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GENERAL NOTICE

ALGEMENE KENNISGEWING

Notice 1112 of 1994

DEPARTMENT OF LAND AFFAIRS

DEVELOPMENT FACILITATION BILL, 1994

The Development Facilitation Bill, 1994, is hereby published for comment.

Interested persons may furnish written comments and representations to the Director-General, Department of Land Affairs, Private Bag X833, Pretoria, 0001 or to the Director-General, Department of Housing, Private Bag X644, Pretoria 0001, on or before 28 October 1994.

Kennisgewing 1112 van 1994

DEPARTEMENT VAN GRONDSAKE

WETSONTWERP OP ONTWIKKELINGS- FASILITERING, 1994

Die Wetsontwerp op Ontwikkelingsfasilitering, 1994, word hierby gepubliseer vir kommentaar.

Belanghebbende persone kan voor of op 28 Oktober 1994, hul skriftelike versoë verskaf aan die Direkteur-generaal, Departement van Grondsake, Privaatsak X833, Pretoria, 0001 of aan die Direkteur-generaal, Departement van Behuising, Privaatsak X644, Pretoria 0001.

BILL

To introduce extraordinary measures to facilitate and expedite the implementation of reconstruction and development programmes and projects in relation to land; and in so doing to provide a national point of focus in the form of uniform norms and standards governing spatial development applying generally throughout the Republic; to provide for the establishment of a Development and Planning Commission mobilising the best available resources of the country in order to provide advice to government in relation to new policies and legislation, which require serious, thoroughgoing and detailed application of the mind and could not responsibly be addressed in urgent legislation in the nature of this Act, aimed at the creation of appropriate national and provincial frameworks to govern spatial development in the future; to provide for the establishment of development tribunals at provincial level of government as a form of expeditious public sector management to serve as decision-making and conflict resolution bodies cutting across the diverse powers, duties and functions of different departments of State and levels of government in the context of land development projects; in the context of spatial frameworks inherited from apartheid, to facilitate the formulation, monitoring and implementation of criteria by reference to which the performance of local government bodies in achieving land development objectives may be measured; in the context of many diverse and developmentally inappropriate land development systems inherited from apartheid, to describe and authorise alternative but nationally uniform land development procedures for the subdivision and development of land in urban and rural contexts on a basis which encourages the expeditious provision and development of land for residential, small scale farming or other needs and uses; to provide for measures aimed at the provision of security of tenure on a basis which does not pre-empt the advice expected from the aforementioned Development and Planning Commission but which nevertheless ensures that end-user finance in the form of subsidies and loans becomes available as early as possible during the land development process; and to provide for matters connected therewith.

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WETSONTWERP

Om buitengewone maatreëls in te voer om die implementering van heropbou- en ontwikkelingsprogramme en projekte met betrekking tot grond te fasiliteer en te bespoedig; en om sodoende 'n nasionale fokuspunt in die vorm van eenvormige norme en standaarde van toepassing op ruimtelike ontwikkeling in die algemeen deur die Republiek daar te stel; om voorsiening te maak vir die instelling van 'n Ontwikkelings- en Beplanningskommissie wat die beste beskikbare hulpbronne in die land mobiliseer ten einde advies aan die regering met betrekking tot nuwe beleid en wetgewing te verskaf, wat ernstige, deeglike en gedetailleerde aandag verg en nie verantwoordelik aangespreek kan word in dringende wetgewing in die aard van hierdie Wet nie, gerig op die skepping van toepaslike nasionale en provinsiale raamwerke om ruimtelike ontwikkeling in die toekoms te reël; om voorsiening te maak vir die instelling van ontwikkelingstribunale op provinsiale owerheidsvlak as 'n vorm van bespoedigde openbaresektorbestuur om as besluitnemings- en konflikthanteringsliggame te dien wat oor die diverse bevoegdhede, pligte en funksies van verskillende staatsdepartemente en regeringsvlakke in die konteks van grondontwikkelingsprojekte sny; in die konteks van ruimtelike raamwerke van apartheid geërf, om die formulering, monitering en implementering van kriteria met verwysing waarna die prestasie van plaaslike owerheidsliggame in die bereiking van grondontwikkelingsdoelwitte gemeet kan word te fasiliteer; in die konteks van vele diverse en ontwikkelingsontoereikende grondontwikkelingsisteme van apartheid geërf, om alternatiewe maar nasionaal eenvormige grondontwikkelingsprosedures vir die onderverdeling en ontwikkeling van grond in stedelike en landelike konteks op 'n basis wat die bespoedigde verskaffing en ontwikkeling van grond vir residensiële, kleinskaalboerdery- of ander behoeftes en gebruike aanmoedig, te beskryf en te magtig; om vir maatreëls gerig op die verskaffing van sekuriteit van titel voorsiening te maak op 'n basis wat nie die verwagte advies van die voormelde Ontwikkelings- en Beplanningskommissie vooruitloop nie, maar wat nogtans verseker dat eindgebruikerfinansiering in die vorm van subsidies en lenings so spoedig moontlik beskikbaar raak gedurende die grondontwikkelingsproses; en om vir aangeleenthede wat daarmee verband hou voorsiening te maak.

INHOUDSOPGAWE

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

PRELIMINARY

Definitions

1. In this Act, unless the context otherwise indicates— 5
- “**Commission**” means the Development and Planning Commission established in terms of Chapter II;
- “**condition of establishment**” means a condition imposed or approved by a tribunal under section 28;
- “**Constitution**” means the Constitution of the Republic of South Africa, 1993 (Act No. 200 of 1993); 10
- “**conveyancer**” means a conveyancer as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937);
- “**deeds registry**” means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937; 15
- “**designated officer**” means an officer in the relevant provincial administration designed by the responsible MEC to serve as the designated officer for the purposes contemplated in Chapter V or VI, or both such Chapters;
- “**diagram**” means a diagram as defined in section 49 of the Land Survey Act, 1927 (Act No. 9 of 1927); 20
- “**environment**” means the aggregate of surrounding objects, conditions and influences that influence the life and habits of man or any other organism or collection of organisms as contemplated in the definition of “environment” in section 1 of the Environment Conservation Act, 1989 (Act No. 73 of 1989);
- “**environmental impact report**” means a report referred to in section 22(2) or 23(3) of the Environment Conservation Act, 1989; 25
- “**general plan**” means a general plan of a land development area or of a portion only of a land development area, which has been approved in terms of the Land Survey Act, 1927;
- “**initial ownership**” means the form of title created by section 55; 30
- “**land availability agreement**” means an agreement contemplated in section 39 or section 47;
- “**land development**” means any procedure aimed at changing the original use of land so that such land may be used mainly for residential, industrial, business, small scale farming, community or similar purposes, including such a procedure in terms of Chapters V, VI or VII; 35
- “**land development applicant**” means any person or body who or which may apply for the establishment of a land development area as contemplated in section 26(1) or section 43(1);
- “**land development application**” means an application to establish a land development area under Chapter V or Chapter VI; 40
- “**land development area**” means any area of land, which is the subject of a land development, including such an area shown on a layout plan and forming the subject of a land development in terms of Chapter V, or on a partition plan and forming the subject of a land development in terms of Chapter VI, and includes, for the purposes of Chapter V— 45
 - (a) any land which is, or which is intended to be built on or divided or laid out as sites or with buildings in close proximity to each other and used for any of the purposes referred to in the definition of “land development”, but excluding small scale farming; and 50
 - (b) a group of pieces of land or of subdivisions of a piece of land which are combined with public places and are used mainly for the aforementioned purposes or are intended to be so used and which are shown on a general plan; 55
- “**layout plan**” means a plan indicating the relative situation in a land development area of sites, premises, public spaces and zones used or to be used for any of the purposes referred to in the definition of “land development”, but excluding small scale farming, and approved as part of a land development application by a tribunal under Chapter V;

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

Woordoms krywing

INLEIDING

- 5 1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
 - “aangewese beampte” ’n beampte in die betrokke provinsiale administrasie deur die verantwoordelike LUR aangewys om as die aangewese beampte vir die doeleindes beoog in Hoofstuk V of VI, of beide sodanige Hoofstukke, te dien;
- 10 “algemene plan” ’n algemene plan van ’n grondontwikkelingsgebied of slegs ’n gedeelte van ’n grondontwikkelingsgebied, wat ingevolge die Opmetingswet, 1927 (Wet No. 9 van 1927) goedgekeur is;
- “grondbeskikbaarheidsooreenkoms” ’n ooreenkoms beoog in artikel 39 of artikel 47;
- 15 “grondontwikkeling” enige prosedure op die verandering van die oorspronklike gebruik van grond gerig sodat sodanige grond hoofsaaklik vir residensiële, industriële, besigheids-, kleinskaalboerdery-, gemeenskaps- of soortgelyke doeleindes gebruik mag word, insluitende sodanige prosedure ingevolge Hoofstukke V, VI of VII;
- 20 “grondontwikkelingsaansoek” ’n aansoek om ’n grondontwikkelingsgebied kragtens Hoofstuk V of Hoofstuk VI te stig;
- “grondontwikkelingsapplikant” enige persoon of liggaam wat om die stigting van ’n grondontwikkelingsgebied soos beoog in artikel 26(1) of artikel 43(1) kan aansoek doen;
- 25 “grondontwikkelingsgebied” enige grondgebied, wat die onderwerp van ’n grondontwikkeling is, insluitende sodanige gebied op ’n uitlegplan aangedui en wat die onderwerp uitmaak van ’n grondontwikkeling ingevolge Hoofstuk V, of op ’n verdelingsplan en wat die onderwerp uitmaak van ’n grondontwikkeling ingevolge Hoofstuk VI, en sluit in, vir die doeleindes van Hoofstuk V—
 - 30 (a) enige grond waarop gebou is of wat uitgelê is as erwe of met geboue in nabyheid van mekaar en vir enige van die doeleindes bedoel in die omskrywing van “grondontwikkeling” gebruik word, of wat aldus bestem is, maar uitgesluit kleinskaalboerdery; en
 - 35 (b) ’n groep van stukke grond of van onderverdelings van ’n stuk grond wat met publieke plekke verbind is en wat hoofsaaklik vir die voormelde doeleindes gebruik word of wat bestem word om aldus gebruik te word en wat op ’n algemene plan aangedui word;
- 40 “Grondwet” die Grondwet van die Republiek van Suid-Afrika, 1993 (Wet No. 200 van 1993);
- “hierdie Wet” ook die regulasies;
- “kaart” ’n kaart soos omskryf in artikel 49 van die Opmetingswet, 1927;
- “Kommissie” die Ontwikkelings- en Beplanningskommissie ingevolge Hoofstuk II ingestel;
- 45 “Landmeter-generaal” die betrokke Landmeter-generaal soos omskryf in artikel 49 van die Opmetingswet, 1927;
- “LUR” ’n lid van die uitvoerende raad van ’n provinsie wat ingevolge artikel 153 van die Grondwet aanspreeklik is vir die administrasie van enige portefeulje wat enige bevoegdheid, funksie of plig aan ’n lid van ’n uitvoerende raad van ’n provinsie opgedra by of kragtens hierdie Wet, insluit;
- 50 “Minister” met betrekking tot die administrasie van—
 - (a) Hoofstuk I, die Minister van Grondsake, handelend in oorleg met die Minister van Behuising;
 - 55 (b) Hoofstuk II, die Minister van Grondsake, handelend in oorleg met die Minister van Behuising en die Minister wat verteentwoordelik is vir die implementering van die Heropbou- en Ontwikkelingsprogram;
 - (c) Hoofstuk III, die Minister van Grondsake, handelend in oorleg met die Minister van Behuising;
 - 60 (d) Hoofstuk IV, die Minister van Grondsake, handelend in oorleg met die Minister van Behuising;
 - (e) Hoofstuk V, die Minister van Grondsake, handelend in oorleg met die Minister van Behuising;

“local government area” means the area of jurisdiction of a local government body in terms of any applicable law;

“local government body” means any institution or body contemplated in section 84(1)(f) of the Provincial Government Act 1961 (Act No. 32 of 1961) and includes—

- (a) any local government body established by or under any law which, by virtue of section 229 of the Constitution, continues to be in force in a territory which was, immediately before the commencement of such Constitution, known as Transkei, Bophuthatswana, Venda or Ciskei;
- (b) any council or committee established under the provisions of the Black Local Authorities Act, 1982 (Act No. 102 of 1982) prior to the repeal of that Act, and which is deemed to be an institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961, in terms of section 13 of the Local Government Transition Act, 1993 (Act No. 209 of 1993);
- (c) any local government body established by the provisions of section 30(2)(a) of the Black Administration Act, 1927 (Act No. 38 of 1927), or any body continuing to perform local government functions by virtue of section 15(1) of the Local Government Transition Act, 1993;
- (d) a board of management or board referred to in section 1 of the Rural Areas Act (House of Representatives), 1987 (Act No. 9 of 1987);
- (e) any committee referred to in section 17 of the Promotion of Local Government Affairs Act, 1983 (Act No. 91 of 1983);
- (f) any local council established under section 2 of the Local Councils Act (House of Assembly), 1987 (Act No. 94 of 1987);
- (g) the Local Government Affairs Council established by section 2 of the Local Government Affairs Council Act (House of Assembly), 1989 (Act No. 84 of 1989);
- (h) any regional services council established under section 3 of the Regional Services Council Act, 1985 (Act No. 109 of 1985);
- (i) any joint services board established under section 4 of the KwaZulu and Natal Joint Services Act, 1990 (Act No. 84 of 1990);
- (j) any joint decision-making body, joint local authority or single local authority referred to in paragraph (c), (e) and (f) of section 8 of the Interim Measures for Local Government Act, 1991 (Act No. 128 of 1991), and established by proclamation issued under that Act;
- (k) any person, institution or body declared under section 1(2) of the Local Government Transition Act, 1993, to be a local government body for the purposes of that Act;
- (l) any transitional council established under the Local Government Transition Act, 1993, which exercises local government functions to the exclusion of any of the aforementioned local government bodies;

“MEC” means a member of the executive council of a province who is, in terms of section 153 of the Constitution, accountable for the administration of any portfolio which includes any power, function or duty conferred upon a member of an executive council of a province by or under this Act;

“Minister” means, in relation to the administration of—

- (a) Chapter I, the Minister of Land Affairs, acting in consultation with the Minister of Housing;
- (b) Chapter II, the Minister of Land Affairs, acting in consultation with the Minister of Housing and the Minister responsible for the implementation of the Reconstruction and Development Programme;
- (c) Chapter III, the Minister of Land Affairs, acting in consultation with the Minister of Housing;
- (d) Chapter IV, the Minister of Land Affairs, acting in consultation with the Minister of Housing;
- (e) Chapter V, the Minister of Land Affairs, acting in consultation with the Minister of Housing;
- (f) Chapter VI, the Minister of Land Affairs acting in consultation with the Minister of Agriculture; and
- (g) Chapter VII, the Minister of Land Affairs.

- (f) Hoofstuk VI, die Minister van Grondsake handelend in oorleg met die Minister van Landbou; en
- (g) Hoofstuk VII, die Minister van Grondsake;
- 5 **“omgewing”** die som van omringende voorwerpe, toestande en invloede wat die lewe en gewoontes van die mens of enige ander organisme of ’n versameling van organismes beïnvloed, soos beoog in die omskrywing van “omgewing” in artikel 1 van die Wet op die Omgewingsbewaring, 1989 (Wet No. 73 van 1989);
- “omgewingsinvloedverslag”** ’n verslag bedoel in artikel 22(2) of 23(3) van die Wet op die Omgewingsbewaring, 1989;
- 10 **“onderverdelingsregister”** ’n register bedoel in artikel 46(1) van die Registrasie van Aktes Wet, 1937 (Wet No. 73 van 1989);
- “opmeter”** ’n persoon as ’n professionele opmeter of ’n tegniese opmeter kragtens die Wet op Professionele en Tegniese Opmeters, 1984 (Wet No. 40 van 1984) geregistreer, en wie se naam in die register soos beoog in artikel
- 15 7(4) van die gemelde wet ingeskryf is;
- “plaaslike owerheidsgebied”** die jurisdiksiegebied van ’n plaaslike owerheidsliggaam ingevolge enige toepaslike wet;
- “plaaslike owerheidsliggaam”** enige instelling of liggaam soos beoog in artikel 84(1)(f) van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961), en sluit in—
- 20 (a) enige plaaslike owerheidsliggaam ingestel by of kragtens enige wet wat uit hoofde van artikel 229 van die Grondwet voortduur om van krag te wees in ’n gebied wat onmiddellik voor die inwerkingtreding van die Grondwet as Transkei, Bophuthatswana, Venda of Ciskei bekend was;
- 25 (b) enige raad of komitee ingestel kragtens die bepalings van die Wet op Swart Plaaslike Owerhede, 1982 (Wet No. 102 van 1982) voor die herroeping van daardie wet deur, en wat geag word ’n instelling of liggaam te wees soos beoog in artikel 84(1)(f) van die Wet op Provinsiale Bestuur, 1961 ingevolge artikel 13 van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993);
- 30 (c) enige plaaslike owerheidsliggaam ingestel uit hoofde van die bepalings van artikel 30(2)(a) van die Swart Administrasie Wet, 1927 (Wet No. 38 van 1927), of enige liggaam wat voortgaan om plaaslike owerheidsfunksies kragtens artikel 15(1) van die Oorgangswet op Plaaslike Regering, 1993 te verrig;
- 35 (d) ’n bestuursraad of raad bedoel in artikel 1 van die Wet op Landelike Gebiede (Raad van Verteenwoordigers), 1987 (Wet No. 9 van 1987);
- (e) enige komitee bedoel in artikel 17 van die Wet op die Bevordering van Plaaslike Owerheidsaangeleenthede, 1983 (Wet No. 91 van 1983);
- 40 (f) enige plaaslike raad ingestel kragtens artikel 2 van die Wet op Plaaslike Rade (Volksraad), 1987 (Wet No. 94 van 1987);
- (g) die Raad op Plaaslike Bestuursaangeleenthede by artikel 2 van die Wet op die Raad op Plaaslike Bestuursaangeleenthede (Volksraad), 1989 (Wet No. 84 van 1989) ingestel;
- 45 (h) enige streekdiensteraad kragtens artikel 3 van die Wet op Streekdiensterade, 1985 (Wet No. 109 van 1985) ingestel;
- (i) enige gesamentlike diensteraad kragtens artikel 4 van die Wet op Gesamentlike Dienste vir KwaZulu en Natal, 1990 (Wet No. 84 van 1990) ingestel;
- 50 (j) enige gesamentlike besluitnemingsliggaam, gesamentlike plaaslike owerheid of enkele plaaslike owerheid bedoel in paragrawe (c), (e) en (f) van artikel 8 van die Wet op Tussentydse Maatreëls vir Plaaslike Regering, 1991 (Wet No. 128 van 1991); en by proklamasie kragtens daardie wet uitgevaardig, ingestel;
- 55 (k) enige persoon, instelling of liggaam wat kragtens artikel 1(2) van die Oorgangswet op Plaaslike Regering, 1993, as ’n plaaslike owerheidsliggaam vir doeleindes van daardie wet verklaar is;
- (l) enige oorgangsraad ingestel kragtens die Oorgangswet op Plaaslike Regering, 1993, wat plaaslike owerheidsfunksies tot uitsluiting van enige van die bogemelde plaaslike owerheidsliggame uitoefen;
- 60 **“Premier”** die Premier van ’n provinsie wat in oorleg met die uitvoerende raad van die provinsie of enige lid of lede daarvan optree, soos beoog in artikel 147(2) van die Grondwet;

- “**partition plan**” means a plan indicating the relative situation in a land development area of sites, premises, public places and zones used or to be used for any of the purposes referred to in the definition of “land development”, and approved as part of a land development application by a tribunal in terms of Chapter VI; 5
- “**Premier**” means the Premier of a province acting in consultation with the executive council of the province or any member or members thereof as contemplated in section 147(2) of the Constitution;
- “**prescribe**” means prescribe by regulation;
- “**province**” means any province of the Republic established in terms of section 124(1) of the Constitution; 10
- “**provincial commission**” means a provincial development and planning commission established or recognised in terms of section 11(1);
- “**registrar**” means a registrar as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937); 15
- “**regulation**” means a regulation made under this Act;
- “**State**” includes a province;
- “**surveyor**” means a person registered as a professional land surveyor or a technical surveyor under the Professional and Technical Surveyors’ Act, 1984 (Act No. 40 of 1984), and whose name is entered in the register contemplated in section 7(4) of the said Act; 20
- “**Surveyor-General**” means the relevant Surveyor-General as defined in section 49 of the Land Survey Act, 1927;
- “**this Act**” includes the regulations;
- “**tribunal**” means a development tribunal established in respect of a province under Chapter III; 25
- “**tribunal registrar**” means a tribunal registrar designated by the Premier under section 15(9);
- “**subdivision register**” means a register referred to in section 46(1) of the Deeds Registries Act, 1937; 30
- “**zoning scheme**” means any townplanning or zoning scheme administered by a local government body or any other competent authority relating to the zoning or reservation of land into areas to be used exclusively or mainly for residential, business, industrial, local authority, governmental or other purposes, the prohibition or restriction of the use of land in conflict with the terms of such scheme and matters connected therewith; 35
- the import and intent of the long title of this Act shall be taken into account in determining the purpose of any provision of this Act.

