n ander munisipaliteit aangewys word ten opsigte van die grond, bly enige soneringskema wat op dié grond van toepassing is, behoudens die bepalings van hierdie Hoofstuk van krag totdat die Provinsiale Minister by kennisgewing in die *Provinsiale Koerant* ander reëlings ten opsigte daarvan tref ná oorleg met die nuwe munisipaliteit.

HOOFSTUK III

ONDERVERDELING VAN GROND

40 Sonering moet onderverdeling voorafgaan

22. (1) (a) Geen aansoek om onderverdeling 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.

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

(c) Die Provinsiale Minister kan, indien die vereiste in paragraaf (a) aansoeke sal verhoog, 'n bepaalde aansoek of kategorie aansoeke of 'n deel van 'n owerheid se regsgebied vrystel van daardie vereiste.

(d) Alle aansoeke wat ingevolge subartikel (c) 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 bepalings van artikel 14(4) in so 'n geval nie geld nie.

(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 Provincial Minister 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. 5

Subdivision of land

23. (1) Subject to the provisions of section 22 of this Act, no person, including the State, shall from the date of commencement of this Act subdivide any land in the Province except in accordance with an application granted in terms of section 25 or Chapter IV by either the Provincial Minister or the council of a responsible municipality, unless the Provincial Minister exempts that subdivision from the provisions of this Chapter or Chapter IV by notice in the *Provincial Gazette*; provided that either the Provincial Minister or the council of a responsible municipality, may authorise an owner of land to deal with his or her land as referred to in paragraph (b) or (c) of the definition of "subdivide". 10 15

(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 approved in the office of a Surveyor-General shall be deemed to be a confirmed subdivision for the purposes of this Act, except in so far as a portion thereof or a land unit therein is further subdivided, laid out or amended, on condition that engineering services are installed according to prescribed standards. 20

(3) Any contract or purchase and sale concluded contrary to the provisions of subsection (1) shall be void, and any developer and any person or purchaser who has performed partially or in full under an agreement or contract which is void in terms thereof shall be entitled to reclaim from the other party what he or she has so performed. 25

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. 30

(2) The chief executive officer shall—

- (a) cause the application to be advertised if, in his or her opinion, any person or body may be adversely affected by it;
- (b) obtain the relevant comment of any public body which in his or her opinion has an interest in the application, or as prescribed; 35
- (c) submit to the owner for comment any objections or comment received in respect of the application;
- (d) where the council may act under section 25(1)—
 - (i) submit the application and all relevant documents to the council, and 40
 - (ii) notify the owner, any objectors and the Surveyor-General of the council's decision and the reasons therefor 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 56, and
- (e) where the Provincial Minister may act under section 25(1), obtain the relevant recommendation, and the reasons therefor, of the chief executive officer's council and furnish the department head with a copy of that recommendation and of any documents required by the department head. 45

(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 Provincial Minister may act under section 25(1), shall—

- (a) obtain comment and information which in his or her opinion are still required, and
- (b) notify the applicant, any objectors and the municipality concerned about the Provincial Minister's decision about the application and the reasons therefor 55

(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 wysig.

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

Onderverdeling van grond

23. (1) Behoudens die bepalings van artikel 22 van hierdie Wet en van enige ander wet mag niemand, insluitende die Staat, vanaf die datum van inwerkingtreding van hierdie Wet enige grond in die Provinsie onderverdeel nie behalwe in ooreenstemming met 'n aansoek ingevolge artikel 25 of Hoofstuk IV toegestaan deur óf die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit, tensy die Provinsiale Minister dié onderverdeling by kennisgewing in die *Provinsiale Koerant* van die bepalings van hierdie Hoofstuk of Hoofstuk IV vrystel; met dien verstande dat óf die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit, 'n eienaar van grond kan magtig om met sy of haar grond te handel soos bedoel in paragraaf (b) of (c) van die omskrywing van "onderverdeel".

(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 goedgekeur is, word vir die toepassing van hierdie Wet geag 'n bevestigde onderverdeling te wees, uitgesonderd vir sover 'n gedeelte daarvan of 'n grondeenheid daarin verder onderverdeel, uitgelê of verander word, mits ingenieursdienste volgens voorgeskrewe standarde geïnstalleer word.

(3) Enige kontrak of koop en verkoop wat in stryd met die bepalings van subartikel (1) gesluit is, is ongeldig, en enige ontwikkelaar en enige persoon of koper wat gedeeltelik of ten volle geprester het kragtens 'n ooreenkoms of kontrak wat ingevolge daardie subartikel ongeldig is, is geregtig om van die ander party terug te vorder wat hy of sy aldus geprester het.

Onderverdelingsaansoeke

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

(2) Die hoof uitvoerende beampte moet—

- (a) die aansoek laat adverteer indien enige persoon of liggaam na sy of haar mening nadelig daardeur getref kan word;
- (b) die tersaaklike kommentaar van enige openbare liggaam wat na sy of haar mening belang by die aansoek het, of soos voorgeskryf, verkry;
- (c) enige besware of kommentaar wat ten opsigte van die aansoek ontvang word, aan die eienaar voorlê vir kommentaar;
- (d) waar die raad ingevolge artikel 25(1) kan optree—
 - (i) die aansoek en alle tersaaklike dokumente aan die raad voorlê, en
 - (ii) die eienaar, enige beswaarmakers en die Landmeter-generaal van die raad se besluit en die redes daarvoor 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 56, en
- (e) waar die Provinsiale Minister ingevolge artikel 25(1) kan optree, die tersaaklike aanbeveling, en die redes daarvoor, van die hoof uitvoerende beampte se raad verkry en die departementshoof voorsien van 'n afskrif van daardie aanbeveling en van enige dokumente wat die departementshoof verlang.

(3) By nie-voldoening aan die bepalings van subartikel (2) binne 'n tydperk by regulasie voorgeskryf, moet daar in ooreenstemming met die regulasies opgetree word.

(4) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Provinsiale Minister ingevolge artikel 25(1) 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 munisipaliteit van die Provinsiale Minister se besluit oor die aansoek en die redes daarvoor in

and, where the application is approved, also the Surveyor-General concerned, and furnish them with a copy of conditions imposed by the Provincial Minister.

Granting or refusal of application

25. (1) Either the Provincial Minister or the council of a responsible municipality may grant or refuse an application for the subdivision of land. 5

(2) When granting such an application either the Provincial Minister 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 under section 25, the owner of the land shall submit a general plan or diagram, as indicated by the Surveyor-General, to the Surveyor-General for approval. 10

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 been granted under section 25, or 5 years after all suspensive conditions have been complied with subject to section 69(6)(c), or within a longer period determined in accordance with section 68(4) by the Provincial Minister or the council of a responsible municipality, furnish the Registrar of Deeds with the documents and information required by him or her, comply with the requirements of the Registrar of Deeds in connection with the cancellation of existing conditions of title, provide engineering services in accordance with a condition imposed in terms of section 69 in respect of the subdivision and effect the registration of at least one land unit. 15 20

(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 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. 25

(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 cannot lapse in terms of subsection (2), the subdivision or part thereof shall be deemed to be confirmed. 30

Ownership of public streets and public places

28. The ownership of all land taken up by public streets and public places indicated as such on a subdivision plan approved under section 25 or Chapter IV shall, upon confirmation of the subdivision or a part or phase thereof, vest in the municipality in whose area of jurisdiction the land is situated, and that municipality 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 Provincial Minister from time to time with due regard to that need, and section 31 of the Deeds Registry Act, 1937 (Act 47 of 1937), shall apply. 35 40

Owners' association

29. (1) Either the Provincial Minister or the council concerned, as the case may be, may, when granting an application for subdivision under section 25(1), impose conditions in terms of section 69 relating to the compulsory establishment of an owners' association by the applicant for subdivision. 45

(2) An owners' association coming into being by virtue of the provisions of subsection (1)— 50

(a) shall be a body corporate;

kennis stel en, waar die aansoek goedgekeur word, ook die betrokke Landmeter-generaal, en hulle voorsien van 'n afskrif van voorwaardes deur die Provinsiale Minister opgelê.

Toestaan of weiering van aansoek

- 5 25. (1) Óf die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit kan 'n aansoek om die onderverdeling van grond toestaan of weier.
 (2) Wanneer so 'n aansoek toegestaan word, moet óf die Provinsiale Minister óf die raad, na gelang van die geval, tersaaklike sonerings met betrekking tot die onderverdeling aandui vir die toepassing van artikel 22(2).

10 Goedkeuring van algemene plan of kaart

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

Bevestiging van onderverdeling

- 15 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 ingevolge artikel 25 toegestaan is, of 5 jaar nadat alle opskortende voorwaardes behoudens artikel 69(6)(c) nagekom is, of binne 'n langer tydperk wat in ooreenstemming met artikel 68(4) bepaal word, deur die Provinsiale Minister of die raad van 'n
20 verantwoordelike munisipaliteit, die Registrateur van Aktes voorsien van die dokumente en inligting wat hy of sy vereis, die Registrateur van Aktes se vereistes in verband met die rojering van bestaande titelvoorwaardes nakom, ingenieursdienste in ooreenstemming met 'n voorwaarde opgelê ingevolge artikel 69 ten opsigte van die onderverdeling voorsien en die registrasie van minstens een grondeenheid verkry.
25 (2) Waar 'n eienaar versuim het om aan die bepalings van subartikel (1) te voldoen met betrekking tot 'n onderverdeling of deel daarvan, vervel die goedkeuring van die aansoek kragtens artikel 25 met betrekking tot dié onderverdeling of deel daarvan by verstryking van die tydperk in subartikel (1) beoog, en moet die betrokke kaart of algemene plan in ooreenstemming met die vereistes van die Landmeter-generaal
30 gewysig word.
 (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 vervel nie, word die onderverdeling of deel daarvan geag bevestig te wees.

35 Eiendomsreg op openbare strate en openbare plekke

28. Die eiendomsreg op alle grond wat beslaan word deur openbare strate en openbare plekke wat as sodanig aangedui word op 'n onderverdelingsplan wat ingevolge artikel 25 of Hoofstuk IV goedgekeur is, berus na bevestiging van die onderverdeling of 'n deel of fase daarvan by die munisipaliteit in wie se regsgebied die
40 grond geleë is, en daardie munisipaliteit 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 is met 'n beleid wat die Provinsiale Minister van tyd tot tyd met inagneming van daardie behoefte bepaal, en artikel 31 van die
45 Registrateur van Aktes Wet, 1937 (Wet 47 van 1937), is van toepassing.

Eienaarsvereniging

29. (1) Óf die Provinsiale Minister óf die betrokke raad, na gelang van die geval, kan, wanneer hy of sy 'n aansoek om onderverdeling ingevolge artikel 25(1) toestaan, voorwaardes ingevolge artikel 69 oplê met betrekking tot die verpligte stigting van 'n
50 eienaarsvereniging deur die aansoeker om onderverdeling.
 (2) 'n Eienaarsvereniging wat uit hoofde van die bepalings van subartikel (1) tot stand kom—
 (a) is 'n regspersoon;

- (b) shall have a constitution which—
 - (i) has as its object the control over and maintenance of buildings, services or amenities arising from the subdivision;
 - (ii) provides for the implementation of the provisions of paragraph (c), and
 - (iii) has been approved by the council in order to ensure compliance with the provisions of subparagraphs (i) and (ii);
 - (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, and
 - (d) shall after the confirmation of the subdivision or part thereof, automatically become the owner of all communal property, including private roads and private places originating from the subdivision.
- (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 Act, 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.
- (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 Provincial Minister or a council, as the case may be, may, after an application has been granted in terms of section 25 but prior to confirmation of the subdivision or the relevant part or phase thereof, 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 Provincial Minister, with the municipality about land units not yet registered by virtue of an application that has been granted, amend or partially cancel or cancel the subdivision plan, 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 regulations made under this Act.
- (2) The department head, where the Provincial Minister may act in terms of 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 subdivision plan in terms of subsection (1) adversely affects the interests that any person has in land, advertise the proposed amendment or cancellation of the subdivision plan, and thereupon the provisions of section 24(2)(d)(ii) or (4) shall apply *mutatis mutandis*.
- (3) The provisions of subsections (1) and (2) shall apply *mutatis mutandis* to all general plans in force at the commencement of this Act.

Transfer of, and erection of buildings on, land units

31. (1) Before registration of land units by virtue of a subdivision, in respect of which an application has been granted under section 25, is effected by the Registrar of Deeds, the owner shall furnish proof to the municipality that—
- (a) all conditions on which the application for subdivision was granted have been complied with, or
 - (b) where such approval was granted in terms of a phased development, all such conditions in terms of the relevant phase have been complied with and engineering services linking such phase with existing municipal services have been provided to the satisfaction of the municipality,
- 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.

- (b) moet 'n grondwet hê wat—
- (i) die beheer oor en instandhouding van geboue, dienste of fasiliteite wat uit die onderverdeling ontstaan, ten doel het;
 - (ii) voorsiening maak vir die uitvoering van die bepalings van paragraaf (c), en
 - (iii) deur die raad goedgekeur is ten einde te verseker dat aan die bepalings van subparagrafe (i) en (ii) voldoen word;
- (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, en
- (d) word na die bevestiging van die onderverdeling of gedeelte daarvan outomaties die eienaar van alle gemeenskaplike eiendom, insluitende private paaie en private plekke wat uit die onderverdeling ontstaan.
- (3) 'n Eienaarsvereniging of huiseienaarsvereniging wat uit hoofde van 'n voorwaarde opgelê ingevolge 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 bedoel in subartikel (2) of (3) versuim om enige van sy verpligtinge uit hoofde van die bepalings van subartikel (2)(b)(i) of (c) na te kom 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 ten opsigte van daardie stappe aangegaan het, van die eienaars bedoel in subartikel (2)(c) terugvorder.
- (b) Bedrae aldus teruggevorder, word vir die toepassing van subartikel (2)(c) geag uitgawes in verband met die betrokke eienaarsvereniging aangegaan, te wees.

Wysiging of rojering van plan van onderverdeling

30. (1) Óf die Provinsiale Minister óf 'n raad, na gelang van die geval, kan, nadat 'n aansoek ingevolge artikel 25 toegestaan is maar voor bevestiging van die onderverdeling of die tersaaklike deel of fase daarvan, na oorweging van besware wat ten gevolge van 'n advertensie ingevolge subartikel (2) ontvang is en ná oorleg met die eienaar van die grond en die Landmeter-generaal en, in die geval van die Provinsiale Minister, met die munisipaliteit oor grondeenhede wat nog nie uit hoofde van 'n toegestane aansoek geregistreer is nie, die onderverdelingsplan, insluitende '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 met betrekking tot plaaslike regeringsaangeleenthede of ingevolge regulasies wat kragtens hierdie Wet gemaak is.

(2) Die departementshoof, waar die Provinsiale Minister ingevolge 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 onderverdelingsplan ingevolge subartikel (1) die belange wat enigiemand by grond het, nadelig tref, die voorgenome wysiging of rojering van die onderverdelingsplan adverteer, en daarna is die bepalings van artikel 24(2)(d)(ii) of (4) *mutatis mutandis* van toepassing.

(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.

Oordrag van en oprigting van geboue op grondeenhede

31. (1) Voordat registrasie van grondeenhede uit hoofde van 'n onderverdeling ten opsigte waarvan 'n aansoek ingevolge artikel 25 toegestaan is, deur die Registrateur van Aktes gedoen word, moet die eienaar aan die munisipaliteit bewys lewer dat—

- (a) aan alle voorwaardes waarop die aansoek om onderverdeling toegestaan is, voldoen is, of
 - (b) waar dié goedkeuring ingevolge 'n gefaseerde ontwikkeling toegestaan is, al dié voorwaardes ingevolge die tersaaklike fase nagekom is en ingenieursdienste wat die fase by bestaande munisipale dienste aansluit, ten genoë van die munisipaliteit voorsien is,
- en geen skriftelike magtiging om onroerende eiendom oor te dra, soos vereis in enige wet met betrekking tot plaaslike regeringsaangeleenthede, word uitgereik nie, tensy daardie bewys gelewer is.

(2) If land was subdivided and an owners' association came into being by virtue of the provisions of this Act, the Registrar of Deeds shall not register the transfer of a land unit forming part of the subdivided property unless there is produced to him or her a conveyancer's certificate that all moneys due to the body corporate by the transferor in respect of the said land unit have been paid, or that provision has been made to the satisfaction of the body corporate for the payment thereof. 5

(3) Except with the approval of either the Provincial Minister or a council of a responsible municipality, a building or structure shall only be erected on a land unit forming part of a subdivision which has been confirmed.

(4) Any applicant in terms of this Chapter may apply to the Provincial Minister or council, as the case may be, for the approval of a registration arrangement known as initial ownership, in which event the provisions of section 39 shall apply *mutatis mutandis*. 10

Ownership of certain places and land when subdivision is not confirmed

32. If the subdivision plan, 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 in terms of section 30, 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 remain the property of the owner of the land or shall revert to such owner, as the case may be. 15

CHAPTER IV

ACCELERATED DEVELOPMENT

Application of this Chapter

33. (1) This Chapter is only applicable where land is to be made urgently available with due regard to provincial or regional interest, for—

- (a) subsidised housing, or 25
 - (b) small scale farming projects, 25
- where health reasons, human need, the restitution of land rights, the redistribution of land, tenure upgrade or reconstruction so require or where any other circumstances determined by the Provincial Cabinet have been made known by notice in the *Provincial Gazette*. 30

(2) A municipality may, and shall on the direction of the Provincial Minister, identify land according to the prescribed procedures for designation in terms of section 35, which shall include advertising. 25

(3) Before land is designated, the prescribed documents and information, including an environmental impact assessment, shall be submitted to the prescribed authority and be dealt with in the prescribed manner. 35

Making land available for purpose of this Chapter

34. (1) Any member of the Provincial Cabinet may make 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, after the intention to make land available for designation has been advertised in the prescribed manner. 40

(2) A statutory body or municipality or any other person may make available for possible designation in terms of section 35 land of which he or she or 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, after the intention to make land available for designation has been advertised in the prescribed manner. 45

(3) Land may be made available for possible designation in terms of section 35 despite the fact that non-statutory development and subdivision by means of the settlement of people on it has occurred. 50

(4) The provisions of sections 6 up to and including 23 of the Expropriation Act, 1975

(2) Indien grond onderverdeel is en 'n eenaarsvereniging uit hoofde van die bepalings van hierdie Wet tot stand gekom het, mag die Registrateur van Aktes die oordrag van 'n grondeenheid wat deel uitmaak van die onderverdeelde eiendom nie registreer nie, tensy 'n transportbesorger se sertifikaat dat alle geld wat die oordraer aan die regspersoon verskuldig is, betaal is of dat voorsiening ten genoeë van die regspersoon gemaak is vir die betaling daarvan, aan die Registrateur van Aktes vertoon word.

(3) Behalwe met die goedkeuring van óf die Provinsiale Minister óf 'n raad van 'n verantwoordelike munisipaliteit, mag 'n gebou of struktuur slegs opgerig word op 'n grondeenheid wat deel uitmaak van 'n onderverdeling wat bevestig is.

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

15 Eiendomsreg op sekere plekke en grond wanneer onderverdeling nie bevestig word nie

32. Indien die onderverdelingsplan, insluitende 'n kaart of 'n algemene plan, geag word heeltemal of gedeeltelik te verval het ingevolge artikel 27 of dit heeltemal of gedeeltelik gerojêer word ingevolge artikel 30, bly die grond wat beslaan word deur 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, die eiendom van die eienaar van die grond of val dit terug op daardie eienaar, na gelang van die geval.

HOOFSTUK IV

VERSNELDE ONTWIKKELING

25 Toepassing van hierdie Hoofstuk

33. (1) Hierdie Hoofstuk is slegs van toepassing waar grond, met inagneming van provinsiale of streeksbelang, dringend beskikbaar gestel moet word vir—

(a) gesubsidieerde behuising, of

(b) kleinskaalboerdery,

30 waar gesondheidsredes, menslike nood, die herstel van grondregte, die herverdeling van grond, die opgradering van grondbesit of heropbou dit vereis of waar enige ander omstandighede deur die Provinsiale Kabinet bepaal by kennisgewing in die *Provinsiale Koerant* bekend gemaak is.

(2) 'n Munisipaliteit kan, en moet op las van die Provinsiale Minister, grond volgens die voorgeskrewe prosedures, wat advertering insluit, identifiseer vir aanwysing ingevolge artikel 35.

(3) Voordat grond aangewys word, moet die voorgeskrewe dokumente en inligting, insluitende 'n omgewingsimpakevaluering, aan die voorgeskrewe owerheid voorgeleë word en moet daar op die voorgeskrewe wyse daarmee gehandel word.

40 Beschikbaarstelling van grond vir toepassing van hierdie Hoofstuk

34. (1) Enige lid van die Provinsiale Kabinet kan Staatsgrond wat deur die Provinsie beheer word of grond wat deur die Provinsie by wyse van aankoop of onteining of op 'n ander wyse verkry is of in die proses van verkryging is, vir moontlike aanwysing ingevolge artikel 35 beskikbaar stel nadat die voorneme om grond vir aanwysing beskikbaar te stel, op die voorgeskrewe wyse geadverteer is.

