



STAATSKOERANT

VAN DIE REPUBLIEK VAN SUID-AFRIKA

REPUBLIC OF SOUTH AFRICA

GOVERNMENT GAZETTE

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KANTOOR VAN DIE STAATSPRESIDENT

No. 179. 8 Februarie 1989

Hierby word bekend gemaak dat die waarnemende Staatspresident sy goedkeuring gegee het aan die onderstaande Wet wat hierby ter algemene inligting gepubliseer word:—

No. 102 van 1988: Wet op Vryvestigingsgebiede, 1988.

STATE PRESIDENT'S OFFICE

No. 179. 8 February 1989

It is hereby notified that the acting State President has assented to the following Act which is hereby published for general information:—

No. 102 of 1988: Free Settlement Areas Act, 1988.

WET

Om voorsiening te maak vir die verklaring van sekere gebiede tot vryvestigingsgebiede en vir die instelling van 'n raad met die naam die Vryvestigingsraad; om die bevoegdhede, werksaamhede en pligte van die Vryvestigingsraad te bepaal; en om voorsiening te maak vir aangeleenthede wat daarmee in verband staan.

*(Engelse teks deur die waarnemende Staatspresident geteken.)
(Goedgekeur op 30 Januarie 1989.)*

DAAR WORD BEPAAL deur die Staatspresident en die Parlement van die Republiek van Suid-Afrika, soos volg:—

Woordomskrywing

1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - (i) “dorpontwikkelaar”, met betrekking tot—
 - (a) die provinsie Transvaal, 'n dorpseienaar soos omskryf in artikel 1 van die Ordonnansie op Dorpsbeplanning en Dorpe, 1986 (Ordonnansie No. 15 van 1986 (Transvaal));
 - (b) die provinsie Natal, 'n eienaar of dorpseienaar soos omskryf in artikel 1 van die Dorpsbeplanningsordonnansie, 1949 (Ordonnansie No. 27 10 van 1949 (Natal));
 - (c) die provinsie die Kaap die Goeie Hoop, 'n eienaar, soos omskryf in artikel 2 van die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie No. 15 van 1985 (Kaap die Goeie Hoop)), van grond ten opsigte waarvan 'n onderverdeling ingevolge artikel 27 van genoemde 15 Ordonnansie geag word bevestig te wees; en
 - (d) die provinsie die Oranje-Vrystaat, 'n dorpseienaar soos omskryf in artikel 1 van die Ordonnansie op Dorpe, 1969 (Ordonnansie No. 9 van 1969 (Oranje-Vrystaat)); (vii)
 - (ii) “hierdie Wet” ook 'n regulasie wat daarkragtens uitgevaardig is; (vi) 20
 - (iii) “Minister” die Minister van Staatkundige Ontwikkeling en Beplanning; (v)
 - (iv) “plaaslike owerheidsliggaam” 'n bestuursliggaam soos omskryf in artikel 1 van die Wet op Streeksdiensterade, 1985 (Wet No. 109 van 1985), of 'n plaaslike owerheid soos aldus omskryf; (iv)
 - (v) “Raad” die Vryvestigingsraad ingestel kragtens artikel 3; (ii) 25
 - (vi) “verkry”, met betrekking tot onroerende goed, op enige wyse hoegenaamd eienaar van daardie goed word; (i)
 - (vii) “vryvestigingsgebied” 'n gebied ten opsigte waarvan onroerende goed daarin geleë deur enige persoon, ongeag sy ras, wettiglik geokkupeer, verkry, besit of aan enige ander persoon, ongeag die ras van daardie ander 30 persoon, vervreem kan word, en wat kragtens artikel 2 tot 'n vryvestigingsgebied verklaar is. (iii)

Verklaring van gebied tot vryvestigingsgebied

2. (1) Ondanks die bepalinge van enige ander wet waarby of waarkragtens die okkupasie, verkryging of besit deur bepaalde persone van onroerende goed in 35 bepaalde gebiede verbied of beperk word, kan die Staatspresident, behoudens die bepalinge van subartikels (2) en (3), by proklamasie in die *Staatskoerant* 'n gebied wat in daardie proklamasie omskryf word, met ingang van 'n datum wat in daardie proklamasie vermeld word tot 'n vryvestigingsgebied verklaar.

ACT

To provide for the declaration of certain areas as free settlement areas and for the establishment of a board, to be known as the Free Settlement Board; to determine the powers, functions and duties of the Free Settlement Board; and to provide for matters connected therewith.

*(English text signed by the acting State President.)
(Assented to 30 January 1989.)*

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

Definitions

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

- 5 (i) “acquire”, in relation to immovable property, means become the owner of such property in any manner whatsoever; (vi)
- (ii) “Board” means the Free Settlement Board established under section 3; (v)
- 10 (iii) “free settlement area” means an area in respect of which immovable property situated in it may be lawfully occupied, acquired, held or disposed of to any other person, irrespective of the race of that other person, by any person, irrespective of his race, and which has under section 2 been declared to be a free settlement area; (vii)
- 15 (iv) “local government body” means a management body as defined in section 1 of the Regional Services Councils Act, 1985 (Act No. 109 of 1985), or a local authority as so defined; (iv)
- (v) “Minister” means the Minister of Constitutional Development and Planning; (iii)
- (vi) “this Act” includes any regulation made thereunder; (ii)
- 20 (vii) “township developer”, in relation to—
- (a) the province of the Transvaal, means a township owner as defined in section 1 of the Town-planning and Townships Ordinance, 1986 (Ordinance No. 15 of 1986 (Transvaal));
- 25 (b) the province of Natal, means an owner or township owner as defined in section 1 of the Town Planning Ordinance, 1949 (Ordinance No. 27 of 1949 (Natal));
- (c) the province of the Cape of Good Hope, means an owner, as defined in section 2 of the Land Use Planning Ordinance, 1985 (Ordinance No. 15 of 1985 (Cape of Good Hope)), of land in respect of which a subdivision is in terms of section 27 of the said Ordinance deemed to be confirmed; and
- 30 (d) the province of the Orange Free State, means a township owner as defined in section 1 of the Townships Ordinance, 1969 (Ordinance No. 9 of 1969 (Orange Free State)). (i)

Declaration of area as free settlement area

- 35 2. (1) Notwithstanding the provisions of any other law by or under which the occupation, acquisition or holding by particular persons of immovable property in particular areas is prohibited or restricted, the State President may, subject to the provisions of subsections (2) and (3), by proclamation in the *Gazette* declare any area defined in that proclamation to be a free settlement area with effect from a date
- 40 specified in that proclamation.