CHAPTER I

NATIONAL CONTEXT FOR SPATIAL DEVELOPMENT 40

Application of Chapter

2. The general principles set out in sections 3 and 4 shall apply generally throughout the Republic and across the nation and shall—
- (a) also bind the State and any local government body;
 - (b) serve to guide the administration of any physical plan, guide plan, structure plan, zoning scheme or any like plan or scheme administered by any competent authority in terms of any applicable law; 45
 - (c) serve as guidelines by reference to which any competent authority shall exercise any discretion or take any decision relating to land development in terms of or as may be required, conferred or authorised by or under— 50
 - (i) Chapter II, in order to serve as the general framework within which the Commission shall perform its functions and make recommendations and within which such recommendations shall be considered by any competent authority;

- “**provinsiale kommissie**” ’n provinsiale ontwikkelings- en beplannings-kommissie ingevolge artikel 11(1) ingestel of erken;
- “**provinsie**” enige provinsie van die Republiek van Suid-Afrika ingevolge artikel 124(1) van die Grondwet ingestel;
- 5 “**registrasiekantoor**” ’n registrasiekantoor soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937;
- “**registrateur**” ’n registrator soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937;
- “**regulasie**” ’n regulasie kragtens hierdie Wet gemaak;
- 10 “**transportbesorger**” ’n transportbesorger soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937;
- “**tribunaal**” ’n ontwikkelingstribunaal ten opsigte van ’n provinsie kragtens Hoofstuk III ingestel;
- “**tribunaalregistrateur**” ’n tribunaalregistrator deur die Premier kragtens artikel 15(9) aangewys;
- 15 “**soneringskema**” enige dorpsaanleg- of soneringskema deur ’n plaaslike owerheidsliggaam of enige ander bevoegde owerheid geadministreer, met betrekking tot die sonering of reservering van grond in gebiede wat uitsluitlik of hoofsaaklik vir residensiële, besigheids-, industriële, plaaslike
- 20 owerheids-, regerings- of ander doeleindes gebruik mag word, die verbod of beperking op die gebruik van grond in stryd met die bepalinge van sodanige skema en aangeleenthede wat daarmee verband hou;
- “**Staat**” ook ’n provinsie;
- “**stigtingsvoorwaarde**” ’n voorwaarde deur ’n tribunaal kragtens artikel 28 opgelê of goedgekeur;
- 25 “**uitlegplan**” ’n plan wat die relatiewe ligging van erwe, persele, openbare ruimtes en sones in ’n grondontwikkelingsgebied aandui en wat gebruik word of gebruik mag word vir enige van die doeleindes bedoel in die omskrywing van “grondontwikkeling”, maar uitgesluit kleinskaalboerdery,
- 30 en wat as deel van ’n grondontwikkelingsaansoek deur ’n tribunaal ingevolge Hoofstuk V goedgekeur is;
- “**verdelingsplan**” ’n plan wat die relatiewe ligging van erwe, persele, openbare ruimtes en sones in ’n grondontwikkelingsgebied aandui en wat gebruik word of gebruik mag word vir enige van die doeleindes bedoel in die omskrywing van “grondontwikkeling”, en wat as deel van ’n grondontwikkelingsaansoek deur ’n tribunaal ingevolge Hoofstuk VI goedgekeur
- 35 is;
- “**voorlopige eiendomsreg**” die titelvorm deur artikel 55 geskep;
- “**voorskryf**” by regulasie voorgeskryf;
- 40 enige bepaling van hierdie Wet, dit wat aangewys word, deur die betekenis en oogmerke van die langtitel van hierdie Wet in ag te neem.

HOOFSTUK I

NASIONALE KONTEKS VIR RUIMTELIKE ONTWIKKELING

Toepassing van Hoofstuk

- 45 2. Die algemene beginsels in artikels 3 en 4 uiteengesit is algemeen in die Republiek en regoor die land van toepassing en—
- (a) bind ook die Staat en enige plaaslike owerheidsliggaam;
- (b) dien om die administrasie van enige fisiese plan, gidsplan, struktuurplan, soneringskema of enige soortgelyke plan of skema deur enige
- 50 bevoegde owerheid ingevolge enige toepaslike wet geadministreer, te rig;
- (c) dien as riglyne met verwysing waarna enige bevoegde gesag enige diskresie uitoefen of enige besluit neem met betrekking tot grondontwikkeling ingevolge of soos verleen of gemagtig word by of
- 55 kragtens—
- (i) Hoofstuk II, ten einde as die algemene raamwerk waarbinne die Kommissie sy funksies uitoefen en aanbevelings maak en waarbinne sodanige aanbevelings deur enige bevoegde owerheid oorweeg word, te dien;

- (ii) Chapter III, in order to serve as principles by reference to which the tribunal shall reach decisions;
- (iii) Chapter IV, in order to provide the guidelines with which the formulation, monitoring and implementation of performance criteria applying to local government bodies and the carrying out of projects shall be consistent; 5
- (iv) Chapters V and VI, in order to guide the consideration of applications and the performance of functions in relation to any land development;
- (v) Chapter VII, in order to guide the administration of the registration of land tenure rights; and 10
- (vi) any other law, whether dealing with subject matter, which is the same or similar to the subject matter dealt with in Chapters II to VII of this Act, or not, governing land development, including any such law governing the subdivision, the use and planning of or in respect 15 of land.

General principles relating to land development

3. (1) The following general principles shall, on the basis set out in section 2, apply in relation to all land development:

- (a) Policies, administrative practices and legislation should provide for both urban and rural land development needs and should accommodate and facilitate formal and informal, existing and new settlements and land developments. 20
- (b) Policies, administrative practices and legislation should promote efficient and integrated land development in that they— 25
 - (i) promote integration with respect to social, economic, institutional and physical aspects of land development;
 - (ii) promote the integrated land development of rural and urban areas in support of each other;
 - (iii) promote the location of residential and employment opportunities in close proximity to or integrated with each other; 30
 - (iv) optimise the use of existing resources including such resources relating to land, bulk infrastructure, roads, transportation and social facilities;
 - (v) provide a diverse combination of land uses, also at the level of individual erven or subdivisions; 35
 - (vi) in the urban context, discourage the phenomenon of “urban sprawl”;
 - (vii) in the urban context, contribute to the land development of more compact cities and land development areas; 40
 - (viii) contribute to the correction of the historically distorted spatial patterns of settlement in the country and contribute to the optimum use of existing infrastructure in excess of current needs; and
 - (ix) encourage a land development process which minimises negative impact upon the environment on a sustained basis. 45
- (c) Members of communities affected by land developments should be allowed actively to participate in the process of land development.
- (d) The skills and capacities of those involved in carrying on land development should be developed so that they may undertake other land developments. 50
- (e) Policies, administrative practices and legislation should encourage and optimise the contributions of all sectors of the economy (government and non-government), to land development so as to maximise the country's capacity to undertake land development and to this end, and without derogating from the generality of the foregoing— 55
 - (i) national, provincial and local government shall strive clearly to define and make known the required roles and responsibilities of all

- (ii) Hoofstuk III, ten einde as beginsels met verwysing waarna die tribunaal besluite neem, te dien;
- (iii) Hoofstuk IV, ten einde die riglyne te verskaf waarmee die formulering, monitering en implementering van prestasiekriteria van toepassing op plaaslike owerheidsliggame en die uitvoering van projekte bestaanbaar is;
- (iv) Hoofstukke V en VI, ten einde die oorweging van aansoeke en die uitoefening van funksies met betrekking tot enige grondontwikkeling te rig;
- (v) Hoofstuk VII, ten einde die administrasie van die registrasie van grondtitelregte te rig; en
- (vi) enige ander wet, hetsy dit handel met onderwerpe wat dieselfde of soortgelyk is aan die onderwerpe behandel in Hoofstukke II tot VII van hierdie Wet, al dan nie, wat grondontwikkeling reël, insluitende enige sodanige wet wat onderverdeling, die gebruik en beplanning van of ten opsigte van grond, reël.

Algemene beginsels met betrekking tot grondontwikkeling

3. (1) Die volgende algemene beginsels is, op die grondslag in artikel 2 uiteengesit, van toepassing met betrekking tot alle grondontwikkeling:
- (a) Beleid, administratiewe praktyk en wetgewing behoort vir beide stedelike en landelike grondontwikkelingsbehoefte voorsiening te maak en behoort formele en informele, bestaande en nuwe nedersettings en grondontwikkeling te akkomodeer en fasiliteer.
 - (b) Beleid, administratiewe praktyk en wetgewing behoort effektiewe en geïntegreerde grondontwikkeling te bevorder, deurdat dit—
 - (i) integrasie ten opsigte van sosiale, ekonomiese, institusionele en fisiese aspekte van grondontwikkeling bevorder;
 - (ii) die geïntegreerde grondontwikkeling van landelike en stedelike gebiede ter ondersteuning van mekaar bevorder;
 - (iii) die ligging van residensiële en indiensnemingsgeleenthede in nabyheid van of geïntegreerd met mekaar bevorder;
 - (iv) die gebruik van bestaande hulpbronne, insluitende sodanige hulpbronne met betrekking tot grond, grootmaat infrastruktuur, paaie, vervoer en sosiale fasiliteite, optimaliseer;
 - (v) 'n uiteenlopende kombinasie van grondgebruik, ook op die vlak van individuele erwe of onderverdelings, bied;
 - (vi) in die stedelike konteks die verskynsel van "urban sprawl" ontmoedig;
 - (vii) in die stedelike konteks tot die grondontwikkeling van meer kompakte stede en grondontwikkelingsgebiede bydra;
 - (viii) tot die regstelling van die histories verwronge ruimtelike vestigingspatrone in die land bydra en tot die optimale gebruik van bestaande infrastrukture wat die bestaande behoeftes oorskry, bydra; en
 - (ix) 'n grondontwikkelingsproses aanmoedig wat negatiewe invloed op die omgewing op 'n volgehoue grondslag minimaliseer.
 - (c) Lede van gemeenskappe wat deur grondontwikkeling geraak word, behoort toegelaat te word om aktief aan die proses van grondontwikkeling deel te neem.
 - (d) Die vaardighede en vermoëns van diegene betrokke in die uitvoering van grondontwikkeling behoort ontwikkel te word sodat hulle ander grondontwikkelings kan onderneem.
 - (e) Beleid, administratiewe praktyk en wetgewing behoort die bydraes van alle sektore van die ekonomie (regerings- en nie-regerings-) tot grondontwikkeling aan te moedig en te optimaliseer ten einde die land se vermoë om grondontwikkeling te onderneem te maksimaliseer, en vir hierdie doel, en sonder afbreuk aan die algemeenheid van die voorgaande—
 - (i) streef nasionale, provinsiale en plaaslike owerheid daarna om die vereiste rolle en verantwoordelikhede van alle relevante sektore met betrekking tot grondontwikkeling, sowel as die gewenste

- relevant sectors in relation to land development as well as the desired relationships between such sectors; and
- (ii) a competent authority in national, provincial or local government responsible for the administration of any law relating to land development shall provide any person requiring such information with particulars of the identity of legislation administered by it, the posts and names of persons responsible for the administration of such legislation and the addresses and locality of the offices of such persons. 5
 - (f) Laws, procedures and practices relating to land development should— 10
 - (i) be clearly and simply described and be available generally to those likely to be affected thereby;
 - (ii) in addition to serving as regulatory measures, also provide guidance and information to those affected;
 - (iii) be calculated to promote trust and acceptance on the part of those likely to be affected thereby; and 15
 - (iv) give further content to fundamental rights as set out in the Constitution.
 - (g) Policies, administrative practices and laws should promote sustainable land development in that they should— 20
 - (i) be aimed at continued land development at the required scale on an ongoing basis;
 - (ii) promote land development which is within the fiscal, institutional and administrative means of the country;
 - (iii) promote the establishment of viable communities; 25
 - (iv) promote sustained protection of the environment;
 - (v) meet the basic needs of all South Africans in an affordable way.
 - (h) Policies, administrative practices and laws should promote expeditious land development.
 - (i) No particular use of land, such as residential, commercial, industrial, community facility, mining, agricultural or public use, should be regarded as being in principle or *a priori* less important or desirable than any other such use of land. 30
 - (j) Land development should result in security of tenure for individuals and families and, particularly where the development relates to housing, provide for the widest feasible range of tenure alternatives, whether individually or collectively. 35
 - (k) Competent authorities at national, provincial and local government levels should assume responsibility for co-ordination between various sectors involved in land developments so as to minimise conflict over demands on scarce resources. 40
 - (l) Competent authorities at national, provincial and local government levels should deal sensitively and responsibly with the impact of land developments upon the environment.
 - (m) Policies, administrative procedures and laws relating to land development should stimulate the effective functioning of a land development market which continues to operate on an ongoing basis with vigorous and open competition between suppliers of goods and services. 45
 - (2) The Minister may by proclamation in the *Gazette*—
 - (a) prescribe any principle relating to land development in addition to, but not inconsistent with, any principle set out in subsection (1); and 50
 - (b) prescribe any principle, norm or standard of greater particularity and detail than, but not inconsistent with, any principle set out in subsection (1), 55

whereupon such principle shall apply throughout the Republic *mutatis mutandis* on the basis intended in section 2.

- verhoudings tussen sodanige sektore, duidelik te omskryf en bekend te stel; en
- (ii) verstrek 'n bevoegde owerheid in nasionale, provinsiale of plaaslike owerheid wat verantwoordelik is vir die administrasie van enige wet met betrekking tot grondontwikkeling, aan enige persoon wat sodanige inligting vereis besonderhede van die identiteit van wetgewing deur dit geadministreer, die poste en name van persone verantwoordelik vir die administrasie van sodanige wetgewing en die adresse en ligging van die kantore van sodanige persone.
- (f) Wette, prosedures en praktyk met betrekking tot grondontwikkeling behoort—
- (i) duidelik en eenvoudig omskryf te word en algemeen beskikbaar te wees aan diegene wat waarskynlik daardeur geraak sal word;
- (ii) benewens om as regulerende maatreëls te dien, ook voorligting en inligting aan diegene wat daardeur geraak word, te verskaf;
- (iii) daarop bereken te wees om vertroue en aanvaarding by diegene wat waarskynlik daardeur geraak sal word, te bevorder; en
- (iv) verdere inhoud te gee aan fundamentele regte soos uiteengesit in die Grondwet.
- (g) Beleid, administratiewe praktyk en wette behoort volgehoue grondontwikkeling te bevorder deurdat dit—
- (i) gerig is op grondontwikkeling op die vereiste skaal en op 'n voortdurende grondslag;
- (ii) grondontwikkeling bevorder wat binne die fiskale, institusionele en administratiewe vermoëns van die land is;
- (iii) die vestiging van lewensvatbare gemeenskappe bevorder;
- (iv) volgehoue beskerming van die omgewing bevorder;
- (v) voldoen aan die basiese behoeftes van alle Suid-Afrikaners op 'n bekostigbare wyse.
- (h) Beleid, administratiewe praktyk en wette behoort spoedige grondontwikkeling te bevorder.
- (i) Geen spesifieke grondgebruik, soos residensiële, kommersiële, industriële, gemeenskapsfasiliteits-, mynbou-, landbou- of openbare gebruik, behoort beskou te word as om in beginsel of *a priori* minder belangrik of wenslik te wees as enige ander sodanige grondgebruik nie.
- (j) Grondontwikkeling behoort sekuriteit van titel vir individue en families tot gevolg te hê en, in besonder, waar die ontwikkeling betrekking het op behuising, vir die wydste uitvoerbare verskeidenheid van titelalternatiewe voorsiening maak, hetsy individueel of kollektief.
- (k) Bevoegde owerhede op nasionale, provinsiale en plaaslike owerheidsvlakke behoort verantwoordelikheid vir die koördinasie tussen verskeie sektore betrokke in grondontwikkeling te aanvaar ten einde konflik met betrekking tot aansprake op skaars hulpbronne te minimaliseer.
- (l) Bevoegde owerhede op nasionale, provinsiale en plaaslike owerheidsvlakke behoort sensitief en verantwoordelik met die invloed van grondontwikkeling op die omgewing te handel.
- (m) Beleid, administratiewe prosedures en wette met betrekking tot grondontwikkeling behoort die effektiewe funksionering van 'n grondontwikkelingsmark te stimuleer, wat aanhou om op 'n volgehoue grondslag met lewendige en ope mededinging tussen verskaffers van goedere en dienste te funksioneer.
- (2) Die Minister kan by proklamasie in die *Staatskoerant*—
- (a) enige beginsel met betrekking tot grondontwikkeling, bo en behalwe, maar nie teenstrydig nie met, enige beginsel in subartikel (1) uiteengesit, voorskryf; en
- (b) enige beginsel, norm of standaard in meer besonderhede en detail as, maar nie teenstrydig nie met enige beginsel in subartikel (1) uiteengesit, voorskryf,
- waarna sodanige beginsel in die Republiek geld *mutatis mutandis* op die grondslag bedoel in artikel 2.

(3) The Premier of a province may, by proclamation in the *Provincial Gazette*—

- (a) prescribe any principle relating to land development in addition to, but not inconsistent with, any principle, norm or standard set out in subsection (1) or prescribed by the Minister under subsection (2);
- (b) prescribe any principle of greater particularity or detail than, but not inconsistent with, any principle, norm or standard set out in subsection (1) or prescribed by the Minister under subsection (2); and
- (c) publish for general information any provincial policy relating to land development or any part thereof which is consistent with principles set out in or prescribed under subsections (1) and (2) and paragraphs (a) and (b),

whereupon such principle or policy shall apply in the relevant province *mutatis mutandis* on the basis intended in section 2.

General principles for decision-making and conflict resolution

4. (1) The general principles set out in subsection (2) shall, on the basis intended in section 2, apply—

- (a) in respect of any decision which a competent authority may, in terms of any applicable law, make in respect of any application to allow land development or in relation to land development which affects the rights, obligations or freedoms of any person or body;
- (b) without derogating from the generality of paragraph (a), to any decision contemplated in that paragraph which shall include a decision—
 - (i) regarding whether or not any existing illegal use of land should henceforth be regarded as lawful;
 - (ii) approving or disapproving of any proposed change to the existing use of land in the course of a proposed land development;
 - (iii) relating to the level or standard of engineering services that are to be provided in respect of a development;
 - (iv) relating to the permitted time periods within which comments or objections should be provided and governmental decisions are to be taken during the course of land development procedures; and
 - (v) relating to the consequences for any land development or affecting the rights and obligations of any person or body, by virtue of any failure to provide any comment, make any decision or to perform any other act within a period of time contemplated in subparagraph (iv);
- (c) only insofar as a decision referred to in paragraph (a) is made during the course of the administration of any law made by the legislature of a province or by a local government body in relation to land development after the date of commencement of this Act, including such a law which amends or substitutes the provisions of Chapter III: Provided that the principles set out in subsection (2) shall apply also to the administration of Chapter III.

(2) Decisions of the nature contemplated in subsection (1) shall be taken in accordance with the following general principles:

- (a) Such decisions shall be consistent with any principle or policy set out in or prescribed under section 3.
- (b) Such decisions shall be made by an officer in the public service of the relevant provincial administration or in the employ of a local government body, in or after consultation with such experts in relevant functional areas, such as planning, engineering, geology, environment protection, law, or survey as may be determined by the Premier.
- (c) Before conducting any hearing or reaching any conclusion or decision, the person or persons referred to in paragraph (b) shall enquire into and consider whether or not any dispute between two or more parties in relation to land development should first be referred to proceedings aimed at mediating such dispute.

(3) Die Premier kan, by proklamasie in die *Provinsiale Koerant*—

- (a) enige beginsel met betrekking tot grondontwikkeling, bo en behalwe, maar nie teenstrydig nie met, enige beginsel, norm of standaard in subartikel (1) uiteengesit of voorgeskryf deur die Minister kragtens subartikel (2), voorskryf;
 - (b) enige beginsel in meer besonderhede of detail as, maar nie teenstrydig nie met, enige beginsel, norm of standaard in subartikel (1) uiteengesit of voorgeskryf deur die Minister kragtens subartikel (2), voorskryf; en
 - (c) ter algemene inligting enige provinsiale beleid met betrekking tot grondontwikkeling of enige deel daarvan wat bestaanbaar is met die beginsels uiteengesit in of voorgeskryf kragtens subartikels (1) en (2) en paragrawe (a) en (b), publiseer,
- waarna sodanige beginsel of beleid in die betrokke provinsie geld *mutatis mutandis* op die grondslag bedoel in artikel 2.