(2) 'n Statutêre liggaam of munisipaliteit of enige ander persoon kan grond waarvan hy of sy die eienaar is, of wat in die proses van oordrag aan hom of haar of dit is, of ten opsigte waarvan 'n grondbeschikbaarheidsooreenkoms onderteken is, vir moontlike aanwysing ingevolge artikel 35 beskikbaar stel nadat die voorneme om grond vir aanwysing beskikbaar te stel, op die voorgeskrewe wyse geadverteer is.

(3) Grond kan ingevolge artikel 35 vir moontlike aanwysing beskikbaar gestel word ten spyte daarvan dat nie-statutêre ontwikkeling en onderverdeling by wyse van die vestiging van mense daarop plaasgevind het.

(4) Die bepalings van artikels 6 tot en met 23 van die Onteiningswet, 1975 (Wet 63

(Act 63 of 1975), shall apply *mutatis mutandis* to the expropriation of land in terms of subsection (1), and in its application a reference in those sections to-

- (a) "minister" and "State" shall be construed as being a reference to the Provincial Minister 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 Provincial Minister is satisfied, after consideration of all the prescribed documents and information and comments received in response to advertising and after consultation with the municipality concerned, with due regard to any development framework or structure plan which applies in the area concerned, that circumstances exist which in the Provincial Minister's opinion justify the development of land in accordance with the provisions of this Chapter, 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 land concerned shall be further planned and developed in terms of the provisions of this Chapter.

(2) The Provincial Minister may at any time, after consultation with the municipality concerned, amend the notice referred to in subsection (1) or withdraw 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) Land designated for development with a view to obtaining security of tenure or for settlement in terms of national legislation or land awarded by order of the Land Claims Court may, without any further steps having been taken, be designated by the Provincial Minister as land for accelerated development.

(4) All land previously designated in terms of section 3(1) or referred to in section 11(1) or 19(1) of the Less Formal Townships Establishment Act, 1991 (Act 113 of 1991), shall be deemed to have been designated as land for accelerated development in terms of this Chapter, and if the development thereof is incomplete, a matter which at the commencement of this Act has not been disposed of, shall be disposed of in terms of Act 113 of 1991 or this Act, as may be determined by the Provincial Minister.

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 development with a view to obtaining security of tenure or for settlement in terms of national legislation shall also be planned and developed in terms of this Chapter, with due regard to any conditions imposed by the relevant national Minister.

(2) An owner of land, including the State, shall submit a site development plan or subdivision plan to the prescribed authority and apply to it for approval thereof, which application shall be accompanied by the prescribed documents and information, including the proposed zonings with regard to such land units, and no designated land shall be developed or subdivided prior to approval having been granted in terms of this subsection.

(3) The site development plan or subdivision plan shall be advertised 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 Provincial Minister or a council of a responsible municipality may grant or refuse an application in terms of subsection (2) and shall, when imposing conditions in terms of subsection (6), 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.

van 1975), is *mutatis mutandis* van toepassing op die onteining van grond ingevolge subartikel (1), en by die toepassing daarvan word 'n verwysing in daardie artikels na—

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

Aanwysing van grond vir versnelde ontwikkeling

35. (1) Indien die Provinsiale Minister na oorweging van al die voorgeskrewe dokumente en inligting en kommentaar wat in reaksie op advertering ontvang is en ná oorleg met die betrokke munisipaliteit, met inagneming van enige ontwikkelingsraam-
10 werk of struktuurplan wat in die betrokke gebied van toepassing is, tevrede is dat daar omstandighede is wat na die Provinsiale Minister se mening die ontwikkeling van grond in ooreenstemming met die bepalings van hierdie Hoofstuk regverdig, kan hy of sy by kennisgewing in die *Provinsiale Koerant* en op die voorwaardes in die kennisgewing uiteengesit, daardie grond wat ingevolge artikel 34 beskikbaar gestel is,
15 vir versnelde ontwikkeling aanwys, en daarna word die betrokke grond verder beplan en ontwikkel ingevolge die bepalings van hierdie Hoofstuk.

(2) Die Provinsiale Minister kan die kennisgewing in subartikel (1) bedoel te eniger tyd ná oorleg met die betrokke munisipaliteit wysig of dit terugtrek voordat vestiging ingevolge artikel 41 'n aanvang neem; met dien verstande dat die opskorting van 'n
20 serwituut of beperking ingevolge Hoofstuk V, hetsy voor of na die aanvang van vestiging, ophef kan word.

(3) Grond wat ingevolge nasionale wetgewing vir ontwikkeling met die oog op die verkryging van sekerheid van verblyfreg of vir vestiging aangewys is of grond toegeken deur bevel van die Hof vir Grondeise, kan, sonder dat enige verdere stappe
25 gedoen is, deur die Provinsiale Minister aangewys word as grond vir versnelde ontwikkeling.

(4) Alle grond wat vroeër ingevolge artikel 3(1) aangewys is of grond in artikel 11(1) of 19(1) van die Wet op Minder Formele Dorpsstigting, 1991 (Wet 113 van 1991), bedoel, word geag grond te wees wat ingevolge hierdie Hoofstuk vir versnelde
30 ontwikkeling aangewys is, en indien die ontwikkeling daarvan onvoltooid is, moet 'n aangeleentheid wat by die inwerkingtrede van hierdie Wet nog nie afgehandel is nie, afgehandel word ingevolge Wet 113 van 1991 of hierdie Wet, soos deur die die Provinsiale Minister bepaal.

Opskorting en opheffing van beperkings

36. Die bepalings van artikel 48 met betrekking tot 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.

Beplanning en ontwikkeling van aangewese grond

37. (1) Grond wat ingevolge nasionale wetgewing vir ontwikkeling met die oog op die verkryging van sekerheid van verblyfreg of vir vestiging aangewys is, word ook ingevolge hierdie Hoofstuk beplan en ontwikkel, met inagneming van enige voor-
40 waardes deur die betrokke nasionale Minister opgelê.

(2) 'n Eienaar van grond, insluitende die Staat, moet 'n terreinontwikkelingsplan of onderverdelingsplan aan die voorgeskrewe owerheid voorlê en by dié owerheid
45 aansoek doen om goedkeuring daarvan, welke aansoek vergesel moet gaan van die voorgeskrewe dokumente en inligting, insluitende die voorgenome sonerings met betrekking tot daardie grondeenhede, en geen aangewese grond mag ontwikkel of onderverdeel word voordat goedkeuring ingevolge hierdie subartikel toegestaan is nie.

(3) Die terreinontwikkelingsplan of onderverdelingsplan word op die voorgeskrewe wyse geadverteer of, by gebrek aan regulasies, op die wyse soos bepaal deur die owerheid wat gemagtig is om die onderverdeling of ontwikkeling goed te keur.
50

(4) Óf die Provinsiale Minister óf 'n raad van 'n verantwoordelike munisipaliteit kan 'n aansoek ingevolge subartikel (2) toestaan of weier en moet, wanneer hy of sy
55 voorwaardes ingevolge subartikel (6) oplê, toesien dat die grond beplan en ontwikkel word op 'n wyse wat die latere opgradering van ingenieursdienste daarop moontlik maak.

(5) When granting such an application, either the Provincial Minister or the council, as the case may be, shall indicate the relevant zonings with regard to the land units for the purposes of section 22(2).

(6) The planning and development of designated land shall be undertaken by the owner, subject to the conditions determined by the Provincial Minister or council, as the case may be. 5

(7) Any member of the Provincial Cabinet or the Provincial Housing Board or a municipality may plan and develop designated land under the control of that member, Board or municipality, or land which has been acquired by means of purchase or expropriation or by any other means, or which 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. 10

(8) Where a member of the Provincial Cabinet undertakes the 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. 15

(9) The provisions of sections 9 and 10 of the Provision of Certain Land for Settlement Act, 1993 (Act 126 of 1993), whereby the responsible national Minister may in the prescribed manner grant an advance or subsidy from money appropriated by Parliament to any person, trust, group of persons or juristic person to acquire designated land or land to be designated in terms of that Act, and to plan and develop that land, apply to land designated in terms of this Chapter. 20

Initial ownership

38. (1) Any applicant in terms of this Chapter may apply to the Provincial Minister or a council of a responsible municipality for the approval of the registration arrangement known as initial ownership. 25

(2) The Provincial Minister 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—

(a) the terms of section 38(2)(a) to (g) of the Development Facilitation Act, 1995 (Act 67 of 1995), have been complied with, and 30

(b) the Provincial Minister or the council, as the case may be, is satisfied that the conveyancer or 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, shall apply *mutatis mutandis* to applications in terms of this Act. 35

(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 surveyor has followed the procedures prescribed in section 62 of the Development Facilitation Act, 1995.

(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 Act. 40

(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.

(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 Act. 45

(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 Act.

(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 Act. 50

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

(a) a land development application, applicant and area shall be construed as being 55

- (5) Wanneer óf die Provinsiale Minister óf die raad, na gelang van die geval, so 'n aansoek toestaan, moet hy of sy of die raad vir die toepassing van artikel 22(2) die tersaaklike sonerings met betrekking tot die grondeenhede aandui.
- (6) Die beplanning en ontwikkeling van aangewese grond word deur die eienaar 5 onderneem behoudens die voorwaardes wat die Provinsiale Minister of raad, na gelang van die geval, bepaal.
- (7) Enige lid van die Provinsiale Kabinet of die Provinsiale Behuisingsraad of 'n munisipaliteit kan aangewese grond wat deur daardie lid, Raad of munisipaliteit beheer word, of grond wat by wyse van aankoop of onteining of op enige ander wyse verkry 10 is, of wat in die proses van verkryging is, of ten opsigte waarvan 'n ooreenkoms aangegaan is, beplan en ontwikkel, of kan 'n ooreenkoms met enige persoon aangaan om die aangewese grond te beplan of te ontwikkel.
- (8) Waar 'n lid van die Provinsiale Kabinet die ontwikkeling van die aangewese grond ingevolge subartikel (6) onderneem, kan daardie lid fondse van die Provinsiale 15 Behuisingsraad of uit enige ander bron bekom om die ontwikkeling te onderneem.
- (9) Die bepalings van artikels 9 en 10 van die Wet op die Besikbaarstelling van Sekere Grond vir Vestiging, 1993 (Wet 126 van 1993), waardeur die verantwoordelike nasionale Minister op die voorgeskrewe wyse, uit geld wat deur die Parlement bewillig is, 'n voorskot of subsidie aan enige persoon, trust, groep persone of regspersoon kan 20 toestaan vir die aanskaffing van aangewese grond of grond wat ingevolge daardie Wet aangewys gaan word en die beplanning en ontwikkeling daarvan, is van toepassing op grond wat ingevolge hierdie Hoofstuk IV aangewys is.

Voorlopige eiendomsreg

38. (1) Enige aansoeker ingevolge hierdie Hoofstuk kan by die Provinsiale Minister 25 of 'n raad van 'n verantwoordelike munisipaliteit aansoek doen om goedkeuring van die registrasiereëling bekend as voorlopige eiendomsreg.
- (2) Die Provinsiale Minister of die raad, na gelang van die geval, kan 'n aansoek ingevolge subartikel (1) goedkeur of weier; met dien verstande dat 'n aansoek nie geweier mag word nie indien—
- 30 (a) aan die bepalings van artikel 38(2)(a) tot (g) van die Wet op Ontwikkelingsfasilitering, 1995 (Wet 67 van 1995), voldoen is, en
- (b) die Provinsiale Minister of die raad, na gelang van die geval, tevrede is dat die transportbesorger of opmeter wat verantwoordelik is vir die uitreiking van sertifikate, oor voldoende versekering beskik om hulle in staat te stel om 35 die sertifikate uit te reik.
- (3) Die bepalings van artikel 38(2), (3) en (4) van die Wet op Ontwikkelingsfasilitering, 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 40 sodra die opmeter die prosedures voorgeskryf in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995, nagekom het.
- (5) (a) Die eerste oordrag van voorlopige eiendomsreg word in ooreenstemming met die bepalings van die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937), geregistreer en geskied by wyse van 'n transportakte in die vorm wat in daardie Wet voorgeskryf 45 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 bepalings 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 bepalings 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.
- 55 (7) Die bepalings ten opsigte 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 enige verwysing in verband met 'n aansoek in die Provinsie na—
- 60 (a) 'n grondontwikkelingsaansoek, -applikant en -gebied uitgelê as 'n verwysing

- a reference to an application, an owner and designated land or the land to which the application in terms of this Act relates;
- (b) a tribunal shall be construed as being a reference to the Provincial Minister or a municipality or a planning board, if the Provincial Minister has assigned or delegated this power to a council or a planning board in terms of section 58 or 59, as the case may be; 5
 - (c) a local government body shall be construed as being a reference to a municipality in terms of this Act;
 - (d) a designated officer shall be construed as being a reference to a department head or chief executive officer, as the case may be, in terms of this Act; 10
 - (e) a condition of establishment shall be construed as being a reference to a condition in terms of section 69, and
 - (f) any approval, requirement, action, provision or anything contemplated in that Act shall be construed as being a reference to the corresponding approval, requirement, action, provision or anything contemplated in this Act. 15
- (9) The Provincial Minister may prescribe procedures in respect of the allocation of initial ownership and all aspects mentioned in this section.

Survey and approval of general plan

39. The owner of designated land to be subdivided shall, after approval of a subdivision plan in terms of section 37 and, where relevant, approval of an application under section 38, submit a general plan to the Surveyor-General concerned for approval or provisional approval and, after approval or provisional approval has been obtained, lodge the plan with the Registrar of Deeds concerned for registration. 20

Registration of general plan and legal consequences

40. (1) The Registrar of Deeds shall commence registration of a general plan when the general plan has been approved or provisionally approved and all other prescribed matters have been complied with. 25

(2) As soon as a general plan has been registered by the Registrar of Deeds as contemplated in subsection (1)—

- (a) the designated land shall, subject to the provisions of this Act, be deemed to be a confirmed subdivision in accordance with Chapter III, and the further provisions of Chapter III shall thereafter apply to it; 30
- (b) a servitude or restriction suspended in terms of section 36 shall be cancelled, and
- (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 municipality in whose area of jurisdiction the land is situated. 35

(3) 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 Provincial Minister.

Settlement of persons on designated land 40

41. (1) The owner 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 in terms of subsection (1) shall take place only after a surveyor, with a view to the preparation of a general plan, has surveyed the land unit and placed the erf beacons; provided that the Provincial Minister or the council of a responsible municipality may, in a particular case, grant permission that settlement may take place in a manner determined by him or her or the council, as the case may be, even though the erf beacons concerned may not have been placed. 45

(3) The provisions of subsection (2) shall not prevent the upgrading of existing illegally settled areas. 50

(4) Settlement in terms of 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.

- na 'n aansoek, 'n eienaar en aangewese grond of die grond waarop die aansoek ingevolge hierdie Wet betrekking het;
- (b) 'n tribunaal uitgelê as 'n verwysing na die Provinsiale Minister of 'n munisipaliteit of 'n beplanningsraad, indien die Provinsiale Minister hierdie bevoegdheid ingevolge artikel 58 of 59 aan 'n raad of 'n beplanningsraad, na gelang van die geval, opgedra of gedelegeer het;
- (c) 'n plaaslike owerheidsliggaam uitgelê as 'n verwysing na 'n munisipaliteit ingevolge hierdie Wet;
- (d) 'n aangewese beampte uitgelê as 'n verwysing na 'n departementshoof of hoof uitvoerende beampte, na gelang van die geval, ingevolge hierdie Wet;
- (e) 'n stigtingsvoorwaarde uitgelê as 'n verwysing na 'n voorwaarde ingevolge artikel 69, en
- (f) enige goedkeuring, vereiste, optrede, bepaling of enigiets in daardie Wet bedoel, uitgelê as 'n verwysing na die ooreenstemmende goedkeuring, vereiste, optrede, bepaling of enigiets in hierdie Wet bedoel.
- (9) Die Provinsiale Minister kan prosedures voorskryf ten opsigte van die toekenning van voorlopige eiendomsreg en alle aspekte in hierdie artikel vermeld.

Opmeting en goedkeuring van algemene plan

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

25 Registrasie van algemene plan en regsgevolge

40. (1) Die Registrateur van Aktes begin om 'n algemene plan te registreer wanneer die algemene plan goedgekeur of voorlopig goedgekeur is en alle ander voorgeskrewe aangeleenthede nagekom is.
- (2) Sodra 'n algemene plan deur die Registrateur van Aktes geregistreer is soos beoog in subartikel (1)—
- (a) word die aangewese grond behoudens die bepalings van hierdie Wet geag 'n bevestigde onderverdeling in ooreenstemming met Hoofstuk III te wees, en die verdere bepalings van Hoofstuk III is daarna daarop van toepassing;
- (b) word 'n servituut of beperking wat ingevolge artikel 36 opgeskort is, gerojêer, en
- (c) berus die eiendomsreg op alle grond wat beslaan word deur openbare strate en openbare plekke wat op daardie plan aangedui word, in ooreenstemming met die bepalings van artikel 28 by die munisipaliteit in wie se regsgebied die grond geleë is.
- (3) Waar grond nie onderverdeel gaan word nie, word 'n servituut of beperking wat ingevolge artikel 36 opgeskort is, gerojêer binne die tydperk wat die Provinsiale Minister bepaal.

Vestiging van persone op aangewese grond

41. (1) Die eienaar van aangewese grond kan behoudens subartikel (2) 'n grondeenheid op daardie grond aan 'n persoon toeken vir vestiging.
- (2) Vestiging van 'n persoon ingevolge subartikel (1) mag slegs plaasvind nadat 'n opmeter, met die oog op die opstel van 'n algemene plan, die grondeenheid opgemeet en die erfbakens geplaas het; met dien verstande dat die Provinsiale Minister of die raad van 'n verantwoordelike munisipaliteit, in 'n bepaalde geval toestemming kan verleen dat vestiging kan plaasvind op 'n wyse wat hy of sy of die raad bepaal, na gelang van die geval, selfs al is die betrokke erfbakens nog nie geplaas nie.
- (3) Die bepalings 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 in ooreenstemming met artikel 39 goedgekeur of voorlopig goedgekeur is.

(5) A land unit may be allocated with or without the payment of compensation, as the owner may determine.

Registration of ownership

42. (1) If, at an allocation under section 41(1), the owner intends to transfer ownership of a land unit, he or she shall, as soon as the general plan in respect of the designated land has been registered by the Registrar of Deeds in terms of section 40(1) 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 deeds registry, whereupon the Registrar of Deeds shall register the land unit in the name of that person. 5 10

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

(a) a conveyancer, or

(b) if the owner of the land unit is the State or a municipality, any person in the employ of the State or that municipality who has been designated for that purpose by the Provincial Minister or the council, as the case may be. 15

(3) The form of a deed of transfer contemplated in subsection (1) shall be as 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 Act.

(4) A person contemplated in subsection (2)— 20

(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 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 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. 30

(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.

(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). 40

(8) Land designated in terms of Chapter IV of this Act shall, for the purposes of section 9(8) of the Less Formal Townships Establishment Act, 1991 (Act 113 of 1991), be deemed to be land designated in terms of Chapter I of that Act.

CHAPTER V

REMOVAL OF RESTRICTIONS 45

Applications for removal or relaxation

43. (1) An owner of land may apply in writing to the chief executive officer concerned for the amendment, suspension, removal or relaxation in terms of section 44 of a restriction registered against the title deed of the land or any relevant register, diagram or plan. 50

(2) The chief executive officer shall—

(5) 'n Grondeenheid kan met of sonder die betaling van vergoeding, na gelang die eienaar bepaal, toegeken word.

Registrasie van eiendomsreg

42. (1) Indien die eienaar by 'n toekenning ingevolge 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 ingevolge artikel 40(1) deur die Registrateur van Aktes geregistreer is en ná die toekenning, 'n transportakte, uitgemaak in die naam van die persoon aan wie die grondeenheid toegeken is, op die vorm wat ingevolge die Registrasie van Aktes Wet, 1937 (Wet 47 van 1937), vir die doel voorgeskryf is, by die registrasiekantoor in, en daarna registreer die Registrateur van Aktes die grondeenheid in die naam van daardie persoon.

(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 munisipaliteit is, enige persoon in diens van die Staat of daardie munisipaliteit wat deur die Provinsiale Minister of die raad, na gelang van die geval, vir dié doel aangewys is.

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

(4) 'n Persoon beoog 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* verantwoordelikheid ingevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, vir die juistheid van die feite in so 'n dokument vervat, en
- (b) kan, ondanks andersluidende bepalings van enige ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte, soos in hierdie artikel beoog, 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 ingevolge die Registrasie van Aktes Wet, 1937, voorgeskryf.

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

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

(8) Grond wat ingevolge Hoofstuk IV van hierdie Wet aangewys word, word vir die toepassing van artikel 9(8) van die Wet op Minder Formele Dorpstigting, 1991 (Wet 113 van 1991), geag grond te wees wat ingevolge Hoofstuk I van daardie wet aangewys is.