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(2) 'n Proklamasie kragtens subartikel (1) waarby 'n gebied wat in sy geheel of gedeeltelik deel vorm van, of wat insluit—

(a) 'n gebied wat kragtens 'n Wet van die Parlement by 'n proklamasie van die Staatspresident verklaar is tot 'n gebied vir okkupasie of toekomstige okkupasie of vir grondbesit of toekomstige grondbesit deur lede van 'n bevolkingsgroep; of

(b) 'n gebied (uitgesonderd enige deel daarvan wat ook 'n gebied bedoel in paragraaf (a) uitmaak) wat by of kragtens—

(i) die Ordonnansie op die Verklaring van Plaaslike Bestuursgebiede, 1986 (Ordonnansie No. 18 van 1986 (Kaap die Goeie Hoop)); 10

(ii) die Ordonnansie op die Verklaring van Plaaslike Bestuursgebiede, 1986 (Ordonnansie No. 18 van 1986 (Oranje-Vrystaat));

(iii) die Ordonnansie op Plaaslike Bestuursgebiede, 1986 (Ordonnansie No. 24 van 1986 (Transvaal)); of

(iv) die Ordonnansie op Verklaring van Plaaslike Bestuursgebiede, 1986 15 (Ordonnansie No. 22 van 1986 (Natal)),

tot 'n plaaslike bestuursgebied verklaar is vir 'n bevolkingsgroep, waarvan lede van 'n Ministersraad bedoel in artikel 21 van die Grondwet van die Republiek van Suid-Afrika, 1983 (Wet No. 110 van 1983), lede is, tot 'n vryevestigingsgebied verklaar word, word alleen met die instemming van daardie Minis- 20 tersraad uitgevaardig.

(3) Geen proklamasie word kragtens subartikel (1) uitgevaardig nie—

(a) tensy die Raad, ingevolge die bepalings van artikel 7, met betrekking tot die gebied wat by so 'n proklamasie tot 'n vryevestigingsgebied verklaar staan te word vooraf— 25

(i) aan die Staatspresident; en

(ii) indien bedoelde gebied 'n gebied soos beoog in subartikel (2) is, ook aan die betrokke Ministersraad,

verslag gedoen het en daardie verslag vooraf deur die Staatspresident of deur die Staatspresident sowel as die in subparagraaf (ii) bedoelde Minis- 30 tersraad, na gelang van die geval, oorweeg is;

(b) waarby daar by 'n vryevestigingsgebied ingesluit sou word—

(i) grond wat in 'n afgesonderde Swart gebied soos omskryf in artikel 49 van die Ontwikkelingstrust en Grond Wet, 1936 (Wet No. 18 van 1936), geleë is; of 35

(ii) grond bedoel in artikel 21 (1) van laasgenoemde Wet.

(4) Die Staatspresident kan te eniger tyd 'n proklamasie wat kragtens subartikel (1) uitgevaardig is, by proklamasie in die *Staatskoerant* wysig of herroep met ingang van 'n datum vermeld in laasgenoemde proklamasie, en die bepalings van subartikel

(3) (a) (i) is *mutatis mutandis* van toepassing ten opsigte van so 'n wysiging of 40 herroeping.

Instelling van Vryevestigingsraad

3. Die Staatspresident kan by proklamasie in die *Staatskoerant* 'n raad met die naam die Vryevestigingsraad instel om die bevoegdheede uit te oefen en die werksaamhede en pligte te verrig wat by hierdie Wet aan die Raad verleen of 45 toegewys word.

Samestelling van Raad

4. (1) Die lede van die Raad word deur die Staatspresident aangestel, en die Raad bestaan, behoudens die bepalings van subartikel (2) en van artikel 5 (1), uit—

(a) 'n voorsitter as sodanig deur die Staatspresident aangestel; 50

(b) 'n persoon benoem deur die Ministersraad van die Raad van Afgevaardigdes;

(c) 'n persoon benoem deur die Ministersraad van die Raad van Verteenwoordigers;

(d) 'n persoon benoem deur die Ministersraad van die Volksraad; 55

(e) 'n persoon benoem deur die Minister; en

(f) vier persone van wie elke administrateur van 'n provinsie een benoem, of, indien en vir so lank as wat een of meer persone nie soos voormeld benoem is nie na verstryking van minstens veertien dae nadat die Staatspresident skriftelik so 'n

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(2) A proclamation under subsection (1) by which any area which in its entirety or partially forms part of, or which includes—

- (a) any area which has under any Act of Parliament by a proclamation of the State President been declared to be an area for occupation or future occupation or for ownership or future ownership by members of a population group; or
- (b) any area (excluding any part thereof which also constitutes an area referred to in paragraph (a)) which has by or under—
- (i) the Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 18 of 1986 (Cape of Good Hope));
 - (ii) the Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 18 of 1986 (Orange Free State));
 - (iii) the Local Government Areas Ordinance, 1986 (Ordinance No. 24 of 1986 (Transvaal)); or
 - (iv) the Declaration of Local Government Areas Ordinance, 1986 (Ordinance No. 22 of 1986 (Natal)),

been declared to be a local government area for a population group, of which members of a Ministers' Council referred to in section 21 of the Republic of South Africa Constitution Act, 1983 (Act No. 110 of 1983), are members, is declared to be a free settlement area, shall be issued only with the concurrence of that Ministers' Council.

(3) No proclamation shall be issued under subsection (1)—

- (a) unless the Board has beforehand in relation to the area which is by such proclamation to be declared to be a free settlement area reported in terms of the provisions of section 7—
- (i) to the State President; and
 - (ii) if the said area is such an area as is contemplated in subsection (2), also to the Ministers' Council concerned,
- and such report has been considered beforehand by the State President or by the State President as well as the Ministers' Council referred to in subparagraph (ii), as the case may be;
- (b) by which—
- (i) land situated in a scheduled Black area as defined in section 49 of the Development Trust and Land Act, 1936 (Act No. 18 of 1936); or
 - (ii) land referred to in section 21 (1) of the last-mentioned Act, would be included in any free settlement area.