15 Algemene beginsels vir besluitneming en konflikthantering

4. (1) Die algemene beginsels in subartikel (2) uiteengesit, geld op die grondslag bedoel in artikel 2—

- (a) ten opsigte van enige besluit wat 'n bevoegde gesag ingevolge enige toepaslike wet maak ten opsigte van enige aansoek om grondontwikkeling toe te laat of in verband met grondontwikkeling wat die regte, verpligtinge en vryhede van enige persoon of liggaam raak;
- (b) sonder om aan die algemeenheid van paragraaf (a) afbreuk te doen, ten opsigte van enige besluit beoog in daardie paragraaf, wat 'n besluit insluit—
 - (i) betreffende of enige bestaande onwettige gebruik van grond voortaan as wettig beskou moet word al dan nie;
 - (ii) wat enige voorgestelde verandering aan die bestaande gebruik van grond in die loop van 'n voorgestelde grondontwikkeling goed- of afkeur;
 - (iii) betreffende die vlak of standaard van ingenieursdienste wat ten opsigte van 'n grondontwikkeling verskaf moet word;
 - (iv) betreffende die toegelate tydperke waarbinne kommentaar of besware ingedien en owerheidsbesluite geneem moet word in die loop van grondontwikkelingsprosedures; en
 - (v) betreffende die gevolge vir enige grondontwikkeling of wat die regte en verpligtinge van enige persoon of liggaam raak, uit hoofde van enige versuim om enige kommentaar of beswaar in te dien, enige besluit te neem of enige ander handeling binne 'n tydperk beoog in subparagraaf (iv) te verrig;
- (c) slegs insoverre 'n besluit bedoel in paragraaf (a) geneem is in die loop van die administrasie van enige wet deur die wetgewer van 'n provinsie of deur 'n plaaslike owerheidsliggaam in verband met grondontwikkeling gemaak na die aanvangsdatum van hierdie Wet, insluitende sodanige wet wat die bepalinge van Hoofstuk III wysig of vervang: Met dien verstande dat die beginsels in subartikel (2) uiteengesit ook ten opsigte van die administrasie van Hoofstuk III geld.

(2) Besluite van die aard beoog in subartikel (1), word in ooreenstemming met die volgende algemene beginsels geneem:

- (a) Sodanige besluite is bestaanbaar met enige beginsel of beleid uiteengesit in of voorgeskryf kragtens artikel 3.
- (b) Sodanige besluite word deur 'n beampte in die staatsdiens van die betrokke provinsiale administrasie of in diens van 'n plaaslike owerheidsliggaam, in of na oorlegpleging met sodanige deskundiges in relevante funksionele terreine, soos beplanning, ingenieurswese, geologie, omgewingsbeskerming, die reg, of grondopmeting soos deur die Premier bepaal word, geneem.
- (c) Voordat enige verhoor gehou word of daar tot enige gevolgtrekking of besluit geraak word, stel die in paragraaf (b) bedoelde persoon of persone ondersoek in na en oorweeg of enige geskil tussen twee of meer partye met betrekking tot grondontwikkeling eers verwys moet word na proses gerig op die mediasie van sodanige geskil al dan nie.

- (d) If and when they consider such procedure to be appropriate as intended in paragraph (c), the person or persons referred to in paragraph (b) shall cause such dispute to be referred to such mediation proceedings.
- (e) In the event of mediation proceedings referred to in paragraph (c) not being considered appropriate or if such proceedings have not been successful in resolving any dispute referred to in that paragraph; the person or persons referred to in paragraph (b) shall conduct any hearing that they may consider appropriate in the circumstances and reach a decision of government binding upon persons or bodies affected, including the State or any local government body affected thereby, as may be required or permitted in terms of any applicable law. 5
- (f) The proceedings of the person or persons referred to in paragraph (b) shall be open to the public and any person entitled to appear at such proceedings shall be entitled to be represented by any other person. 10
- (g) The person or persons referred to in paragraph (b) shall be obliged, upon request therefor, to provide written reasons for any decision reached by them. 15
- (h) A provincial government shall keep a record of reasons provided as contemplated in paragraph (g), make such record available for inspection by members of the public and shall permit the publication of such reasons by any person or body. 20
- (i) A decision of the persons referred to in paragraph (b) shall be subject to review by any division of the Supreme Court of South Africa having jurisdiction.

CHAPTER H

25

DEVELOPMENT AND PLANNING COMMISSION

Establishment of Development and Planning Commission

5. There is hereby established a juristic person to be known as the Development and Planning Commission.

Functions and powers of the Commission

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6. The Commission—

- (a) may of its own accord, and shall at the request of the Minister, advise the Minister on any matter falling within the scope of its terms of reference set out in section 14; and
- (b) unless and until a provincial commission has been established or recognised in terms of section 11, may of its own accord and shall at the request of any Premier or MEC, advise such Premier or MEC on any matter referred to in paragraph (a), insofar as such matter relates to any functional area relating to land development, falls within a functional area as contemplated in Schedule 6 to the Constitution and falls within the scope of its terms of reference set out in section 14. 35 40

Constitution of Commission

7. (1) The Commission shall consist of—

- (a) not more than twenty-four members appointed by the Minister, from the ranks of— 45
 - (i) one person nominated by each of the Premiers: Provided that in the event of a provincial commission having been established or recognised in respect of any province, in terms of section 11, the Premier of such province shall not be entitled so to nominate a person but, instead, paragraph (b) shall be applicable; 50
 - (ii) not more than three persons who are nominated by the sectors or sub-sectors who are in the opinion of the Minister supplying or financing land developments in urban and rural contexts;

- (d) Indien en wanneer hulle van oordeel is dat sodanige prosedure soos bedoel in paragraaf (c) toepaslik is, verwys die in paragraaf (b) bedoelde persoon of persone sodanige geskil na sodanige mediasieproses.
- 5 (e) In die geval waar die in paragraaf (c) bedoelde mediasieproses nie toepaslik geag word nie, of indien sodanige proses nie geslaagd was in die beslegting van enige geskil bedoel in daardie paragraaf nie, hou die in paragraaf (b) bedoelde persoon of persone enige verhoor wat hulle in die omstandighede toepaslik mag ag, en neem hulle 'n owerheidsbesluit wat bindend is op die persone of liggame daardeur geraak, insluitende die Staat of enige plaaslike owerheidsliggaam daardeur geraak, soos vereis of gemagtig word ingevolge enige toepaslike wet.
- 10 (f) Die verrigtinge van die in paragraaf (b) bedoelde persoon of persone is toeganklik vir die publiek, en enige persoon wat geregtig is om by sodanige verrigtinge te verskyn, is geregtig om deur enige ander persoon verteenwoordig te word.
- 15 (g) Die in paragraaf (b) bedoelde persoon of persone is verplig om op versoek daarvoor skriftelike redes vir enige besluit deur hul geneem, te verstrek.
- 20 (h) 'n Provinsiale owerheid hou 'n rekord by van redes verskaf soos beoog in paragraaf (g), stel sodanige rekord beskikbaar vir inspeksie deur lede van die publiek en laat die publikasie van sodanige redes deur enige persoon of liggaam toe.
- (i) 'n Besluit van die in paragraaf (b) bedoelde persone is onderhewig aan hersiening deur enige afdeling van die Hooggeregshof van Suid-Afrika wat jurisdiksie het.
- 25

HOOFSTUK II

ONTWIKKELINGS- EN BEPLANNINGSKOMMISSIE

Instelling van Ontwikkelings- en Beplanningskommissie

- 5. Daar word hiermee 'n regspersoon ingestel wat as die Ontwikkelings- en Beplanningkommissie bekend staan.
- 30

Funksies en bevoegdhede van die Kommissie

- 6. Die Kommissie—
- 35 (a) kan uit eie beweging, en moet op die versoek van die Minister, die Minister oor enige aangeleentheid wat binne die bestek van die Kommissie se opdrag soos in artikel 14 uiteengesit val, adviseer; en
- (b) kan, tensy en totdat 'n provinsiale kommissie ingevolge artikel 11 ingestel of erken is, uit eie beweging en moet op die versoek van enige Premier of LUR, sodanige Premier of LUR oor enige in paragraaf (a) bedoelde aangeleentheid adviseer, insoverre as wat sodanige aangeleentheid betrekking het op enige funksionele gebied wat met grondontwikkeling verband hou, of binne 'n funksionele gebied soos beoog in Bylae 6 van die Grondwet en binne die bestek van die Kommissie se opdrag soos in artikel 14 uiteengesit, val.
- 40

Samestelling van Kommissie

- 45 7. (1) Die Kommissie bestaan uit—
- (a) hoogstens vier en twintig lede wat deur die Minister aangestel word uit die geledere van—
- (i) een persoon deur elk van die Premiers benoem: Met dien verstande dat in die geval waar 'n provinsiale kommissie ten opsigte van enige provinsie ingestel of erken is, ingevolge artikel 11, die Premier van sodanige provinsie nie geregtig is om 'n persoon te benoem nie, maar is paragraaf (b) in stede van toepassing;
- 50 (ii) hoogstens drie persone wat deur die sektore of sub-sektore wat na die mening van die Minister grondontwikkeling in stedelike en landelike konteks verskaf of finansier, benoem word;
- 55

- (iii) not more than three persons who are nominated by various organisations and community-based groups in civil society who are in the opinion of the Minister representing the interests of consumers in relation to land developments in urban and rural contexts; and
 - (iv) not more than nine persons appointed by the Minister by reason of their knowledge of, and qualifications and experience in relevant fields, such as economics, local government matters, the environment, planning, engineering, land survey and law; and
 - (b) the Chairperson of each provincial commission, if any, or, during his or her absence, the Vice-Chairperson of such provincial commission as an *ex officio* member of the Commission.
- (2)(a) The Minister shall designate one of the members of the Commission as the Chairperson and another member as the Vice-Chairperson of the Commission.
- (b) The Chairperson shall hold office for the period determined by the Minister upon his or her appointment, but not exceeding three years.
- (3) Whenever both the Chairperson and the Vice-Chairperson of the Commission are absent or unable to fulfil any of the functions of the Chairperson, the Minister may designate any other member of the Commission to act as Chairperson of the Commission during such absence or incapacity.
- (4)(a) The Minister may at the request of any member of the Commission other than the Chairperson, the Vice-Chairperson or a member who serves on the Commission by virtue of his or her office, appoint an alternate member for any member of the Commission.
- (b) An alternate member may attend and take part in the proceedings at any meeting of the Commission whenever a member in whose stead he or she has been appointed as an alternative member is absent from the meeting.
- (5) The name of every person appointed as a member or alternative member of the Commission, together with the date upon which the appointment takes effect, shall be notified in the *Gazette*.

Period of office of members or alternate members of the Commission

8. (1) A member or alternate member of the Commission shall hold office for the period determined by the Minister upon his or her appointment, but not exceeding three years, and may be reappointed on the termination of such period.
- (2) A member or alternate member of the Commission shall vacate his or her office if—
- (a) he or she resigns;
 - (b) his or her estate is sequestrated or he or she applies for assistance contemplated in section 10(1)(c) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966);
 - (c) he or she becomes of unsound mind;
 - (d) he or she is convicted of an offence and sentenced to imprisonment without the option of a fine; or
 - (e) he or she is nominated as a candidate for election as a member of Parliament or any provincial legislature.
- (3) The Minister may at any time terminate the period of office of a member or alternate member of the Commission if in the opinion of the Minister there are sufficient reasons therefor.

Meetings of Commission

9. (1) The first meeting of the Commission shall be held at such time and place as the Minister may determine, and all meetings thereafter shall be held at such times and places as the Chairperson of the Commission shall determine.
- (2) The Chairperson or, in his or her absence, the Vice-Chairperson may at any time in his or her discretion convene a special meeting of the Commission, and shall convene such meeting within fourteen days of receipt of a request signed by not fewer than eight members of the Commission to convene such meeting.

- (iii) hoogstens drie persone wat deur verskeie organisasies en gemeenskapsgebaseerde groepe in die burgerlike samelewing wat na die mening van die Minister die belange van verbruikers met betrekking tot grondontwikkeling in stedelike en landelike konteks verteenwoordig, benoem word; en
- (iv) hoogstens nege persone wat deur die Minister weens hul kennis van, en kwalifikasies en ervaring in relevante terreine soos die ekonomie, plaaslike owerheidsaangeleenthede, die omgewing, beplanning, ingenieurswese, grondopmeting en die reg aangestel word; en
- (b) die Voorsitter van elke provinsiale kommissie, indien enige, of, gedurende sy of haar afwesigheid, die Vise-voorsitter van sodanige provinsiale kommissie, as 'n *ex officio* lid van die Kommissie.
- (2) (a) Die Minister wys een van die lede van die Kommissie as die Voorsitter en 'n ander lid as die Vise-voorsitter van die Kommissie aan.
- (b) Die Voorsitter beklee sy of haar amp vir die tydperk deur die Minister bepaal by sy of haar aanstelling, maar wat nie drie jaar oorskry nie.
- (3) Wanneer beide die Voorsitter en die Vise-voorsitter van die Kommissie afwesig is of nie in staat is om enige van die funksies van die Voorsitter te vervul nie, mag die Minister enige ander lid van die Kommissie aanwys om as Voorsitter van die Kommissie gedurende sodanige afwesigheid of onvermoë op te tree.
- (4) (a) Die Minister mag op die versoek van enige lid van die Kommissie behalwe die Voorsitter, die Vise-voorsitter of 'n lid wat in die Kommissie uit hoofde van sy of haar amp dien, 'n alternatiewe lid vir enige lid van die Kommissie aanstel.
- (b) 'n Alternatiewe lid mag enige vergadering van die Kommissie bywoon en aan die verrigtinge op die vergadering deelneem wanneer 'n lid in wie se plek hy of sy as 'n alternatiewe lid aangestel is, van die vergadering afwesig is.
- (5) Kennis van die naam van elke persoon wat as 'n lid of alternatiewe lid van die Kommissie aangestel is, tesame met die datum waarop die aanstelling van kamp word, word in die *Staatskoerant* gegee.

Ampstermyn van lede of alternatiewe lede van die Kommissie

8. (1) 'n Lid of alternatiewe lid van die Kommissie beklee sy of haar amp vir die tydperk deur die Minister by sy of haar aanstelling bepaal, wat nie drie jaar oorskry nie, en mag by die verstryking van sodanige tydperk heraangestel word.
- (2) 'n Lid of alternatiewe lid van die Kommissie ontruim sy of haar amp indien—
- (a) hy of sy bedank;
- (b) sy of haar boedel gesekwestreer word of indien hy of sy aansoek doen vir hulp soos beoog in artikel 10(1)(c) van die Wet op Landboukrediet, 1966 (Wet No. 28 van 1966);
- (c) hy of sy swaksinnig raak;
- (d) hy of sy aan 'n misdryf skuldig bevind word en tot gevangenisstraf sonder die keuse van 'n boete gevonnissen word; of
- (e) hy of sy as 'n kandidaat vir verkiesing as 'n lid van die Parlement of enige provinsiale wetgewer benoem word.
- (3) Die Minister mag te eniger tyd die ampstermyn van 'n lid of alternatiewe lid van die Kommissie beëindig indien daar na die mening van die Minister voldoende redes daarvoor bestaan.

Vergaderings van Kommissie

9. (1) Die eerste vergadering van die Kommissie word op sodanige tyd en plek gehou as wat die Minister bepaal, en alle vergaderings daarna word op sodanige tyd en plekke gehou as wat die Voorsitter van die Kommissie bepaal.
- (2) Die Voorsitter of, in sy of haar afwesigheid, die Vise-voorsitter, mag te eniger tyd in sy of haar diskresie 'n spesiale vergadering van die Kommissie byeenroep, en roep sodanige vergadering byeen binne veertien dae na ontvangs van 'n versoek geteken deur minstens agt lede van die Kommissie om sodanige vergadering byeen te roep.

(3) A quorum for a meeting of the Commission shall be two thirds of its members.

(4) The procedure and meetings of the Commission, including the procedure for taking decisions by the Commission, shall be determined by the Commission subject to the directions of the Minister, if any.

(5) A member or alternate member of the Commission may not attend or take part in the discussion of or the making of decisions of any matter before the Commission in which he or she or his or her spouse, or his or her partner or his or her employer, other than the State, or the partner or employer of his or her spouse, has, directly or indirectly, any pecuniary interest.

Conditions of service of members or alternate members of Commission

10. (1) A member or alternate member of the Commission, other than a person who is in the full-time employment of the State, shall be appointed on such conditions of service as the Minister may determine with the concurrence of the Minister of Finance.

(2) Conditions of service determined under subsection (1) may differ according to whether the person concerned is a member or alternate member or serves on the Commission by virtue of his or her office, or on a full-time or part-time basis or in a professional capacity.

Establishment or recognition of provincial commissions

11. (1) A Premier may by notice in a *Provincial Gazette*—

(a) establish a provincial development and planning commission under this Act in respect of the relevant province; or

(b) recognise any body of persons, board or commission established by or under any other law as a provincial development and planning commission in respect of the relevant province.

(2) A provincial commission referred to in subsection (1) shall perform such functions of the Commission in relation to the relevant province as the relevant Premier or MEC may determine.

(3) In the case of—

(a) a provincial commission established under this Act as contemplated in subsection (1)(a)—

(i) the first meeting of such provincial commission shall be held at such time and place as the Premier may determine and all meetings thereafter shall be held at such times and places as the Chairperson of such provincial commission may determine;

(ii) the provisions of sections 7 (1) (a) (ii), (iii) and (iv), (2), (3), (4) and (5) shall *mutatis mutandis* apply in respect of the appointment by the Premier of members to such provincial commission;

(iii) the provisions of sections 8, 9 and 10 shall *mutatis mutandis* apply in respect of such provincial commission;

(b) a provincial commission recognised under subsection (1)(b)—

(i) meetings of such provincial commission shall be held at such times and places;

(ii) other matters in relation to meetings of such provincial commission shall be regulated; and

(iii) the composition of such provincial Commission shall be regulated, as may be required in terms of any law in terms of which such provincial commission was originally established.

Administrative and research functions of Commission and provincial commissions

12. (1) The administrative, secretarial and research functions of the Commission shall be performed by officers and employees designated by the Director-General of the Department of Land Affairs, acting in consultation with the Directors-General of the Department of Housing and of the Office of the

(3) 'n Kworum vir 'n vergadering van die Kommissie is twee-derdes van die lede van die Kommissie.

(4) Die prosedure en vergaderings van die Kommissie, insluitende die prosedure vir die neem van besluite van die Kommissie, word deur die 5 Kommissie bepaal onderhewig aan die voorskrifte van die Minister, indien enige.

(5) 'n Lid of alternatiewe lid van die Kommissie mag nie teenwoordig wees by of deelneem aan die bespreking van of die neem van besluite oor enige aangeleentheid wat voor die Kommissie dien waarby hy of sy of sy of haar gade, 10 of sy of haar vennoot of sy of haar werkgewer, anders as die Staat, of die vennoot of werkgewer van sy of haar gade, hetsy direk of indirek, enige finansiële belang het nie.

Diensvoorwaardes van lede of alternatiewe lede van Kommissie

10. (1) 'n Lid of alternatiewe lid van die Kommissie, anders as 'n persoon wat 15 in die voltydse diens van die Staat is, word op sodanige diensvoorwaardes aangestel as wat die Minister in oorleg met die Minister van Finansies bepaal.

(2) Diensvoorwaardes kragtens subartikel (1) bepaal mag verskil na gelang die betrokke persoon 'n lid of alternatiewe lid is of uit hoofde van sy of haar amp, of op 'n voltydse of deeltydse basis of in 'n professionele hoedanigheid, in die 20 Kommissie dien.

Instelling of erkenning van provinsiale kommissies

11. (1) 'n Premier kan by kennisgewing in die *Provinsiale Koerant*—

(a) 'n provinsiale ontwikkelings- en beplanningskommissie kragtens hierdie Wet ten opsigte van die betrokke provinsie instel; of 25
(b) enige liggaam van persone, raad of kommissie ingestel by of kragtens enige ander wet, as 'n provinsiale ontwikkelings- en beplanningskommissie ten opsigte van die betrokke provinsie erken.

(2) 'n In subartikel (1) bedoelde provinsiale kommissie verrig sodanige funksies van die Kommissie met betrekking tot die betrokke provinsie as wat die 30 betrokke Premier of LUR bepaal.