HOOFSTUK V

50

OPHEFFING VAN BEPERKINGS

Aansoeke om opheffing of verslapping

43. (1) 'n Eienaar van grond kan skriftelik aansoek doen by die betrokke hoof uitvoerende beampte om die wysiging, opskorting, opheffing of verslapping ingevolge 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 beampte moet—

- (a) cause the application to be advertised if in his or her opinion any person or body may be adversely affected by it;
- (b) obtain the relevant comment of any public body which in his or her opinion has an interest in the application, or as prescribed;
- (c) submit to the owner for comment any objections or comment received in respect of the application; 5
- (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 the reasons therefor and, 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 56, and 10
- (e) where the Provincial Minister may act in terms of section 44, obtain the relevant recommendation, and the reasons therefor, of the chief executive officer's council and furnish the department head with a copy of that recommendation and of any documents required by the department head. 15
- (3) The department head, with regard to an application in respect of which the Provincial Minister may act in terms of section 44, shall—
 - (a) obtain comment and information which in his or her opinion are still required, and 20
 - (b) notify the applicant, any objectors and the municipality concerned of the Provincial Minister's decision about the application and the reasons therefor and, where applicable, furnish them with a copy of conditions, including substituted title conditions, imposed by the Provincial Minister. 25
- (4) If a provision in a title deed allows for the relaxation of that provision under certain circumstances without amending the title deed, the person or body named in that provision, or in cases where the person or body referred to in the title deed no longer exists, the Provincial Minister or the council of a responsible municipality, may authorise the relaxation. 30

Approval or refusal of application

44. Either the Provincial Minister or the council of a responsible municipality may approve or refuse an application for the amendment, suspension, removal or relaxation of a restriction limiting the planning, development or utilisation of any property.

Notification of decisions 35

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 accordingly and, if the title deed is to be amended, also the Registrar of Deeds and the Surveyor-General and publish a notice in the *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 Provincial Minister acts under section 44, the Provincial Minister shall notify the parties concerned of his or her decision and, if the title deed is to be amended, also the Registrar of Deeds and the Surveyor-General and publish a notice in the *Provincial Gazette*. 40

Actions of Registrar of Deeds and Surveyor-General 45

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 Provincial Minister, as the case may be, in terms of section 45, make the appropriate entries required to reflect the effect of the council's or the Provincial Minister's decision, 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. 50

- (a) die aansoek laat adverteer indien enige persoon of liggaam na sy of haar mening nadelig daardeur getref kan word;
- (b) die tersaaklike kommentaar van enige openbare liggaam wat na sy of haar mening belang by die aansoek het, of soos voorgeskryf, verkry;
- 5 (c) enige besware of kommentaar wat ten opsigte van die aansoek ontvang word, aan die eienaar voorlê vir kommentaar;
- (d) waar die raad ingevolge artikel 44 kan optree—
- (i) die aansoek en alle tersaaklike dokumente aan die raad voorlê, en
- 10 (ii) die aansoeker en enige beswaarmakers van die raad se besluit en die redes daarvoor in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes, insluitende vervangende titelvoorwaardes, deur die raad opgelê en hulle wys op hul reg van appèl ingevolge artikel 56, en
- (e) waar die Provinsiale Minister ingevolge artikel 44 kan optree, die tersaaklike aanbeveling, en die redes daarvoor, van die hoof uitvoerende beampte se raad verkry en die departementshoof voorsien van 'n afskrif van daardie aanbeveling en van enige dokumente wat die departementshoof verlang.
- (3) Die departementshoof moet, met betrekking tot 'n aansoek ten opsigte waarvan die Provinsiale Minister ingevolge artikel 44 kan optree—
- 20 (a) kommentaar en inligting wat na sy of haar mening nog vereis word, verkry, en
- (b) die aansoeker, enige beswaarmakers en die betrokke munisipaliteit van die Provinsiale Minister se besluit oor die aansoek en die redes daarvoor in kennis stel en, waar van toepassing, hulle voorsien van 'n afskrif van voorwaardes, insluitende vervangende titelvoorwaardes, deur die Provinsiale Minister opgelê.
- 25 (4) Indien 'n bepaling in 'n titelakte voorsiening maak dat daardie bepaling onder sekere omstandighede verslap kan word sonder om die titelakte te wysig, kan die persoon of liggaam daarin genoem, of in gevalle waar die persoon of liggaam in die
- 30 titelakte bedoel, nie meer bestaan nie, die Provinsiale Minister of die raad van 'n verantwoordelike munisipaliteit, die verslapping magtig.

Toestaan of weiering van aansoek

44. Óf die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit kan 'n aansoek om die wysiging, opskorting, opheffing of verslapping van 'n beperking
- 35 wat die beplanning, ontwikkeling of aanwending van enige eiendom 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, moet die raad, wanneer hy ingevolge artikel 44 optree, sy besluit
- 40 dienooreenkomstig aan die betrokke partye bekend maak en, indien die titelakte gewysig moet word, ook die Registrateur van Aktes en die Landmeter-generaal en 'n kennisgewing binne die voorgeskrewe tydperk in die *Provinsiale Koerant* publiseer.
- (2) Indien 'n reg van appèl uitgeoefen word ten opsigte van 'n raadsbesluit wat ingevolge artikel 44 geneem is of indien die Provinsiale Minister kragtens artikel 44
- 45 optree, moet die Provinsiale Minister sy of haar besluit aan die betrokke partye bekend maak en, indien die titelakte gewysig moet word, ook die Registrateur van Aktes en die Landmeter-generaal en 'n kennisgewing in die *Provinsiale Koerant* publiseer.

Optrede van Registrateur van Aktes en Landmeter-generaal

46. Die betrokke Registrateur van Aktes en Landmeter-generaal moet so gou
- 50 moontlik nadat hulle skriftelik van 'n raad of die Provinsiale Minister, 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 Provinsiale Minister se besluit weer te gee, maak in of op enige tersaaklike geldende register, titelakte, kaart of plan wat in hul onderskeie kantore geregistreer is of aan hulle voorgelê word en die nodige endossemente daarop aanbring.
- 55

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. 5

(2) If the plaintiff and the owner concerned fail to reach an agreement about 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 as to the extent of the damage shall be determined at the instance of either party by an appeal committee or planning board or, at the option of either of the parties, by means of arbitration. 10

Suspension and removal of legal provisions and restrictions by Provincial Minister

48. (1) An owner of land or any public body may apply in writing to the Provincial Minister that any matter relating to planning, development or the utilisation of land to be dealt with in terms of this Act be excluded from any legal provision which falls within the legislative competence of the Provincial Legislature. 15

(2) The Provincial Minister may of his or her own accord or on application, by notice in the *Provincial Gazette*, exclude in general or in respect of any particular development or area any matter to be dealt with in terms of this Act from any legal provision, as contemplated in subsection (1), if the Provincial Minister, after considering comments received, is of the opinion that such exclusion is desirable because that legal provision duplicates existing controls, or will unnecessarily delay the finalisation of applications or the development or utilisation of land, or will be otherwise inappropriate. 20

(3) (a) Land designated in terms of Chapter IV of this Act shall, for the purposes of this section, be deemed to be land designated in terms of the Less Formal Townships Establishment Act, 1991 (Act 113 of 1991). 25

(b) The Provincial Minister may request the responsible national Minister to exercise a power under section 12(A) of Act 113 of 1991 similar to that conferred upon the Provincial Minister in terms of subsection (1), in respect of a law which falls outside the legislative competence of the Provincial Legislature. 30

(4) Notwithstanding any legal provisions to the contrary, the Provincial Minister may by notice in the *Provincial Gazette*, of his or her own accord or on application, wholly or in part suspend or remove any restriction which is registered against the title deed of immovable property, where in his or her opinion, after considering comments received, the suspension or removal is desirable because the restriction duplicates existing controls, or will not be capable of being beneficially utilised in the future, or will unnecessarily delay the finalisation of applications or the development or utilisation of land. 35

(5) Before the Provincial Minister or the responsible national Minister, as the case may be, acts as contemplated in subsection (2), (3) or (4), he or she shall first advertise the proposed action in the prescribed manner or, in the absence of regulations, in the manner which he or she may deem fit. 40

(6) Subsections (2), (3) and (4) shall not be construed as authorising the suspension of a registered mineral right. 45

(7) The Provincial Minister may amend or revoke a notice contemplated in subsections (2), (3) and (4) by notice in the *Provincial Gazette*, on condition that the title restriction has not yet been amended or removed.

(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, any restriction which has been suspended or removed in terms of subsection (2), (3) or (4) shall be cancelled within the period determined by the Provincial Minister. 50

Vergoeding

47. (1) 'n Persoon wat skade gely het omdat 'n titelvoorwaarde 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 titelvoorwaarde gewysig, opgeskort of opgehef is.

(2) Indien die betrokke eiser en eienaar nie binne 90 dae nadat 'n eis om vergoeding ingevolge die bepalings van subartikel (1) ingedien is, 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 deur 'n appèlkomitee of beplanningsraad bepaal word of, indien enigeen van die partye dit verkies, by wyse van arbitrasie beslis word.

Opskorting en opheffing van wetsbepalings en beperkings deur Provinsiale Minister

48. (1) 'n Eienaar van grond of enige openbare liggaam kan skriftelik aansoek doen by die Provinsiale Minister dat enige aangeleentheid met betrekking tot beplanning, ontwikkeling of die aanwending van grond waarmee ingevolge hierdie Wet gehandel moet word, uitgesluit word van enige wetsbepaling wat binne die Provinsiale Wetgewer se wetgewende bevoegdheid val.

(2) Die Provinsiale Minister kan, by kennisgewing in die *Provinsiale Koerant*, uit eie beweging of op aansoek enige aangeleentheid waarmee ingevolge hierdie Wet gehandel moet word, in die algemeen of ten opsigte van enige bepaalde ontwikkeling of gebied uitsluit van enige wetsbepaling soos in subartikel (1) beoog, indien die Provinsiale Minister, na oorweging van kommentaar wat ontvang is, van mening is dat so 'n uitsluiting wenslik is omdat daardie wetsbepaling bestaande beheermaatreëls dupliseer, of die afhandeling van aansoeke of die ontwikkeling of aanwending van grond onnodig sal vertraag, of andersins onvanpas sal wees.

(3) (a) Grond wat ingevolge Hoofstuk IV van hierdie Wet aangewys word, word vir die toepassing van hierdie artikel geag grond te wees wat ingevolge die Wet op Minder Formele Dorpsstigting, 1991 (Wet 113 van 1991), aangewys is.

(b) Die Provinsiale Minister kan die verantwoordelike nasionale Minister versoek om 'n bevoegdheid kragtens artikel 12A van Wet 113 van 1991, soortgelyk aan dié wat ingevolge subartikel (1) aan die Provinsiale Minister opgedra word, uit te oefen ten opsigte van 'n wet wat buite die wetgewende bevoegdheid van die Provinsiale Wetgewer val.

(4) Ondanks enige andersluidende wetsbepaling, kan die Provinsiale Minister, by kennisgewing in die *Provinsiale Koerant*, uit eie beweging of op aansoek enige beperking wat teen die titelakte van onroerende eiendom geregistreer is, ten volle of gedeeltelik opskort of ophef waar, na sy of haar mening, na oorweging van kommentaar wat ontvang is, die opskorting of opheffing wenslik is omdat die beperking bestaande beheermaatreëls dupliseer, of in die toekoms nie voordelig aangewend sal kan word nie, of die afhandeling van aansoeke of die ontwikkeling of aanwending van grond onnodig sal vertraag.

(5) Voordat die Provinsiale Minister of die verantwoordelike nasionale Minister, na gelang van die geval, optree soos in subartikel (2), (3) of (4) beoog, moet hy of sy die voorgename optrede eers op die voorgeskrewe wyse adverteer of, by gebrek aan regulasies, op die wyse wat hy of sy goedvind.

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

(7) Die Provinsiale Minister kan 'n kennisgewing in subartikels (2), (3) en (4) beoog, by kennisgewing in die *Provinsiale Koerant* wysig of intrek, mits die titelbeperking nie reeds gewysig of opgehef is nie.

(8) Die bepalings 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 registrasie van 'n algemene plan deur die Registrateur van Aktes of in die geval van hersonering word enige beperking wat ingevolge subartikel (2), (3) of (4) opgeskort of opgehef is, gerojear binne die tydperk wat die Provinsiale Minister bepaal.

CHAPTER VI

PLANNING BOARDS

Establishment of planning boards

49. (1) (a) The Provincial Minister may establish a planning board or planning boards for the area or areas as defined by notice in the *Provincial Gazette*. 5
- (b) The Provincial Minister may establish one or more subcommittees 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 Act, determined by the Provincial Minister.
- (2) A planning board shall consist of the number of members determined by the Provincial Minister from time to time. 10
- (3) The Provincial Minister shall, in accordance with the prescribed procedure which shall provide for public participation in the nomination of candidates for appointment, appoint the members of a planning board on an *ad hoc* or permanent basis, and those members shall consist of— 15
- (a) persons who have appropriate knowledge of and experience in the implementation of this Act in matters relating to relevant disciplines and fields such as environmental, town and regional or development planning, engineering, land surveying, law, architecture, landscape architecture and valuation, and
- (b) not more than three persons nominated by organised local government and by organisations and community-based groups in civil society who represent the interests of communities intended to benefit from planning and development in urban and rural areas. 20
- (4) The Provincial Minister shall appoint every member of a planning board on the conditions, including conditions as to the payment of remuneration and allowances, determined by the Provincial Minister at the time of the member's appointment with the concurrence of the Provincial Minister responsible for finance. 25
- (5) The Provincial Minister shall appoint a member of a planning board as its chairperson and another member as its vice-chairperson.
- (6) The vice-chairperson shall, subject to the provisions of subsection (5), act as chairperson of the planning board when the chairperson is absent or unable to act as chairperson, and when both the chairperson and vice-chairperson are absent or unable to act as chairperson, the members present at the meeting shall elect one of their number to act as chairperson at such meeting by majority vote. 30
- (7) (a) Every fourth year at the most after the establishment of a planning board, the members of that board (except the chairperson, who shall hold office as chairperson for 6 years) shall vacate their office as members of the planning board and the Provincial Minister shall, subject to the provisions of subsection (3), appoint new members in their place. 35
- (b) No member of a planning board shall hold office for an uninterrupted period exceeding 6 years. 40
- (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 planning board without leave of the planning board or if the Provincial Minister at any time terminates the member's term of office because the Provincial Minister is of the opinion that there are other sound reasons for doing so. 45
- (9) The Provincial Minister may appoint a member of a planning board as acting chairperson to exercise and perform the powers and duties of the chairperson when 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 Provincial Minister 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 for as long as he or she is unable to discharge the duties of office. 50
- (11) (a) The meetings of a planning board shall be held at the times and places determined by the chairperson. 55
- (b) The person presiding at a meeting shall determine the procedure at such a meeting.

HOOFSTUK VI

BEPLANNINGSRADE

Instelling van beplanningsrade

49. (1) (a) Die Provinsiale Minister kan 'n beplanningsraad of beplanningsrade vir
5 die gebied of gebiede soos by kennisgewing in die *Provinsiale Koerant* omskryf, instel.
(b) Die Provinsiale Minister kan een of meer subkomitees wat uit enige getal lede
van 'n beplanningsraad bestaan, instel vir die uitoefening van enige bevoegdheid of die
verrigting van enige plig van die beplanningsraad ingevolge hierdie Wet wat die
Provinsiale Minister bepaal.
- 10 (2) 'n Beplanningsraad bestaan uit die getal lede wat die Provinsiale Minister van tyd
tot tyd bepaal.
- (3) Die Provinsiale Minister moet in ooreenstemming met die voorgeskrewe
prosedure, wat vir openbare deelname aan die nominasie van kandidate vir aanstelling
voorsiening moet maak, die lede van 'n beplanningsraad op 'n *ad hoc* of vaste
15 grondslag aanstel, en daardie lede moet bestaan uit—
- (a) persone met gepaste kennis van en ondervinding in die toepassing van hierdie
Wet waar aangeleenthede in verband met tersaaklike dissiplines en terreine
soos omgewings-, stads- en streeks- of ontwikkelingsbeplanning; ingenieurs-
wese, landmeting, die reg, argitektuur, landskapsargitektuur en waardasie
20 betrokke is, en
- (b) hoogstens 3 persone, genomineer deur georganiseerde plaaslike regering en
deur organisasies en gemeenskapsgebaseerde groepe in die burgerlike
samelewing wat die belange van gemeenskappe wat bedoel is om by
beplanning en ontwikkeling in stedelike en landelike gebiede te baat,
25 verteenwoordig.
- (4) Die Provinsiale Minister stel elke lid van 'n beplanningsraad aan op die
voorwaardes, insluitende voorwaardes aangaande die betaling van vergoeding en
toelaes, wat die Provinsiale Minister, met die instemming van die Provinsiale Minister
verantwoordelik vir finansies, ten tyde van die lid se aanstelling bepaal.
- 30 (5) Die Provinsiale Minister stel 'n lid van 'n beplanningsraad as voorsitter daarvan
aan en 'n ander lid as ondervoorsitter daarvan.
- (6) Die ondervoorsitter moet behoudens die bepalinge van subartikel (5) as voorsitter
van die beplanningsraad optree wanneer die voorsitter afwesig is of nie as voorsitter
kan optree nie, en wanneer beide die voorsitter en die ondervoorsitter afwesig is of nie
35 as voorsitter kan optree nie, kies die lede wat op die vergadering aanwesig is, met 'n
meerderheidstem een uit hul geledere om as voorsitter op daardie vergadering op te
tree.
- (7) (a) Hoogstens al om die 4 jaar na die instelling van 'n beplanningsraad ontruim
die lede daarvan (uitgesonderd die voorsitter, wat die amp van voorsitter vir 6 jaar
40 beklee) hul amp as lede van die beplanningsraad en moet die Provinsiale Minister,
behoudens die bepalinge 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 bepalinge van subartikel (7), ontruim 'n lid van 'n beplanningsraad
45 die amp as hy of sy sonder die verlof van die beplanningsraad van twee opeenvolgende
vergaderings daarvan afwesig is of as die Provinsiale Minister te eniger tyd die
ampstermyn van die lid beëindig omdat daar na die mening van die Provinsiale
Minister ander gegronde redes daarvoor bestaan.
- (9) Die Provinsiale Minister kan 'n lid van 'n beplanningsraad as waarnemende
50 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 Provinsiale Minister, behoudens die
bepalinge van subartikel (3), 'n ander geskikte persoon aanstel om in die plek van
55 daardie lid op te tree gedurende dié lid se afwesigheid of solank dié lid 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) Die persoon wat op 'n vergadering voorsit, bepaal die prosedure op so 'n
60 vergadering.

(c) The quorum for a meeting of a planning board shall be the majority of the members of the planning board as at the date of that meeting.

(d) 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. 5

(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 Act a reference in any law to the Townships Board, established in terms of section 2 of the Townships Ordinance, 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. 10

Duties of Provincial Minister with regard to planning board

50. (1) The Provincial Minister may refer a matter relating to law or policy generally or a matter submitted to him or her for a decision in terms of this Act to a planning board, including, but not limited to— 15

(a) a development framework submitted to him or her for approval in terms of section 4(6) or 4(8), in respect of which objections have been lodged in terms of section 4(5) or 4(9)(a); 20

(b) an application submitted to him or her for a decision in terms of this Act, in respect of which any objections have been received, and

(c) an appeal noted with him or her in terms of this Act.

(2) The Provincial Minister shall refer any prescribed application or matter to a planning board. 25

(3) The Provincial Minister shall not vest the department head with the power to deviate from a recommendation of a planning board.

(4) The Provincial Minister 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 relating to just administrative action, by written notification direct the authority or body concerned or a person in the employ of the State to exercise his or her statutory power and to furnish comment or information and may in his or her discretion, when issuing that directive, impose any conditions and requirements that can be lawfully executed by that authority, body or person. 30

(5) The administrative duties of a planning board or boards shall be performed by a secretariat consisting of persons employed by the Provincial Administration of Western Cape or municipalities. 35

Powers, functions and duties of planning board

51. (1) A planning board—

(a) shall furnish the Provincial Minister with a report on its findings and recommendations upon completion of an inquiry in terms of section 52; 40

(b) may at its discretion furnish the Provincial Minister with a recommendation on any matter affecting the implementation of this Act or aspects affecting planning and development in any other law or policy generally;

(c) may, if it requires additional information or the advice of any person to give effect to paragraph (a) or (b), apply to the Provincial Minister for it; 45

(d) may establish any auxiliary committee comprising any number of members of the planning board for the purpose of assisting the planning board when it performs its functions in terms of this section, and

(e) shall exercise any other powers and perform any other functions and duties which are conferred or imposed upon it by the Premier by proclamation in the *Provincial Gazette* for the promotion of efficient administration and which are not in conflict with this Act or any other law. 50

(2) No member or alternate member shall disclose the contents of a recommendation of a planning board before the Provincial Minister's decision on it has been made known, unless the Provincial Minister gives his or her consent thereto. 55

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

(d) 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, ingestel ingevolge artikel 2 van die Dorpe-ordonnansie, of die beplanningsadviesraad, ingestel ingevolge artikel 33 van die Grondgebruik-ordonnansie, geag 'n verwysing na 'n beplanningsraad te wees.

Pligte van Provinsiale Minister met betrekking tot beplanningsraad

50. (1) Die Provinsiale Minister kan 'n aangeleentheid in verband met die reg of beleid in die algemeen of 'n aangeleentheid aan hom of haar voorgelê ingevolge hierdie Wet na 'n beplanningsraad verwys, insluitende, sonder om beperk te wees tot:

(a) 'n ontwikkelingsraamwerk aan hom of haar voorgelê vir goedkeuring ingevolge artikel 4(6) of 4(8), ten opsigte waarvan besware ingevolge artikel 4(5) of 4(9)(a) ingedien is;

(b) 'n aansoek aan hom of haar voorgelê vir 'n beslissing ingevolge hierdie Wet, ten opsigte waarvan enige besware ontvang is;

(c) 'n appèl by hom of haar aangeteken ingevolge hierdie Wet.