(4) The State President may at any time by proclamation in the *Gazette* amend or repeal a proclamation issued under subsection (1), with effect from a date specified in such first-mentioned proclamation, and the provisions of subsection (3) (a) (i) shall *mutatis mutandis* apply in respect of any such amendment or repeal.

Establishment of Free Settlement Board

3. The State President may by proclamation in the *Gazette* establish a board, to be known as the Free Settlement Board, to exercise the powers and to perform the functions and duties conferred upon or entrusted to the Board by this Act.

45 Constitution of Board

4. (1) The members of the Board shall be appointed by the State President, and the Board shall, subject to the provisions of subsection (2) and of section 5 (1), consist of—

- (a) a chairman appointed as such by the State President;
- (b) a person nominated by the Ministers' Council of the House of Delegates;
- (c) a person nominated by the Ministers' Council of the House of Representatives;
- (d) a person nominated by the Ministers' Council of the House of Assembly;
- (e) a person nominated by the Minister; and
- (f) four persons of whom each administrator of a province shall nominate one, or, if and for so long as one or more persons have not been nominated as aforesaid after the expiration of not less than fourteen days after the State President has in

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benoeming gevra het, uit genoemde voorsitter en die persone wat wel aldus benoem is en deur die Staatspresident as lede van die Raad aangestel is.

(2) Die persone wat ingevolge subartikel (1) as lede van die Raad aangestel word, moet persone wees wat, in die geval van die aanstelling beoog in subartikel (1) (a), na die oordeel van die Staatspresident, of, in die geval van die aanstellings beoog in subartikel (1) (b) tot en met (f), na die oordeel van die liggaam of ampsbekleër wat die betrokke benoeming doen, breë ondervinding het van, en bekwaamheid aan die dag gelê het met betrekking tot, aangeleenthede van die aard vermeld in artikel 7 (9) (a) en (b).

(3) 'n Lid van die Raad word aangestel vir 'n tydperk van twee jaar, maar behou, indien nodig, na verstryking van die tydperk waarvoor hy aangestel is, sy amp vir 'n verdere tydperk van hoogstens drie maande totdat sy opvolger aangestel is.

(4) Wanneer 'n lid van die Raad sy amp ontruim voor die verstryking van die tydperk waarvoor hy aangestel is, kan, met inagneming van die bepalinge van subartikels (1) en (2) en van artikel 5 (1), 'n persoon aangestel word om die vakature te vul vir die onverstreke gedeelte van die tydperk waarvoor bedoelde lid aangestel was.

(5) Iemand wie se ampstermyn as lid van die Raad verstryk het, kan weer aangestel word.

Onbevoegdheid vir lidmaatskap van Raad of vir koöptering, en ampsontruiming

5. (1) 'n Persoon is nie bevoeg om as 'n lid van die Raad aangestel te word of om as 'n lid van die Raad of van 'n komitee aangestel kragtens artikel 6 (3), gekoöpteer te word nie indien hy—

- (a) 'n ongerehabiliteerde insolvent is;
- (b) te eniger tyd skuldig bevind is aan 'n misdryf waarvoor hy gevonnis is tot gevangenisstraf sonder die keuse van 'n boete vir 'n tydperk van minstens twaalf maande, tensy amnestie of algehele grasia aan hom toegestaan is, of tensy die tydperk van sodanige gevangenisstraf minstens vyf jaar voor die datum van sy aanstelling of koöptering verstryk het; of
- (c) in sy geestesvermoë gekrenk is en deur 'n bevoegde hof aldus verklaar is.

(2) 'n Lid van die Raad of 'n gekoöpteerde lid van 'n komitee bedoel in subartikel

(1) ontruim sy amp indien hy—

- (a) onderworpe word aan 'n onbevoegdheid in subartikel (1) genoem;
- (b) skriftelik sy bedanking, in die geval van 'n lid van die Raad, by die Staatspresident, of in die geval van 'n gekoöpteerde lid van so 'n komitee, by die voorsitter van die Raad, indien;
- (c) in die geval van 'n lid van die Raad, kragtens subartikel (3) van sy amp onthef word; of
- (d) aan 'n misdryf bedoel in artikel 8 of 9 skuldig bevind word.

(3) 'n Lid van die Raad kan te eniger tyd deur die Staatspresident van sy amp onthef word indien so 'n lid volgens die oordeel van die Staatspresident—

- (a) hom skuldig gemaak het aan onbehoorlike gedrag by die verrigting van sy werksaamhede as so 'n lid; of
- (b) ongeskik geraak het vir sy pligte as so 'n lid of nie langer in staat is om dit doeltreffend te verrig nie.

Funksionering van Raad

6. (1) Die lede van die Raad kies op die eerste vergadering van die Raad na sy samestelling ingevolge hierdie Wet, en daarna so dikwels as wat dit nodig is, uit hul midde 'n ondervoorsitter, wat, wanneer die voorsitter afwesig is of nie in staat is om enige van sy werksaamhede te verrig nie, in die plek van die voorsitter kan optree.

(2) Aan 'n lid van die Raad, uitgesonderd so 'n lid wat 'n persoon in die heeltidse diens van die Staat is, kan daar ten opsigte van sy diens as so 'n lid en persoonlike uitgawes in verband met sodanige dienslewering deur hom aangegaan, die besoldiging (as daar is) en toelaes betaal word wat die Minister met die instemming van die Minister van Finansies bepaal.

(3) (a) Die Raad kan 'n komitee of meer as een komitee, bestaande uit 'n lid of meer as een lid van die Raad en die ander persone wat die Raad na goeie dinge koöpteer om in so 'n komitee te dien, aanstel om namens die Raad enige in artikel 7 bedoelde ondersoek in te stel, en moet, waar so 'n komitee uit meer as een lid van die Raad bestaan, een sodanige lid as die voorsitter van die komitee aanwys, en so 'n komitee oefen vir die

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writing requested such a nomination, of the said chairman and the persons who have in fact been so nominated and have been appointed by the State President as members of the Board.