(3) In die geval van—

(a) 'n provinsiale kommissie ingestel kragtens hierdie Wet soos beoog in subartikel (1)(a)—
(i) word die eerste vergadering van sodanige provinsiale kommissie 35 op sodanige tyd en plek gehou as wat die Premier bepaal, en alle vergaderings daarna word op sodanige tye en plekke gehou as wat die Voorsitter van sodanige provinsiale kommissie bepaal;

(ii) is die bepalinge van artikel 7 (1) (a) (ii), (iii) en (iv), (2), (3), (4) en (5) *mutatis mutandis* van toepassing ten opsigte van die 40 aanstelling deur die Premier van lede in sodanige provinsiale kommissie;

(iii) is die bepalinge van artikels 8, 9 en 10 *mutatis mutandis* van toepassing ten opsigte van sodanige provinsiale kommissie;

(b) 'n provinsiale kommissie kragtens subartikel (1)(b) erken—

(i) word vergaderings van sodanige provinsiale kommissie op sodanige tye en plekke gehou; 45

(ii) word ander aangeleenthede in verband met vergaderings van sodanige provinsiale kommissie gereël; en

(iii) word die samestelling van sodanige provinsiale kommissie gereël, soos vereis mag word ingevolge enige wet ingevolge waarvan die 50 provinsiale kommissie oorspronklik ingestel is.

Administratiewe en navorsingsfunksies van Kommissie en provinsiale kommissies

12. (1) Die administratiewe, sekretariële en navorsingsfunksies van die Kommissie word verrig deur beamptes en werknemers wat deur die Direkteur- 55 generaal van die Departement van Grondsake, handelend in oorleg met die Direkteurs-generaal van die Departement van Behuising en van die President se Kantoor benoem word, insluitende konsultante wat op sodanige diensvoor

President, including consultants appointed on such conditions of service as the Minister may with the concurrence of the Minister of Finance determine, in the employ of those Departments.

(2) The administrative, secretarial and research functions of a provincial commission may be performed by officers and employees designated by the Premier, including consultants appointed on such conditions of service as the Premier may with the concurrence of the MEC responsible for the treasury function in that province determine, in the employ of the provincial administration of the province in which the relevant provincial commission has its seat.

Making available of money

13. (1) The activities of the Commission shall be funded from moneys made available by the Directors-General of the Departments referred to in section 12(1), subject to such conditions as they may determine, from the proceeds of the National Revenue Fund or money appropriated by Parliament for such purposes to be utilised in connection with the performance of the functions of the Commission.

(2) The activities of a provincial commission shall be funded, in the case of a commission referred to in section 11(1)(b), in terms of the law under which such commission was originally established or, in the case of a commission referred to in section 11(1)(a), from the relevant Provincial Revenue Fund.

Terms of reference of Commission

14. The subjects in respect of which the Commission shall perform its functions, shall be as follows:

- (a) Policy and legislation relating to the following aspects of planning frameworks in relation to spatial development:
 - (i) The appropriate scope of planning, including relationships between spatial and non-spatial planning;
 - (ii) The appropriate levels of government at which planning activities should be carried out and the appropriate content of planning at each such level;
 - (iii) The appropriate documentation or instruments to be used for planning purposes at each such level;
 - (iv) The appropriate emphasis that should be placed upon spatial development for the benefit of low income and historically disadvantaged communities;
 - (v) The appropriate methods of setting and monitoring compliance with performance criteria on the part of national, provincial and local government;
 - (vi) The appropriate levels and methods of public participation in planning activities at different levels of government.
- (b) Policy and legislation relating to measures to identify, assemble and release land for land development purposes, particularly for the benefit of lower income and historically disadvantaged communities, including—
 - (i) measures to provide incentives to the owners of relevant land to release such land for land development;
 - (ii) measures to discourage the withholding of such land for purposes of land development;
 - (iii) the setting of criteria and targets for performance in relation to land development on the part of provincial and local government.
- (c) Policy and legislation relating to land development and the control of land use including appropriate land development procedures; and the establishment and administration of appropriate land use control systems for land development in both the urban and rural contexts;
- (d) Nationally uniform policy and legislation relating to the cadastre, tenure types, land registration procedures and matters relating to security of tenure, including—

waardes aangestel word as wat die Minister in oorleg met die Minister van Finansies mag bepaal, in die diens van daardie Departemente.

- (2) Die administratiewe, sekretariële en navorsingsfunksies van 'n provinsiale kommissie mag verrig word deur beamptes en werknemers wat deur die Premier aangewys word, insluitende konsultante wat op sodanige diensvoorwaardes aangestel word as wat die Premier in oorleg met die LUR verantwoordelik vir die tesouriefunksie in daardie provinsie mag bepaal, in die diens van die provinsiale administrasie van die provinsie waarin die betrokke provinsiale kommissie gesetel is.

10 Beskikbaarstelling van geld

13. (1) Die werksaamhede van die Kommissie word befonds deur geld wat deur die Direkteur-generaal van die in artikel 12(1) bedoelde Departemente beskikbaar gestel word, onderhewig aan sodanige voorwaardes as wat hulle mag bepaal, uit die opbrengs van die Nasionale Inkomstefonds of uit geld deur die Parlement vir sodanige doeleindes bewillig.

- (2) Die werksaamhede van 'n provinsiale kommissie word befonds, in die geval van 'n in artikel 11(1)(b) bedoelde kommissie, ingevolge die wet waarkragtens sodanige kommissie oorspronklik ingestel is of, in die geval van 'n in artikel 11(1)(a) bedoelde kommissie, uit die betrokke Provinsiale Inkomstefonds.

Opdrag van Kommissie

14. Die aangeleenthede ten opsigte waarvan die Kommissie sy funksies uitvoer, is die volgende:

- (a) Beleid en wetgewing met betrekking tot die volgende aspekte van beplanningsraamwerke van toepassing op ruimtelike ontwikkeling:
- (i) Die toepaslike beplanningsbestek, insluitende verhoudings tussen ruimtelike en nie-ruimtelike beplanning;
 - (ii) Die toepaslike regeringsvlakke waarop beplanningsaktiwiteite uitgevoer moet word en die toepaslike inhoud van beplanning op elke sodanige vlak;
 - (iii) Die toepaslike dokumentasie of instrumente wat vir beplanningsdoeleindes op elke sodanige vlak gebruik moet word;
 - (iv) Die toepaslike klem wat geplaas moet word op ruimtelike ontwikkeling vir die voordeel van lae-inkomste en histories agtergeblewe gemeenskappe;
 - (v) Die toepaslike metodes vir die daarstelling en monitering van voldoening aan prestasiekriteria deur nasionale, provinsiale en plaaslike regering;
 - (vi) Die toepaslike vlakke en metodes van publieke deelname in beplanningsaktiwiteite op verskillende regeringsvlakke.
- (b) Beleid en wetgewing met betrekking tot maatreëls om grond te identifiseer, te versamel en beskikbaar te stel vir grondontwikkelingsdoeleindes, in besonder tot die voordeel van laerinkomste- en histories agtergeblewe gemeenskappe, insluitende—
- (i) maatreëls om aansporings aan die eienaars van relevante grond te bied om sodanige grond vir grondontwikkeling beskikbaar te stel;
 - (ii) maatreëls om die terughouding van sodanige grond vir grondontwikkelingsdoeleindes te ontmoedig;
 - (iii) die daarstelling van kriteria en doelwitte vir prestasie met betrekking tot grondontwikkeling deur provinsiale en plaaslike regering.
- (c) Beleid en wetgewing met betrekking tot grondontwikkeling en die beheer van grondgebruik insluitende toepaslike grondontwikkelingsprosedures; en die instelling en administrasie van toepaslike grondgebruikkontrolestelsels vir grondontwikkeling in beide die stedelike en landelike kontekste.
- (d) Nasionaal eenvormige beleid en wetgewing met betrekking tot die kadaster, titelsoorte, grondregistrasieprosedures en aangeleenthede met betrekking tot sekuriteit van titel, insluitende—

- (i) such reforms to land survey systems and procedures and the procedures and institutional arrangements relating to registration of rights in land as the Commission may consider appropriate and prudent;
- (ii) alternative forms of land tenure, including communal tenure, landholding by community-based landholding institutions, tribal or customary systems of landholding; 5
- (iii) measures to facilitate and expedite the disbursement of end-user finance, in the form of subsidies, loans or otherwise, in land developments. 10
- (e) Policy and legislation relating to engineering infrastructure and services and other services to be provided by public authorities, including—
 - (i) appropriate levels and standards of such services;
 - (ii) appropriate tariff structures for such services;
 - (iii) the financing of such services, including in particular the financing of bulk infrastructure; 15
 - (iv) institutional arrangements for the management and provision of such services, including in particular the responsibilities of the government and non-government sectors in relation to the provision of bulk and internal services. 20
- (f) Policy and legislation relating to financial and fiscal matters impacting upon relationships between different tiers of government or different government bodies.
- (g) Any other matter identified by the Minister by notice in the *Gazette*.

CHAPTER III

25

DEVELOPMENT TRIBUNALS

Establishment and composition of development tribunals

15. (1) A tribunal is hereby established for each province in each case to be known as the development tribunal of the province concerned.
- (2) Each tribunal shall consist of a Chairperson, a Deputy-Chairperson and such other member or members as the Premier may from time to time determine. 30
- (3) The Chairperson, Deputy-Chairperson and other members of a tribunal shall be appointed by the Premier by reason of their qualifications in, knowledge or experience of land development matters or the law and shall be persons who are in his or her opinion competent to perform the functions assigned in terms of this Chapter to such Chairperson, Deputy-Chairperson or members. 35
- (4)(a) As far as may be practicable in the circumstances, one half of the persons appointed to the tribunal as contemplated in subsection (3) shall be officers in the public service of the provincial administration concerned or in the service of any local government body in the province, and one half shall be persons appointed from outside of such public or local government service. 40
- (b) Prior to the appointment of a person to a tribunal as contemplated in subsection (3), the Premier shall—
- (i) advertise his or her intention so to appoint such person by notice in the *Provincial Gazette*; and 45
 - (ii) take into account any comment or objection in respect of such appointment, which might be received by him or her from any person or body.
- (5) The Chairperson, Deputy-Chairperson and other members of the tribunal shall be appointed by the Premier for such periods as he or she may determine and on such conditions as he or she may determine with the concurrence of the MEC responsible for treasury functions in the province. 50
- (6) Every appointment under subsection (5) shall be notified in the *Provincial Gazette*.
- (7) The Deputy-Chairperson of a tribunal shall act as Chairperson of the relevant tribunal whenever the Chairperson is for any reason unable to act. 55

- (i) sodanige hervormings aan grondopmetingstelsels en—prosedures en die prosedures en institusionele reëlings met betrekking tot registrasie van grondregte soos die Kommissie toepaslik en verstandig mag ag;
- 5 (ii) alternatiewe vorme van grondtitel, insluitende gemeenskaplike titel, grondhouding deur gemeenskapsgebaseerde grondhoudingsinstellings, stam- of tradisionele stelsels van grondhouding;
- (iii) maatreëls om die uitbetaling van eindgebruikerfinansiering, in die vorm van subsidies, lenings of andersins, tydens grondontwikkeling te fasiliteer en te bespoedig.
- 10 (e) Beleid en wetgewing met betrekking tot ingenieursinfrastruktuur en -dienste en ander dienste wat deur openbare owerhede verskaf staan te word, insluitende—
 - (i) toepaslike vlakke en standaarde van sodanige dienste;
 - 15 (ii) toepaslike tariefstrukture vir sodanige dienste;
 - (iii) die finansiering van sodanige dienste, insluitende in besonder die finansiering van grootmaat infrastruktuur;
 - (iv) institusionele reëlings vir die bestuur en verskaffing van sodanige dienste, insluitende in besonder die verantwoordelikhede van die regering- en nie-regeringsektore in verband met die verskaffing van grootmaat en interne dienste.
 - 20 (f) Beleid en wetgewing met betrekking tot finansiële en fiskale aangeleenthede wat op die verhouding tussen verskillende regeringsvlakke of verskillende regeringsliggame 'n invloed het.
 - 25 (g) Enige ander aangeleentheid deur die Minister by kennisgewing in die *Staatskoerant* geïdentifiseer.

HOOFSTUK III

ONTWIKKELINGSTRIBUNALE

Instelling en samestelling van ontwikkelingstribunale

- 30 15. (1) 'n Tribunaal word hiermee ingestel vir elke provinsie wat in elke geval as die ontwikkelingstribunaal van die betrokke provinsie bekend staan.
- (2) Elke tribunaal bestaan uit 'n Voorsitter, 'n Vise-voorsitter en sodanige ander lid of lede as wat die Premier van tyd tot tyd bepaal.
- (3) Die Voorsitter, Vise-voorsitter en ander lede van die tribunaal word deur
- 35 die Premier op grond van hul kwalifikasies in, kennis van of ervaring in grondontwikkelingsaangeleenthede of die reg aangestel en is persone wat volgens sy of haar mening bevoeg is om die funksies ingevolge hierdie Hoofstuk aan sodanige Voorsitter, Vise-voorsitter of lede opgedra, uit te oefen.
- (4) (a) Sover as wat prakties in die omstandighede is, is een-helfte van die
- 40 persone in die tribunaal aangestel soos beoog in subartikel (3) beampptes in die staatsdiens van die betrokke provinsiale administrasie of in die diens van enige plaaslike owerheidsliggaam in die provinsie, en een-helfte persone wat van buite die betrokke staatsdiens of plaaslike owerheidsdiens aangestel word.
- (b) Voor die aanstelling van 'n persoon tot 'n tribunaal soos beoog in
- 45 subartikel (3)—
 - (i) publiseer die Premier sy of haar voorneme om sodanige persoon aldus aan te stel by kennisgewing in die *Provinsiale Koerant*; en
 - (ii) neem die Premier enige kommentaar of beswaar ten opsigte van sodanige aanstelling, wat deur hom of haar van enige persoon of
 - 50 liggaam ontvang mag word, in ag.
- (5) Die Voorsitter, Vise-voorsitter en ander lede van die tribunaal word deur die Premier vir sodanige tydperk as wat hy of sy bepaal en op sodanige voorwaardes as wat hy of sy bepaal in oorleg met die LUR verantwoordelik vir die tesouriefunksies in die provinsie aangestel.
- 55 (6) Elke aanstelling kragtens subartikel (5) word in die *Provinsiale Koerant* gepubliseer.
- (7) Die Vise-voorsitter van 'n tribunaal dien as Voorsitter van die betrokke tribunaal wanneer die Voorsitter weens enige rede nie in staat is om aldus op te tree nie.

(8) Whenever both the Chairperson and the Deputy-Chairperson of a tribunal are for any reason unable to act as Chairperson of a tribunal, the Premier shall designate any other member of the tribunal, if any, to act as such Chairperson and if there is no other member of a tribunal, the Premier shall appoint the person holding a qualification required in terms of subsection (3) for appointment to the tribunal, to act as Chairperson of the tribunal during such inability of the Chairperson or the Deputy-Chairperson and any person so designated or appointed shall during the period of such inability be deemed for all purposes to be the Chairperson of the tribunal. 5

(9) The administrative functions of a tribunal shall be performed by an officer, to be known as the tribunal registrar, in the public service of the relevant provincial administration designated by the MEC responsible for urban and rural development functions in the relevant province, by reason of his or her knowledge of land development affairs, the law or administration and the officer so designated shall be in charge of the administrative functions of a tribunal. 10 15

(10)(a) A tribunal shall have its seat at such place or places as may be notified by the Premier in the *Provincial Gazette*.

(b) A tribunal shall have jurisdiction throughout the province for which it has been established.

(c) The functions of a tribunal may be performed at a seat referred to in subparagraph (a) or at any other place in the province concerned. 20

(11) If any casual vacancy occurs on a tribunal, such vacancy may be filled by the appointment of another person in accordance with the provisions of subsections (3), (4) and (6) and any person so appointed shall hold office for the unexpired portion of the period of office of the member in whose place he or she is appointed. 25

Functions of a development tribunal

16. (1) The functions of a tribunal may be performed by any member or members of the tribunal to whom any matter has been referred by the Chairperson of the tribunal: Provided that, where any matter contemplated in subsection (2)(a), (b)(ii) or (iv) serves before a tribunal, the functions of the tribunal shall be performed by at least two persons, of which one shall be in the public or local government service and at least one shall be an appointee from outside such public or local government service, as contemplated in section 15(4). 30 35

(2) The functions of a tribunal shall be—

(a) to deal with any matter brought before the tribunal in terms of sections 25(3), 28, 29, 35(2), 37, 45, 48, 50 or 54;

(b) in dealing with any matter referred to in paragraph (a), (c) or (d)—

(i) to grant urgent interim relief until a final order is made by the tribunal; 40

(ii) to grant or decline final orders or decisions;

(iii) to refer any matter to prior mediation as contemplated in section 17;

(iv) to carry out any necessary inquiry or investigation;

(v) to give directions to any person in the public service or in the employ of a local government body; 45

(vi) to grant or decline any approval or impose conditions to any approval in respect of any application made to or required to be granted by a tribunal as contemplated in this Act;

(vii) to determine or relax any time period within which any act in relation to any land development is to be performed by any person; 50

(viii) to decide any question concerning its own jurisdiction;

(c) to deal with any other matter with which it is required or permitted to deal by or under this Act;

(d) generally to deal with all matters necessary or incidental to the performance of its functions in terms of or under this Act. 55

- (8) Wanneer beide die Voorsitter en die Vise-voorsitter van 'n tribunaal weens enige rede nie in staat is om as Voorsitter van die tribunaal op te tree nie, wys die Premier enige ander lid van die tribunaal, indien enige, aan om as sodanige Voorsitter op te tree, en indien daar nie 'n ander lid van die tribunaal is nie, stel
- 5 die Premier die persoon wat 'n kwalifikasie het soos ingevolge subartikel (3) vereis in die tribunaal aan om as Voorsitter van die tribunaal gedurende sodanige onvermoë van die Voorsitter of die Vise-voorsitter te dien, en enige persoon aldus benoem of aangestel word vir die duur van sodanige onvermoë vir alle doeleindes die Voorsitter van die tribunaal geag te wees.
- 10 (9) Die administratiewe funksies van 'n tribunaal word uitgeoefen deur 'n beampte, wat as die tribunaalregistrator bekend staan, in die staatsdiens van die betrokke provinsiale administrasie, aangewys deur die LUR verantwoordelik vir stedelike en landelike ontwikkelingsfunksies in die betrokke provinsie uit hoofde van sy of haar kennis van grondontwikkelingsaangeleenthede, die reg of
- 15 administrasie, en die beampte aldus aangewys is in beheer van die administratiewe funksies van 'n tribunaal.
- (10) (a) 'n Tribunaal is op sodanige plek of plekke gesetel as wat van tyd tot tyd deur die Premier in die *Provinsiale Koerant* gepubliseer word.
- (b) 'n Tribunaal het jurisdiksie in die provinsie waarvoor dit ingestel is.
- 20 (c) Die funksies van 'n tribunaal kan by 'n in subparagraaf (a) bedoelde setel of op enige ander plek in die betrokke provinsie uitgeoefen word.
- (11) Indien enige tydelike vakature in 'n tribunaal ontstaan, mag sodanige vakature deur die aanstelling van enige persoon ooreenkomstig die bepalings van subartikels (3), (4) en (6) gevul word, en enige persoon aldus aangestel
- 25 bekleed die amp vir die onverstreke gedeelte van die ampstermyn van die lid in wie se plek hy of sy aangestel is.

Funksies van 'n ontwikkelingstribunaal

16. (1) Die funksies van 'n tribunaal mag deur enige lid of lede van die tribunaal na wie enige aangeleentheid deur die Voorsitter van die tribunaal
- 30 verwys is, uitgeoefen word: Met dien verstande dat waar enige in subartikel 2(a), (b)(ii) of (iv) beoogde aangeleentheid voor 'n tribunaal dien, die funksies van die tribunaal deur ten minste twee persone uitgeoefen word, waarvan een in die staatsdiens of plaaslike owerheidsdiens is en ten minste een 'n aanstelling van buite die staatsdiens of plaaslike owerheidsdiens is, soos beoog in artikel 15(4).
- 35 (2) Die funksies van 'n tribunaal is—
- (a) om met enige aangeleentheid te handel wat ingevolge artikels 25(3), 28, 29, 35(2), 37, 45, 48, 50 of 54 voor die tribunaal gebring word;
- (b) in die hantering van enige aangeleentheid bedoel in paragraaf (a), (c) of (d)—
- 40 (i) om dringende tussentydse hulp te verleen hangende die maak van 'n finale bevel deur die tribunaal;
- (ii) om finale bevels of beslissings te maak of af te wys;
- (iii) om enige aangeleentheid na voorafgaande mediasie, soos beoog in artikel 17, te verwys;
- 45 (iv) om enige nodige ondersoek uit te voer;
- (v) om aan enige persoon in die staatsdiens of in die diens van 'n plaaslike owerheidsliggaam lasgewings op te lê;
- (vi) om enige toestemming te verleen of af te wys of voorwaardes ten opsigte van enige goedkeuring ingevolge enige aansoek gebring na
- 50 of wat vereis word om verleen te word deur 'n tribunaal soos beoog in hierdie Wet, op te lê;
- (vii) om enige tydperke waarbinne enige handeling met betrekking tot enige grondontwikkeling deur enige persoon uitgevoer moet word, te bepaal of te verslap;
- 55 (viii) om enige vraag rakende die tribunaal se eie jurisdiksie te beslis;
- (c) om met enige ander aangeleentheid te handel wat die tribunaal verlang of toegelaat word om mee te handel by of kragtens hierdie Wet;
- 60 (d) om in die algemeen met alle aangeleenthede nodig of aanvullend tot die uitoefening van die tribunaal se funksies ingevolge of kragtens hierdie Wet te handel.