(2) Die Provinsiale Minister moet enige voorgeskrewe aansoek of aangeleentheid na 'n beplanningsraad verwys.

(3) Die Provinsiale Minister mag nie die bevoegdheid om van 'n aanbeveling van 'n beplanningsraad af te wyk, aan die departementshoof verleen nie.

(4) Die Provinsiale Minister kan, as hy of sy van mening is dat dit vir die beskerming en behoud van enige persoon se fundamentele grondwetlike regte met betrekking tot regverdigde administratiewe optrede nodig is, by skriftelike kennisgewing die betrokke owerheid of liggaam of 'n persoon in diens van die Staat 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 goeddunke die voorwaardes en vereistes stel wat wettig uitgevoer kan word deur daardie owerheid, liggaam of persoon.

(5) Die administratiewe pligte van 'n beplanningsraad of beplanningsrade word verrig deur 'n sekretariaat bestaande uit persone in die diens van die Provinsiale Administrasie van Wes-Kaap of munisipaliteite.

Bevoegdhede, funksies en pligte van beplanningsraad

51. (1) 'n Beplanningsraad—

(a) moet by voltooiing van 'n ondersoek ingevolge artikel 52 die Provinsiale Minister voorsien van 'n verslag oor sy bevindings en aanbevelings;

(b) kan na goeddunke 'n aanbeveling aan die Provinsiale Minister doen oor enige aangeleentheid wat die toepassing van hierdie Wet raak of aspekte wat beplanning en ontwikkeling in enige ander wet of beleid in die algemeen raak;

(c) kan, indien hy bykomende inligting of die advies van enigiemand verlang ten einde aan paragraaf (a) of (b) gevolg te gee, by die Provinsiale Minister daarom aansoek doen;

(d) kan enige hulpkomitee wat uit enige getal lede van die beplanningsraad bestaan, instel met die doel om die beplanningsraad by te staan wanneer die beplanningsraad sy funksies ingevolge hierdie artikel verrig, en

(e) moet die ander bevoegdhede uitoefen en die ander funksies en pligte verrig wat die Premier by proklamasie in die *Provinsiale Koerant* aan hom verleen of opdra om doeltreffende administrasie te bevorder en wat nie strydig is met hierdie Wet of enige ander wet nie.

(2) Geen lid of plaasvervanger van 'n lid mag die inhoud van 'n aanbeveling van 'n beplanningsraad openbaar maak voordat die Provinsiale Minister se beslissing daaromtrent bekend gemaak is nie, tensy die Provinsiale Minister toestemming daartoe verleen.

Inquiries by planning board

52. (1) If the Provincial Minister refers a matter in terms of section 50(1) to a planning board, the planning board may, subject to prescribed directions, conduct an inquiry into that matter.

(2) The procedure to be followed in conducting an inquiry shall be determined by a planning board at its discretion, with due regard to the prescribed directions and the circumstances of each case. 5

(3) The person presiding at an inquiry shall keep or cause to be kept a record of proceedings and of the evidence given thereat in the manner deemed fit by him or her, with due regard to the prescribed directions. 10

(4) For the purposes of an inquiry—

(a) the chairman may from time to time determine the time and place where the proceedings shall be held and proceeded with;

(b) a planning board may subpoena any person who in the opinion of the board may be able to give material information about the subject of the inquiry, or who it suspects or believes has in his or her possession or custody or under his or her control any book, document or other object which has a bearing upon the subject of the inquiry, to appear before it at the time and place specified in the subpoena, to be questioned or to produce that book, document or object, and 15 20

(c) the chairman may call and administer an oath to or accept an affirmation from any person present at the inquiry who was or might have been subpoenaed in terms of paragraph (b), and may question him or her and require him or her to produce any book, document or object in his or her possession or custody or under his or her control which the board suspects or believes to have a bearing upon the subject of the inquiry. 25

(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; 30

(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; 35

(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 40

(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— 45

(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, 50

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 constitute frameworks, norms and standards relating to co-ordinated planning and development or the promotion of 55

Ondersoeke deur beplanningsraad

52. (1) As die Provinsiale Minister 'n aangeleentheid ingevolge artikel 50(1) na 'n beplanningsraad verwys, kan die beplanningsraad behoudens voorgeskrewe aanwysings 'n ondersoek oor daardie aangeleentheid hou.

5 (2) Die prosedure wat by die hou van 'n ondersoek gevolg moet word, word deur 'n beplanningsraad na goëddunke bepaal, met inagneming van die voorgeskrewe aanwysings en die omstandighede van elke geval.

(3) Die persoon wat by 'n ondersoek voorsit, moet op die wyse wat hy of sy goëdvind en met inagneming van die voorgeskrewe aanwysings aantekening hou of 10 laat hou van verrigtinge en van die getuienis wat daar gelewer word.

(4) Vir die doeleindes van 'n ondersoek—

(a) kan die voorsitter van tyd tot tyd bepaal wanneer en waar die verrigtinge gehou en voortgesit moet word;

15 (b) kan 'n beplanningsraad enige persoon wat na die mening van die beplanningsraad belangrike inligting oor die onderwerp van die ondersoek kan verstrek of ten opsigte van wie die beplanningsraad vermoed of glo dat hy of sy 'n boek, dokument of ander voorwerp met betrekking tot daardie onderwerp in sy of haar besit of onder sy of haar beheer het, dagvaar om op die tyd en plek in die dagvaarding bepaal, voor die beplanningsraad te verskyn om 20 ondervra te word of om daardie boek, dokument of ander voorwerp voor te lê, en

(c) kan die voorsitter enige persoon wat by die ondersoek aanwesig is en ingevolge paragraaf (b) gedagvaar is of moontlik gedagvaar kon gewees het, oproep en 'n eed laat aflê of bevestiging van so 'n persoon aanvaar en hom of haar ondervra en verplig om enige boek, dokument of voorwerp in sy of 25 haar besit of bewaring of onder sy of haar beheer, ten opsigte waarvan die beplanningsraad vermoed of glo dat dit op die onderwerp van die ondersoek betrekking het, voor te lê.

(5) 'n Dagvaarding beoog in subartikel (4) moet—

30 (a) in die voorgeskrewe vorm wees;

(b) besonderhede bevat van die aangeleentheid in verband waarmee die betrokke persoon voor die beplanningsraad moet verskyn;

(c) deur die voorsitter van die beplanningsraad of 'n persoon deur hom of haar daartoe gemagtig, onderteken word, en

35 (d) op die voorgeskrewe wyse beteken word.

(6) Enigiemand wat gedagvaar is om voor 'n beplanningsraad te verskyn en wat—

(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 40 bywoning onthef word;

(b) by sy of haar verskyning voor die beplanningsraad—

(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 die aanwysing in die dagvaarding voorgelê moet word, of

45 (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, of

(c) na eedaflegging of bevestiging—

(i) versuim om enige vraag wat wettig aan hom of haar gestel word, ten volle of na sy of haar beste vermoë te beantwoord, of

50 (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,

is aan 'n misdryf skuldig.

HOOFTUK VII

ALGEMENE BEGINSELS VIR BEPLANNING EN ONTWIKKELING

55 Toepassing van beginsels

53. (1) Die algemene beginsels in Bylae IV uiteengesit, maak raamwerke, norms en standaarde met betrekking tot gekoördineerde beplanning en ontwikkeling of die

integrated social and economic development and shall, in the interest of the Province or a region, apply throughout the Province and—

- (a) shall also bind the State and a municipality;
 - (b) shall be applied when regulations, scheme regulations, guidelines and by-laws are drafted and implemented and shall also apply to administrative practice relating to planning and development; 5
 - (c) shall be applied when a development framework, land reform plan, zoning scheme, transport plan or similar plan or scheme is prepared and administered by the State or a municipality in terms of any law administered by that authority, and 10
 - (d) shall apply when the State or a municipality exercises a discretion or makes a decision in terms of this Act or any other law relating to planning and development, including a law relating to the subdivision, utilisation and planning of land.
- (2) The Provincial Minister may by proclamation in the *Provincial Gazette*— 15
- (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 shall apply in the Province on the basis set out in subsection (1). 20
- (3) Before publication of a proclamation as contemplated in subsection (2), the Provincial Minister shall afford all interested persons an opportunity to lodge objections or make representations.

CHAPTER VIII

25

ADVERTISING

Advertising

54. (1) (a) Every notice required or authorised in terms of this Act shall be in at least two of the three provincial languages, namely English, Afrikaans or isiXhosa, in accordance with the policy of the Provincial Minister 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. 30
- (b) A notice shall—
- (i) specify the place where and the hours during which particulars of the matter will be available for inspection; 35
 - (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;
 - (iii) clearly specify the land unit or units to which the matter relates by giving the erf or farm number and general locality and, where applicable, the street address and suburb of the relevant land unit or units, and 40
 - (iv) comply with the prescribed requirements.
- (2) Whenever the service of a notice on a person is authorised or required in terms of this Act, 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. 45
- (3) Whenever the service of a notice to a person is authorised or required in terms of this Act, 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— 50
- (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 municipality;
 - (c) if it has been sent by registered mail to the person's latest known residential or business address in the Republic and relevant proof of its posting is submitted; 55

bevordering van geïntegreerde sosiale en ekonomiese ontwikkeling uit en is in die belang van die Provinsie of 'n streek oor die hele Provinsie van toepassing en—

- (a) bind ook die Staat en 'n munisipaliteit;
- 5 (b) word toegepas wanneer regulasies, skemaregulasies, riglyne en verordeninge opgestel en toegepas word en is ook van toepassing op administratiewe praktyk met betrekking tot beplanning en ontwikkeling;
- (c) word toegepas wanneer 'n ontwikkelingsraamwerk, grondhervormingsplan, soneringskema, vervoerplan of soortgelyke plan of skema deur die Staat of 'n munisipaliteit opgestel en geadministreer word ingevolge 'n wet wat daardie owerheid uitvoer, en
- 10 (d) is van toepassing wanneer die Staat of 'n munisipaliteit 'n diskresie uitoefen of 'n besluit neem ingevolge hierdie Wet of enige ander wet wat op beplanning en ontwikkeling betrekking het, insluitende 'n wet wat op die onderverdeling, aanwending en beplanning van grond betrekking het.
- 15 (2) Die Provinsiale Minister kan by proklamasie in die *Provinsiale Koerant*—
 - (a) benewens die beginsels in Bylae IV uiteengesit, maar nie in stryd daarmee nie, enige beplannings- en ontwikkelingsbeginsel voorskryf, en
 - (b) enige beginsel in Bylae IV uiteengesit, in meer besonderhede, maar nie in stryd daarmee nie, voorskryf,
 - 20 en daarna geld daardie beginsel in die Provinsie op die grondslag in subartikel (1) uiteengesit.
- (3) Voordat 'n proklamasie soos beoog in subartikel (2) gepubliseer word, moet die Provinsiale Minister alle belanghebbendes die geleentheid bied om besware in te dien of verhoë te rig.

25

HOOFTUK VIII

ADVERTERING

Advertering

- 54. (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,
- 30 volgens die beleid van die Provinsiale Minister of raad of, by gebrek aan beleid, in die tale wat na die mening van die departementshoof of hoof uitvoerende beampte, na gelang van die geval, die geskikste vir 'n besondere doel is.
- (b) 'n Kennisgewing moet—
 - 35 (i) die plek waar en die ure waartydens 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 of gepubliseer word;
 - 40 (iii) duidelik aandui op watter grondeenheid of grondeenhede die aangeleentheid betrekking het deur die erf- of plaasnommer en algemene ligging en, waar toepaslik, die straatadres en voorstad van die betrokke grondeenheid of grondeenhede te gee, en
 - (iv) voldoen aan die voorgeskrewe vereistes.
- 45 (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.
- (3) Wanneer ook al die betekening van 'n kennisgewing aan 'n persoon ingevolge
- 50 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—
 - (a) indien dit aan die geadresseerde persoonlik afgelewer is;
 - 55 (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 skriftelike ontvangserkenning daarvoor aan die munisipaliteit voorgelê is;
 - (c) indien dit per geregistreerde pos geos is na die persoon se jongsbekende woon- of besigheidsadres in die Republiek en 'n tersaaklike bewys van inlewering daarvan voorgelê word;

- (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 Provincial Minister. 5
- (4) An advertising option other than serving or publishing a notice, shall, in the absence of regulations or provincial guidelines, comply with the general *modus operandi* set out in bylaws or municipal guidelines, as approved by the Provincial Minister. 10

CHAPTER IX

APPEALS AND RELATED MATTERS

Appeal committee

55. (1) The Provincial Minister may establish one or more appeal committees. 15
- (2) An appeal committee shall consist of a chairperson appointed by the Provincial Minister from persons with a legal background, and as many additional members as the Provincial Minister in his or her discretion may appoint from persons belonging to disciplines which afford appropriate expertise.
- (3) The provisions of section 49(4), (7) and (12) shall apply *mutatis mutandis* in respect of an appeal committee. 20
- (4) The Provincial Minister may at any time terminate the period of office of a member of an appeal committee if in the opinion of the Provincial Minister there are sound reasons for doing so.
- (5) When a member of an appeal committee is for some or other reason absent or unable to discharge the duties of office, the Provincial Minister 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. 25
- (6) The chairperson of an appeal committee and as many additional members as 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. 30
- (7) An applicant in terms of this Act or a municipality, where appropriate, may, when a question arises as envisaged in terms of subsection (8)(a) or (b), appeal to an appeal committee in the prescribed manner and within the prescribed period and against payment of the prescribed sum of money. 35
- (8) In addition to its powers and duties in terms of section 14(2) or 19(4), an appeal committee shall have such further powers as determined by the Premier by proclamation in the *Provincial Gazette* and shall, when a question- 40
- (a) arises as to the construction, meaning, validity, reasonableness and applicability of a condition imposed in terms of section 69(1) relating to-
 - (i) the cession of land, free or for compensation, the payment of money or the provision of engineering services or amenities, or
 - (ii) the division between an owner of land and a municipality of the expenses incidental to those services or amenities; 45
 - (b) arises as to a dispute between two or more authorities about such a condition, or
 - (c) is put to it by the department head, consider and settle such question and alter, amend or delete any condition or give advice in respect of a question posed by the department head. 50
- (9) An appeal committee may request additional information needed by it to exercise and perform its powers and duties and may also conduct an inquiry into any matter, in which case the provisions of section 52 shall apply *mutatis mutandis* to the inquiry.
- (10) 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 or guidelines issued in terms of section 70(2) and (4) and, where applicable, with due regard to any report contemplated in section 57(5). 55
- (11) The ruling of the chairperson of an appeal committee shall constitute the decision

- (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
- 5 (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 deur die Provinsiale Minister goedgekeur.
- (4) 'n Ander adverteringsopsie as die betekening of publisering van 'n kennisgewing moet, by gebrek aan regulasies of provinsiale riglyne, voldoen aan die algemene *modus operandi* in verordeninge of munisipale riglyne uiteengesit, soos deur die Provinsiale Minister goedgekeur.

HOOFSTUK IX

APPÈLLE EN VERWANTE AANGELEENTHEDE

Appèlkomitee

- 15 55. (1) Die Provinsiale Minister kan een of meer appèlkomitees instel.
- (2) 'n Appèlkomitee bestaan uit 'n voorsitter wat die Provinsiale Minister uit persone met 'n regsagtergrond aanstel, en soveel bykomende lede as wat die Provinsiale Minister na goeddunke uit persone wat behoort tot dissiplines wat toepaslike kundigheid bied, aanstel.
- 20 (3) Die bepalinge van artikel 49(4), (7) en (12) is *mutatis mutandis* van toepassing ten opsigte van 'n appèlkomitee.
- (4) Die Provinsiale Minister kan te eniger tyd die ampstermyn van 'n lid van 'n appèlkomitee beëindig indien daar na die mening van die Provinsiale Minister gegronde redes daarvoor bestaan.
- 25 (5) Wanneer 'n lid van 'n appèlkomitee om die een of ander rede afwesig is of nie die ampspligte kan verrig nie, moet die Provinsiale Minister behoudens die bepalinge van subartikel (3) 'n geskikte persoon aanstel om tydens daardie lid se afwesigheid of onvermoë om ampspligte te verrig, op te tree.
- (6) Die voorsitter van 'n appèlkomitee en soveel bykomende lede as wat die voorsitter aanwys, vergader binne 'n tydperk van 14 dae nadat kennis van 'n vraag of
- 30 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.
- (7) 'n Aansoeker ingevolge hierdie Wet of 'n munisipaliteit, waar toepaslik, kan, wanneer 'n vraag soos beoog ingevolge subartikel 8(a) of (b) ontstaan, op die
- 35 voorgeskrewe wyse en binne die voorgeskrewe tydperk en teen betaling van die voorgeskrewe geldbedrag na 'n appèlkomitee appelleer.
- (8) Buite en behalwe sy bevoegdhede en pligte ingevolge artikel 14(2) of 19(4), beskik 'n appèlkomitee oor die verdere magte soos deur die Premier by kennisgewing in die *Provinsiale Koerant* bepaal en moet wanneer 'n vraag—
- 40 (a) oor die uitleg, betekenis, geldigheid, redelikheid en toepaslikheid van 'n voorwaarde opgelê ingevolge artikel 69(1) ontstaan met betrekking tot—
- (i) die afstaan van grond, gratis of teen vergoeding, die betaling van geld of die voorsiening van ingenieursdienste of fasiliteite, of
- 45 (ii) die verdeling tussen 'n eienaar van grond en 'n munisipaliteit van die koste verbonde aan daardie dienste of fasiliteite;
- (b) ontstaan aangaande 'n geskil tussen twee of meer owerhede oor so 'n voorwaarde, of
- (c) deur die departementshoof aan hom gestel word,
- 50 die vraag oorweeg en beslis en enige voorwaarde verander, wysig of skrap of raad gee ten opsigte van 'n vraag wat die departementshoof stel.
- (9) 'n Appèlkomitee kan die bykomende inligting aanvra wat hy nodig het om sy bevoegdhede en pligte uit te oefen en te verrig en kan ook 'n ondersoek na enige aangeleentheid uitvoer, in welke geval die bepalinge van artikel 52 *mutatis mutandis* op die ondersoek van toepassing is.
- 55 (10) Die appèlkomitee of beplanningsraad, na gelang van die geval, neem sy besluit in ooreenstemming met die doelwitte en beginsels vervat in Bylae IV en 'n tersaaklike ontwikkelingsraamwerk of riglyne uitgereik ingevolge artikel 70(2) en (4) en, waar van toepassing, met inagneming van enige verslag beoog in artikel 57(5).
- (11) Die beslissing van die voorsitter van 'n appèlkomitee is die besluit van die

of the appeal committee, which shall, subject to review by or appeal to a competent court, be final and binding on the owner and municipality concerned.

(12) If any appeal in terms of subsection (7) is referred for mediation, any action taken under subsections (8) and (9) shall immediately be suspended.

Appeal to Provincial Minister

5

56. (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 Act, and a person who has, prior to the approval of an application, objected to or made representations in writing about such an application, may appeal to the Provincial Minister 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. 10

(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 61(3); section 62(5)(c) or any other decision of a council authorised by regulation may appeal against such decision to the Provincial Minister in the prescribed manner and within the prescribed period and against payment of the prescribed sum of money. 15

(c) A person aggrieved by a decision of a council when acting in terms of section 18 may similarly appeal to the Provincial Minister 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 Provincial Minister in the manner prescribed in terms of that regulation. 20

(2) The Provincial Minister may in his or her discretion, after consultation with the council concerned and other parties involved and, where prescribed, the planning board, 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. 25

(3) The decision of the Provincial Minister in terms of subsection (2) shall, subject to review by or appeal to a competent court, be final and binding on any person or council referred to in subsection (1). 30

(4) The Provincial Minister 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. 35

(5) Appeals may be held over while parties negotiate with the council for the amendment of the council's original decision and may then be withdrawn if resolved, subject to prescribed procedures.

Mediation

57. (1) The Provincial Minister 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 Provincial Minister 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. 40

(2) If all the parties to the dispute are not able to agree on a person to be appointed as such, the Provincial Minister or the council, as the case may be, 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. 45

(3) The Provincial Minister shall appoint a panel of mediators on the basis of their qualifications and experience in or knowledge of mediating planning and development or related disputes, including engineering disputes, for the purpose of being appointed mediators in terms of subsection (1). 50

(4) The Provincial Minister shall appoint the panel of mediators for the period determined by him or her and on the conditions, including conditions relating to the payment of remuneration or allowances, determined by him or her at the time of the panel member's appointment with the concurrence of the Provincial Minister responsible for finance. 55

(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,

appèlkomitee wat, onderworpe aan hersiening deur of appèl na 'n bevoegde hof, afdoende en bindend vir die betrokke eienaar en plaaslike owerheid is.

(12) Indien enige appèl ingevolge subartikel (7) vir bemiddeling verwys word, word enige optrede kragtens subartikels (8) en (9) daarvan onmiddellik gestaak.