(2) The persons who are appointed as members of the Board in terms of subsection 5 (1) shall be persons who, in the case of an appointment contemplated in subsection (1) (a), in the opinion of the State President, or, in the case of the appointments contemplated in subsection (1) (b) to (f), inclusive, in the opinion of the body or office-bearer making the relevant nomination, have wide experience of, and have shown ability in relation to, matters of the nature mentioned in section 7 (9) (a) and 10 (b).

(3) A member of the Board shall be appointed for a period of two years, but shall on termination of the period for which he was appointed, if necessary continue to hold office for a further period not exceeding three months until his successor has been appointed.

15 (4) Whenever a member of the Board vacates his office before the expiration of the period for which he was appointed, a person may, subject to the provisions of subsections (1) and (2) and of section 5 (1), be appointed to fill the vacancy for the unexpired portion of the period for which such member was appointed.

(5) Any person whose period of office as a member of the Board has expired, shall 20 be eligible for reappointment.

Disqualifications for membership of Board or for co-option, and vacation of office

5. (1) No person shall be capable of being appointed as a member of the Board or of being co-opted as a member of the Board or of a committee appointed under section 6 (3), if he—

25 (a) is an unrehabilitated insolvent;
(b) has at any time been convicted of any offence for which he has been sentenced to imprisonment without the option of a fine for a period of not less than twelve months, unless he has received a grant of amnesty or a free pardon, or unless the period of such imprisonment expired at least five 30 years before the date of his appointment or co-option; or

(c) is of unsound mind, and has been so declared by a competent court.

(2) A member of the Board or a co-opted member of a committee referred to in subsection (1) shall vacate his office if he—

(a) becomes subject to any disqualification mentioned in subsection (1);
35 (b) in writing tenders his resignation, in the case of a member of the Board, to the State President, or in the case of a co-opted member of such a committee, to the chairman of the Board;
(c) in the case of a member of the Board, is relieved of his office under subsection (3); or

40 (d) is convicted of an offence referred to in section 8 or 9.

(3) A member of the Board may at any time be relieved of his office by the State President if such a member has in the opinion of the State President—

(a) been guilty of improper conduct in the performance of his functions as such a member; or
45 (b) become unfit for his duties as such a member or is no longer able to perform them efficiently.

Functioning of Board

6. (1) The members of the Board shall at the first meeting of the Board after its constitution in terms of this Act, and as often thereafter as may be necessary, out of 50 their number elect a vice-chairman, who may act in the stead of the chairman whenever the chairman is absent or unable to perform any of his functions.

(2) A member of the Board, excluding such a member who is a person in the full-time service of the State, may, in respect of his services as such a member and personal expenditure incurred by him in connection with the rendering of such 55 services, be paid such remuneration (if any) and allowances as the Minister may, with the concurrence of the Minister of Finance, determine.

(3) (a) The Board may appoint a committee or more than one committee, consisting of a member or more than one member of the Board and such other persons as the Board may in its discretion co-opt to serve on any such committee, to conduct on behalf of the Board any inquiry referred to in section 7, and shall, where such a committee consists of more than one 60 member of the Board, designate one such member as the chairman of the

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- doeleindes van so 'n ondersoek al die bevoegdhede uit en verrig al die werksaamhede en pligte wat by hierdie Wet met betrekking tot so 'n ondersoek aan die Raad verleen of toegewys word.
- (b) 'n Kragtens paragraaf (a) aangestelde komitee moet aan die Raad 'n skriftelike verslag voorlê oor enige ondersoek ingevolge daardie paragraaf 5 deur hom onderneem met betrekking tot 'n aangeleentheid bedoel in artikel 7 wat deur die Raad ondersoek moet word, en die Raad kan daarop volgens voorskrif van genoemde artikel met betrekking tot bedoelde aangeleentheid handel asof die Raad self die ondersoek onderneem het.
- (c) 'n Kragtens paragraaf (a) aangestelde komitee kan, benewens enige 10 persoon kragtens daardie paragraaf deur die Raad gekoöpteer om in die komitee te dien, na goeddunke enige persoon as 'n lid van die komitee koöpteer om die komitee by te staan by die verrigting van enige van sy werksaamhede of pligte of om die komitee van advies te dien aangaande enige aangeleentheid wat die onderwerp vorm van enige bevoegdheid, 15 werksaamheid of plig van die komitee.
- (4) (a) Die Raad kan enige persoon as 'n lid van die Raad koöpteer om die Raad by te staan by die verrigting van enige van sy werksaamhede of pligte of om die Raad van advies te dien aangaande enige aangeleentheid wat die onderwerp vorm van enige bevoegdheid, werksaamheid of plig van die 20 Raad.
- (b) Iemand wat ingevolge die bepalings van paragraaf (a) gekoöpteer is, het nie stemreg by enige vergadering van die Raad nie.
- (c) Die bepalings van paragraaf (b) is *mutatis mutandis* van toepassing met betrekking tot 'n komitee kragtens subartikel (3) (a) aangestel. 25
- (d) Die bepalings van subartikel (2) is *mutatis mutandis* van toepassing ten opsigte van 'n persoon wat ingevolge paragraaf (a) as 'n lid van die Raad, of ingevolge subartikel (3) (a) of (c) as 'n lid van 'n komitee, gekoöpteer word.
- (5) (a) Die sekretariële en administratiewe werk verbonde aan die uitoefening van 30 sy bevoegdhede en die verrigting van sy werksaamhede en pligte deur die Raad of deur 'n komitee kragtens subartikel (3) (a) aangestel, word verrig deur persone in diens van die Staat wat die Minister, behoudens die bepalings van die Staatsdienswet, 1984 (Wet No. 111 van 1984), vir daardie doel aanwys. 35
- (b) 'n Persoon kragtens paragraaf (a) aangewys, kan, sonder dat die algemeenheid van paragraaf (a) deur die bepalings van hierdie paragraaf beperk word, onderworpe aan die beheer en voorskrifte van die Raad die opstel van 'n konsep van 'n in artikel 7 (1) bedoelde verslag van die Raad 40 behartig.
- (6) Die kworum vir 'n vergadering van die Raad is die helfte van die lede daarvan plus een.
- (7) Die Raad kan reëls, wat nie met die bepalings van hierdie Wet strydig is nie, aanneem in verband met die uitoefening van die bevoegdhede of die verrigting van die werksaamhede en pligte van die Raad of 'n komitee kragtens subartikel (3) 45 aangestel, met inbegrip van reëls waarby die prosedure by vergaderings van die Raad of van so 'n komitee, of die wyse waarop besluite deur die Raad of deur so 'n komitee geneem word, voorgeskryf word.