(3) A tribunal may in the performance of any of its functions under subsection (2), make an order as to costs according to the requirements of the law or fairness and any such order may also be made against an organisation, professional person or other person acting on behalf of or in any manner assisting any person if such organisation, professional or other person acted unreasonably.

(4) A tribunal may decide that any matter which falls to be dealt with by it under this Act or any investigation which it deemed necessary in connection with any matter which is being considered by the tribunal, shall, subject to subsection (1), be dealt with or carried out on its behalf by any member or members thereof designated by the Chairperson.

(5) Whenever the Chairperson has designated more than one member of a tribunal to perform any function of the tribunal as contemplated in subsection (1), he or she shall designate one of the proposed members to act as presiding officer.

(6) The decision of a majority of the members of a tribunal sitting in any particular matter shall for the purposes of this Act be deemed to be a decision of the tribunal: Provided that—

(a) where a function of the tribunal is performed by a single member, the decision of that member shall be the decision of the tribunal; and

(b) the Chairperson or the member designated by him or her in terms of subsection (5) to act as presiding officer, shall, in the event of the equality of votes, have a casting vote in addition to his or her deliberative vote.

(7) A decision, award, order or determination of a tribunal may be executed as if it were a decision, award, order or a determination made by a Magistrate's Court having jurisdiction in the relevant district, *mutatis mutandis*, as intended in the Magistrate's Court Act, 1944 (Act No. 32 of 1944).

(8) A tribunal may in writing, under the hand of the Chairperson or of an officer in the public service of the provincial administration authorised thereto by the Chairperson, require any person who in its opinion may be able to give any material information which it desires to obtain for the purposes of or in connection with any matter which falls to be dealt with under this Act, and which said person could have been compelled to give if he or she had appeared before the tribunal on a subpoena issued by virtue of subsection (10)(a), to furnish it with such information within such period and in such form as it may specify.

(9) Any person who fails to comply with any requirement in terms of subsection (8) or wilfully furnishes a tribunal with any false information shall be guilty of an offence.

(10) A tribunal or any member or members thereof dealing with any matter or carrying out any investigation in terms of subsection (4) shall, during the course of the performance of the functions of the tribunal be entitled to—

(a) subpoena any person who in its opinion may be able to give material information concerning the subject of the enquiry, or who it suspects or believes has in his or her possession or custody or under his or her control any book, document or thing which has any bearing upon the subject of the enquiry, to appear before it at a time and place specified in the subpoena, to be interrogated or to produce that book, document or thing: Provided that if any person or body concerned satisfies the tribunal that there are reasonable grounds for supposing that any person is able to give such information or has in his or her possession or custody or under his or her control any such book, document or thing, it shall so subpoena that person;

(b) retain for examination any book, document or thing so produced;

(c) at any time, without previous notice, enter any premises whatsoever for the purposes of conducting an inspection *in loco* thereon or therein and the owner or occupier of any such premises, and every person employed by him or her shall at all times furnish such facilities as the tribunal may require for entering such premises and for making such inspection.

(3) 'n Tribunaal kan in die uitoefening van enige van sy funksies kragtens subartikel (2), 'n bevel rakende koste in ooreenstemming met die vereistes van die reg of billikheid maak, en enige sodanige bevel mag ook gemaak word teen 'n organisasie, professionele persoon of ander persoon wat namens enige
5 persoon optree of op enige ander wyse sodanige persoon bystaan indien sodanige organisasie, professionele persoon of ander persoon onredelik opgetree het.

(4) 'n Tribunaal mag beslis dat enige aangeleentheid wat kragtens hierdie Wet deur hom mee gehandel moet word of enige ondersoek wat dit nodig ag in
10 verband met enige aangeleentheid wat deur die tribunaal oorweeg word, onderhewig aan subartikel (1), deur enige lid of lede daarvan deur die Voorsitter aangewys namens die tribunaal mee gehandel of uitgevoer moet word.

(5) Wanneer die Voorsitter meer as een lid van die tribunaal aangewys het om enige funksie van die tribunaal soos beoog in subartikel (1) uit te voer, wys hy
15 of sy een van die voorgestelde lede aan om as voorsittende beampte op te tree.

(6) Die beslissing van 'n meerderheid van die lede van 'n tribunaal voor wie enige besondere aangeleentheid dien, word vir die doeleindes van hierdie Wet geag 'n beslissing van die tribunaal te wees: Met dien verstande dat—

(a) waar 'n funksie van die tribunaal deur 'n enkele lid uitgeoefen word,
20 die beslissing van daardie lid die beslissing van die tribunaal is; en

(b) die Voorsitter of die lid deur hom of haar ingevolge subartikel (5) aangewys om as voorsittende beampte op te tree, het in die geval van 'n gelykopverdeling van stemme 'n beslissende stem benewens sy of
haar beraadslagende stem.

(7) 'n Beslissing, toekenning, bevel of bepaling van 'n tribunaal mag uitgevoer word asof dit 'n beslissing, toekenning, bevel of bepaling gemaak deur 'n Landdroshof wat jurisdiksie het in die betrokke distrik, *mutatis mutandis* soos bedoel in die Wet op Landdroshowe, 1944 (Wet No. 32 van 1944), is.

(8) 'n Tribunaal mag skriftelik, onder die handtekening van die Voorsitter of
30 van 'n beampte in die staatsdiens van die provinsiale administrasie wat deur die Voorsitter daartoe gemagtig is, enige persoon wat na sy of haar mening in staat mag wees om enige wesenlike inligting te verstrek wat hy of sy verlang om te verkry vir die doeleindes van of in verband met enige aangeleentheid wat kragtens hierdie Wet mee gehandel moet word, en wat sodanige persoon verplig
35 kon geword het om te verstrek as hy of sy voor die tribunaal verskyn het ingevolge 'n subpoena uitgereik ingevolge subartikel (10)(a), gelas om sodanige inligting aan dit te verstrek binne die tydperk en in die vorm wat dit bepaal:

(9) Enigiemand wat versuim om aan enige vereiste ingevolge subartikel (8) te voldoen of wat opsetlik enige valse inligting aan die tribunaal verstrek, is aan 'n
40 misdryf skuldig.

(10) 'n Tribunaal of enige lid of lede daarvan wat ingevolge subartikel (4) met enige aangeleentheid handel of enige ondersoek uitvoer, is gedurende die uitoefening van die funksies van die tribunaal geregtig om—

(a) enige persoon wat na die tribunaal se mening in staat mag wees om
45 enige wesenlike inligting met betrekking tot die onderwerp van die ondersoek te verstrek, of wat die tribunaal vermoed of glo enige boek, dokument of saak wat enige betrekking op die onderwerp van die ondersoek het in sy of haar besit of bewaring of onder sy of haar beheer het, om voor dit te verskyn op die tyd en plek in die subpoena aangedui, as getuie te dagvaar om ondervra te word of om daardie
50 boek, dokument of saak voor te lê: Met dien verstande dat indien enige betrokke persoon of liggaam die tribunaal oortuig dat daar redelike gronde is om te vermoed dat enige persoon in staat is om sodanige inligting te verskaf of enige sodanige boek, dokument of saak in sy of haar besit of bewaring of onder sy of haar beheer het, word daardie persoon aldus as getuie gedagvaar;

(b) enige boek, dokument of saak aldus vir ondersoek voorgelê, te behou;
(c) te eniger tyd, sonder voorafgaande kennis, enige perseel hoegenaamd
60 te betree vir die doeleindes om 'n inspeksie *in loco* daarop of daarin uit te voer, en die eienaar of okkupeerder van sodanige perseel, en elke persoon in diens van hom of haar, verskaf te alle tye sodanige fasiliteite as wat die tribunaal mag vereis om sodanige perseel te betree en om sodanige inspeksie te hou.

(11) A tribunal may call and administer an oath to or accept an affirmation from any person present at an enquiry who was or might have been subpoenaed in terms of subsection (10)(a) and may interrogate such person and require him or her to produce any book, document or thing in his or her possession or custody or under his or her control.

(12) Any person who has been subpoenaed under subsection (10)(a) and who fails without sufficient cause to attend at the time and place specified in the subpoena shall be guilty of an offence.

(13) Any person who has been subpoenaed under subsection (10)(a) or has been called under subsection (11) and who refuses to be sworn or to affirm as a witness or fails to answer fully and satisfactorily to the best of his or her knowledge and belief all questions lawfully put to him or her, or to produce any book, document or thing in his or her possession or custody or under his or her control when lawfully required to do so, or who fails to remain in attendance until excused from further attendance by the tribunal shall be guilty of an offence.

(14) Any person subpoenaed to appear before a tribunal may, if the tribunal registrar is satisfied that he or she has by reason of his or her appearance in obedience to the subpoena suffered any pecuniary loss or been put to any personal expense, be paid from moneys appropriated by the legislature of the province such allowances as the Premier may with the concurrence of the MEC responsible for treasury functions in the province from time to time determine or the amount of any such loss or expense, whichever is the lesser: Provided that if the person subpoenaed is in the full-time employment of the State or a local government body, the allowances or amount payable to him or her shall be determined in accordance with the laws governing his or her employment.

(15) A tribunal shall be a tribunal of record.

(16) A tribunal shall, subject to any procedures contained in rules prescribed under section 21, provide the reasons for its decisions in writing and within a reasonable period of time after such decision has been made and handed down.

(17) (a) No person shall—

- (i) insult, disparage or belittle any member of a tribunal in that capacity, or prejudice, influence or anticipate the proceedings or findings of a tribunal;
- (ii) wilfully interrupt the proceedings of a tribunal or misconduct himself or herself in any manner during such proceedings;
- (iii) do anything in relation to a tribunal which if done in relation to a Court of law would constitute contempt of Court.

(b) Any person who contravenes any provision of paragraph (a) shall be guilty of an offence.

(18) Any person who is convicted of an offence under this section shall be liable to a fine not exceeding R..... or imprisonment for a period not exceeding

Mediation

17. (1) If any party to a dispute serving before a tribunal applies to the tribunal for the appointment of a mediator or if the tribunal is of the opinion that any dispute serving before it should, before any further inquiry by the tribunal is held, first be referred to mediation, the tribunal may, after consultation with the parties to any dispute, appoint any person, acceptable to all parties to the dispute, as a mediator in such dispute: Provided that should all the parties to the dispute not be able to reach agreement on the person to be so appointed, the tribunal may appoint any person from the panel of mediators referred to in subsection (2) to act as a mediator in that dispute.

(2) The Premier shall appoint a panel of mediators by reason of their knowledge, qualifications or experience of mediating land development disputes, for the purposes of members of such panel being appointed as mediators in the circumstances contemplated in subsection (1).

(11) 'n Tribunaal mag 'n eed vereis van en uitvoer op of 'n plegtige verklaring neem van, enige persoon teenwoordig by 'n ondersoek wat ingevolge subartikel (10)(a) as getuie gedagvaar is of mag gewees het, en mag sodanige persoon ondervra en van hom of haar vereis om enige boek, dokument of saak in sy of 5 haar besit of bewaring of onder sy of haar beheer, voor te lê.

(12) Enigiemand wat kragtens subartikel (10)(a) as getuie gedagvaar is en wat sonder voldoende rede versuim om op die tyd en plek uiteengesit in die subpoena teenwoordig te wees, is aan 'n misdryf skuldig.

(13) Enigiemand wat kragtens subartikel (10)(a) as getuie gedagvaar is, of wat 10 kragtens subartikel (11) opgeroep is en wat weier om as 'n getuie ingesweer of bevestig te word, of wat versuim om vrae wat regtens aan hom of haar gestel is volledig en bevredigend na die beste van sy of haar kennis en geloof te beantwoord, of om enige boek, dokument of saak in sy of haar besit of bewaring of onder sy of haar beheer te lewer wanneer regtens vereis word om dit te doen, 15 of wat versuim om teenwoordig te bly totdat hy of sy deur die tribunaal van verdere teenwoordigheid verskoon word, is aan 'n misdryf skuldig.

(14) Enigiemand wat gedagvaar is om as getuie voor 'n tribunaal te verskyn, mag, indien die tribunaalregistrator tevrede is dat hy of sy weens sy of haar verskyning ingevolge die subpoena enige finansiële verlies gely het of genood- 20 saak was om enige persoonlike uitgawes aan te gaan, sodanige toelaag betaal word uit gelde bewillig deur die wetgewer van die provinsie as wat die Premier in oorleg met die LUR verantwoordelik vir tesouriefunksies in die provinsie van tyd tot tyd mag bepaal, of die bedrag van enige sodanige verlies of uitgawe, wat ookal die kleinste is: Met dien verstande dat indien die persoon wat as getuie 25 gedagvaar is in die voltydse diens van die Staat of 'n plaaslike owerheidsliggaam is, die toelaag of bedrag aan hom of haar betaalbaar bepaal word in ooreenstemming met die wette wat sy of haar diens reël.

(15) 'n Tribunaal is 'n tribunaal van rekord.

(16) 'n Tribunaal verskaf, onderworpe aan enige prosedure vervat in reëls 30 kragtens artikel 21 voorgeskryf, die skriftelike redes vir sy beslissings en binne 'n redelike tydperk nadat sodanige beslissing gemaak en gelewer is.

(17) (a) Geen persoon—

(i) beledig, minag of verkleineer enige lid van 'n tribunaal in daardie 35 hoedanigheid nie, of benadeel, beïnvloed of antisipeer die verrigtinge of bevindinge van 'n tribunaal nie;

(ii) onderbreek opsetlik die verrigtinge van 'n tribunaal of wangedra homself of haarself op enige wyse gedurende sodanige verrigtinge nie;

(iii) doen enigiets met betrekking tot 'n tribunaal wat indien met betrekking 40 tot 'n geregshof gedoen sou word, neerkom op minagting van die Hof nie.

(b) Enigiemand wat enige bepaling van paragraaf (a) oortree, is aan 'n misdryf skuldig.

(18) Enigiemand wat skuldig bevind word aan 'n misdryf kragtens hierdie artikel is met 'n boete van hoogstens R..... of met gevangenisstraf vir 'n 45 tydperk van hoogstens strafbaar.

Mediasie

17. (1) Indien enige party tot 'n geskil wat voor 'n tribunaal dien by die tribunaal aansoek doen vir die aanstelling van 'n mediator, of indien die tribunaal van mening is dat enige geskil wat voor dit dien, voordat enige verdere 50 ondersoek deur die tribunaal gehou word, eers na mediasie verwys moet word, mag die tribunaal, na oorleg met die partye tot enige geskil, enige persoon, wat vir alle partye tot die geskil aanvaarbaar is, as 'n mediator in sodanige geskil aanwys: Met dien verstande dat indien al die partye tot die geskil nie in staat is om ooreenkoms te bereik oor die persoon wat aldus aangestel moet word nie, 55 mag die tribunaal enige persoon van die paneel van mediators in subartikel (2) bedoel aanwys, om as 'n mediator in daardie geskil op te tree.

(2) Die Premier stel 'n paneel van mediators aan uit hoofde van hul kennis, kwalifikasies of ondervinding in mediasie van grondontwikkelingsgeskille, vir 60 die doeleindes dat lede van sodanige paneel as mediators aangestel mag word in die omstandighede beoog in subartikel (1).

(3) A mediator appointed under subsection (1) shall confer with the parties to a dispute, conduct such enquiries and investigations as he or she may deem necessary, endeavour to bring about a settlement in the dispute and make a report to the tribunal as to the results of his or her mediation and for these purposes shall have all of the powers of a tribunal in terms of section 16(10) and (11).

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Appeals against tribunal decisions

18. (1) Any decision or determination by a tribunal is final: Provided that, if a development appeal tribunal has been established or recognised in the province under section 19, any party to a dispute relating to a matter referred to in section 16(2)(a) or (b)(ii) may within such period and in such manner as may be prescribed by a rule made under section 21, appeal against the decision of a tribunal in regard to that dispute or any related order as to costs, to the development appeal tribunal for the province established or recognised under section 19.

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(2) Pending an appeal in terms of subsection (1) a tribunal may on application make such interim order as it deems reasonable.

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(3) On appeal, an appeal tribunal referred to in section 19 may confirm, vary or set aside the order or decision appealed against or make any other order or decision, including an order as to costs according to the requirements of the law and fairness.

Establishment of development appeal tribunal

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19. (1) A Premier may, by notice in the *Provincial Gazette*—

- (a) establish a development appeal tribunal for the relevant province; or
- (b) recognise any body of persons, board or commission established by or under any other law as a development appeal tribunal for the relevant province.

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(2) Notwithstanding anything to the contrary contained in any law referred to in subsection (1)(b), every session of a development appeal tribunal shall consist at least of a Chairperson and two members appointed by the Premier by reason of their qualifications in, experience or knowledge of land development matters or the law: Provided that at least one of such persons shall have knowledge of the law.

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(3) A development appeal tribunal shall have the power to decide any appeal made to it in terms of section 18.

Review by Supreme Court

20. Without derogating from the rights of any person under the Constitution to gain access to a court of law, the proceedings of any tribunal or of any development appeal tribunal referred to in section 19 may be brought under review before any division of the Supreme Court having jurisdiction under the Supreme Court Act, 1959 (Act No. 59 of 1959).

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Rules of procedure

21. (1) The Minister may in respect of a tribunal and in respect of any development appeal tribunal established or recognised under section 19 by notice in the *Government Gazette* prescribe rules—

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- (a) regulating the form of process and the manner of conducting proceedings;

- (b) as to the manner in which any matter cognisable by a tribunal or such development appeal tribunal shall be brought before it;

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- (c) as to the representation of any party before a tribunal or such development appeal tribunal, including the basis upon which any such party who or which requires representation by any other person, but who or which is unable to afford such representation, may qualify for financial or other assistance from the State;

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- (3) 'n Mediator kragtens subartikel (1) aangewys, beraadslaag met die partye tot 'n geskil, onderneem sodanige navrae en ondersoeke as wat hy of sy mag nodig ag, poog om 'n skikking van die geskil te bewerkstellig en stel 'n verslag aan die tribunaal op rakende die uitslag van sy of haar mediasie, en vir hierdie doeleindes het hy of sy al die bevoegdheid van 'n tribunaal ingevolge artikel 16(10) en (11).

Appelle teen tribunaalbeslissings

18. (1) Enige bevinding of beslissing deur 'n tribunaal is finaal: Met dien verstande dat indien 'n ontwikkelingsappèltribunaal kragtens artikel 19 in die provinsie ingestel of erken is, mag enige party tot 'n geskil met betrekking tot 'n aangeleentheid bedoel in artikel 16(2)(a) of (b)(ii) binne sodanige tydperk en op sodanige wyse as wat voorgeskryf mag word deur 'n reël kragtens artikel 21 gemaak, teen die beslissing van 'n tribunaal met betrekking tot daardie geskil of enige verbandhoudende bevel rakende koste, na die ontwikkelingsappèltribunaal vir die provinsie kragtens artikel 19 ingestel of erken, appelleer.

(2) Hangende 'n appèl ingevolge subartikel (1), mag 'n tribunaal op aansoek sodanige interim bevel maak as wat dit redelik ag.

- (3) By appèl mag 'n in artikel 19 bedoelde appèltribunaal die bevel of beslissing waarteen geappelleer word, bevestig, wysig of tersydestel of enige ander bevel of beslissing maak, insluitende 'n bevel rakende koste ooreenkomstig die vereistes van die reg en billikheid.

Instelling van ontwikkelingsappèltribunaal

19. (1) 'n Premier kan, by kennisgewing in die *Provinsiale Koerant*—
(a) 'n ontwikkelingsappèltribunaal vir die betrokke provinsie instel; of
(b) enige liggaam van persone, raad of kommissie by of kragtens enige ander wet, as 'n ontwikkelingsappèltribunaal vir die betrokke provinsie ingestel, erken.