5 Appèl by Provinsiale Minister

56. (1) (a) 'n Aansoeker ten opsigte van 'n aansoek by regulasie omskryf of, by gebrek aan regulasies, 'n aansoek om 'n afwyking, hersonering, opheffing, onderverdeling of vergunningsgebruik by 'n raad ingevolge hierdie Wet, en iemand wat beswaar gemaak het of skriftelike verhoë gerig het oor die goedkeuring van so 'n aansoek ingevolge hierdie Wet, kan op die voorgeskrewe wyse en binne die voorgeskrewe tydperk en teen betaling van die voorgeskrewe geldbedrag by die Provinsiale Minister teen die weiering of goedkeuring of voorwaardelike goedkeuring 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 61(3); artikel 62(5)(c) of 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 geldbedrag by die Provinsiale Minister teen daardie besluit appelleer.

(c) Iemand wat hom veronreg voel deur 'n besluit van 'n raad wanneer die raad ingevolge artikel 18 optree, kan insgelyks by die Provinsiale Minister teen daardie besluit appelleer.

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

(2) Die Provinsiale Minister kan ná oorleg met die betrokke raad en ander partye wat betrokke is, na goeddunke 'n appèl beoog in subartikel (1)(a), (b), (c) of (d), van die hand wys of in sy geheel of gedeeltelik handhaaf of ten opsigte daarvan 'n besluit neem wat die raad kon geneem het, en kan ook dié besluitnemingsbevoegdheid aan 'n beplanningsraad opdra onderworpe aan die voorwaardes wat hy of sy bepaal.

(3) Die beslissing van die Provinsiale Minister ingevolge subartikel (2) is, onderworpe aan hersiening deur of appèl na 'n bevoegde hof, afdoende en bindend vir enige persoon of raad bedoel in subartikel (1).

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

(5) Appèlle kan oorgehou word terwyl partye met die raad onderhandel oor die wysiging van die raad se oorspronklike besluit en kan dan, onderworpe aan voorgeskrewe prosedures, teruggetrek word indien opgelos.

Bemiddeling

57. (1) Die Provinsiale Minister 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 Provinsiale Minister of die raad wenslik is, ná oorleg met die partye by 'n geskil '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 'n persoon wat aldus aangestel moet word nie, kan die Provinsiale Minister of die raad, na gelang van die geval, 'n persoon uit die paneel van bemiddelaars in subartikel (3) beoog, in oorstemming met die voorgeskrewe bepalings aanwys om as bemiddelaar in daardie geskil op te tree.

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

(4) Die Provinsiale Minister stel die paneel van bemiddelaars aan vir die tydperk wat hy of sy by hul aanstelling bepaal en op die voorwaardes, insluitende voorwaardes aangaande die betaling van vergoeding of toelaes, wat hy of sy, met die instemming van die Provinsiale Minister verantwoordelik vir finansies, ten tyde van die paneellid se aanstelling bepaal.

(5) 'n Bemiddelaar ingevolge subartikel (1) aangestel, moet met die partye by 'n geskil beraadslaag, die navrae doen en ondersoek instel wat hy of sy nodig ag, poog

attempt to settle the dispute and prepare a report to the parties to the dispute on the outcome of the mediation in accordance with the objectives and principles contained in Schedule IV and a relevant development framework or guidelines issued in terms of section 70(2) and (4).

(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 "chairperson" shall be construed as being a reference to the mediator. 5

(7) All discussions, disclosures and submissions in the course of mediation shall be privileged, unless the parties agree to the contrary. 10

(8) Any party to a dispute about a question as contemplated in section 55(8)(a) or (b) or in respect of an appeal in terms of section 56 may, within the prescribed period, apply to the Provincial Minister for the staying of any inquiry into that matter and, if the Provincial Minister 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 Provincial Minister. 15

CHAPTER X

ASSIGNMENT AND DELEGATION

Assignment and delegation to municipalities 20

58. (1) The Provincial Minister may assign or delegate absolutely, conditionally, generally or specifically to the council of a municipality any of the powers or functions vested in him or her under this Act or by virtue of a title deed although no approved development framework or structure plan exists.

(2) The assignment and delegation of powers or functions authorised by this Act shall take place in accordance with the Constitution and shall take effect upon proclamation or notice to that effect, as the case may be, in the *Provincial Gazette*. 25

(3) When applying this section, due regard shall be had to the provisions of section 74(4) and the considerations in section 74(9)(a) to (e).

Assignment and delegation to other functionaries 30

59. (1) The Provincial Minister may assign or delegate absolutely, conditionally, generally or specifically to any board or committee or to any suitable persons in the service of the Provincial Administration of Western Cape any of the powers or functions vested in him or her under this Act or by virtue of a title deed.

(2) A council may delegate absolutely, conditionally, generally or specifically to any suitable persons in its service any of the powers or functions vested in it under this Act or by virtue of a title deed. 35

(3) A chief executive officer and department head may delegate absolutely, conditionally, generally or specifically to any suitable persons in the service of the council or the Provincial Administration of Western Cape, as the case may be, any of the powers or functions vested in him or her under this Act or by virtue of a title deed. 40

CHAPTER XI

PENALTY PROVISIONS

Compliance with provisions of this Act, zoning schemes and conditions

60. (1) Every municipality shall comply and enforce compliance with— 45

(a) the provisions of this Act or, in so far as they may apply in terms of this Act, the provisions of any law listed in Schedule III;

(b) the provisions incorporated in a zoning scheme in terms of this Act, or

om die geskil te besleg en 'n verslag rakende die uitslag van die bemiddeling vir die partye by die geskil opstel in ooreenstemming met die doelwitte en beginsels in Bylae IV vervat en 'n tersaaklike ontwikkelingsraamwerk of riglyne ingevolge artikel 70(2) en (4), uitgereik.

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

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

- (8) Enige party by 'n geskil oor 'n vraag soos beoog in artikel 55(8)(a) of (b) of ten opsigte van 'n appèl ingevolge artikel 56 kan binne die voorgeskrewe tydperk by die Provinsiale Minister aansoek doen om stuiting van enige ondersoek daaromtrent, en indien die Provinsiale Minister 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 bepalings en voorwaardes wat die Provinsiale Minister billik ag.

HOOFTUK X

OPDRA EN DELEGERING

20 Opdra en delegering aan munisipaliteite

58. (1) Die Provinsiale Minister kan enige van die bevoegdhede of funksies kragtens hierdie Wet of uit hoofde van 'n titelakte aan hom of haar verleen, absoluut, voorwaardelik, in die algemeen of spesifiek aan die raad van 'n munisipaliteit opdra of delegeer, al bestaan daar geen goedgekeurde ontwikkelingsraamwerk of struktuurplan nie.

(2) Die opdra en delegering van bevoegdhede of funksies deur hierdie Wet gemagtig, geskied in ooreenstemming met die Grondwet en tree in werking tot daardie effek by proklamasie of kennisgewing, na gelang van die geval, in die *Provinsiale Koerant*.

- (3) Wanneer hierdie artikel toegepas word, moet die bepalings van artikel 74(4) en die oorwegings in artikel 74(9)(a) tot (e) in ag geneem word.

Opdra en delegering aan ander funksionariese

59. (1) Die Provinsiale Minister kan enige van die bevoegdhede of funksies wat kragtens hierdie Wet of uit hoofde van 'n titelakte aan hom of haar verleen word, absoluut, voorwaardelik, in die algemeen of spesifiek opdra of delegeer aan enige raad of komitee of geskikte persone in die diens van die Provinsiale Administrasie van Wes-Kaap.

(2) 'n Raad kan enige van die bevoegdhede of funksies wat kragtens hierdie Wet of uit hoofde van 'n titelakte aan hom verleen word, absoluut, voorwaardelik, in die algemeen of spesifiek delegeer aan enige geskikte persoon in sy diens.

- (3) 'n Hoof uitvoerende beampte en departementshoof kan enige van die bevoegdhede of funksies wat kragtens hierdie Wet of uit hoofde van 'n titelakte aan hom of haar verleen word, absoluut, voorwaardelik, in die algemeen of spesifiek delegeer aan enige geskikte persone in die diens van die raad of die Provinsiale Administrasie van Wes-Kaap, na gelang van die geval.

HOOFTUK XI

STRAFBEPALINGS

Voldoening aan bepalings van hierdie Wet, soneringskemas en voorwaardes

60. (1) Elke munisipaliteit moet voldoen, en voldoening afdwing, aan—
(a) die bepalings van hierdie Wet of, vir sover dit ingevolge hierdie Wet van toepassing is, die bepalings van enige wet in Bylae III gelys;
(b) die bepalings ingevolge hierdie Wet in 'n soneringskema opgeneem, of

- (c) conditions, including title conditions, relating to planning and development, imposed in terms of this Act 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) No person shall— 5
- (a) contravene or fail to comply with—
- (i) the provisions incorporated in a zoning scheme in terms of this Act;
 - (ii) conditions, including title conditions, imposed in terms of this Act or under any law listed in Schedule III, or
 - (iii) the provisions of this Act, or of any law listed in Schedule III which apply 10 in terms of this Act or any by-law made under this Act, 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 municipality in the opinion of the Provincial Minister fails to exercise or 15 perform satisfactorily its powers, duties or executive obligations in terms of subsection (1), the Provincial Minister may, with due regard to the provisions of section 139 of the Constitution and subsection (4)—
- (a) withdraw any approval or authorisation granted by the municipality contrary 20 to the provisions of subsection (1);
 - (b) exercise the powers and perform the duties of the municipality in respect of that matter and recover from the municipality any amount spent by the Provincial Minister in that connection, and
 - (c) direct the municipality as to the steps to be taken by it in order to ensure 25 compliance with subsection (1), and such directive shall in law override any decision of the council of that municipality.
- (4) The Provincial Minister shall, before acting in terms of subsection (3), by notice in writing call upon the municipality to show cause within 30 days of the date of such notice why he or she should not act and shall in such notice set forth the nature and particulars of the work, improvements, extensions, alterations or other things, if any, to 30 be executed, made or done and the time within which they shall be so executed, made or done.
- (5) No provision of subsections (1) and (2) shall authorise the municipality 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 35 condition in terms of, this Act 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 authorisation of contraventions

61. (1) Any interested party having reasonable grounds for believing that section 40 60(1) or (2) is being contravened may in writing request the council concerned to give effect to the provisions of that section.
- (2) The chief executive officer of the council shall—
- (a) cause an investigation to be held into the matter and request the relevant comment of any person who in his or her opinion has an interest therein;
 - (b) if the request as contemplated in subsection (1) originates from the actual or 45 likely informal settlement of persons on land or the erection or occupation of any structures on land by those persons, cause an inquiry to be held into the facts of the matter and the manner in which and the period during which rectification thereof can be effected, and
 - (c) submit the request and all relevant documents to the council. 50
- (3) If the council finds that a contravention has occurred, the council shall—
- (a) subject to subsection (b), act in terms of section 62, and
 - (b) in the circumstances contemplated in subsection (2)(b), direct that the 55 contravention 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 of the council's decision within the prescribed period.

- (c) voorwaardes, insluitende titelvoorwaardes met betrekking tot beplanning en ontwikkeling, opgelê ingevolge hierdie Wet of ingevolge enige wet in Bylae III gelys, en mag niks doen waarvan die gevolg in stryd met die bedoeling van hierdie subartikel is nie.
- (2) Niemand mag—
- (a) (i) die bepalings ingevolge hierdie Wet in 'n soneringskema opgeneem;
- (ii) voorwaardes, insluitende titelvoorwaardes, opgelê ingevolge hierdie Wet of kragtens enige wet in Bylae III gelys, of
- (iii) die bepalings van hierdie Wet of van enige wet in Bylae III gelys wat ingevolge hierdie Wet of enige verordening kragtens hierdie Wet gemaak, 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, op 'n ander wyse as volgens die wettige aanwending van die grond nie.
- (3) Indien 'n munisipaliteit na die mening van die Provinsiale Minister versuim om sy bevoegdhede, pligte of uitvoerende verpligtinge ingevolge subartikel (1) bevredigend uit te oefen of te verrig, kan die Provinsiale Minister, met inagneming van die bepalings van artikel 139 van die Grondwet en subartikel (4)—
- (a) enige goedkeuring of magtiging wat die munisipaliteit in stryd met die bepalings van subartikel (1) verleen het, intrek;
- (b) die munisipaliteit se bevoegdhede uitoefen en pligte verrig ten opsigte van daardie aangeleentheid, en enige bedrag wat die Provinsiale Minister in dié verband bestee het, van die munisipaliteit terugvorder, en
- (c) die munisipaliteit gelas watter stappe hy moet doen ten einde te verseker dat aan subartikel (1) voldoen word, en so 'n lasgewing het groter regsrag as enige besluit van die raad van daardie munisipaliteit.
- (4) Die Provinsiale Minister moet, voordat hy of sy ingevolge subartikel (3) optree, by skriftelike kennisgewing die munisipaliteit oproep om binne 30 dae vanaf die datum van daardie kennisgewing redes aan te voer waarom hy of sy nie behoort op te tree nie en moet in daardie kennisgewing die aard en besonderhede van die werk, verbeterings, uitbreidings, veranderings of ander dinge, indien daar is, wat aangebring, gemaak of gedoen moet word en die tyd waarin dit aldus aangebring, gemaak of gedoen moet word, uiteensit.
- (5) Geen bepaling van subartikels (1) en (2) magtig die munisipaliteit 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 foutief goedgekeur is, vir sover so 'n plan reeds uitgevoer was toe die foutiewe goedkeuring aan die eienaar uitgewys is nie.

Ondersoek en magtiging van oortredings

61. (1) Enige belanghebbende party wat redelike gronde het om te glo dat artikel 60(1) of (2) oortree word, kan die betrokke raad skriftelik versoek om uitvoering te gee aan die bepalings van daardie artikel.
- (2) Die hoof uitvoerende beampte van die raad moet—
- (a) 'n ondersoek oor die aangeleentheid laat uitvoer en die tersaaklike kommentaar van enigiemand wat na sy of haar mening belang daarby het, aanvra,
- (b) indien die versoek soos bedoel in subartikel (1) ontstaan vanuit die werklike of verwagte informele vestiging van persone op grond of die oprigting of okkupasie van enige strukture op grond deur daardie persone, 'n ondersoek gelas na die feite van die aangeleentheid en die wyse waarop en tydperk waarin regstelling daarvan geaffekteer kan word, en
- (c) die versoek en alle tersaaklike dokumente aan die raad voorlê.
- (3) Indien die raad bevind dat 'n oortreding begaan is, kan die raad—
- (a) behoudens subartikel (b), ingevolge artikel 62 optree, en
- (b) in die omstandighede in subartikel (2)(b) beoog, gelas dat die strydigheid binne 'n tydperk wat vermeld word, reg gestel moet word by wyse van die opgradering van die grond of op enige ander wyse wat die raad gelas.
- (4) Die hoof uitvoerende beampte moet die belanghebbende partye binne die voorgeskryfde tydperk van die raad se besluit in kennis stel.

(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 Provincial Minister 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 60(3). 5

Rectification of contraventions

62. (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 60(2), the municipality shall serve a directive on the owner to rectify that contravention before a date specified therein, being not more than 2 months after the date of the directive. 10

(b) A contravention shall be rectified by terminating or discontinuing the illegal utilisation of the land or building or by complying with all conditions, title deeds and provisions of a zoning scheme within the period specified in the directive, even if *ex post facto* approval is applied for, unless an extension of the period within which the contravention is to be rectified has been granted in terms of paragraph (c). 15

(c) The Provincial Minister or a council of a responsible municipality, 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 an extension shall be automatically granted, if a building has to be demolished to rectify the contravention, until a decision in terms of subsection (5) or (7) has been taken. 20

(d) Any application for the approval of a consent use, a departure, a rezoning, a subdivision or the removal of a restriction as a result of a directive shall be lodged with the municipality within the period referred to in subsection (1)(a). 25

(2) If the owner fails to comply with the directive, the municipality 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 directive 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. 30

(4) If the owner disputes the existence or the nature and extent of the contravention to which the directive relates or applies for an approval in terms of this Act, the chief executive officer shall obtain the relevant comment of any person who in his or her opinion has an interest in the matter and thereafter submit a report to the council, recommending a course of action. 35

(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 on the existence or the nature and extent of the contravention; 40

(b) if the contravention exists and if an application has been made for an approval in terms of this Act, 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 45

(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 Provincial Minister against the decision. 50

(7) The Provincial Minister 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 municipality and all other interested parties of his or her decision.

(8) A contravention levy shall become due and payable— 55

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

- (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 Provinsiale Minister op skriftelike versoek van die belanghebbende party en indien hy of sy bevind dat die raad versuim het om daardie bevoegdhede of pligte bevredigend uit te voer of te verrig, ingevolge artikel 60(3) optree.

Regstelling van strydigheid

62. (1) (a) Indien grond of 'n gebou of enige deel daarvan ontwikkel of aangewend is of daar andersins in stryd met artikel 60(2) opgetree is, moet die munisipaliteit 'n lasgewing aan die eienaar beteken om daardie strydigheid reg te stel voor 'n datum daarin vermeld, wat nie later as 2 maande na die datum van die lasgewing is nie.
- (b) 'n Strydigheid moet reggestel word deur die onwettige aanwending van die grond of gebou te beëindig of te staak of deur aan alle voorwaardes, titelaktes en bepalings van 'n soneringskema te voldoen binne die tydperk in die lasgewing vermeld, selfs al word daar om *ex post facto*-goedkeuring aansoek gedoen, tensy 'n verlenging van die tydperk waarin die strydigheid reggestel moet word, ingevolge paragraaf (c) toegestaan is.
- (c) Die Provinsiale Minister of 'n raad van 'n verantwoordelike munisipaliteit kan op aansoek of uit eie beweging instem tot die verlenging van die tydperk waarbinne die strydigheid reg gestel moet word totdat 'n besluit in subartikel (5) of (7) beoog, geneem is; met dien verstande dat 'n verlenging outomaties toegestaan moet word, as 'n gebou gesloop moet word om die strydigheid reg te stel, totdat 'n besluit ingevolge subartikel (5) of (7) geneem is.
- (d) Enige aansoek om goedkeuring van 'n vergunningsgebruik, 'n afwyking, 'n hersonering, 'n onderverdeling of die opheffing van 'n beperking na aanleiding van 'n lasgewing moet by die munisipaliteit ingedien word binne die tydperk in subartikel (1)(a) bedoel.
- (2) Indien die eienaar versuim om aan die lasgewing te voldoen, moet die munisipaliteit, behoudens die bepalings van subartikel (3), alle verdere stappe doen wat nodig is om die strydigheid reg te stel.
- (3) Indien die eienaar 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) bedoel 'n skriftelike verklaring oor die aangeleentheid aan die departementshoof en die betrokke hoof uitvoerende beampte voorlê.
- (4) Wanneer die eienaar die bestaan of die aard en 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 aangeleentheid het, verkry en daarna 'n verslag met 'n aanbeveling oor optrede aan die raad voorlê.
- (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 oor 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 geweier en die strydigheid reggestel moet word en of die betrokke aansoek goedgekeur en 'n strydigheidsheffing terselfdertyd betaal moet word;
- (c) indien die strydigheid reggestel moet word, die tydperk bepaal waarbinne dit gedoen moet word, en
- (d) indien 'n strydigheidsheffing 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 na die Provinsiale Minister appelleer teen die besluit.
- (7) Die Provinsiale Minister 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 munisipaliteit en alle ander belanghebbende partye van sy of haar beslissing in kennis stel.
- (8) 'n Strydigheidsheffing word verskuldig en betaalbaar—
- (a) in een gekapitaliseerde som voor of op die datum, of

(b) periodically at the intervals, determined by the Provincial Minister or the 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 60(2). 5

(9) The Provincial Minister may in his discretion and after consultation with the municipality 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 directive is served shall be liable for the payment of the contravention levy. 10

(11) Ownership of immovable property in respect of which a directive 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, after which it shall be endorsed on the zoning map and register, if applicable. 15

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

Judicial order and other penalty provisions

63. Notwithstanding any legal provisions to the contrary with regard to courts of law, a judge and a magistrate shall have jurisdiction to make an order, on application by the Provincial Minister or a municipality, and if the judicial officer is convinced that the development or utilisation of land is in contravention of or does not comply with the provisions of this Act or an approval or authorisation granted in terms thereof or that the environment concerned has been or may be damaged as a result of an act or omission which constitutes an offence in terms of this Act— 20 25

(a) prohibiting any person from commencing or proceeding with the development or utilisation of land;

(b) authorising the Provincial Minister or municipality, as the case may be, to demolish any structure or any portion thereof; provided that an authorisation shall only be granted after a decision as contemplated in subsection 62(5) or (7) has been made; 30

(c) ordering a person to restore the environment on the basis and conditions deemed fit by the judicial officer;

(d) authorising the Provincial Minister or municipality, as the case may be, to execute the repairs as contemplated in paragraph (c) if the person mentioned therein fails to execute the repairs on the basis and conditions set out in the order, and 35

(e) awarding compensation to the Provincial Minister or municipality, as the case may be, for the repairs in the circumstances as contemplated in paragraph (d), and thereafter the provisions of section 300(2), (3), (4) and (5) of the Criminal Procedure Act, 1977 (Act 51 of 1977), shall apply *mutatis mutandis*. 40

Offences, imposition of fines and penalties

64. (1) Any person who—

(a) contravenes or fails to comply with any provision of this Act or any by-law made in terms of this Act, or any order, directive, prohibition, condition, requirement or notice made, issued, imposed, stipulated or given in terms thereof, or 45

(b) threatens, resists, hinders or obstructs, or uses foul, insulting or abusive language towards a person in the exercise of a power in terms of section 71 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, 50

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. 55

(2) A person convicted of an offence under this Act 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.