Bevoegdhede, werksaamhede en pligte van Raad

7. (1) Die Raad kan ingevolge die bepalings van subartikel (2) of (3) ondersoek 50 instel na en 'n skriftelike verslag opstel met betrekking tot die noodsaaklikheid of wenslikheid daarvan dat 'n bepaalde gebied ingevolge die bepalings van artikel 2 tot 'n vryevestigingsgebied verklaar word.

(2) Die Raad moet—

- (a) op versoek van die Staatspresident; 55
- (b) indien die gebied ten opsigte waarvan ondersoek en verslag ingevolge hierdie artikel gedoen staan te word (hieronder in hierdie artikel die betrokke gebied genoem) 'n gebied bedoel in artikel 2 (2) is, op versoek van die betrokke Ministersraad; of
- (c) indien die betrokke gebied 'n ander gebied as 'n gebied bedoel in artikel 2 60 (2) is, op versoek van die Minister of, indien die reg om onroerende goed

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committee, and any such committee shall for the purposes of any such inquiry exercise all the powers and perform all the functions and duties conferred upon or entrusted to the Board by this Act in relation to such an inquiry.

- 5 (b) A committee appointed under paragraph (a) shall submit to the Board a written report in respect of any inquiry conducted by it in terms of that paragraph in regard to any matter referred to in section 7 which the Board is required to investigate, and the Board may thereupon act in regard to that matter as provided in the said section as if the Board had itself conducted such inquiry.
- 10 (c) A committee appointed under paragraph (a) may, in addition to any person co-opted by the Board under that paragraph to serve on the committee, in its discretion co-opt any person as a member of the committee to assist the committee in the performance of any of its functions or duties, or to advise the committee with regard to any matter which forms the subject of any power, function or duty of the committee.
- 15 (4) (a) The Board may co-opt any person as a member of the Board to assist the Board in the performance of any of its functions or duties or to advise the Board with regard to any matter which forms the subject of any power, function or duty of the Board.
- 20 (b) A person co-opted in terms of the provisions of paragraph (a) shall not be entitled to vote at any meeting of the Board.
- (c) The provisions of paragraph (b) shall *mutatis mutandis* apply in relation to a committee appointed under subsection (3) (a).
- 25 (d) The provisions of subsection (2) shall *mutatis mutandis* apply in respect of any person co-opted in terms of paragraph (a) as a member of the Board, or in terms of subsection (3) (a) or (c) as a member of a committee.
- (5) (a) The secretarial and administrative work incidental to the exercise of its powers and the performance of its functions and duties by the Board or by a committee appointed under subsection (3) (a), shall be performed by persons in the service of the State designated for that purpose by the Minister subject to the provisions of the Public Service Act, 1984 (Act No. 111 of 1984).
- 30 (b) Any person designated under paragraph (a) may, the generality of paragraph (a) not being limited by the provisions of this paragraph, subject to the control and directions of the Board, undertake the compilation of a draft of a report of the Board referred to in section 7 (1).
- (6) The quorum for a meeting of the Board shall be half of the members thereof plus one.
- 40 (7) The Board may adopt rules, which shall not be inconsistent with the provisions of this Act, in connection with the exercise of the powers or the performance of the functions and duties of the Board or a committee appointed under subsection (3), including rules by which the procedure at meetings of the Board or of such a committee, or the manner in which decisions shall be taken by the Board or by such
- 45 a committee, is prescribed.

Powers, functions and duties of Board

7. (1) The Board may in terms of the provisions of subsection (2) or (3) inquire into, and compile a written report relating to, the necessity or desirability thereof that a particular area be declared to be a free settlement area in terms of the provisions of section 2.

(2) The Board shall—

- (a) at the request of the State President;
- 55 (b) if the area in respect of which an inquiry is to be conducted and a report is to be submitted in terms of this section (hereinafter in this section referred to as the relevant area) is an area referred to in section 2 (2), at the request of the Ministers' Council concerned; or
- (c) if the relevant area is an area other than an area referred to in section 2 (2), at the request of the Minister or, if the right to occupy, to hold or to acquire

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- in so 'n ander gebied te okkupeer, te besit of te verkry vir lede van 'n bepaalde bevolkingsgroep voorbehou is by of kragtens die een of ander wetsbepaling waarvan die uitvoering aan die administrateur van 'n provinsie opgedra is, op versoek van daardie administrateur,
- ondersoek instel na, en by wyse van 'n skriftelike verslag bedoel in subartikel (1)— 5
- (i) in die geval van 'n versoek bedoel in paragraaf (a), die Staatspresident;
 - (ii) in die geval van 'n versoek bedoel in paragraaf (b), die Staatspresident en die betrokke Ministersraad; of
 - (iii) in die geval van 'n versoek bedoel in paragraaf (c), die Staatspresident en die Minister of die Staatspresident en die betrokke administrateur, na 10 gelang van die geval,

van advies dien aangaande, die noodsaaklikheid of wenslikheid daarvan dat 'n bepaalde gebied ingevolge die bepalings van artikel 2 tot 'n vryestigingsgebied verklaar word.

(3) (a) Die Raad kan op versoek van— 15

 - (i) 'n plaaslike owerheidsliggaam waarvan die regsgebied of 'n deel van die regsgebied die betrokke gebied uitmaak; of
 - (ii) 'n dorpsontwikkelaar deur wie die betrokke gebied as 'n dorp ontwikkel word of ontwikkel staan te word,

en na oorlegpleging— 20

 - (aa) indien die betrokke gebied 'n gebied bedoel in artikel 2 (2) is of in sy geheel of gedeeltelik deel vorm van so 'n laasgenoemde gebied of so 'n laasgenoemde gebied insluit, met die betrokke Ministersraad; of
 - (bb) indien die betrokke gebied so 'n ander gebied is soos bedoel in subartikel (2) (c) van hierdie artikel, met die Minister of die betrokke 25 administrateur, na gelang van die geval,

ondersoek instel na, en 'n skriftelike verslag soos bedoel in subartikel (1) opstel aangaande, die noodsaaklikheid of wenslikheid daarvan dat die gebied ten opsigte waarvan die versoek gerig is, ingevolge die bepalings van artikel 2 tot 'n vryestigingsgebied verklaar word. 30