- (2) Ondanks andersluidende bepalings van enige wet bedoel in subartikel (1)(b), bestaan elke sitting van 'n ontwikkelingsappèltribunaal ten minste uit 'n Voorsitter en twee lede deur die Premier op grond van hul kwalifikasies in, ondervinding in of kennis van grondontwikkelingsaangeleenthede of die reg aangewys: Met dien verstande dat ten minste een van sodanige persone kennis van die reg het.

- (3) 'n Ontwikkelingsappèltribunaal het die bevoegdheid om enige appèl ingevolge artikel 18 na dit gemaak, te beslis.

Hersiening deur Hooggeregshof

20. Sonder om afbreuk te doen aan die regte van enigiemand om kragtens die Grondwet tot die houe toegang te hê, mag die verrigtinge van enige tribunaal of van enige in artikel 19 bedoelde ontwikkelingsappèltribunaal voor enige afdeling van die Hooggeregshof wat kragtens die Wet op die Hooggeregshof, 1959 (Wet No. 59 van 1959) jurisdiksie het, op hersiening geneem word.

Prosedurereëls

21. (1) Die Minister mag ten opsigte van 'n tribunaal en ten opsigte van enige ontwikkelingsappèltribunaal kragtens artikel 19 ingestel of erken by kennisgewing in die *Staatskoerant* reëls voorskryf—

- (a) wat die vorm van die proses en die wyse waarop verrigtinge gevoer word, reguleer;
(b) rakende die wyse waarop enige aangeleentheid wat deur 'n tribunaal of sodanige ontwikkelingsappèltribunaal beregbaar is, voorgelê moet word;
(c) rakende die verteenwoordiging van enige party voor 'n tribunaal of sodanige ontwikkelingsappèltribunaal, insluitende die basis waarop enige sodanige party wie of wat verteenwoordiging deur enige ander persoon benodig, maar wie of wat nie sodanige verteenwoordiging kan bekostig nie, vir finansiële of ander bystand van die Staat mag kwalifiseer;

- (d) with the concurrence of the Minister of Finance, as to the fees payable in respect of the service or execution of any process of a tribunal or such development appeal tribunal and the tariff or costs and expenses that may be allowed in respect of such service or execution;
 - (e) as to the powers, functions and duties of and the hours during which the office of the tribunal registrar shall be open for the transaction of business;
 - (f) as to the period within which and the manner in which an appeal under section 18 shall be noted;
 - (g) regarding the order of preference to be given to matters serving before a tribunal or such development appeal tribunal, in order to ensure that priority is given to matters where delays are likely adversely to affect the affordability of sites or units for the intended beneficiaries, or which affect or are likely to affect a substantial number of persons or persons with particularly pressing needs;
 - (h) generally relating to all matters necessary or incidental to the exercise of the powers and the performance of the functions of a tribunal or such development appeal tribunal.
- (2) The Minister may from time to time in like manner repeal or alter any rule made under subsection (1).

CHAPTER IV

DEVELOPMENT PERFORMANCE MEASURES

Body responsible for setting performance criteria

22. (1) The performance criteria referred to in section 23 shall, subject to subsections (2), (3), (4) and (5), be set—
- (a) in respect of any particular local government area, by the local government body having jurisdiction, but to the satisfaction of the responsible MEC; and
 - (b) outside such local government area, by the responsible MEC.
- (2) Notwithstanding the provisions of subsection (1), both the responsible MEC and the local government body concerned shall have concurrent authority to set performance criteria in relation to any particular local government area.
- (3) In the event of any conflict or inconsistency between performance criteria set by the relevant MEC and a local government body in respect of any particular local government area, the performance criteria set by such local government body shall prevail: Provided that in the event of any such local government body having failed within a period of time notified by the MEC in the *Provincial Gazette* either generally or in any particular case, to set such performance criteria, the relevant MEC may set such performance criteria in respect of that local government area and in such event, any criteria so set shall prevail over any criteria subsequently set or purportedly set by such local government body.
- (4) Performance criteria in terms of this section shall be set in such manner and after following such procedures, including procedures relating to public participation, as the responsible MEC may prescribe in the *Provincial Gazette*.
- (5) The Minister may, at the request of the responsible MEC, perform the functions and exercise the powers of the responsible MEC, *mutatis mutandis* in terms of this Chapter.

Subject matter of performance criteria

23. The performance criteria set in terms of section 22 shall relate to—
- (a) the objectives of the relevant authority in relation to accessible services for land developments, including water, health and education facilities.

- (d) in oorleg met die Minister van Finansies, rakende die fooie betaalbaar ten opsigte van die dienste of uitvoering van enige prosesstuk van 'n tribunaal of sodanige ontwikkelingsappèltribunaal en die kostetarief en uitgawetarief wat toelaatbaar is ten opsigte van sodanige dienste of uitvoering;
 - (e) rakende die magte, funksies en pligte van en die ure waartydens die kantoor van die tribunaalregistrator vir sake oop moet wees;
 - (f) rakende die tydperk waarin en die wyse waarop 'n appèl kragtens artikel 18 genoteer moet word;
 - (g) met betrekking tot die rangorde wat aan aangeleenthede wat voor 'n tribunaal of sodanige ontwikkelingsappèltribunaal dien, gegee moet word, ten einde te verseker dat voorkeur aan aangeleenthede waar verdragings waarskynlik die bekostigbaarheid van erwe of eenhede vir die bestemde bevoordeeldes nadelig sal raak, of wat waarskynlik 'n aansienlike getal persone of persone met 'n besonder dringende behoefte sal raak, gegee word;
 - (h) in die algemeen rakende alle aangeleenthede nodig by of aanverwant tot die uitoefening van die bevoegdhede en die funksies van die tribunaal of sodanige ontwikkelingsappèltribunaal.
- (2) Die Minister mag van tyd tot tyd op soortgelyke wyse enige reël kragtens subartikel (1) gemaak, terugtrek of wysig.

HOOFSTUK IV

ONTWIKKELINGSPRESTASIEMAATREËLS

Liggaam verantwoordelik vir neerlegging van prestasiekriteria

22. (1) Die in artikel 23 bedoelde prestasiekriteria word, onderhewig aan subartikels (2), (3), (4) en (5) neergelê—
- (a) ten opsigte van enige besondere plaaslike owerheidsgebied, deur die plaaslike owerheidsliggaam wat jurisdiksie het, maar tot die bevrediging van die verantwoordelike LUR; en
 - (b) buite sodanige plaaslike owerheidsgebied, deur die verantwoordelike LUR.
- (2) Ondanks die bepalings van subartikel (1), het beide die verantwoordelike LUR en die plaaslike owerheidsliggaam konkurrente bevoegdheid om prestasiekriteria met betrekking tot enige besondere plaaslike owerheidsgebied neer te lê.
- (3) In die geval van enige strydigheid of onversoenbaarheid tussen prestasiekriteria deur die betrokke LUR en 'n plaaslike owerheidsliggaam ten opsigte van enige besondere plaaslike owerheidsgebied neergelê, geniet die prestasiekriteria deur sodanige plaaslike owerheidsliggaam neergelê voorrang: Met dien verstande dat by versuim deur sodanige plaaslike owerheidsliggaam om binne 'n tydperk waarvan deur die LUR in die *Provinsiale Koerant* kennis gegee is, hetsy in die algemeen of in enige besonder geval, sodanige prestasiekriteria neer te lê, mag die betrokke LUR sodanige prestasiekriteria ten opsigte van daardie plaaslike owerheidsgebied neerlê, en in sodanige geval geniet enige kriteria aldus neergelê voorrang bo enige kriteria wat daarna deur sodanige plaaslike owerheidsliggaam neergelê of voorgegee word om neergelê te word.
- (4) Prestasiekriteria ingevolge hierdie artikel word op sodanige wyse neergelê en in navolging van sodanige prosedure, insluitende prosedure ten opsigte van openbare deelname, as wat die verantwoordelike LUR in die *Provinsiale Koerant* mag voorskryf.
- (5) Die Minister kan, op die versoek van die verantwoordelike LUR, die funksies van die verantwoordelike LUR verrig en sy of haar bevoegdhede uitoefen, *mutatis mutandis* ingevolge hierdie Hoofstuk.

Onderwerp van prestasiekriteria

23. Die prestasiekriteria ingevolge artikel 22 neergelê, het betrekking op—
- (a) die oogmerke van die betrokke owerheid met betrekking tot toeganklike dienste vir grondontwikkeling, insluitende water-, gesondheids- en opvoedkundige fasiliteite;

- (b) the objectives, with reference to local circumstances, including demographic circumstances and spatial patterns inherited from apartheid, relating to urban and rural growth and form in the relevant area, with respect to—
- (i) objectives to integrate areas settled by low income communities into other areas; 5
 - (ii) preserving the environment;
 - (iii) transportation planning;
 - (iv) bulk infrastructure provision;
 - (v) overall density of settlements; 10
 - (vi) co-ordination with other authorities;
 - (vii) land use control objectives;
 - (viii) such other matters as the responsible MEC may require by notice in the *Provincial Gazette*,
provided that the responsible MEC may require such persons or bodies as he may determine, to carry out such environmental impact studies as he or she may require in order to assess the likely impact of any such objective upon the environment. 15
- (c) the development strategies of the responsible authority with respect to—
- (i) facilitation of the optimal involvement of sectors of the economy or of sub-sectors thereof involved in land development; 20
 - (ii) access to funding for land development;
 - (iii) available administrative or proposed new administrative structures in order to deal with land developments in the relevant area;
 - (iv) such other matters as the relevant MEC may require in the relevant *Provincial Gazette*. 25
- (d) the quantities of land development targets with respect to—
- (i) the number of units, sites or other facilities planned for;
 - (ii) the forms in which such development units, sites or other facilities will be delivered, for example by means upgrading existing land or built environments, new land developments or the rental of existing or new land or built environments; 30
 - (iii) the rate at which the production or delivery of such units, sites or facilities are planned to increase during the next succeeding period as may be notified by the relevant MEC in the *Provincial Gazette*; 35
and
 - (iv) such other matters as the responsible MEC may require by notice in the *Provincial Gazette*.

Effect of performance criteria or lack thereof

24. A tribunal or any other competent authority shall not approve a land development application as contemplated in this Act or in terms of any other law dealing with the establishment of land development areas, which is inconsistent with any performance criterion contemplated in this Chapter: Provided that nothing contained in this Chapter shall be construed as precluding or requiring the delay of any land development application where no performance criteria as contemplated in this Chapter are applicable to any intended land development as yet, or at all. 40 45

- (b) die oogmerke, met verwysing na plaaslike omstandighede, insluitende demografiese omstandighede en ruimtelike patrone van apartheid geërf, ten opsigte van stedelike en landelike groei en vorm in die betrokke gebied, met betrekking tot—
- 5 (i) oogmerke om gebiede beset deur lae-inkomste gemeenskappe met ander gebiede te integreer;
 - (ii) die bewaring van die omgewing;
 - (iii) vervoerbeplanning;
 - (iv) grootmaat infrastruktuurverskaffing;
 - 10 (v) oorhoofse digtheid van nedersettings;
 - (vi) koördinasie met ander owerhede;
 - (vii) grondgebruikbeheeroogmerke;
 - (viii) sodanige ander aangeleenthede as wat die verantwoordelike LUR deur kennisgewing in die *Provinsiale Koerant* mag vereis,
 - 15 met dien verstande dat die verantwoordelike LUR kan vereis dat sodanige persone of liggame as wat hy of sy mag bepaal, sodanige omgewingsinvloedstudies uitvoer as wat hy of sy mag vereis ten einde die waarskynlike invloed van enige sodanige oogmerk op die omgewing te bepaal;
 - 20 (c) die ontwikkelingstrategieë van die verantwoordelike owerheid ten opsigte van—
 - (i) fasilitering van die optimale betrokkenheid van sektore van die ekonomie of van sub-sektore daarvan betrokke in grondontwikkeling;
 - 25 (ii) toegang tot befondsing vir grondontwikkeling;
 - (iii) beskikbare administratiewe of voorgestelde nuwe administratiewe strukture ten einde met grondontwikkeling in die betrokke gebiede te handel;
 - (iv) sodanige ander aangeleenthede wat die betrokke LUR in die betrokke *Provinsiale Koerant* mag vereis;
 - 30 (d) die omvang van grondontwikkelingsmikpunte ten opsigte van—
 - (i) die getal eenhede, erwe of ander fasiliteite waarvoor beplan word;
 - (ii) die vorms waarin sodanige ontwikkelingseenhede, erwe of ander fasiliteite gelewer staan te word, byvoorbeeld by wyse van opgradering van bestaande grond of beboude omgewings, nuwe grondontwikkeling of die huur van bestaande of nuwe grond of beboude omgewings;
 - 35 (iii) die koers waarteen die produksie of aflewering van sulke eenhede, erwe of fasiliteite beplan word om toe te neem gedurende die eersvolgende tydperk soos deur die betrokke LUR in die *Provinsiale Koerant* van kennis gegee mag word; en
 - 40 (iv) sodanige ander aangeleenthede as wat die verantwoordelike LUR by kennisgewing in die *Provinsiale Koerant* mag vereis.

Invloed van prestasiekriteria of gebrek daaraan

- 45 24. 'n Tribunaal of enige ander bevoegde owerheid handel nie met, of keur nie 'n grondontwikkelingsaansoek soos beoog in hierdie Wet of ingevolge enige ander wet wat met die stigting van grondontwikkelingsgebiede handel, goed nie wat teenstrydig is met enige prestasiekriteria beoog in hierdie Hoofstuk: Met dien verstande dat niks in hierdie Hoofstuk vervat vertolk word om die
- 50 vertraging van enige grondontwikkelingsaansoek te vereis of die goedkeuring van sodanige aansoek te verhinder waar geen prestasiekriteria soos beoog in hierdie Hoofstuk indertyds of hoegenaamd van toepassing is op enige beoogde grondontwikkeling nie.

CHAPTER V

LAND DEVELOPMENT PROCEDURES IN THE URBAN CONTEXT

Application of Chapter

25. (1) Subject to subsections (2) and (3), no person shall carry out land development in a land development area or proposed land development area otherwise than in accordance with the provisions of this Chapter. 5

(2) The provisions of this Chapter shall not apply to—

- (a) the use of land for the housing of employees of a mining undertaking where a surface right permit in respect of such use has been issued in terms of the Mining Rights Act, 1967 (Act No. 20 of 1967); 10
- (b) the establishment of a land development area in terms of Chapter VI or any other law, where a land development applicant has elected to apply in terms of such a law;
- (c) a person exempted under subsection (3).

(3) A tribunal may exempt from any or all of the provisions of this Act— 15

- (a) on such terms and conditions as it may determine—
 - (i) an owner or occupier of land the development or layout of which will in its opinion constitute a holiday or similar resort;
 - (ii) a person engaged in *bona fide* farming operations who uses the land on which he or she is so engaged for the housing of himself or herself or of *bona fide* full-time employees in his or her service and their families; 20
 - (iii) for such period as it may determine, not exceeding six months, a person establishing a land development area for the temporary housing of *bona fide* full-time employees in his or her service and their families; 25
- (b) on such terms and conditions as may be prescribed, a land development applicant—
 - (i) in respect of land which is, at the time of the relevant land development application, already settled by persons and which is intended to be upgraded into a lawfully and fully established land development area over a period of time; or 30
 - (ii) in respect of land which is intended to be settled by persons on an urgent basis prior to completing the establishment of a land development area on such land, with the intention that such land shall be upgraded over time in the future in order to become a fully established land development area. 35

Application to establish a land development area

26. (1) The following land development applicants may apply for establishment of a land development area in terms of this Chapter: 40

- (a) An owner of land including the State or a local government body in respect of land owned by it;
- (b) An agent or independent contractor acting on behalf of the owner of land;
- (c) A person acting with the consent of the owner of the land; 45
- (d) A person to whom the land has been made available by the State or a local government body in terms of a land availability agreement contemplated in section 39; or
- (e) A person acting on behalf of the owner of land in any other capacity.

(2) A land development applicant wishing to establish a land development area in terms of this Chapter shall lodge an application with a designated officer in the prescribed manner accompanied by such documents and information as may be prescribed. 50

HOOFSTUK V

GRONDONTWIKKELINGSPROSEDURE IN DIE STEDELIKE KONTEKS

Toepassing van Hoofstuk

25. (1) Geen persoon doen, onderhewig aan subartikels (2) en (3), grond-
 5 ontwikkeling in 'n grondontwikkelingsgebied of beoogde grondontwikkelings-
 gebied anders as ooreenkomstig die bepalings van hierdie Hoofstuk nie.
- (2) Die bepalings van hierdie Hoofstuk is nie van toepassing op—
- (a) die gebruik van grond vir die behuising van werknemers van 'n
 mynbou-onderneming waar 'n oppervlakreg permit ten opsigte van
 10 sodanige gebruik ingevolge die Wet op Mynregte, 1967 (Wet No. 20
 van 1967) uitgereik is nie;
- (b) die stigting van 'n grondontwikkelingsgebied ingevolge Hoofstuk VI of
 enige ander wet nie, waar 'n grondontwikkelingsapplikant verkies het
 om ingevolge sodanige wet aansoek te doen;
- 15 (c) 'n persoon vrygestel kragtens subartikel (3) nie.
- (3) 'n Tribunaal kan—
- (a) op sodanige terme en voorwaardes as wat dit mag bepaal—
- (i) 'n eienaar of okkupeerder van grond waarvan die ontwikkeling of
 20 uitleg na die tribunaal se mening 'n vakansie- of soortgelyke oord
 uitmaak;
- (ii) 'n persoon betrokke by bona fide boerderybedrywighede wat die
 grond gebruik waarop hy of sy aldus betrokke is vir die behuising
 van homself of haarself of vir bona fide voltydse werknemers in sy
 of haar diens en hulle gesinne;
- 25 (iii) vir sodanige tydperk as wat dit mag bepaal, wat nie ses maande
 oorskry nie, 'n persoon wat 'n grondontwikkelingsgebied stig vir
 die tydelike huisvesting van bona fide voltydse werknemers in sy
 of haar diens en hulle gesinne;
- (b) op sodanige terme en voorwaardes as wat voorgeskryf mag word, 'n
 30 grondontwikkelingsapplikant—
- (i) ten opsigte van grond wat op die tydstip van die betrokke
 grondontwikkelingsaansoek, reeds deur persone beset word en
 wat bedoel is om na 'n regmatige en volledig gestigde grond-
 ontwikkelingsgebied oor 'n tydperk opgegradeer te word; of
- 35 (ii) ten opsigte van grond wat bedoel is om op 'n dringende basis beset
 te word deur persone voor die stigting van 'n grondontwikkelings-
 gebied op sodanige grond voltooi is, met die bedoeling dat
 sodanige grond oor 'n tydperk in die toekoms opgegradeer sal
 word ten einde 'n gestigde grondontwikkelingsgebied te word,
- 40 van enige of alle bepalings van hierdie Wet vrystel.

Aansoek om 'n grondontwikkelingsgebied te stig

26. (1) Die volgende grondontwikkelingsapplikante mag ingevolge hierdie
 Hoofstuk vir die stigting van 'n grondontwikkelingsgebied aansoek doen:
- (a) 'n Eienaar van grond insluitende die Staat of 'n plaaslike owerheids-
 45 liggaam ten opsigte van grond waarvan dit die eienaar is;
- (b) 'n Agent of onafhanklike kontrakteur wat namens die eienaar van die
 grond optree;
- (c) 'n Persoon wat met die toestemming van die eienaar van die grond
 optree;
- 50 (d) 'n Persoon aan wie die grond deur die Staat of 'n plaaslike owerheids-
 liggaam ingevolge 'n in artikel 39 beoogde grondbeskikbaar-
 heidsooreenkoms beskikbaar gestel is; of
- (e) 'n Persoon wat namens die eienaar van grond in enige ander hoeda-
 nigheid optree.
- 55 (2) 'n Grondontwikkelingsapplikant wat 'n grondontwikkelingsgebied in-
 gevolge hierdie Hoofstuk wil stig, loods 'n aansoek by 'n aangewese beampte op
 die voorgeskrewe wyse, vergesel van sodanige dokumente en inligting as wat
 voorgeskryf mag word.

(3) The land development applicant shall give notice of an application referred to in subsection (2) to such persons or bodies as may be prescribed.

(4) Any notice referred to in subsection (3) shall, in the prescribed form, call upon any person or body to whom or which such notice has been given either—

- (a) to provide comments in writing on such application and which are delivered to the designated officer within such period of time as may be prescribed and set out in such notice; or
- (b) failing the delivery of such comments within such period, or if such comments were delivered but constitute an objection to any aspect of the application, to appear in person or through a representative before a tribunal on a date set out in the notice.

(5) A notice referred to in subsection (3) shall have the same effect, *mutatis mutandis*, as if it were a subpoena issued by a tribunal as intended in section 16(10).