- (b) periodiek by die tussenpose, wat die Provinsiale Minister of die 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 daar andersins in stryd met artikel 60(2) opgetree is.
- (9) Die Provinsiale Minister kan na goeë dunnke en ná oorleg met die munisipaliteit die betaling van 'n strydigheidsheffing ophef of so 'n strydigheidsheffing aanpas.
- (10) Die persoon wat op die datum van betekening van die lasgewing die eienaar van die betrokke grond of gebou is, is aanspreeklik vir die betaling van die strydigheidsheffing.
- (11) Eiendomsreg op onroerende eiendom ten opsigte waarvan 'n lasgewing ingevolge subartikel (1) beteken is, mag slegs oorgedra word nadat die strydigheidsheffing gekapitaliseer is.
- (12) Enige goedkeuring ingevolge subartikel (5)(b) verleen, word eers van krag wanneer die strydigheidsheffing gekapitaliseer is, waarna dit, indien van toepassing, op die soneringskaart en register aangeteken word.
- (13) Enige bedrag wat ingevolge subartikel (2) deur 'n munisipaliteit bestee word, is deur daardie owerheid op die eienaar verhaalbaar.

Geregtelike bevel en ander strafbepalings

63. Ondanks andersluidende wetsbepalings met betrekking tot geregshowe, het 'n regter en 'n landdros die regsbevoegdheid om op aansoek van die Provinsiale Minister of 'n munisipaliteit en, indien die regsprekende beampte oortuig is dat die ontwikkeling of aanwending van grond in stryd is met of nie voldoen aan die bepalinge van hierdie Wet of 'n goedkeuring of magtiging daarkragtens verleen nie of dat die betrokke omgewing beskadig is of beskadig kan word vanweë 'n handeling of versuim wat 'n misdryf ingevolge hierdie Wet uitmaak, 'n bevel te gee—
- (a) wat enige persoon verbied om te begin of voort te gaan met die ontwikkeling of aanwending van grond;
- (b) wat die Provinsiale Minister of munisipaliteit, na gelang van die geval, magtig om enige struktuur of enige gedeelte daarvan af te breek; met dien verstande dat 'n magtiging slegs verleen mag word nadat 'n besluit soos beoog in artikel 62(5) of (7) geneem is;
- (c) wat 'n persoon gelas om die omgewing te herstel op die grondslag en voorwaardes wat die regsprekende beampte goeëvind;
- (d) wat die Provinsiale Minister of munisipaliteit, na gelang van die geval, magtig om die herstelwerk soos beoog 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
- (e) wat in die omstandighede soos beoog in paragraaf (d) vergoeding aan die Provinsiale Minister of munisipaliteit, na gelang van die geval, vir die herstelwerk toeken, en daarna is die bepalinge van artikel 300 (2), (3), (4) en (5) van die Strafproseswet, 1977 (Wet 51 van 1977), *mutatis mutandis* van toepassing.

Misdrywe, oplegging van boetes en strawwe

64. (1) Iemand wat—
- (a) enige bepaling van hierdie Wet of enige verordening ingevolge hierdie Wet gemaak, of enige bevel, lasgewing, verbod, voorwaarde, vereiste of kennisgewing daarvolgens gegee, opgelê, gestel of uitgereik, oortree of versuim om daaraan te voldoen, of
- (b) 'n persoon by die uitoefening van 'n bevoegdheid ingevolge artikel 71 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.
- (2) Iemand wat aan 'n misdryf kragtens hierdie Wet skuldig bevind is en wat na skuldigbevinding voortgaan met die handelswyse ten opsigte waarvan hy of sy aldus skuldig bevind is, is aan 'n voortdurende misdryf skuldig en by skuldigbevinding

(3) The provisions of section 341 of the Criminal Procedure Act, 1977 (Act 51 of 1977), relating to the compounding of certain minor offences by means of fines shall apply *mutatis mutandis* to a contravention of any provision of this Act.

CHAPTER XII

GENERAL PROVISIONS

5

Submission of application

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

(2) Where any application in terms of this Act 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. 10

(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 68(2). 15

(4) The Provincial Minister may prescribe maximum or recommended application fees which may be charged by municipalities for the consideration of any application in terms of this Act.

Furnishing of comment and information

66. (1) If a public body, required by the Provincial Minister or a council or the department head or a chief executive officer in terms of this Act to furnish any comment or other information in terms of this Act 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 public body shall, unless prior approval for an extended period was obtained from the Provincial Minister or a responsible municipality, be deemed to have had no comment or other information to furnish. 20 25

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

(3) The Provincial Minister may by regulation impose on a planning board or a municipality the obligation to investigate the refusal or failure of a public body to furnish comment or information, in which event the provisions of section 52 shall apply *mutatis mutandis* to such an inquiry. 30

Environmental impact assessments

67. (1) The Provincial Minister may by notice in the *Provincial Gazette* identify activities which require environmental impact assessments. 35

(2) An environmental impact assessment report shall be compiled and submitted by such person and in such manner as may be prescribed.

(3) The Provincial Minister may require that certain prescribed activities shall not be undertaken, except in accordance with a written authorisation issued by the Provincial Minister or the council of a responsible municipality. 40

(4) The authorisation referred to in subsection (3) shall only be issued after considering an environmental impact assessment report.

(5) The Provincial Minister may by notice in the *Provincial Gazette* declare any area defined by him or her, as an environmentally sensitive area.

(6) No person shall undertake in an environmentally sensitive area any development or activity prohibited by the Provincial Minister by notice in the *Provincial Gazette* or cause such development or activity to be undertaken unless he or she has on application been authorised thereto by the Provincial Minister or by the council of a responsible municipality, on the conditions contained in such authorisation. 45

strafbaar met 'n boete van hoogstens R10 000 ten opsigte van elke dag waarop hy of sy aldus daarmee voortgaan of voortgegaan het.

- (3) Die bepalings van artikel 341 van die Strafproseswet, 1977 (Wet 51 van 1977), betreffende die afkoop van sekere geringe misdrywe by wyse van boetes is *mutatis mutandis* van toepassing op 'n oortreding van enige bepaling van hierdie Wet.

HOOFSTUK XII

ALGEMENE BEPALINGS

Indiening van aansoek

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

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

(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 word, soos vereis ingevolge artikel 68(2).

- (4) Die Provinsiale Minister kan maksimum of voorgestelde aansoekgelde voorskryf wat deur munisipaliteite gehêf kan word vir die oorweging van enige aansoek ingevolge hierdie Wet.

Verstreking van kommentaar en inligting

66. (1) As 'n openbare liggaam waarvan die Provinsiale Minister of 'n raad of die departementshoof of 'n hoof uitvoerende beampte ingevolge hierdie Wet vereis dat hy 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, word daardie openbare liggaam geag geen kommentaar of ander inligting te gehad het om te verstrek nie, tensy goedkeuring vir 'n verlengde tydperk vooraf van die Provinsiale Minister of 'n verantwoordelike munisipaliteit verkry is.

(2) Die tydperk van 60 dae vermeld in subartikel (1) is nie van toepassing op advertering nie, waar die tydperk vermeld in die betrokke kennisgewing van toepassing is.

- (3) Die Provinsiale Minister kan by wyse van regulasie die verpligting om ondersoek in te stel na die weiering of versuim van 'n openbare liggaam om kommentaar te lewer of inligting te verstrek, aan 'n beplanningsraad of 'n munisipaliteit oëlê, in welke geval die bepalings van artikel 52 *mutatis mutandis* op so 'n ondersoek van toepassing is.

Omgewingsimpakevaluering

67. (1) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant* aktiwiteite identifiseer waarvoor omgewingsimpakevaluering vereis word.

(2) 'n Omgewingsimpakevalueringverslag sal saamgestel en voorgelê word deur dié voorgeskrewe persoon en op die voorgeskrewe wyse.

- (3) Die Provinsiale Minister kan vereis dat sekere voorgeskrewe aktiwiteite nie onderneem mag word nie, behalwe in ooreenstemming met 'n geskrewe magtiging deur die Provinsiale Minister of die raad van 'n verantwoordelike munisipaliteit.

(4) Die magtiging in subartikel (3) sal slegs uitgereik word na oorweging van 'n omgewingsimpakevalueringverslag.

- (5) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant* enige gebied deur hom of haar gedefinieer as 'n omgewings-sensitiewe gebied verklaar.

(6) Geen persoon mag enige ontwikkeling of aktiwiteit deur die Provinsiale Minister verbied by kennisgewing in die *Provinsiale Koerant* in 'n omgewings-sensitiewe gebied onderneem of veroorsaak dat dié ontwikkeling of aktiwiteit onderneem word behalwe as hy of sy op grond van 'n aansoek deur die Provinsiale Minister of raad van

(7) The Provincial Minister shall only identify an activity in terms of subsection (1) and shall only declare an environmentally sensitive area in terms of subsection (5) in conjunction with the Provincial Minister responsible for the environment.

Basis of consideration of applications and extension of the validity of approved applications

5

68. (1) When considering any application in terms of this Act, account shall be taken of the desirability of the contemplated utilisation of land, *inter alia* by measuring it against the principles contained in Schedule IV and guidelines contained in a relevant development framework or structure plan, in so far as these relate to desirability, or of the effect of the application on existing rights, but not any alleged right to protection against trading competition. 10

(2) All applications in terms of this Act 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 Provincial Minister or council 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. 15

(3) An application, made in writing to the chief executive officer concerned, for the extension of the validity of an approved application in terms of section 15(5), 16(2) or 27(1) may be granted once only, at any time, also after the approval 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 application was approved. 20

(4) An application for the extension of the validity of an approved application, may only be granted if—

- (a) the circumstances prevailing at the time of the original approval have not substantially changed; 25
- (b) all relevant or prescribed comments required at the stage when the extension is considered, were originally obtained;
- (c) the policies of any public body which commented on the original application have not changed to such an extent that they would have affected the approval of the application or the conditions on which the application was approved, and 30
- (d) the approved application was adequately advertised at that time.

Conditions

69. (1) When in terms of this Act or scheme regulations the Provincial Minister or a council grants authorisation, exemption or an application, issues any directive or notice or adjudicates an appeal they may impose such conditions as they may deem fit, including conditions included in agreements between an owner and the council. 35

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

- (a) the community needs and public expenditure which, in the opinion of the Provincial Minister 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 Provincial Minister or the council, facilitates the authorisation, exemption, approval or appeal, and 40
- (b) the various rates and levies paid in the past or to be paid in the future by the owner of the land concerned, 45

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 made or guidelines issued by the Provincial Minister from time to time. 50

(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

'n verantwoordelike munisipaliteit daartoe gemagtig is en op grond van die voorwaardes in die magtiging vervat.

- (7) Die Provinsiale Minister sal slegs 'n aktiwiteit identifiseer ingevolge subartikel (1) en 'n omgewings-sensitiewe gebied ingevolge subartikel (5) verklaar in samewerking met die Provinsiale Minister verantwoordelik vir die omgewing.

Grondslag van oorweging van aansoeke en verlenging van geldigheid van goedgekeurde aansoeke

68. (1) Wanneer enige aansoek ingevolge hierdie Wet oorweeg word, moet rekening gehou word met die wenslikheid van die beoogde aanwending van grond, onder meer by wyse van meting aan die beginsels in Bylae IV vervat en riglyne in 'n tersaaklike ontwikkelingsraamwerk of struktuurplan vervat, vir sover dié beginsels en riglyne op wenslikheid betrekking het, of met die uitwerking van die aansoek op bestaande regte, maar nie op enige beweerde reg op beskerming teen handelskonkurrensie nie.

- (2) Alle aansoeke ingevolge hierdie Wet wat betrekking het op die voorgenome ontwikkeling of aanwending van grond of geboue moet, vir sover doenlik, gelyktydig ingedien, geadverteer of bekend gemaak en oorweeg word, tensy die Provinsiale Minister of raad 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 kan voorafgaan.

- (3) 'n Aansoek om die verlenging van die geldigheid van 'n goedgekeurde aansoek wat skriftelik by die betrokke hoof uitvoerende beampte gedoen word ingevolge artikel 15(5), 16(2) of 27(1) mag slegs een maal, en wel te eniger tyd, toegestaan word, ook nadat die goedkeuring verval het; met dien verstande dat die verlenging nie die geldigheid van die goedkeuring vir 'n tydperk van meer as 5 jaar, of enige ander voorgeskrewe tydperk, nadat die oorspronklike aansoek goedgekeur is, mag verleng nie.

- (4) 'n Aansoek om die verlenging van die geldigheid van 'n goedgekeurde aansoek mag slegs toegestaan word indien—

- (a) die omstandighede wat ten tyde van die oorspronklike goedkeuring geheers het, nie wesenlik verander het nie;
- (b) alle tersaaklike of voorgeskrewe kommentaar wat vereis word op die tydstip dat die verlenging oorweeg word, oorspronklik verkry is;
- (c) die beleid van enige openbare liggaam wat kommentaar op die oorspronklike aansoek gelever het, nie in so 'n mate verander het dat dit die goedkeuring van die aansoek, of die voorwaardes waarop die aansoek goedgekeur is, sou geraak het nie; en
- (d) die goedgekeurde aansoek op daardie tydstip voldoende geadverteer is.

Voorwaardes

69. (1) Wanneer die Provinsiale Minister of 'n raad ingevolge hierdie Wet of skemaregulasies magtiging of vrystelling verleen, 'n aansoek toestaan, enige lasgewing of kennisgewing uitreik of oor 'n appèl beslis, kan hulle die voorwaardes oplê wat hulle goedvind, insluitende voorwaardes wat ingesluit is in ooreenkomste tussen 'n eienaar en die raad.

- (2) Die voorwaardes kan, met inagneming van—

- (a) die gemeenskapsbehoefte en openbare uitgawes wat na die mening van die Provinsiale Minister of die raad uit die betrokke magtiging, vrystelling, goedkeuring of appèl kan ontstaan en die openbare uitgawes wat in die verlede aangegaan is en wat na die mening van die Provinsiale Minister of die raad die magtiging, vrystelling, goedkeuring of appèl vergemaklik, en
 - (b) die verskillende belastinge en heffings wat in die verlede betaal is of in die toekoms betaal sal word deur die eienaar van die betrokke grond, voorwaardes met betrekking tot die afstaan van grond of die betaling van geld insluit, wat regstreeks of onregstreeks 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 Provinsiale Minister van tyd tot tyd maak of uitreik.
- (3) Die betrokke raad moet voorwaardes met betrekking tot ingenieursdienste insluit in 'n diensteooreenkoms wat die raad opstel ingevolge die regulasies of riglyne wat die

this matter laid down by the Provincial Minister from time to time, which agreement shall be concluded before the date stated in the conditions, or if no period is stated, within 1 year of the approval, but in any event prior to the construction of engineering services in or on the land concerned.

- (4) Subject to the provisions of this Act in respect of the removal of title conditions— 5
- (a) either the Provincial Minister or a council, as the case may be, with regard to a condition imposed by themselves in terms of subsection (1) or under a law listed in Schedule III, including conditions contained in agreements, or
 - (b) a council of a responsible municipality, with regard to a condition imposed by the Provincial Minister, including conditions contained in agreements, after 10 considering objections received as a result of advertising in terms of subsection (5) and after consultation with the owner of the land concerned and, in the case of the Provincial Minister, with the municipality concerned, may—
 - (i) alter, amend or delete any condition, and 15
 - (ii) 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 Provincial Minister may act in terms of 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 25 conditions.

(b) When suspensive conditions are imposed, an application shall only be deemed to be approved once the conditions have been complied with, and the periods in respect of the lapsing of any use right or approval shall only come into effect upon compliance.

(c) An approval shall, where no period is stated in the approval, lapse if the suspensive 30 condition is not complied with within 3 years or, where a period is so stated, at the expiry of that period, unless either the Provincial Minister or the council of a responsible municipality extends the relevant period, which extension may be granted at any stage in accordance with the provisions of section 68(3) and (4).

Regulations, guidelines and bylaws 35

70. (1) The Provincial Minister may, by notice in the *Provincial Gazette*, make regulations, not inconsistent with the provisions of this Act or of any other law generally on any matter which he or she considers necessary or expedient to prescribe for the effective execution of the objects and provisions of this Act, including—

- (a) providing frameworks and laying down norms and standards necessary for 40 orderly co-ordinated planning and development or for the promotion of integrated social and economic development;
- (b) the monitoring and support of local government;
- (c) the promotion of the development of local government capacity to enable municipalities to perform their functions and manage their own affairs; 45
- (d) measures to see to the effective performance by municipalities of their functions in respect of matters listed in Schedules 4 and 5 of the Constitution;
- (e) the clarification of the respective responsibilities of different spheres of government and their departments and the co-ordination of sectoral departments and roleplayers; 50
- (f) measures relating to the environment, including application procedures that will favour ecologically sustainable development;
- (g) standards and guidelines in respect of engineering services to be provided, the extent of land to be made available for amenities and the division of the costs thereof between the relevant municipalities and the owner; 55

Provinsiale Minister van tyd tot tyd hieroor neerlê, welke ooreenkoms finaal beslag gegee moet word voor die datum in die voorwaardes gestel, of as geen tydperk gestel is nie, binne een jaar vanaf die goedkeuring, maar in elk geval voor dat ingenieursdienste in of op die betrokke grond aangebring word.

5 (4) Behoudens die bepalings van hierdie Wet ten opsigte van die opheffing van titelvoorwaardes, kan—

10 (a) óf die Provinsiale Minister óf 'n raad, na gelang van die geval, met betrekking tot 'n voorwaarde opgelê deur hulself ingevolge subartikel (1) of kragtens 'n wet gelys in Bylae III, insluitende voorwaardes in ooreenkomste vervat, óf

15 (b) 'n raad van 'n verantwoordelike munisipaliteit, met betrekking tot 'n voorwaarde deur die Provinsiale Minister opgelê, insluitende voorwaardes in ooreenkomste vervat, na oorweging van besware wat ten gevolge van advertering ingevolge subartikel (5) ontvang is en ná oorleg met die eienaar van die betrokke grond en, in die geval van die Provinsiale Minister, met die betrokke munisipaliteit—

(i) enige voorwaarde verander, wysig of skrap, en

20 (ii) bykomende voorwaardes van die soort in subartikel (1) beoog, oplê, en daardie bykomende voorwaardes word geag ingevolge daardie subartikel opgelê te gewees het.

(5) Die departementshoof, waar die Provinsiale Minister ingevolge 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 25 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.

30 (b) Wanneer opskortende voorwaardes opgelê word, word 'n aansoek geag eers goedgekeur te wees wanneer die voorwaardes nagekom is, en die tydperke ten opsigte van die verval van enige gebruiksreg of goedkeuring tree eers by nakoming in werking.

35 (c) 'n Goedkeuring verval, waar geen tydperk in die goedkeuring vermeld word nie, indien die opskortende voorwaarde nie binne 3 jaar nagekom word nie, of waar 'n tydperk aldus vermeld word, by verstryking van dié tydperk, tensy óf die Provinsiale Minister óf die raad van 'n verantwoordelike munisipaliteit die tersaaklike tydperk verleng, welke verlenging op enige tydstop in ooreenstemming met die bepalings van artikel 68(3) en (4) toegestaan kan word.

Regulasies, riglyne en verordeninge

40 70. (1) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant* regulasies, wat nie onbestaanbaar met die bepalings van hierdie Wet of enige ander wet in die algemeen is nie, maak oor enige aangeleentheid wat hy of sy nodig of raadsaam ag om voor te skryf ten einde doeltreffend uitvoering te gee aan die oogmerke en bepalings van hierdie Wet, insluitende—

45 (a) die voorsiening van raamwerke en die voorskryf van norms en standaarde wat noodsaaklik is vir ordelike gekoördineerde beplanning en ontwikkeling of vir die bevordering van geïntegreerde sosiale en ekonomiese ontwikkeling;

(b) die monitering en ondersteuning van plaaslike regering;

50 (c) die bevordering van die ontwikkeling van plaaslike regering se vermoë ten einde munisipaliteite in staat te stel om hul funksies te verrig en hul eie sake te bestuur;

(d) maatreëls om toe te sien dat munisipaliteite hul funksies ten opsigte van aangeleenthede in Bylaes 4 en 5 van die Grondwet vermeld, doeltreffend verrig;

55 (e) die verduideliking van die onderskeie verantwoordelikhede van verskillende regeringsfere en hul departemente en die koördinerende van sektorale departemente en rolspelers;

(f) maatreëls met betrekking tot die omgewing, insluitende aansoekprosedures wat ekologies volhoubare ontwikkeling sal bevoordeel;

60 (g) standaarde en riglyne ten opsigte van ingenieursdienste wat voorsien moet word, die hoeveelheid grond wat beskikbaar gestel moet word vir fasiliteite

- (h) agreements and contracts generally, including engineering services agreements, land availability agreements, environmental contracts and the establishment of environmental monitoring committees;
- (i) the powers and duties of an appeal committee, planning board or panel of mediators; 5
- (j) the recovery of costs reasonably incurred by the Provincial Administration of Western Cape in respect of the appeal committee, planning board or panel of mediators and application fees, appeal fees and deposits to be charged or paid;
- (k) the powers and duties of owners' associations;
- (l) measures in respect of the determination and payment of fines imposed in terms of section 64(3), and 10
- (m) instances where an appeal to the Provincial Minister will be granted.