(b) By die toepassing van hierdie subartikel beteken "regsgebied"—

 - (i) met betrekking tot 'n plaaslike owerheidsliggaam wat 'n bestuursliggaam is soos bedoel in die omskrywing van "plaaslike owerheidsliggaam" in artikel 1, die gebied waarvoor of ten opsigte waarvan of vir die beheer en bestuur waarvan daardie bestuursliggaam ingestel is; en 35
 - (ii) met betrekking tot 'n plaaslike owerheidsliggaam wat 'n plaaslike owerheid is soos bedoel in die omskrywing van "plaaslike owerheidsliggaam" in artikel 1, die regsgebied van daardie plaaslike owerheid uitgesonderd enige deel van daardie regsgebied waarvoor of ten opsigte waarvan of vir die beheer en bestuur waarvan daar ook 'n 40 bestuursliggaam bedoel in subparagraaf (i) ingestel is.

(4) 'n Verslag ingevolge die bepalings van subartikel (3) deur die Raad opgestel, moet so spoedig doenlik na voltooiing daarvan, deur die Raad by die Minister ingelewer word, wat—

 - (a) daardie verslag aan die Staatspresident; en 45
 - (b) indien die gebied waarop die verslag betrekking het 'n gebied bedoel in artikel 2 (2) is, 'n afskrif van daardie verslag ook aan die betrokke Ministersraad,

moet voorlê.

(5) Die Raad moet— 50

 - (a) nie later nie as dertig dae voordat hy met 'n ondersoek ingevolge subartikel (2) of (3) begin, een maal in 'n Afrikaanse sowel as 'n Engelse nuusblad wat in omloop is in die distrik waarin die betrokke gebied geleë is, kennis gee van sy voorneme om so 'n ondersoek in te stel en moet in daardie kennisgewing— 55
 - (i) die betrokke gebied op die wyse wat hy doeltreffend ag, omskryf;
 - (ii) alle persone wat daarby belang het, versoek om enige kommentaar of vertoë wat hulle in verband met die beoogde ondersoek tot die Raad wil rig, by 'n adres in die kennisgewing vermeld en nie later nie as 60 agt-en-twintig dae na 'n datum wat in die kennisgewing vermeld word, en wat nie 'n datum voor die datum van die kennisgewing mag wees nie, skriftelik by die Raad in te dien;

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immovable property in such other area is reserved for members of a particular population group by or under any provision of a law the administration of which has been assigned to the administrator of a province, at the request of that administrator,

5 inquire into, and by means of a written report referred to in subsection (1), advise—

- (i) in the case of a request referred to in paragraph (a), the State President;
- (ii) in the case of a request referred to in paragraph (b), the State President and the Ministers' Council concerned; or
- 10 (iii) in the case of a request referred to in paragraph (c), the State President and the Minister or the State President and the administrator concerned, as the case may be,

with regard to the necessity or desirability thereof that a particular area be declared to be a free settlement area in terms of the provisions of section 2.

(3) (a) The Board may at the request of—

- 15 (i) a local government body whose area of jurisdiction or a part of whose area of jurisdiction constitutes the relevant area; or
- (ii) a township developer by whom the relevant area is being or is to be developed as a township,

and after consultation—

- 20 (aa) if the relevant area is an area referred to in section 2 (2) or in its entirety or partially forms part of such a last-mentioned area or includes such a last-mentioned area, with the Ministers' Council concerned; or
- 25 (bb) if the relevant area is any such other area as is referred to in subsection (2) (c) of this section, with the Minister or the administrator concerned, as the case may be,

inquire into, and compile such written report as is referred to in subsection (1) with regard to, the necessity or desirability thereof that the area in respect of which the request has been made, be declared to be a free settlement area in terms of the provisions of section 2.

30 (b) For the purposes of this subsection "area of jurisdiction"—

- 35 (i) in relation to a local government body which is a management body referred to in the definition of "local government body" in section 1, means the area for which or in respect of which or for the control and management of which that management body has been established; and
- 40 (ii) in relation to a local government body which is a local authority referred to in the definition of "local government body" in section 1, means the area of jurisdiction of that local authority excluding any part of that area of jurisdiction for which or in respect of which or for the control and management of which there has also been established a management body referred to in subparagraph (i).

(4) A report compiled by the Board in terms of the provisions of subsection (3) shall as soon as is practicable after the completion thereof be lodged by the Board 45 with the Minister, who shall submit—

- (a) that report to the State President; and
- (b) if the area to which the report relates is an area referred to in section 2 (2), a copy of that report also to the Ministers' Council concerned.

(5) The Board shall—

- 50 (a) not later than thirty days before commencing an inquiry in terms of subsection (2) or (3), give notice once in an Afrikaans as well as an English newspaper circulating in the district in which the relevant area is situated, of its intention to conduct such an inquiry and shall in that notice—
 - 55 (i) define the relevant area in such manner as it may deem effective;
 - (ii) invite all persons who have an interest therein to lodge in writing with the Board at an address specified in the notice and not later than twenty-eight days after a date specified in the notice, and which shall not be a date prior to the date of the notice, any comments or representations which they may wish to offer or make to the Board in connection with the contemplated inquiry;
- 60