Submission to tribunal

27. The designated officer shall, prior to the date of a tribunal hearing as intended in section 26(4), consider—

- (a) an application referred to in section 26(2);
- (b) any comments, objections or representations received within the period referred to in section 26(2);
- (c) any reply by the land development applicant to such comments, objections or representations which may have been provided by such applicant within the prescribed period,

and shall within the prescribed period submit the application and such comments, objections, representations and reply, together with his or her report and recommendation on the application, to the tribunal for its consideration.

Consideration of application by tribunal

28. (1) After receipt of a report, recommendation and other documents from the designated officer as intended in section 27 and on the date referred set out in a notice, a tribunal shall consider and may approve or refuse an application in whole or in part or postpone a decision thereon and may in approving such land development application impose one or more conditions contemplated in subsection (2).

(2) In approving a land development application in terms of this Chapter a tribunal may impose or approve any condition of establishment relating to—

- (a) the provision of engineering services;
- (b) the provision or transfer of land to any competent authority for use as a public open space, or the payment of a sum of money in lieu thereof;
- (c) the provision of streets, parks and other open spaces;
- (d) the removal or suspension of restrictive conditions or servitudes affecting the land on which the land development area is to be established;
- (e) the imposition of servitudes affecting or to affect the land on which the land development area is to be established;
- (f) whether or not any building standards required by regulations made under the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), or by any zoning scheme, regulation or bylaw of a local authority in terms of any law, are to apply in respect of the erection of buildings or any class of buildings in the land development area;
- (g) where a condition is imposed to the effect that the building standards contemplated in paragraph (f) will not apply in respect of the land development area, whether or not it is nevertheless necessary for

(3) Die grondontwikkellingsapplikant gee kennis van 'n in subartikel (2) bedoelde aansoek aan sodanige persone of liggame as wat voorgeskryf mag word.

(4) Enige in subartikel (3) bedoelde kennisgewing gelas, in die voorgeskrewe vorm, enige persoon of liggaam aan wie sodanige kennisgewing gegee is om hetsy—

(a) skriftelike kommentaar op sodanige aansoek te lewer en wat by die aangewese beampte afgelewer word binne sodanige tydperk as wat voorgeskryf en in sodanige kennisgewing uiteengesit word; of

(b) by gebreke aan die aflewering van sodanige kommentaar binne sodanige tydperk, of indien sodanige kommentaar afgelewer is maar neerkom op 'n beswaar ten aansien van enige aspek van die aansoek, om in persoon of deur 'n verteenwoordiger voor 'n tribunaal op 'n datum in die kennisgewing uiteengesit, te verskyn.

(5) 'n In subartikel (3) bedoelde kennisgewing het dieselfde uitwerking, *mutatis mutandis*, asof dit 'n subpoena is wat uitgereik is deur 'n tribunaal soos bedoel in artikel 16(10).

Onderwerping aan tribunaal

27. Die aangewese beampte moet, voor die datum van 'n tribunaalverhoor soos bedoel in artikel 26(4)—

(a) 'n in artikel 26(2) bedoelde aansoek;

(b) enige kommentaar, besware of vertoë binne die in artikel 26(2) bedoelde tydperk ontvang;

(c) enige antwoord deur die grondontwikkellingsapplikant op sodanige kommentaar, besware of vertoë wat deur sodanige applikant binne die voorgeskrewe tydperk verskaf mag word,

oorweeg, en lê binne die voorgeskrewe tydperk die aansoek en sodanige kommentaar, besware, vertoë en antwoord, tesame met sy of haar verslag en aanbevelings ten opsigte van die aansoek, aan die tribunaal vir oorweging voor.

Oorweging van aansoek deur tribunaal

28. (1) Na ontvangs van 'n verslag, aanbeveling en ander dokumente van die aangewese beampte soos bedoel in artikel 27, en op die datum in 'n kennisgewing uiteengesit, oorweeg 'n tribunaal 'n aansoek en kan 'n aansoek in geheel of ten dele goedkeur of afwys of 'n besluit daaroor uitstel, en mag by goedkeuring van sodanige grondontwikkellingsaansoek een of meer voorwaardes soos beoog in subartikel (2), oplê.

(2) By goedkeuring van 'n grondontwikkellingsaansoek ingevolge hierdie Hoofstuk mag 'n tribunaal enige stigtingsvoorwaardes oplê of goedkeur met betrekking tot—

(a) die verskaffing van ingenieursdienste;

(b) die verskaffing of oordrag van grond aan enige bevoegde owerheid vir gebruik as 'n openbare oop-ruimte, of die betaling van 'n geldsom in die plek daarvan;

(c) die verskaffing van strate, parke en ander oop ruimtes;

(d) die verwydering of opheffing van beperkende voorwaardes of serwitute wat die grond waarop die grondontwikkellingsgebied gestig staan te word, raak;

(e) die vestiging van serwitute wat die grond waarop 'n grondontwikkellingsgebied gestig staan te word, raak of gaan raak;

(f) of enige boustandaarde wat deur regulasies kragtens die Wet op Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No. 103 van 1977) neergelê, of deur enige soneringskema, regulasie of verordening van 'n plaaslike owerheid ingevolge enige wet vereis word, van toepassing is ten opsigte van die oprigting van geboue of enige klas van geboue in die grondontwikkellingsgebied, al dan nie;

(g) waar 'n voorwaarde opgelê is met die strekking dat die boustandaarde beoog in paragraaf (f) nie toepassing vind ten opsigte van die grondontwikkellingsgebied nie, hetsy dit nietemin nodig is dat bouplanne

- building plans to be submitted to and approved by the competent authority prior to the erection of buildings;
- (h) whether or not the use of land in the proposed land development area is to be regulated by—
- (i) a zoning scheme or other measure for the regulation of land use in terms of any other law governing land development area or land use planning; 5
 - (ii) provisions relating to land use which have been prescribed generally for the purpose; or
 - (iii) specific provisions for special or strategic projects which have been prescribed for the purpose. 10
- (i) any amendment to such zoning scheme, other measure or prescribed provision referred to in paragraph (h), for the purpose of the application thereof to such land development area;
- (j) whether or not the provisions of— 15
- (i) sections 9A and 11 of the Advertising on Roads and Ribbon Development Act, 1940 (Act No. 21 of 1940);
 - (ii) any law on physical planning;
 - (iii) section 12 of the National Roads Act, 1971 (Act No. 54 of 1971);
 - (iv) laws requiring the approval of an authority for the subdivision of land; 20
 - (v) any law requiring the provision of a receipt, certificate or any other document by a local government body, public revenue officer or other competent authority, as a prerequisite to the transfer of land in a land development area; or 25
 - (vi) any other law, which in the opinion of the tribunal may have a dilatory affect on the development of the land development area or the settlement of persons therein,
- shall apply in respect of the land development in question; and
- (k) any other matter considered appropriate by the tribunal. 30
- (3) A condition of establishment imposed in terms of—
- (a) subsection (2)(f) or (g) shall—
- (i) have effect notwithstanding any provision to the contrary contained in the National Building Regulations and Building Standards Act, 1977, or any law authorising a local government body to make building regulations or bylaws; 35
 - (ii) not prevent any owner or prospective owner of land in the land development area from submitting building plans to the competent authority for its approval prior to the erection of the building concerned and any national building regulation or other regulation or bylaw contemplated in that subsection shall apply in relation to such approval to the extent determined by the owner or prospective owner concerned; 40
- (b) subsection (2)(h) or (i) shall have effect notwithstanding any provision to the contrary in any other law governing land development or land use planning or any zoning scheme thereunder; 45
- (c) relating to the suspension of the operation of any law referred to in subsection (2)(j), shall have the effect of so suspending the operation of such law;
- (d) subsection (2)(d), shall have the effect of so suspending the operation of any such condition, subject to the provisions of section 29, 50
- upon notice of such condition being given by the designated officer in the *Provincial Gazette*, or if a later date is stated in such notice, from such later date.
- (4) Any condition imposed under subsection (2) which requires any act to be performed by a land development applicant shall state by which stage in the course 55

- ingedien en deur die bevoegde owerheid goedgekeur moet word voor die oprigting van geboue, al dan nie;
- (h) of die grondgebruik in die voorgestelde grondontwikkelingsgebied gereël word deur—
- 5 (i) 'n soneringskema of ander maatreël vir die regulering van grondgebruik ingevolge enige ander wet wat grondontwikkelingsgebieds- of grondgebruikbeplanning reël;
- (ii) bepalings met betrekking tot grondgebruik wat in die algemeen vir die doel voorgeskryf is; of
- 10 (iii) besondere bepalings vir spesiale of strategiese projekte wat vir die doel voorgeskryf is, al dan nie;
- (i) enige wysiging aan sodanige in paragraaf (h) bedoelde soneringskema, ander maatreël of voorgeskrewe bepaling, vir die doel van die toepassing daarvan op sodanige grondontwikkelingsgebied;
- 15 (j) of die bepalings van—
- (i) artikels 9A en 11 van die Wet op Adverteer langs en Toebou van Paaie, 1940 (Wet No. 21 van 1940);
- (ii) enige wet rakende fisiese beplanning;
- 20 (iii) artikel 12 van die Wet op Nasionale Paaie, 1971 (Wet No. 54 van 1971);
- (iv) wette wat die goedkeuring van 'n owerheid vir die onderverdeling van grond vereis;
- (v) enige wet wat die voorsiening van 'n kwitansie, sertifikaat of enige ander dokument deur 'n plaaslike owerheidsliggaam, openbare belastingbeampte of ander bevoegde owerheid as 'n voorvereiste vir die oordrag van grond in 'n grondontwikkelingsgebied vereis; of
- 25 (vi) enige ander wet, wat na die mening van die tribunaal 'n vertragende effek op die ontwikkeling van die grondontwikkelingsgebied of die vestiging van persone daarin mag hê, ten opsigte van die betrokke grondontwikkeling van toepassing is al dan nie; en
- (k) enige ander aangeleentheid wat deur die tribunaal as toepaslik beskou word.
- 35 (3) 'n Stigtingsvoorwaarde opgelê—
- (a) ingevolge subartikel (2)(f) of (g)—
- (i) is van krag ondanks andersluidende bepalings van die Wet op Nasionale Bouregulasies en Boustandaarde, 1977, of enige wet wat 'n plaaslike owerheidsliggaam magtig om bouregulasies of verordeninge neer te lê;
- 40 (ii) verhoed nie 'n eienaar of voornemende eienaar van grond in die grondontwikkelingsgebied om bouplanne aan die bevoegde owerheid vir goedkeuring voor die oprigting van die betrokke gebou voor te lê nie, en enige nasionale bouregulasie of ander regulasie of verordening beoog in daardie subartikel is van toepassing met betrekking tot sodanige toestemming na die mate deur die betrokke eienaar of voornemende eienaar bepaal;
- 45 (b) ingevolge subartikel (2)(h) of (i) is van krag ondanks andersluidende bepalings van enige ander wet wat grondontwikkeling of grondgebruiksbeplanning of enige soneringskema daaronder, reël;
- (c) met betrekking tot die opskorting van die werking van enige in subartikel (2)(j) bedoelde wet, het die effek om die werking van sodanige wet aldus op te skort;
- 55 (d) ingevolge subartikel (2)(d), het die effek om die werking van enige sodanige voorwaarde aldus op te skort, onderworpe aan die bepalings van artikel 29, by kennisgewing van sodanige voorwaarde wat deur die aangewese beampte in die *Provinsiale Koerant* gegee word, of indien 'n latere datum in sodanige kennisgewing vermeld word, vanaf sodanige latere datum.
- 60 (4) Enige voorwaarde kragtens subartikel (2) opgelê wat vereis dat enige handeling deur 'n grondontwikkelingsappikant uitgevoer word, moet

of the establishment of the land development area such condition is to be fulfilled or to take effect, as the case may be.

(5) The designated officer shall inform the registrar of any approval under this section.

Suspension of operation and cancellation of servitudes and restrictive conditions 5

29. (1) A tribunal may impose a condition of establishment contemplated in section 28(2)(d)—

(a) in respect of—

(i) any servitude registered against the title of land situated in the relevant land development area which, in the opinion of the tribunal, is not being utilised beneficially or, with a view to the use of the land in accordance with the relevant layout plan, will no longer be capable of beneficial utilization; and 10

(ii) any other restrictive condition thus registered or otherwise operative in respect of such land, 15

if the tribunal is of the opinion that such a servitude or condition is inconsistent with, or undesirable in relation to, the use, occupation, development or subdivision of such land, and that the cancellation of the servitude or condition in accordance with any other procedure will unnecessarily delay the relevant land development; 20

(b) of its own accord or on application from a land development applicant, if the tribunal is satisfied that—

(i) where applicable, the holder of or owner of the dominant tenement in relation to a servitude referred to in paragraph (a)(i) or any individual beneficiary of a condition referred to in paragraph (a)(ii) is not prepared to grant his or her consent to the cancellation of such servitude or condition for a consideration or under conditions which the tribunal regards as fair consideration or fair conditions; or 25

(ii) that it is not practicable to obtain such consent for any reason, including the fact that subparagraph (i) could not reasonably be applied in the time available or at all, or on account of the nature of the rights concerned, on account of the number of persons concerned or because the whereabouts of a person contemplated in subparagraph (i) or of every such person is not readily ascertainable. 30 35

(2) When a subdivision register is opened in respect of the land in a land development area, a servitude or restrictive condition suspended in terms of a condition of establishment imposed in terms of section 28(2)(d) and of which notice has been given in terms of section 28(3)(d), shall thereupon be cancelled. 40

(3) The registrar or Surveyor-General concerned shall as soon as possible after a cancellation contemplated in subsection (2) make such entries in and endorsements on any relevant register, title deed, diagram or plan in their respective offices or submitted to them, as he or she may deem necessary to reflect such cancellation.

(4) A person whose land or real right in land has been adversely affected by and who has suffered damage as a result of a cancellation in terms of subsection (2) may, within a period of three years after such cancellation, claim compensation for such damage from the person who was, at the time of such cancellation, the owner of the land in respect of which the relevant condition or servitude was cancelled. 45

(5) The amount of compensation referred to in subsection (4) shall be an amount agreed upon between the claimant and the owner referred to in that subsection or, failing such agreement within three months of a claim having been made under that subsection, shall be an amount determined— 50

(a) in the event of such owner not being the State or a local government body, by arbitration, in which event the provisions of the Arbitration Act, 1965 (Act No. 42 of 1965) shall, *mutatis mutandis*, be applicable; or 55

aandui op watter tydstip in die loop van die stigting van die grondontwikkingsgebied sodanige voorwaarde vervul moet word, of van krag moet word, na gelang van die geval.

(5) Die aangewese beamppte stel die registrateur in kennis van enige goedkeuring kragtens hierdie artikel.

Opheffing van werking en kansellasië van serwitute en beperkende voorwaardes

29. (1) 'n Tribunaal mag 'n in artikel 28(2)(d) beoogde stigtingsvoorwaarde voorskryf—

(a) ten opsigte van—

10 (i) enige serwituut geregistreer teen die titel van grond in die betrokke grondontwikkingsgebied geleë, wat na die tribunaal se mening nie voordelig benut word nie of, met die oog op die gebruik van die grond ooreenkomstig die betrokke uitlegplan, nie meer vir voordelige benutting vatbaar is nie; en

15 (ii) enige ander beperkende voorwaarde aldus geregistreer of andersins ten opsigte van sodanige grond van krag, indien die tribunaal van mening is dat sodanige serwituut of voorwaarde onbestaanbaar is met, of onwenslik is met betrekking tot, die gebruik, okkupasie, ontwikkeling of onderverdeling van sodanige grond, en dat die kansellasië van die serwituut of voorwaarde ingevolge enige ander prosedure die betrokke grondontwikkeling onnodiglik sal vertraag;

(b) uit eie beweging of op aansoek van 'n grondontwikkingsapplikant, indien die tribunaal tevrede is dat—

25 (i) waar van toepassing, die houer of eienaar van die heersende eiendom met betrekking tot 'n serwituut bedoel in paragraaf (a)(i) of enige individuele begunstigde van 'n voorwaarde bedoel in paragraaf (a)(ii) nie bereid is om sy of haar toestemming tot die kansellasië van sodanige serwituut of voorwaarde vir 'n vergoeding of kragtens voorwaardes wat die tribunaal as billike vergoeding of billike voorwaardes beskou, te verleen nie; of

30 (ii) dit om enige rede onprakties is om sodanige toestemming te verkry, insluitend die feit dat sub-paragraaf (1) nie redelikerwys in die tyd beskikbaar of enigszins toegepas kon word nie, of weens die aard van die betrokke regte, of die getal persone betrokke of weens die feit dat die plek waar 'n in sub-paragraaf (1) beoogde persoon of elke sodanige persoon hom of haar bevind nie gereedlik vasstelbaar is nie.

(2) Wanneer 'n onderverdelingsregister ten opsigte van die grond in 'n grondontwikkingsgebied geopen is, word 'n serwituut of beperkende voorwaarde wat ingevolge 'n stigtingsvoorwaarde opgelê ingevolge artikel 28(2)(d) opgehef is en waarvan kennis ingevolge artikel 28(3)(d) gegee is, daarmee gerojêer.

(3) Die betrokke registrateur of Landmeter-generaal maak so spoedig as wat moontlik is na 'n in subartikel (2) beoogde rojering sodanige inskrywings in en endossemente op enige relevante register, titelakte, diagram of plan in hul onderskeie kantore of aan hul voorgelê, soos hy of sy nodig mag ag om sodanige rojering aan te dui.

(4) 'n Persoon wie se grond of saaklike reg ten aansien van grond nadelig geraak is deur en wat skade gely het weens 'n rojering ingevolge subartikel (2), mag binne 'n tydperk van drie jaar na sodanige rojering vergoeding vir sodanige skade eis van die persoon wat ten tye van sodanige rojering die eienaar van die grond ten opsigte waarvan die betrokke voorwaarde of serwituut gerojêer is, was.

(5) Die bedrag aan vergoeding bedoel in subartikel (4), is 'n bedrag op ooreengekom tussen die eiser en die eienaar bedoel in daardie subartikel, of, by ontstentenis aan sodanige ooreenkoms binne drie maande nadat 'n eis kragtens daardie subartikel ingestel is, 'n bedrag bepaal—

(a) in die geval waar sodanige eienaar nie die Staat of 'n plaaslike owerheidsliggaam is nie, deur arbitrasie, in welke geval die bepalings van die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965), *mutatis mutandis*, van toepassing is; of

- (b) in the event of such owner being the State or a local government body, *mutatis mutandis* in terms of sections 12, 14, and 15 of the Expropriation Act, 1975 (Act No. 63 of 1975) as if the relevant servitude or condition were expropriated for public purposes as contemplated in that Act, and for that purpose any reference in that Act—
- (i) to "Minister" shall be construed as a reference to the relevant Minister, Premier or local government body concerned;
 - (ii) to property shall, where so dictated by the context, include a reference to such servitude or condition;
 - (iii) to an expropriation in terms of that Act, shall be construed as a reference to a suspension in terms of section 28(3)(d) or to a cancellation in terms of subsection (2).

Amendment of application, conditions of establishment, division of land development area and continuation of application by new land development applicant

30. Subject to such procedures and conditions as may be prescribed—
- (a) an application to establish a land development area may be amended before or after its approval as intended in section 28(1);
 - (b) any condition of establishment may be amended or deleted;
 - (c) a land development area which is the subject of a land development application may be divided into two or more land development areas;
 - (d) where the land development applicant or owner of land in respect of which an application for the establishment of a land development area has been made, has changed, the new land development applicant or owner may continue with the application or the land development, as the case may be.
 - (e) the designated officer shall inform the registrar of any event contemplated in paragraphs (a) to (d).