(2) The Provincial Minister may make different regulations in respect of different municipalities or categories of municipalities and may issue guidelines on any aspect deemed necessary by him or her. 15

(3) A list of regulations, general principles and guidelines made by the Provincial Minister in terms of this Act 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 prejudice to 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. 20

(4) A municipality may make bylaws and issue guidelines, not inconsistent with the provisions of this Act or any other law, on any aspect which it deems necessary for the better execution of the objects and provisions of this Act. 25

(5) Regulations and bylaws made and guidelines issued under this Act shall be consistent with the principles set out in Schedule IV of this Act.

(6) The Provincial Minister and a municipality shall, in the process of making any regulation or bylaw or issuing guidelines, foster transparency and encourage public participation as contemplated in section 195(1) of the Constitution. 30

(7) Regulations with financial implications shall be made with the concurrence of the Provincial Minister responsible for finance.

(8) In the application of this section, due regard shall be had to the provisions of section 74(4). 35

Right of entry

71. Any person authorised thereto in writing by the Provincial Minister 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— 40

- (a) do anything which the Provincial Minister or department head or a council, as the case may be, is permitted or required to do in terms of this Act, or
- (b) make enquiries or conduct an investigation or survey in connection with the powers or duties of the Provincial Minister or department head or council, as the case may be, in terms of this Act. 45

Rectification of errors

72. Where anything which in accordance with the provisions of this Act or a law listed 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 Provincial Minister, 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 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 not required to 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 Act. 55

- en die verdeling van die koste daarvan tussen die relevante munisipaliteite en die eienaar;
- (h) ooreenkomste en kontrakte in die algemeen, insluitende ingenieursdienste-ooreenkomste, grondbeskikbaarheidsooreenkomste, omgewingskontrakte en die instel van omgewingsmoniteringskomitees;
- (i) die bevoegdhede en pligte van 'n appèlkomitee, beplanningsraad of paneel van bemiddelaars;
- (j) die terugvordering van koste wat die Provinsiale Administrasie van Wes-Kaap redelikerwys aangegaan het ten opsigte van die appèlkomitee, beplanningsraad of paneel van bemiddelaars en aansoekgelde, appèlgelde en deposito's wat hef of betaal moet word;
- (k) die bevoegdhede en pligte van eenaarsverenigings,
- (l) maatreëls ten opsigte van die bepaling en betaling van boetes ingevolge artikel 64(3) opgelê, en
- (m) gevalle waar 'n appèl na die Provinsiale Minister toegestaan sal word.
- (2) Die Provinsiale Minister kan verskillende regulasies ten opsigte van verskillende munisipaliteite of kategorieë munisipaliteite maak en kan riglyne uitreik oor enige aspek wat hy of sy nodig ag.
- (3) 'n Lys van regulasies, algemene beginsels en riglyne deur die Provinsiale Minister ingevolge hierdie Wet gemaak, moet op dieselfde wyse in die Provinsiale Wetgewer ter tafel gelê word as die lys beoog in artikel 17 van die Interpretasiewet, 1957 (Wet 33 van 1957), 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 ingevolge daarvan gedoen voordat dit verval het, of enige reg of verpligting ingevolge daarvan verkry of opgedoen voordat dit aldus verval het.
- (4) 'n Munisipaliteit kan verordeninge maak en riglyne uitreik, wat nie onbestaanbaar met die bepalings van hierdie Wet is nie, oor enige aspek wat hy nodig ag ten einde beter uitvoering aan die oogmerke en bepalings van hierdie Wet te gee.
- (5) Regulasies en verordeninge gemaak en riglyne uitgereik ingevolge hierdie Wet moet bestaanbaar wees met die beginsels in Bylae IV van hierdie Wet uiteengesit.
- (6) Die Provinsiale Minister en 'n munisipaliteit moet in die proses om enige regulasie of verordening te maak of riglyne uit te reik, deursigtigheid bevorder en openbare deelname aanmoedig, soos in artikel 195(1) van die Grondwet beoog.
- (7) Regulasies met finansiële implikasies moet met die instemming van die Provinsiale Minister verantwoordelik vir finansies gemaak word.
- (8) Wanneer hierdie artikel toegepas word, moet die bepalings van artikel 74(4) in ag geneem word.

Reg van betreding

71. Enigiemand wat skriftelik deur die Provinsiale Minister 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 Provinsiale Minister of departementshoof of 'n 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 Provinsiale Minister of departementshoof of raad, na gelang van die geval, ingevolge hierdie Wet.

Regstelling van foute

72. Waar enigiets wat in ooreenstemming met die bepalings van hierdie Wet of 'n wet gelys in Bylae III gedoen of verrig moet word voor of op 'n dag of op 'n tydstop of gedurende 'n tydperk wat vermeld word, maar dit nie aldus gedoen of verrig is nie, kan die Provinsiale Minister, indien hy of sy tevrede is dat so iets nie aldus gedoen of verrig kan word nie of dat die versuim te wyte was aan 'n fout of vergissing, magtiging verleen dat so iets gedoen of verrig moet word voor of op 'n ander dag of op 'n ander tydstop of gedurende 'n ander tydperk wat hy of sy aandui of dat dit nie gedoen of verrig hoef te word nie, en enigiets aldus gedoen of verrig of wat nie gedoen of verrig hoef te word nie, is van volle krag en word geag wettig gedoen of verrig te gewees het in ooreenstemming met die bepalings van hierdie Wet.

Transitional provisions

73. (1) Any regulation made, any proclamation, notice, certificate or other document issued, any instruction or directive, approval, consent or authorisation issued or granted, any exemption, licence or permit issued, or any appointment or determination made or other step taken or thing done in terms of the provisions of any law repealed by this Act shall be deemed to have been issued, granted, made, taken or done in terms of the provisions of this Act, and shall remain in force until repealed or withdrawn in terms of this Act. 5

(2) Notwithstanding the provisions of section 75, a matter in connection with which, before the commencement of this Act, 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 Act may, from such commencement, be finalised in terms of that law or this Act, as determined by the Provincial Minister. 10

Application of Act

74. (1) Any application relating to the planning, development or utilisation of land in the Province, with the exception of a development application in terms of the Western Cape Gambling and Racing Law, 1996 (Law 4 of 1996), shall also be made in terms of the provisions of this Act and the procedures prescribed by this Act shall apply, unless the Provincial Minister decides that an application could be more appropriately disposed of in terms of another law. 15 20

(2) The Provincial Minister may, by notice in the *Provincial Gazette*, suspend the application of this Act or specified sections thereof in the area and for the period mentioned in the notice.

(3) When exercising his or her discretion in terms of subsection (1), the Provincial Minister shall have due regard to the establishment and maintenance of essential minimum standards for orderly co-ordinated planning and development or the promotion of integrated social and economic development in the Province. 25

(4) When providing frameworks, norms, standards and guidelines in terms of this Act, regard shall be had to, *inter alia* the considerations in subsection (9)(a) to (d) and matters of provincial or regional interest such as— 30

- (a) the protection of the natural environment, including the agricultural resource base of the Province and the management of natural resources;
- (b) the protection of features of significant natural, architectural, historical or archaeological interest;
- (c) the supply, efficient use and conservation of energy; 35
- (d) the provision of major communication, servicing and transportation facilities;
- (e) the equitable distribution of educational, health and other facilities;
- (f) the co-ordination of planning activities of municipalities and other public bodies;
- (g) the resolution of planning conflicts involving municipalities and other public bodies; 40
- (h) the health and safety of the population, and
- (i) the protection of the financial and economic wellbeing of the Province and municipalities in the Province.

(5) Any power bestowed on any member of the Provincial Cabinet in terms of this Act shall, to the extent that the exercise of such power relates to the legitimate legislative powers of a municipality, be interpreted in a way which does not encroach on the said legislative powers of a municipality. 45

(6) Any provision of this Act which imposes a duty on municipalities and which relates to any functional area where municipalities have legislative powers, shall be interpreted in such a way that such provision does no more than provide frameworks or lay down norms and standards necessary for orderly co-ordinated planning and development or for the promotion of integrated social and economic development, where provincial or regional interests require. 50

(7) All powers or functions delegated or assigned to municipalities by or in terms of this Act shall be deemed to have been so delegated or assigned, as the case may be, under or pursuant to the relevant provision or provisions of the Constitution. 55

Oorgangsbepalings

73. (1) Enige regulasie gemaak, enige proklamasie, kennisgewing, sertifikaat of ander dokument uitgereik, enige opdrag of lasgewing, goedkeuring, toestemming of magtiging uitgereik of verleen, enige vrystelling, lisensie of permit uitgereik, of enige aanstelling, bepaling, ander stap of ding gedoen ingevolge die bepalinge van enige wet wat deur hierdie Wet herroep word, word geag ingevolge die bepalinge van hierdie Wet uitgereik, toegestaan, gemaak, geneem of gedoen te gewees het, en bly van krag totdat dit ingevolge hierdie Wet herroep of ingetrek word,

(2) Desnieteenstaande die bepalinge van artikel 75, kan '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, vanaf dié inwerkingtreding afgehandel word ingevolge daardie wet of hierdie Wet, soos deur die Provinsiale Minister bepaal word.

Toepassing van Wet

74. (1) Enige aansoek met betrekking tot die beplanning, ontwikkeling of aanwending van grond in die Provinsie, met uitsondering van 'n ontwikkelingsaansoek ingevolge die Wes-Kaapse Wet op Dobbelaar en Wedrenne, 1996 (Wet 4 van 1996), word ook ingevolge die bepalinge van hierdie Wet gedoen en die prosedures kragtens hierdie Wet voorgeskryf, is van toepassing, tensy die Provinsiale Minister besluit dat 'n aansoek op 'n meer toepaslike wyse ingevolge 'n ander wet afgehandel kan word.

(2) Die Provinsiale Minister kan by kennisgewing in die *Provinsiale Koerant* die toepassing van hierdie Wet of sekere gedeeltes daarvan in die gebied en vir die tydperk daarin vermeld, opskort.

(3) Wanneer die Provinsiale Minister sy of haar diskresie ingevolge subartikel (1) uitoefen, moet hy of sy die bepaling en handhawing van noodsaaklike minimum standaarde vir ordelike gekoördineerde beplanning en ontwikkeling of die bevordering van geïntegreerde sosiale en ekonomiese ontwikkeling in die Provinsie in ag neem.

(4) Wanneer raamwerke, norms, standaarde en riglyne ingevolge hierdie Wet voorsien word, moet ag geslaan word, onder meer op die oorwegings in subartikel (9)(a) tot (d) en aangeleenthede van provinsiale of streeksbelang soos—

- (a) die beskerming van die natuurlike omgewing, insluitende die landbouhulpbronnens van die Provinsie en die bestuur van natuurlike hulpbronne;
- (b) die beskerming van verskynsels van beduidende natuurlike, argitektoniese, geskiedkundige of argeologiese belang;
- (c) die voorsiening, doeltreffende gebruik en bewaring van energie;
- (d) die voorsiening van belangrike kommunikasie-, diens- en vervoerfasiliteite;
- (e) die billike verdeling van opvoedkundige, gesondheids- en ander fasiliteite;
- (f) die koördinering van munisipaliteite en ander openbare liggamese beplanningsaktiwiteite;
- (g) die oplossing van beplanningskonflikte waarby munisipaliteite en ander openbare liggamese betrokke is;
- (h) die gesondheid en veiligheid van die bevolking, en
- (i) die beskerming van die finansiële en ekonomiese welsyn van die Provinsie en munisipaliteite in die Provinsie.

(5) Enige bevoegdheid wat ingevolge hierdie Wet aan enige lid van die Provinsiale Kabinet verleen word, moet in die mate dat die uitoefening van daardie bevoegdheid betrekking het op die wettige wetgewende bevoegdhede van 'n munisipaliteit, op so 'n wyse uitgelê word dat dit nie afbreuk doen aan daardie wetgewende bevoegdhede van 'n munisipaliteit nie.

(6) Enige bepaling van hierdie Wet wat 'n plig aan munisipaliteite opdra en wat betrekking het op enige funksionele terrein waar munisipaliteite wetgewende bevoegdhede het, moet op so 'n wyse uitgelê word dat daardie bepaling niks meer doen nie as om vir raamwerke voorsiening te maak of norms en standaarde voor te skryf wat vir ordelike gekoördineerde beplanning en ontwikkeling of vir die bevordering van geïntegreerde ekonomiese ontwikkeling in die Provinsie nodig is, waar provinsiale of streeksbelang dit vereis.

(7) Alle bevoegdhede en funksies wat deur of ingevolge hierdie Wet aan munisipaliteite gedelegeer of opgedra word, word geag aldus gedelegeer of opgedra te gewees het, na gelang van die geval, kragtens of ooreenkomstig die tersaaklike bepaling of bepalinge van die Grondwet.

(8) This Act only assigns legislative powers to councils of municipalities to the extent that the Constitution has not already vested such councils with such powers.

(9) All local authorities may exercise the powers or perform the functions attributed to a responsible municipality in terms of this Act; provided that the Provincial Minister may, by notice in the *Provincial Gazette* exclude any local authority, or category of local authority from exercising any power or performing any function either in whole or in part and may substitute for such excluded local authority or category of local authority, a municipality or category of municipality to exercise the relevant power or perform the relevant function, taking into consideration— 5

- (a) the capacity of a municipality, or category of municipality, to effectively perform a particular function; 10
- (b) the upholding of standards necessary for co-ordinated planning in the Province;
- (c) the promotion of integrated social and economic development in the Province;
- (d) the interests of co-ordinated urban and rural development in the Province, and 15
- (e) the interests of provincial planning and regional planning and development in the Province.

(10) Whenever the Provincial Minister must decide whether a matter is in provincial or regional interest in terms of this Act, he or she shall have due regard to *inter alia* the considerations in sections 74(4)(a) to (i) and 74(9)(a) to (d). 20

Repeal of laws

75. The legislation listed in Schedule I is hereby repealed except to the extent as otherwise indicated in that Schedule.

Short title and date of commencement

76. (1) This Act shall be called the Western Cape Planning and Development Act, 25 1997, and shall commence on the date determined by the Premier by proclamation in the *Provincial Gazette*.

(2) Different dates may be fixed in terms of subsection (1) in respect of different provisions of this Act.

(3) Any reference in any other law or document to any of the laws listed in Schedule I or III shall, with effect from the commencement of this Act or the date on which the repeal of that law comes into effect, be deemed to be a reference to this Act. 30

(8) Hierdie Wet dra wetgewende bevoegdheide aan rade van munisipaliteite op slegs in die mate dat die Grondwet nie reeds sulke wetgewende bevoegdheide aan rade verleen het nie.

(9) Alle plaaslike owerhede mag die bevoegdheide of funksies ingevolge hierdie Wet 5 aan 'n verantwoordelike munisipaliteit toegewys, uitoefen of verrig; met dien verstande dat die Provinsiale Minister by kennisgewing in die *Provinsiale Koerant* enige plaaslike owerheid of kategorie plaaslike owerheid van die uitoefening van enige bevoegdheid of verrigting van enige funksie, in die geheel of ten dele, mag uitsluit en dié uitgeslote plaaslike owerheid of kategorie plaaslike owerheid mag vervang met 'n 10 munisipaliteit of kategorie munisipaliteit om die relevante bevoegdheid uit te oefen of funksie te verrig met inagneming van:

- (a) die kapasiteit van 'n munisipaliteit of 'n kategorie munisipaliteit om 'n spesifieke funksie effektief uit te oefen;
- 15 (b) die handhawing van standaarde wat noodsaaklik is vir gekoördineerde beplanning in die Provinsie;
- (c) die bevordering van geïntegreerde sosiale en ekonomiese ontwikkeling in die Provinsie;
- (d) die belange van gekoördineerde stedelike en landelike ontwikkeling in die Provinsie, en
- 20 (e) die belange van provinsiale beplanning en streeksbeplanning en -ontwikkeling in die Provinsie.

(10) Wanneer die Provinsiale Minister ingevolge hierdie wet moet besluit of 'n aangeleentheid in provinsiale of streeksbelang is, moet hy of sy onder meer die oorwegings in artikels 74(4)(a) tot (i) en 74(9)(a) tot (d) behoorlik in ag neem.

25 Herroeping van wette

75. Die wetgewing gelys in Bylae I word hiermee herroep uitgesonderd tot die mate soos andersins in daardie Bylae aangedui.

Kort titel en datum van inwerkingtreding

76. (1) Hierdie Wet heet die Wes-Kaapse Wet op Beplanning en Ontwikkeling, 1997, 30 en tree in werking op die datum wat die Premier by proklamasie in die *Provinsiale Koerant* bepaal.

(2) Verskillende datums kan ingevolge subartikel (1) vasgestel word ten opsigte van verskillende bepalinge van hierdie Wet.

35 (3) Enige verwysing in enige ander wet of dokument na enige van die wette in Bylae I of III gelys, word met ingang van die inwerkingtreding van hierdie Wet, of die datum waarop die herroeping van daardie wet in werking tree, geag 'n verwysing te wees na hierdie Wet.

SCHEDULE I

ORDINANCE AND REGULATIONS REPEALED

Number and year of law or ordinance	Short title	Date on which repeal comes into effect
No 15 of 1985	Land Use Planning Ordinance, 1985	Date of commencement of this Act
No 100/1987 of 30 October 1987 (<i>Provincial Gazette</i> 4505)	Amendment proclamation No 100/1987	Date of commencement of this Act
No 6/1992 of 7 February 1992 (<i>Provincial Gazette</i> 4734)	Amendment proclamation No 6/1992	Date of commencement of this Act
No. R. 168/1994 of 31 October 1994 (<i>Government Gazette</i> 16049)	Amendment proclamation No.R.168/1994	Date of commencement of this Act
PN 733 of 22 September 1989 (<i>Provincial Gazette</i> 4606)	Regulations regarding the Establishment 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 of commencement of this Act
R1897 of 12 September 1986	Regulations regarding Township Establishment and Land Use in terms of the Black Communities Development Act, 1984 (Act 4 of 1984) in so far as it applies to this Province.	Date as determined by the Premier by proclamation

BYLAE I

ORDONNANSIE EN REGULASIES HERROEP

Nommer en jaar van wet of ordonnansie	Kort titel	Datum waarop herroeping in werking tree
No. 15 van 1985	Ordonnansie op Grondgebruikbeplanning, 1985	Datum van inwerkingtreding van hierdie Wet
No 100/1987 van 30 Oktober 1987 (Provinsiale Koerant 4505)	Wysigingsproklamasie No 100/1987	Datum van inwerkingtreding van hierdie Wet
No 6/1992 van 7 Februarie 1992 (Provinsiale Koerant 4734)	Wysigingsproklamasie No 6/1992	Datum van inwerkingtreding van hierdie Wet
No. R 168/1994 van 31 Oktober 1994 (Staatskoerant 16049)	Wysigingproklamasie No. R. 168/1994	Datum van inwerkingtreding van hierdie Wet
PK 733 van 22 September 1989 (Provinsiale Gazette 4606)	Regulasies betreffende die 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 van inwerkingtreding van hierdie Wet
R1897 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 deur die Premier by proklamasie bepaal

SCHEDULE II

"Section 35 ter 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.

BYLAE II

"Artikel 35 ter 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 bepalings 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) If, within a period of nine months from the fixed date, no agreement as 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 therefore.

(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) 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) Indien, binne 'n tydperk van nege maande vanaf die vasgestelde datum, geen 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 die plaaslike owerheid of 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 subparagrafe (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 bepalings van die betrokke skema en sodanige heffing of vergoeding 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

(ii) voordat sodanige grond of enige gedeelte daarvan, uitgesonderd 'n

- (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 35 *bis* 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,

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 bepalings 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 bepalings 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 bepalings 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 bepalings 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

that special circumstances justifying such action exist, determine that, whether or not 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.”

spesiale omstandighede bestaan wat sodanige optrede regverdig, beslis dat, ongeag of 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) 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.”

that special circumstances justifying such action exist, determine that, whether or not 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.”

spesiale omstandighede bestaan wat sodanige optrede regverdig, beslis dat, ongeag of die geraamde verskil ingevolge hierdie artikel vasgestel is of nie—

- (i) die bepalings 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) 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 bepalings 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 bepalings 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.”

SCHEDULE III**LEGISLATION REFERRED TO IN SECTIONS 29, 60, 69, 72, AND 73**

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, 1984 (Act 4 of 1984)

Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985)

Less Formal Township Establishment Act, 1991 (Act 113 of 1991)

Rural Areas Act, 1987 (Act 9 of 1987) (former House of Representatives)

Physical Planning Act, 1991 (Act 125 of 1991)

BYLAE III**WETGEWING BEDOEL IN ARTIKELS 29, 60, 69, 72 EN 73**

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)

Wet op Landelike Gebiede, 1987 (Wet 9 van 1987) (voormalige Raad van Verteenwoordigers)

Wet op Fisiese Beplanning, 1991 (Wet 125 van 1991)

SCHEDULE IV

GENERAL PLANNING AND DEVELOPMENT PRINCIPLES

1. PRINCIPLES OF PLANNING AND DEVELOPMENT LEGISLATION, POLICY, ADMINISTRATIVE PRACTICE, REGULATIONS AND BY-LAWS

1.1 Laws, regulations and policy and guideline documents on planning and development should—

- 1.1.1 be clear and generally available to those who are likely to be affected thereby;
- 1.1.2 provide guidance and information to those affected thereby in addition to serving as regulatory measures;
- 1.1.3 be aimed at promoting trust and acceptance among those likely to be affected thereby, and
- 1.1.4 give further content to fundamental rights as set out in the Constitution.