- (b) minstens veertien dae voor die datum waarop hy ingevolge paragraaf (a) kennis gee, 'n afskrif van die betrokke kennisgewing in sowel die Afrikaanse as die Engelse taal beskikbaar stel aan elke plaaslike owerheidsliggaam van die regsgebied waarvan die betrokke gebied in sy geheel of gedeeltelik 'n deel vorm of waarvan die regsgebied in die betrokke gebied ingesluit is, en daardie plaaslike owerheidsliggaam moet so spoedig doenlik na ontvangs van so 'n afskrif soortgelyke afskrifte op die wyse wat hy goetvind, versprei onder alle persone wie se name voorkom op 'n lys van kiesers vir die verkiesing van lede van daardie plaaslike owerheidsliggaam en wie se adresse volgens genoemde kieserslys adresse binne die betrokke gebied is of, by ontstentenis van so 'n kieserslys, onder alle persone wat volgens registers in die besit van die plaaslike owerheidsliggaam of waarin die plaaslike owerheidsliggaam insae het, die eienaars of okkuperders is van persele wat binne die betrokke gebied, vir sover dit deel uitmaak van die regsgebied van daardie plaaslike owerheidsliggaam, geleë is; en
- (c) alle kommentaar en verhoë (as daar is) uit hoofde van die bepalings van paragraaf (a) (ii) binne genoemde tydperk van agt-en-twintig dae deur hom ontvang, in oorweging neem by die doen van die ondersoek en die opstel van sy verslag ingevolge subartikel (2) of (3).
- (6) Die Raad kan na verstryking van die tydperk van agt-en-twintig dae bedoel in subartikel (5) (a) (ii) met 'n ondersoek ingevolge subartikel (2) of (3) voortgaan ondanks enige versuim van 'n plaaslike owerheidsliggaam bedoel in subartikel (5) (b) om enige plig wat ingevolge laasgenoemde subartikel op daardie plaaslike owerheidsliggaam rus, na te kom of volledig na te kom.
- (7) Vir die doeleindes van 'n ondersoek ingevolge hierdie artikel—
- (a) moet die Raad getuies inwin; en
- (b) kan die Raad die navorsing doen of laat doen wat hy nodig ag, en by die toepassing van hierdie artikel is die bepalings van artikels 4, 5 en 6 van die Kommissiewet, 1947 (Wet No. 8 van 1947), *mutatis mutandis* met betrekking tot die Raad van toepassing, en beskik die Raad oor die bevoegdhede wat by artikels 2, 3 en 4 van daardie Wet aan 'n kommissie daarin beoog, verleen word, asof die Raad so 'n kommissie is, asook oor die ander bevoegdhede wat die Minister vir die doeleindes van hierdie artikel van tyd tot tyd by kennisgewing in die *Staatskoerant* aan die Raad verleen.
- (8) 'n Verslag wat uit hoofde van die bepalings van subartikel (2) of (3) deur die Raad opgestel is, moet deur die voorsitter van die Raad onderteken word en so spoedig doenlik na voltooiing daarvan, deur die Raad aan die ampsbekleër of liggaam wat ingevolge subartikel (2) by wyse van daardie verslag van advies geding moet word of by wie daardie verslag ingevolge subartikel (4) ingelewer moet word, beskikbaar gestel word, en, tensy hy die betrokke ampsbekleër is, moet 'n afskrif van die verslag in elke geval deur die Raad verstrekk word aan die Minister, asook aan die administrateur van die provinsie waarin die gebied waarop die verslag betrekking het, geleë is.
- (9) Die Raad moet in 'n verslag wat ingevolge hierdie artikel deur hom opgestel word, in die mate wat hy toereikend ag die volgende aangeleenthede behandel, naamlik—
- (a) die maatskaplike en sosiaal-ekonomiese toestande wat heers, of na die oordeel van die Raad kan ontwikkel, in die betrokke gebied, asook in aangrensende of nabygeleë gebiede (hieronder in hierdie subartikel die omgewing genoem) waarin die maatskaplike en sosiaal-ekonomiese toestande beïnvloed kan word deur die bogenoemde toestande wat in eersgenoemde gebied heers of kan ontwikkel;
- (b) die behoefte (as daar is) aan en beskikbaarheid van—
- (i) grond vir doeleindes van bewoning en gemeenskapsontwikkeling en vir sake- en nywerheidspersele;
- (ii) behuising; en
- (iii) dienste, fasiliteite, geriewe of werke waarvan die plig tot die lewering of verskaffing of waarvoor die verantwoordelikheid normaalweg by 'n plaaslike owerheidsliggaam berus, in die betrokke gebied en die omgewing;
- (c) die standpunte van plaaslike owerheidsliggame asook ander liggame, organisasies of persone wat na die oordeel van die Raad 'n belang het by

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- (b) at least fourteen days prior to the date on which it gives notice in terms of paragraph (a), make a copy of the notice in question in the Afrikaans as well as the English language available to every local government body of whose area of jurisdiction the relevant area in its entirety or partially forms a part or whose area of jurisdiction is included in the relevant area, and that local government body shall as soon as is practicable after the receipt of such a copy, distribute in such manner as it may deem fit similar copies among all persons whose names appear in a voters' list for the election of members of that local government body and whose addresses are, according to the said voters' list, addresses within the relevant area or, failing such a voters' list, among all persons who are, according to registers in the possession of the local government body or to which the local government body has access, the owners or occupiers of premises situated within the relevant area, in so far as it forms part of the area of jurisdiction of that local government body; and
- (c) in conducting the inquiry and compiling its report in terms of subsection (2) or (3), take into consideration all comments and representations (if any) received by it by virtue of the provisions of paragraph (a) (ii) within the said period of twenty-eight days.
- (6) The Board may after the expiration of the period of twenty-eight days referred to in subsection (5) (a) (ii) proceed with an inquiry in terms of subsection (2) or (3) notwithstanding any failure on the part of a local government body referred to in subsection (5) (b) to perform or to fully perform any duty incumbent on that local government body in terms of the last-mentioned subsection.
- (7) For the purposes of an inquiry in terms of this section—
- (a) the Board shall gather evidence; and
 - (b) the Board may do or cause to be done such research as it may deem necessary,
- and for the purposes of this section the provisions of sections 4, 5 and 6 of the Commissions Act, 1947 (Act No. 8 of 1947), shall *mutatis mutandis* apply in relation to the Board, and the Board shall have the powers conferred by sections 2, 3 and 4 of that Act upon a commission contemplated therein, as if the Board were such a commission, as well as such other powers as the Minister may from time to time confer upon the Board by notice in the *Gazette* for the purposes of this section.
- (8) A report compiled by the Board by virtue of the provisions of subsection (2) or (3), shall be signed by the chairman of the Board and shall as soon as is practicable after completion thereof be made available by the Board to the office-bearer or body required to be advised by means of that report in terms of subsection (2) or with whom that report is required to be lodged in terms of subsection (4), and, unless he is the office-bearer concerned, the Minister, as well as the administrator of the province in which the area to which the report relates, is situated, shall in every case be furnished by the Board with a copy of the report.
- (9) The Board shall in a report compiled by it in terms of this section, to such extent as it may deem adequate deal with the following matters, namely—
- (a) the social and socio-economic conditions prevailing, or which may in the opinion of the Board develop, in the relevant area, as well as in adjacent or neighbouring areas (hereinafter in this subsection referred to as the vicinage) in which the social and socio-economic conditions may be affected by the above-mentioned conditions prevailing or which may develop in the first-mentioned area;
 - (b) the need (if any) for and availability of—
 - (i) land for purposes of habitation and community development and for business premises and industrial sites;
 - (ii) housing; and
 - (iii) services, facilities, amenities or works the duty for the rendering or provision of which or the responsibility for which normally vests in a local government body, in the relevant area and the vicinage;
 - (c) the viewpoints of local government bodies as well as other bodies, organizations or persons who in the opinion of the Board have an interest

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die in paragrawe (a) en (b) bedoelde toestande in die betrokke gebied of die omgewing;

- (d) die implikasies wat die verklaring van 'n bepaalde gebied tot 'n vryestigingsgebied vir die betrokke omgewing en ten opsigte van die funksionering van 'n plaaslike owerheidsliggaam wat deur so 'n stap geraak word, 5 mag inhou; en
- (e) enige ander aangeleentheid wat die Raad nodig ag om te behandel of wat die Staatspresident, 'n betrokke Ministersraad, die Minister of 'n betrokke administrateur met betrekking tot die betrokke gebied vir oorweging na die Raad verwys. 10

(10) Wanneer die Staatspresident besluit het om kragtens artikel 2 (1) 'n gebied ten opsigte waarvan daar ingevolge subartikel (3) van hierdie artikel 'n ondersoek deur die Raad gedoen is, tot 'n vryestigingsgebied te verklaar of om daardie gebied nie tot 'n vryestigingsgebied te verklaar nie, moet die Raad so spoedig doenlik nadat die besluit van die Staatspresident tot die Raad se kennis gekom het, 15 die betrokke plaaslike owerheidsliggaam of dorpsontwikkelaar skriftelik van die besluit van die Staatspresident in kennis stel.

Verbod op ontvangs van beloning

8. 'n Lid van die Raad wat regstreeks of onregstreeks enige beloning, van watter aard ook al, van enigiemand ontvang in verband met enige aangeleentheid deur die Raad behandel, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R12 000 of met gevangenisstraf vir 'n tydperk van hoogstens drie jaar, en is daarna permanent onbevoeg om ingevolge hierdie Wet in 'n amp aangestel te word. 20

Geheimhouding

9. 'n Lid van die Raad wat, behalwe met die toestemming van die Raad of as 'n getuie in 'n gereghof of by die verrigting van sy werksaamhede as so 'n lid, enige inligting openbaar wat hy in die loop van die verrigting van sy werksaamhede as so 'n lid bekom het, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R4 000 of met gevangenisstraf vir 'n tydperk van hoogstens een 30 jaar, en is daarna permanent onbevoeg om ingevolge hierdie Wet in 'n amp aangestel te word.

Regulasies

10. Die Minister kan by kennisgewing in die *Staatskoerant* regulasies uitvaardig wat die vorm waarin en die wyse waarop 'n versoek bedoel in artikel 7 (3) deur 'n 35 plaaslike owerheidsliggaam of 'n dorpsontwikkelaar tot die Raad gerig moet word, en die inligting wat so 'n versoek moet vergesel, voorskryf.

Finansiering

11. Alle uitgawes aangegaan in verband met die Raad en die bedrywighede van die Raad ingevolge hierdie Wet, word uit die Staatsinkomstefonds bestry by wyse van 'n 40 bewilliging ingevolge artikel 4 van die Skatkis- en Ouditwet, 1975 (Wet No. 66 van 1975), ten laste van die Staatsinkomsterekening.

Kort titel en inwerkingtreeding

12. Hierdie Wet heet die Wet op Vryestigingsgebiede, 1988, en tree in werking op 'n datum wat die Staatspresident by proklamasie in die *Staatskoerant* bepaal. 45

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- in the conditions, referred to in paragraphs (a) and (b), in the relevant area or the vicinage;
- (d) the implications which the declaration of a particular area as a free settlement area may have for the vicinage in question and in respect of the functioning of any local government body affected by such a step; and
- 5 (e) any other matter which the Board may deem necessary to deal with or which the State President, a Ministers' Council concerned, the Minister or an administrator concerned may in relation to the relevant area refer to the Board for consideration.
- 10 (10) When the State President has decided to declare under section 2 (1) an area in respect of which an inquiry has been conducted by the Board in terms of subsection (3) of this section, to be a free settlement area, or not to declare that area to be a free settlement area, the Board shall as soon as is practicable after the decision of the State President has come to the notice of the Board, in writing notify
- 15 the local government body or township developer concerned of the decision of the State President.

Prohibition of receipt of reward

8. Any member of the Board who directly or indirectly receives any reward, of whatever nature, from any person in connection with any matter dealt with by the
- 20 Board, shall be guilty of an offence and liable on conviction to a fine not exceeding R12 000 or to imprisonment for a period not exceeding three years, and shall thereafter be permanently precluded from being appointed to any office in terms of this Act.

Preservation of secrecy

- 25 9. Any member of the Board who discloses, except with the consent of the Board or as a witness in a court of law or in the performance of his functions as such a member, any information acquired by him in the course of the performance of his functions as such a member, shall be guilty of an offence and liable on conviction to a fine not exceeding R4 000 or to imprisonment for a period not exceeding one year,
- 30 and shall thereafter be permanently precluded from being appointed to any office in terms of this Act.

Regulations

10. The Minister may by notice in the *Gazette* make regulations prescribing the form and manner in which a request referred to in section 7 (3) shall be addressed
- 35 to the Board by a local government body or township developer, and prescribing the information which shall accompany such a request.

Financing

11. All expenditure incurred in connection with the Board and the activities of the Board in terms of this Act, shall be defrayed out of the State Revenue Fund by way
- 40 of an appropriation in terms of section 4 of the Exchequer and Audit Act, 1975 (Act No. 66 of 1975), as a charge against the State Revenue Account.

Short title and commencement

12. This Act shall be called the Free Settlement Areas Act, 1988, and shall come into operation on a date fixed by the State President by proclamation in the *Gazette*.