2. PRINCIPLES OF DECISION-MAKING AND DISPUTE RESOLUTION

- 2.1 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, unless a development framework or structure plan indicates that a specific type of land use should be protected.
- 2.2 Decisions should be taken on the advice of suitable persons in the employ of the authority concerned and experts in the field of agriculture, planning, engineering, geology, mining, management of the environment, law, surveying or any other field determined by the Provincial Minister.
- 2.3 Before a decision is taken, the desirability of referring for mediation a dispute about development or planning between parties should be considered.
- 2.4 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.
- 2.5 Before any important decision is taken in terms of this Act, the desirability of conducting a public inquiry into the matter should be considered.
- 2.6 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.
- 2.7 Reasons in writing for a decision in terms of this Act should be furnished on request.
- 2.8 The department head should keep a record of reasons given for decisions taken by the Provincial Administration of Western Cape, and the chief executive officer for decisions taken by the council concerned.
- 2.9 Such record should be made available for inspection by members of the public, and any person or body should be able to publish the reasons.
- 2.10 A decision taken in terms of this Act should be subject to review by any competent division of the High Court.

BYLAE IV

ALGEMENE BEGINSELS VIR BEPLANNING EN ONTWIKKELING

1. BEGINSELS VAN WETGEWING, BELEID, ADMINISTRATIEWE PRAKTYK, REGULASIES EN VERORDENINGE VIR BEPLANNING EN ONTWIKKELING

1.1 Wette, regulasies en beleids- en riglyndokumente oor beplanning en ontwikkeling moet—

1.1.1 duidelik, asook algemeen beskikbaar, wees vir diegene wat waarskynlik daardeur geraak sal word;

1.1.2 voorligting en inligting aan diegene wat daardeur geraak word, verskaf, benewens om as regulerende maatreëls te dien;

1.1.3 daarop gemik wees om vertroue en aanvaarding by diegene wat waarskynlik daardeur geraak sal word, te bevorder, en

1.1.4 verdere inhoud gee aan die fundamentele regte, soos in die Grondwet uiteengesit.

2. BEGINSELS VAN BESLUITNEMING EN GESKILBESLEGTING

2.1 Elke voorgestelde ontwikkeling moet op meriete beoordeel word en geen spesifieke grondgebruik moet vooruit of in die algemeen as minder belangrik of wenslik beskou word as enige ander grondgebruik nie, tensy 'n ontwikkelingsraamwerk of struktuurplan aandui dat 'n spesifieke tipe grondgebruik beskerm moet word.

2.2 Besluite moet geneem word 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 Provinsiale Minister bepaal.

2.3 Voordat 'n besluit geneem word, moet die wenslikheid daarvan om 'n geskil oor ontwikkeling of beplanning tussen partye vir bemiddeling te verwys, oorweeg word.

2.4 As die betrokke owerheid van mening is dat bemiddeling wenslik is, moet die geskil vir bemiddeling verwys word, maar as bemiddeling onwenslik is, of as bemiddeling misluk het, moet 'n openbare ondersoek gehou of 'n besluit geneem word.

2.5 Voordat enige belangrike besluit ingevolge hierdie Wet geneem word, moet die wenslikheid daarvan om 'n openbare ondersoek oor die aangeleentheid te hou, oorweeg word.

2.6 As 'n openbare ondersoek gehou word voordat 'n besluit geneem word, moet die ondersoek toeganklik vir die publiek wees, en enige persoon wat geregtig is om by die ondersoek te verskyn, kan deur enige ander persoon verteenwoordig word.

2.7 Skriftelike redes vir 'n besluit ingevolge hierdie Wet geneem, moet op versoek voorsien word.

2.8 Die departementshoof moet 'n rekord hou van redes wat verstrek is vir besluite wat die Provinsiale Administrasie van Wes-Kaap geneem het, en die hoof uitvoerende beampte vir besluite deur die betrokke raad geneem.

2.9 So 'n rekord moet ter insae van lede van die publiek lê, en enige persoon of liggaam moet die redes kan publiseer.

2.10 'n Besluit ingevolge hierdie Wet geneem, is onderworpe aan hersiening deur enige bevoegde afdeling van die Hoë Hof.

3. PRINCIPLES OF ROLEPLAYER PARTICIPATION AND HUMAN RESOURCES DEVELOPMENT

- 3.1 Members of communities affected by planning and development should be actively involved in the planning and development process.
- 3.2 The skills and capacities of all persons involved in planning and development, including the disadvantaged, should be developed.
- 3.3 All sectors of the economy (government and non-government sectors) should be encouraged to contribute toward planning and development so as to maximise the ability of all spheres of government to undertake planning and development, and to this end:
 - 3.3.1 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, and
 - 3.3.2 an authority which is responsible for the administration of this Act and any other law relating to planning and development should furnish particulars of the legislation concerned and of the persons responsible for its administration to any person requiring such information.

4. PRINCIPLES OF DEVELOPMENT IN GENERAL

- 4.1 Efficient land development administrative practices should be promoted.
- 4.2 Development should result in security of tenure and should provide for the widest possible range of tenure alternatives, including individual and communal tenure.
- 4.3 In the development of land the rightful interests of any occupants of that land should be duly taken into account.
- 4.4 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.
- 4.5 The effective functioning of a development market based on open competition between suppliers of goods and services should be stimulated.

5. PRINCIPLES OF SPATIAL ENVIRONMENT RESTRUCTURING

- 5.1 Provision should be made for rural and urban planning and development, and the development of existing and new formal and informal settlements should be facilitated.
- 5.2 The illegal occupation of land should be discouraged, with due recognition of informal development processes.
- 5.3 Sufficient land for permanent development and temporary reception areas should be identified and developed in accordance with national and provincial policies.
- 5.4 Efficient and integrated planning and development should be promoted by:
 - 5.4.1 the integration of social, economic, institutional and physical aspects of planning and development;

3. BEGINSELS VAN ROLSPelerDEELNAME EN MENSLIKE HULP-BRONONTWIKKELING

- 3.1 Lede van gemeenskappe wat deur beplanning en ontwikkeling geraak word, moet aktief by die proses van beplanning en ontwikkeling betrek word.
- 3.2 Die vaardighede en vermoëns van alle persone, insluitende minderbevoorregte persone, wat by beplanning en ontwikkeling betrokke is, moet ontwikkel word.
- 3.3 Alle sektore van die ekonomie (regerings- en nie-regeringsektore) moet aange-moedig word om tot beplanning en ontwikkeling by te dra ten einde alle regeringsfere se vermoë om beplanning en ontwikkeling te onderneem, te maksimaliseer, en met dié doel:
 - 3.3.1 moet owerhede daarna streef om alle sektore van die ekonomie se funksies en verantwoordelikhede met betrekking tot beplanning en ontwikkeling, en die gewenste verhouding tussen dié sektore, duidelik te omskryf en bekend te maak, en
 - 3.3.2 moet 'n owerheid wat verantwoordelik is vir die administrasie van hierdie Wet en enige ander wet met betrekking tot beplanning en ontwikkeling, 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.

4. BEGINSELS VAN ONTWIKKELING IN DIE ALGEMEEN

- 4.1 Doeltreffende administratiewe praktyke vir grondontwikkeling moet bevorder word.
- 4.2 Ontwikkeling moet sekerheid van verblyfreg tot gevolg hê, en vir die wydste moontlike verskeidenheid titelalternatiewe, insluitende individuele en gemeenskappike titel, voorsiening maak.
- 4.3 By die ontwikkeling van grond moet die regmatige belange van enige bewoners van daardie grond in ag geneem word.
- 4.4 Die verskillende regeringsvlakke moet die belange van die verskillende sektore wat betrokke is by of geraak word deur ontwikkeling koördineer ten einde strydige aansprake op skaars hulpbronne te minimaliseer.
- 4.5 Die effektiewe funksionering van 'n ontwikkelingsmark, gebaseer op vrye mededinging tussen leweransiers van goedere en dienste, moet gestimuleer word.

5. BEGINSELS VAN HERSTRUKTURERING VAN DIE RUIMTELIKE OMGEWING

- 5.1 Daar moet vir landelike en stedelike beplanning en ontwikkeling voorsiening gemaak word, en die ontwikkeling van bestaande en nuwe formele en informele vestigings moet gefasiliteer word.
- 5.2 Die onwettige besetting van grond moet ontmoedig word, met behoorlike erkenning van informele ontwikkelingsprosesse.
- 5.3 Voldoende grond vir permanente ontwikkeling en tydelike ontvangsgebiede moet in ooreenstemming met nasionale en provinsiale beleid geïdentifiseer en ontwikkel word.
- 5.4 Doeltreffende en geïntegreerde beplanning en ontwikkeling moet bevorder word deur-
 - 5.4.1 die integrasie van die sosiale, ekonomiese, institusionele en fisiese aspekte van beplanning en ontwikkeling;

- 5.4.2 integrated development and planning in rural and urban areas with a view to mutual support;
- 5.4.3 providing residential and employment opportunities in close proximity to or integrated with each other;
- 5.4.4 the optimal utilisation of existing resources, including resources with regard to agriculture, land, minerals, bulk infrastructure, roads, transport and social facilities;
- 5.4.5 encouraging a diverse combination of land uses, including mixed land uses;
- 5.4.6 discouraging the phenomenon of urban sprawl, protecting the agricultural resource base and encouraging the development of more compact cities;
- 5.4.7 contributing towards the correction of historically distorted spatial patterns of settlement in the Western Cape, and
- 5.4.8 encouraging environmentally sustainable planning and development practices and processes.

6. PRINCIPLES OF SUSTAINABLE DEVELOPMENT

6.1 Sustainable development should be promoted by-

- 6.1.1 promoting development within the fiscal, institutional and administrative means of the Province;
- 6.1.2 promoting the establishment of viable communities;
- 6.1.3 promoting sustained protection of the environment;
- 6.1.4 meeting the basic needs of all communities in an affordable manner, and
- 6.1.5 ensuring the safe use of land, with due regard to factors such as geological formations, dangerously undermined areas and flood plains.

7. PRINCIPLES OF ENVIRONMENTAL PROTECTION

- 7.1 Development should harmonise with the ecological characteristics of the environment.
- 7.2 Development should heed the natural processes which control any specific environment.
- 7.3 Development in unsuitable environments, such as areas with a high water table, swamps, flood plains, steep slopes and areas sensitive to drift-sands, should be discouraged.
- 7.4 Development planning should heed carrying capacity restrictions, especially with regard to water shortages.

- 5.4.2 geïntegreerde ontwikkeling en beplanning in landelike en stedelike gebiede met die oog op onderlinge ondersteuning;
- 5.4.3 die voorsiening van residensiële en indiensnemingsgeleenthede naby of geïntegreerd met mekaar;
- 5.4.4 die optimale gebruik van bestaande hulpbronne, insluitende hulpbronne met betrekking tot die landbou, grond, minerale, grootmaatinfrastruktuur, paaie, vervoer en sosiale fasiliteite;
- 5.4.5 die aanmoediging van 'n gediversifiseerde kombinasie van grondgebruike, insluitende gemengde grondgebruike;
- 5.4.6 die ontmoediging van die verskynsel van stadspreading, die beskerming van die landbouhulpbronbasis en die aanmoediging van die ontwikkeling van meer kompakte stede;
- 5.4.7 'n bydrae tot die regstelling van histories verwronge ruimtelike vestigingspatrone in die Wes-Kaap, en
- 5.4.8 die aanmoediging van omgewingsvolhoubare beplannings- en ontwikkelingspraktyke en prosesse.

6. BEGINSELS VAN VOLHOUBARE ONTWIKKELING

6.1 Volhoubare ontwikkeling moet bevorder word deur-

- 6.1.1 ontwikkeling binne die fiskale, institusionele en administratiewe vermoë van die Provinsie te bevorder;
- 6.1.2 die vestiging van lewensvatbare gemeenskappe te bevorder;
- 6.1.3 volgehoue beskerming van die omgewing te bevorder;
- 6.1.4 op 'n bekostigbare wyse in die basiese behoeftes van alle gemeenskappe te voorsien, en
- 6.1.5 die veilige gebruik van grond, met inagneming van faktore soos geologiese formasies, gevaarlik ondermynde gebiede en vloedvlaktes, te verseker.

7. BEGINSELS VAN DIE BESKERMING VAN DIE OMGEWING

- 7.1 Ontwikkeling moet in ooreenstemming met die ekologiese eienskappe van die omgewing wees.
- 7.2 Ontwikkeling moet let op die natuurlike prosesse wat in 'n bepaalde omgewing heers.
- 7.3 Ontwikkeling in ongeskikte omgewings, soos gebiede met 'n hoë watertafel, moerasse, vloekvlaktes, steil hellings en gebiede wat vatbaar is vir waaisand, moet ontmoedig word.
- 7.4 Ontwikkelingsbeplanning moet ag slaan op drakragbeperkings, veral wat water-tekorte betref.

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	MUNICIPALITY
Ashton	Ashton Municipality
Bellville	City of Tygerberg
Brackenfell	Oostenberg Municipality
Bredasdorp	Bredasdorp Municipality
Ceres	Ceres Municipality
Citrusdal	Citrusdal Transitional Local Council
Durbanville	City of Tygerberg
Fish Hoek	South Peninsula Municipality
Franschhoek	Municipality for the Area of Franschhoek
George	George Municipality
Goodwood	City of Tygerberg
Gordon's Bay	Helderberg Municipality
Grabouw	Grabouw Municipality
Hartenbos	Mossel Bay Municipality
Heidelberg	Heidelberg Transitional Council
Hermanus	Greater Hermanus Transitional Local Council
Hopefield	Hopefield Municipality
Cape Town	City of Cape Town
Cape Division	Cape Metropolitan Council
Kleinmond	Hangklip/Kleinmond Municipality
Knysna	Knysna Municipality
Kraaifontein	Oostenberg Municipality
Kuils River	Oostenberg Municipality
Langebaan	Langebaan Municipality
Malmesbury	Malmesbury Transitional Local Council
Milnerton Proper,	
Table View and Montague	
Gardens and Metro	
Blaauwberg Municipality	Industrial Townships
Moorreesburg	Montagu Montagu Municipality
Mossel Bay	Moorreesburg Municipality
Oudtshoorn	Mossel Bay Municipality
Paarl Paarl Municipality	Oudtshoorn Municipality
City of Tygerberg	Parow
Plettenberg Bay	Pinelands City of Cape Town
	Greater Plettenberg Bay Transitional Local Council
Robertson	Robertson Municipality
Sedgefield	Sedgefield Transitional Local Council
Simons Town	South Peninsula Municipality
Somerset West	Helderberg Municipality
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 Municipality
Swellendam	Swellendam Transitional Council
Velddrif	Velddrif Municipality
Villiersdorp	Villiersdorp Municipality
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 V

**DORPSAANLEGSKEMAS INGEVOLGE DIE ORDONNANSIE OP DORPE,
1934, WAT NA DIE MENING VAN DIE ADMINISTRATEUR OP 1 JULIE 1986
VAN KRAAG WAS**

SKEMA	MUNISIPALITEIT
Ashton	Munisipaliteit Ashton
Bellville	Stad Tygerberg
Brackenfell	Oostenberg Munisipaliteit
Bredasdorp	Munisipaliteit Bredasdorp
Ceres	Munisipaliteit Ceres
Citrusdal	Citrusdal Plaaslike Oorgangsraad
Durbanville	Stad Tygerberg
Franschhoek	Munisipaliteit vir die Gebied van Franschhoek
George	Munisipaliteit George
Goodwood	Stad Tygerberg
Gordonsbaai	Helderberg Munisipaliteit
Grabouw	Munisipaliteit Grabouw
Hartenbos	Munisipaliteit Mosselbaai
Heidelberg	Heidelberg Oorgangsraad
Hermanus	Groter Hermanus Plaaslike Oorgangsraad
Hopefield	Munisipaliteit Hopefield
Kaapstad	Stad Kaapstad
Kaap Afdeling	Kaapse Metropolitaanse Owerheid
Kleinmond	Munisipaliteit Hangklip/Kleinmond
Knysna	Munisipaliteit Knysna
Kraaifontein	Oostenberg Munisipaliteit
Kuilsrivier	Oostenberg Munisipaliteit
Langebaan	Munisipaliteit Langebaan
Malmesbury	Malmesbury Plaaslike Oorgangsraad
Milnerton Self, Table View en Montague Gardens en Metro	
Industriële Dorpe	Blaauwberg Munisipaliteit
Montagu	Munisipaliteit Montagu
Moorreesburg	Munisipaliteit Moorreesburg
Mosselbaai	Munisipaliteit Mosselbaai
Oudtshoorn	Munisipaliteit Oudtshoorn
Paarl	Munisipaliteit Paarl
Parow	Stad Tygerberg
Pinelands	Stad Kaapstad
Plettenbergbaai	Groter Plettenbergbaai Plaaslike Oorgangsraad
Robertson	Munisipaliteit Robertson
Sedgefield	Sedgefield Plaaslike Oorgangsraad
Simonstad	Suid-Skiereiland Munisipaliteit
Somerset-Wes	Helderberg Munisipaliteit
Stellenbosch	Stellenbosch Plaaslike Oorgangsraad
Stellenbosch Afdeling	Wynland Distrikraad
St Helenabaai	Weskus Skiereiland Oorgangsraad
Stilbaai	Munisipaliteit Stilbaai
Strand	Helderberg Munisipaliteit
Swellendam	Swellendam Oorgangsraad
Velddrif	Munisipaliteit Velddrif
Villiersdorp	Munisipaliteit Villiersdorp
Vishoek	Suid-Skiereiland Munisipaliteit
Vredenburg-Saldanha	Weskus Skiereiland Oorgangsraad
Vredendal	Munisipaliteit vir die Gebied van Vredendal
Waenhuiskrans	Munisipaliteit Bredasdorp
Wellington	Wellington Oorgangsraad
Wildernis	Wildernis Distrikraad
Worcester	Worcester Plaaslike Oorgangsraad

SCHEDULE VI**APPROVED TOWN PLANNING SCHEMES IN TERMS OF THE REGULATIONS MADE UNDER THE BLACK COMMUNITIES DEVELOPMENT ACT, 1984 (ACT 4 OF 1984)**

SCHEME	LOCAL COUNCIL/LOCAL METROPOLITAN COUNCIL
Bongelethu	Oudtshoorn Municipality
Crossroads	City of Cape Town
Ikapa	City of Cape Town
Kaya Mandi	Stellenbosch Transitional Local Council
Kwanonqaba	Mossel Bay Municipality
Lingelethu	West City of Tygerberg
Lwandle	Helderberg Municipality
Mbekweni	Paarl Municipality
Mfuleni	City of Tygerberg
Nduli	Ceres Municipality
Nkqubela	Robertson Municipality
Sidesaviwa (KwaMandlenkosi)	Municipality of Beaufort West
Thembaletu	George Municipality
Zolani	Ashton Municipality
Zweletemba	Worcester Transitional Local Council
Zwelihle	Greater Hermanus Transitional Local Council

BYLAE VI**GOEDGEKEURDE DORPSBEPLANNINGSKEMAS INGEVOLGE DIE
REGULASIES GEMAAK KRAGTENS DIE WET OP DIE ONTWIKKELING
VAN SWART GEMEENSKAPPE, 1984 (WET 4 VAN 1984)****SKEMA****PLAASLIKE RAAD/PLAASLIKE METRO-
POLITAANSE RAAD**

Bongelethu	Munisipaliteit Oudtshoorn
Crossroads	Stad Kaapstad
Ikapu	Stad Kaapstad
Kaya Mandi	Stellenbosch Plaaslike Oorgangsraad
Kwanonqaba	Munisipaliteit Mosselbaai
Lingeletu-Wes	Stad Tygerberg
Lwandle	Helderberg Munisipaliteit
Mbekweni	Munisipaliteit Paarl
Mfuleni	Stad Tygerberg
Nduli	Munisipaliteit Ceres
Nkqubela	Munisipaliteit Robertson
Sidesaviwa (KwaMandlenkosi)	Munisipaliteit Beaufort-Wes
Thembaletu	Munisipaliteit George
Zolani	Munisipaliteit Ashton
Zweletemba	Worcester Plaaslike Oorgangsraad
Zwelihle	Groter Hermanus Plaaslike Oorgangsraad

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

BYLAE VII**STEDELIKE EN STREEKSTRUKTUURPLANNE (VOORMALIGE GIDS-
PLANNE) INGEVOLGE DIE WET OP FISIESE BEPLANNING, 1991 (WET
125 VAN 1991)**

NAAM EN DATUM VAN GOEDKEURING	TIPE PLAN
1. Kaapse Metropool Volume 1: Skiereland (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

1. The first part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

2. The second part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

3. The third part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

4. The fourth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

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10. The tenth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

11. The eleventh part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

12. The twelfth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

13. The thirteenth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

14. The fourteenth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.

15. The fifteenth part of the paper is devoted to a discussion of the general principles of the theory of the structure of the atom.