Restriction on certain contracts

31. (1) After a land development applicant has taken steps to establish a land development area, including steps preceding an application in terms of section 26(2), no person shall enter into any contract, including a contract subject to a suspensive or other condition, for the sale, exchange, alienation or disposal in any other manner of an erf in a land development area or the erection of a dwelling on such erf, or a contract granting an option to purchase or otherwise acquire such an erf until—
- (a) the land development application has been approved under section 28 insofar as it relates to the land to which the contract relates; and
 - (b) either—
 - (i) the steps contemplated in section 33(1) have been completed by the land development applicant or, to the extent that any such step has not yet been completed, such land development applicant has, *mutatis mutandis*, furnished the guarantees referred to in section 33(2)(d); or
 - (ii) a tribunal has approved the commencement of a registration arrangement as contemplated in section 55 and any conditions imposed in respect of such approval having been complied with.
- (2) Any contract entered into in conflict with the provisions of subsection (1) shall be of no force and effect.
- (3) The provisions of this section shall not prohibit the entering into of—
- (a) a contract for the acquisition in any manner by any person of—
 - (i) land on which he or she wishes to establish a land development area subject to the condition that one or more of the erven therein shall be transferred to the seller;
 - (ii) land in respect of which an application for the establishment of a land development area has been made, and such person notified the

- (b) in die geval waar sodanige eienaar die Staat of 'n plaaslike owerheidsliggaam is, *mutatis mutandis*, ingevolge artikels 12, 14 en 15 van die Onteiningswet, 1975 (Wet No. 63 van 1975) asof die betrokke serwituut of voorwaarde onteien is vir openbare doeleindes soos beoog in daardie wet, en vir daardie doel word enige verwysing in daardie wet—
- 5 (i) na "Minister" uitgelê as 'n verwysing na die relevante Minister, Premier of betrokke plaaslike owerheidsliggaam;
- (ii) na eiendom, waar dit uit die samehang blyk, uitgelê as 'n verwysing na sodanige serwituut of voorwaarde insluitend van;
- 10 (iii) na 'n onteiening ingevolge daardie wet, uitgelê as 'n verwysing na 'n opskorting ingevolge artikel 28(3)(d) of 'n rojering ingevolge subartikel (2).

Wysiging van aansoek, stigtingsvoorwaardes, verdeling van grondontwikkelingsgebied en voortsetting van aansoek deur nuwe grondontwikkelingsapplikant

- 15 **30.** Onderhewig aan sodanige prosedure en voorwaardes as wat voorgeskryf mag word—
- (a) mag 'n aansoek om 'n grondontwikkelingsgebied te stig gewysig word voor of na goedkeuring daarvan soos bedoel in artikel 28(1);
- 20 (b) mag enige stigtingsvoorwaarde gewysig of geskrap word;
- (c) mag 'n grondontwikkelingsgebied wat die onderwerp is van 'n grondontwikkelingsaansoek verdeel word in twee of meer grondontwikkelingsgebiede;
- (d) waar die grondontwikkelingsapplikant of eienaar van die grond ten opsigte waarvan 'n aansoek om die stigting van 'n grondontwikkelingsgebied gemaak is, verander het, mag die nuwe grondontwikkelingsapplikant of eienaar die aansoek of die grondontwikkeling, na gelang
- 25 van die geval, voortsit;
- (e) verwittig die aangewese beampte die registrateur van enige in paragrafe (a) tot (d) beoogde gebeurtenis.

30 Beperking op sekere kontrakte

- 31.** (1) Nadat 'n grondontwikkelingsapplikant stappe geneem het om 'n grondontwikkelingsgebied te stig, insluitende stappe wat 'n aansoek ingevolge artikel 26(2) voorafgaan, sluit geen persoon enige kontrak, insluitende 'n kontrak onderworpe aan 'n opskortende of ander voorwaarde, vir die verkoop, verruil, vervreemding of beskikking op enige ander wyse van of oor 'n erf in 'n grondontwikkelingsgebied of die oprigting van 'n woning op sodanige erf, of 'n kontrak wat 'n opsie verleen om sodanige erf te koop of andersins te verkry nie, alvorens—
- 35 (a) die grondontwikkelingsaansoek kragtens artikel 28 goedgekeur is insoverre as wat dit betrekking het op die grond waarop die kontrak betrekking het; en
- (b) of—
- 40 (i) die in artikel 33(1) beoogde stappe deur die grondontwikkelingsapplikant voltooi is of, na die mate waarin enige sodanige stappe nog nie voltooi is nie, sodanige grondontwikkelingsapplikant, *mutatis mutandis*, die in artikel 33(2)(d) bedoelde waarborge verskaf het; of
- 45 (ii) 'n tribunaal die aanvang van 'n registrasiereëling soos beoog in artikel 55 bedoel, goedgekeur het en daar aan enige voorwaardes opgelê ten opsigte van sodanige goedkeuring voldoen is.
- 50 (2) Enige kontrak in stryd met die bepalinge van subartikel (1) aangegaan, is van geen krag en effek nie.
- (3) Die bepalinge van hierdie artikel verbied nie die aangaan van—
- 55 (a) 'n kontrak vir die verkryging op enige wyse deur enige persoon van—
- (i) grond waarop hy of sy 'n grondontwikkelingsgebied wil stig onderhewig aan die voorwaarde dat een of meer van die erwe daarop aan die verkoper oorgedra word;
- (ii) grond ten opsigte waarvan 'n aansoek vir die stigting van 'n grondontwikkelingsgebied gebring is, en sodanige persoon die

- designated officer in writing of his or her purchase of such land, and that he or she wishes to continue with the application;
- (iii) an erf in the land development area solely for the purpose of development and immediate resale: Provided that the provisions of this section shall apply to such a resale;
 - (b) a contract by the land development applicant with a building contractor for the erection of a dwelling on an erf prior to disposal by such land development applicant of such erf; or
 - (c) any other contract contemplated in subsection (1) as may be prescribed.
- (4) A registrar shall not be obliged to satisfy himself or herself as to whether or not any registrable transaction lodged in a deeds registry is based on or affected by a contract referred to in subsection (2).

Lodging of documents with Surveyor-General and Registrar of Deeds

32. A land development applicant who has been notified that his or her application to establish a land development area has been approved shall, within the prescribed period, lodge—

- (a) with the Surveyor-General such plans, diagrams, documents and other information which the Surveyor-General may require to approve the general plan in accordance with such approved application, insofar as it relates to the approved layout plan; and
- (b) with the Registrar such approved plans and diagrams, together with such title deeds and other documents required for the opening of the subdivision register.

Commencement of registrable transactions

33. (1) A Registrar shall commence registration of land in ownership in a land development area, when—

- (a) the general plan for the land development area has been approved;
- (b) the subdivision register for the land development area has been opened;
- (c) the designated officer has informed the registrar that the relevant conditions of establishment relating to the relevant land development application have been complied with; and
- (d) the designated officer has informed the registrar that the respective responsibilities of the land development applicant and the relevant local government body, to provide engineering services as contemplated in section 35, have been fulfilled.

(2) Notwithstanding the provisions of subsection (1), a registrar shall commence transfer of initial ownership affecting erven in a land development area when—

- (a) the designated officer has informed the registrar in terms of section 28(5) that the relevant land development application has been approved;
- (b) in the event of the area shown on the layout plan approved as part of the relevant land development application, not comprising the whole of the piece or pieces of land in respect of which the relevant land development is taking place, a diagram corresponding to the outside perimeter of such layout plan, has been approved by the Surveyor-General;
- (c) beacons in respect of individual, proposed erven have been placed by a surveyor in accordance with the layout plan approved as part of the relevant land development application;
- (d) the designated officer has informed the registrar that the land development applicant, or the relevant local government body, as the case may be, has delivered to the designated officer—

- aangewese beampte skriftelike kennis gegee het van sy of haar aankoop van sodanige grond, en dat hy of sy met die aansoek wil voortgaan;
- 5 (iii) 'n erf in die grondontwikkelingsgebied slegs vir ontwikkelingsdoeleindes en onmiddellike herverkoop: Met dien verstande dat die bepaling van hierdie artikel op sodanige herverkoop van toepassing is;
- (b) 'n kontrak deur die grondontwikkelingsapplikant met 'n boukontra-
- 10 teur vir die oprigting van 'n woning op 'n erf voor die vervreemding deur sodanige grondontwikkelingsapplikant van sodanige erf; of
- (c) enige ander kontrak beoog in subartikel (1), soos voorgeskrif mag word.
- (4) 'n Registrateur is nie verplig om homself of haarself daarvan te vergewis of enige registreerbare transaksie wat by 'n registrasiekantoor ingedien is op 'n
- 15 kontrak bedoel in subartikel (2) gebaseer is of daardeur geraak word, al dan nie.

Indiening van dokumente by Landmeter-generaal en Registrateur van Aktes

32. 'n Grondontwikkelingsapplikant aan wie kennis gegee is dat sy of haar aansoek om 'n grondontwikkelingsgebied te stig goedgekeur is, dien binne die voorgeskrewe tydperk—
- 20 (a) by die Landmeter-generaal sodanige planne, kaarte, dokumente en ander inligting in wat die Landmeter-generaal mag vereis om die algemene plan in ooreenstemming met sodanige goedgekeurde aansoek goed te keur, na die mate waarin dit betrekking het op die goedgekeurde uitlegplan;
- 25 (b) by die registrateur sodanige goedgekeurde planne en kaarte, tesame met sodanige titelaktes en ander dokumente wat vir die opening van die onderverdelingsregister vereis word, in.

Aanvang van registreerbare transaksies

33. (1) 'n Registrateur begin met registrasie van grond in eiendomsreg in 'n
- 30 grondontwikkelingsgebied wanneer—
- (a) die algemene plan vir die grondontwikkelingsgebied goedgekeur is;
- (b) die onderverdelingsregister vir die grondontwikkelingsgebied geopen is;
- 35 (c) die aangewese beampte die registrateur in kennis gestel het dat daar aan die betrokke stigtingsvoorwaardes met betrekking tot die betrokke grondontwikkelingsaansoek voldoen is; en
- (d) die aangewese beampte die registrateur in kennis gestel het dat die onderskeie verantwoordelikhede van die grondontwikkelingsapplikant en die betrokke plaaslike owerheidsliggaam om ingenieursdienste soos beoog in artikel 35, te verskaf, aan voldoen is.
- 40 (2) Ondanks die bepaling van subartikel (1), begin 'n registrateur met oordrag van voorlopige eiendomsreg wat erwe in 'n grondontwikkelingsgebied raak, wanneer—
- (a) die aangewese beampte die registrateur ingevolge artikel 28(5) in kennis gestel het dat die betrokke grondontwikkelingsaansoek goedgekeur is;
- 45 (b) in die geval waar die gebied aangedui op die uitlegplan goedgekeur as deel van die betrokke grondontwikkelingsaansoek nie die geheel van die stuk of stukke grond ten opsigte waarvan die betrokke grondontwikkeling plaasvind, uitmaak nie, 'n kaart wat met die buitelyn van sodanige uitlegplan ooreenstem deur die Landmeter-generaal goedgekeur is;
- 50 (c) bakens ten opsigte van individuele, voorgestelde erwe deur 'n opmeter geplaas is in ooreenstemming met die uitlegplan wat as deel van die betrokke grondontwikkelingsaansoek goedgekeur is;
- 55 (d) die aangewese beampte die registrateur in kennis gestel het dat die grondontwikkelingsapplikant, of die betrokke plaaslike owerheidsliggaam, na gelang van die geval, aan die aangewese beampte—

- (i) a guarantee in the prescribed form in favour of a surveyor, conveyancer, professional engineer, local government body or other person as required by the designated officer, issued by a financial institution or other guarantor acceptable to him or her, in an amount sufficient to cover the costs of—
 - (aa) opening the subdivision register if the land development applicant does not cause such register to be opened within the period referred to in section 32(b);
 - (bb) complying with relevant conditions of establishment; and
 - (cc) fulfilling the respective responsibilities of the land development applicant and the relevant local government body to provide engineering services as contemplated in section 35; and
 - (ii) such powers of attorney and other documents as may be prescribed or necessary to enable the person in whose favour such guarantee is made to complete the acts contemplated in subparagraph (i);
 - (e) a condition of establishment having the effect of suspending the operation of servitudes or other restrictive conditions, if any, has been imposed and the necessary notice published in the *Gazette* as contemplated in section 28(2)(d) as read with section 28(3)(d);
 - (f) in the event of the area shown on the layout plan approved as part of the relevant land development application comprising more than one piece of land, all such pieces of land are owned by the same person or body or all such owners have granted a power of attorney in favour of the same person or body, including one of such owners, authorising the latter to transfer initial ownership on their behalf;
 - (g) any mortgagee in respect of land shown on the layout plan approved as part of the relevant land development application has consented to the cancellation of the mortgage bond or has released the relevant sites shown on such layout plan from the operation of such bond;
 - (h) an application intended in section 54(2) has been granted by a tribunal and certificates issued by a surveyor and conveyancer as intended in section 54(4), the layout plan referred to in paragraph (c) and the necessary application have been lodged in terms of section 54(6); and
 - (i) the registrar has completed the entries in his or her records in terms of section 54(7).
- (3) The provisions of—
- (a) subsections (1) and (2) shall not preclude the implementation of a transaction performed in accordance with a condition of establishment; and
 - (b) subsection (2)(d) shall not apply insofar as the relevant general plan has been approved, the subdivision register has been opened, the conditions of establishment have been complied with, or the land development applicant's service responsibilities have been fulfilled, as the case may be.
- (4) A diagram referred to in subsection (2)(b) may be approved by the Surveyor-General, notwithstanding that any other diagram showing a subdivision or consolidation of the piece or pieces of land referred to in that subsection, which would otherwise or customarily have been required to be approved as a prerequisite to the approval of the diagram referred to in subsection (2)(b), has not yet been approved: Provided that such other diagram shall subsequently be prepared and submitted to the Surveyor-General in such form and manner as not to require any amendment of the diagram referred to in subsection (2)(b).

Erection of buildings

34. If a condition of establishment has been approved to the effect that it is not necessary for building plans to be lodged with any responsible authority, there shall be no restriction on the erection of buildings and the settlement of persons

- (i) 'n waarborg in die voorgeskrewe vorm ten gunste van 'n opmeter, transportbesorger, professionele ingenieur, plaaslike owerheidsliggaam of ander persoon gelewer het soos deur die aangewese beamppte vereis, uitgereik deur 'n finansiële instelling of ander garant wat vir hom of haar aanvaarbaar is, in 'n bedrag voldoende om die koste van—
- 5 (aa) die opening van die onderverdelingsregister te dek indien die grondontwikkellingsapplikant nie bewerkstellig dat sodanige register geopen word binne die in artikel 32(b) bedoelde tydperk nie;
- 10 (bb) die voldoening aan die betrokke stigtingsvoorwaardes te dek; en
- (cc) die vervulling van die onderskeie verantwoordelikhede van die grondontwikkellingsapplikant en die betrokke plaaslike owerheidsliggaam om ingenieursdienste soos beoog in artikel 35, te verskaf, te dek; en
- 15 (ii) sodanige volmagte en ander dokumente soos voorgeskryf of nodig mag wees om die persoon in wie se guns sodanige waarborg gemaak is in staat te stel om die handeling beoog in subparagraaf
- 20 (i) te voltooi, gelewer het;
- (e) 'n stigtingsvoorwaarde wat die uitwerking het om die werking van serwitute en ander beperkende voorwaardes op te skort, indien enige, opgelê is en die nodige kennisgewing soos beoog in artikel 28(2)(d), gelees met artikel 28(3)(d), gepubliseer is;
- 25 (f) in die geval waar die gebied aangedui op die uitlegplan goedgekeur as deel van die betrokke grondontwikkellingsaansoek meer as een stuk grond uitmaak, alle sodanige stukke grond deur dieselfde persoon of liggaam besit word of al sodanige eienaars 'n volmag ten gunste van dieselfde persoon of liggaam verleen het, insluitende een van sodanige eienaars wat laasgenoemde magtig om voorlopige eiendomsreg namens hulle oor te dra;
- 30 (g) enige verbandhouer ten opsigte van grond aangedui op 'n uitlegplan goedgekeur as deel van die betrokke grondontwikkellingsaansoek, toegestem het tot die rojering van die verband, of die betrokke erf wat op sodanige uitlegplan aangedui is van die werking van sodanige verband vrygestel het;
- 35 (h) 'n in artikel 54(2) bedoelde aansoek deur 'n tribunaal toegestaan is en in artikel 54(4) bedoelde sertifikate deur 'n opmeter en transportbesorger, die in paragraaf (c) bedoelde uitlegplan en die nodige aansoek ingevolge artikel 54(6), ingedien is; en
- 40 (i) die registrateur die inskrywings in sy of haar rekords ingevolge artikel 54(7) voltooi het.
- (3) Die bepalings van—
- (a) subartikels (1) en (2) verhinder nie die implementering van 'n transaksie uitgevoer ooreenkomstig 'n stigtingsvoorwaarde nie; en
- 45 (b) subartikel (2)(d) is nie van toepassing insoverre die betrokke algemene plan goedgekeur is, die onderverdelingsregister geopen is, die stigtingsvoorwaardes aan voldoen is, of die grondontwikkellingsapplikant se diensteverpligtinge nagekom is nie, na gelang van die geval.
- 50 (4) 'n Kaart bedoel in subartikel (2)(b) kan deur die Landmeter-generaal goedgekeur word, ondanks die nie-goedkeuring van enige ander kaart wat 'n onderverdeling of konsolidasie van die stuk of stukke grond bedoel in daardie subartikel, aandui, wat andersins of gewoonlik vereis sou word om goedgekeur te word as 'n voorvereiste vir die goedkeuring van die kaart bedoel in subartikel
- 55 (2)(b): Met dien verstande dat sodanige ander kaart daarna voorberei word en by die Landmeter-generaal in sodanige vorm en wyse voorgelê word om sodoende geen wysiging van die kaart bedoel in subartikel (2)(b) te vereis nie.

Oprigting van geboue

34. Indien 'n stigtingsvoorwaarde goedgekeur is tot die effek dat dit nie nodig
- 60 is om bouplanne by enige verantwoordelike owerheid in te dien nie, is daar geen beperking op die oprigting van geboue en die vestiging van persone in die

in the relevant land development area at any stage, save only insofar as such restriction may exist by virtue of such a condition of establishment or a zoning scheme, other measure or prescribed provision contemplated in section 28(2)(h).

Engineering services

35. (1) Every land development area shall be provided with such engineering services as may have been agreed between the land development applicant and the relevant local government body in terms of a services agreement complying with the prescribed guidelines and approved by a tribunal. 5

(2) Subject to any relaxation authorised by a tribunal in relation to any particular services agreement— 10

- (a) the land development applicant shall provide such engineering services as have been classified as internal services by regulation; and
- (b) the relevant local government body shall provide such services as have been so classified as external or trunk services.

Vesting and reversion of public streets and places 15

36. (1) The ownership of all public streets and public places indicated as such on the general plan of a land development area shall, without compensation vest in the local government body in whose local government area the land development area is situated at the same time when transfers of land in ownership become registrable as intended in section 33(1). 20

(2) If a general plan of a land development area is—

- (a) cancelled in whole or in part the ownership of the public streets and public places in the land development area shown on such cancelled plan or part thereof shall upon such cancellation revert to the original owner of the land concerned; 25
- (b) amended in such a manner as to require the closing of such street or place or portion thereof in terms of any law, the ownership in such street, place or portion shall revert to the original owner of the land concerned.

Investigation and authorisation of non-statutory land development processes

37. (1) Where any local government body or any other interested person or body, including a group of persons, has by reason of the settlement of persons on, the erection or occupation of any structure on or layout of land, reasonable grounds for believing that— 30

- (a) a land development is taking place or has taken place or a land development area will be or has been established without following the procedures set out in this Act or in any other applicable law; and 35
- (b) it is in the interests of the persons residing or who will reside on such land and in the public interest that an exemption under section 25(3)(b)(i) or (ii) be granted,

such body person or group may refer the matter to the designated officer for investigation. 40

(2) Having investigated the matter, the designated officer shall submit his or her report thereon to the tribunal.

(3) As soon as reasonably possible after receiving the report contemplated in subsection (2), the tribunal shall satisfy itself as to whether or not the layout, division, settlement or disposal of the land or the erection or occupation of the buildings thereon, constitutes or will constitute the unlawful establishment of a land development area or in any manner defeats or will defeat any object of this Act or any other law governing the establishment of land development areas unless an exemption under section 25(3)(b)(i) or (ii) is granted, and if the tribunal is so satisfied, it may grant or decline to grant an exemption contemplated that section in respect of such land development area. 50

betrokke grondontwikkelingsgebied op enige stadium nie, behalwe slegs insoverre sodanige beperking uit hoofde van sodanige stigtingsvoorwaarde of 'n soneringskema, ander maatreël of voorgeskrewe bepaling beoog in artikel 28(2)(h), mag bestaan.

5 Ingenieursdienste

35. (1) Elke grondontwikkelingsgebied word voorsien van sodanige ingenieursdienste as waarop ooreengekom mag word tussen die grondontwikkelingsapplikant en die betrokke plaaslike owerheidsliggaam ingevolge 'n diens-teooreenkoms wat aan die voorgeskrewe riglyne voldoen en deur 'n tribunaal goedgekeur is.

(2) Onderhewig aan enige verslapping deur 'n tribunaal gemagtig met betrekking tot enige besondere diens-teooreenkoms—

- (a) verskaf die grondontwikkelingsapplikant sodanige ingenieursdienste as wat as interne dienste ingevolge regulasie geklassifiseer is; en
- 15 (b) verskaf die betrokke plaaslike owerheidsliggaam sodanige dienste as wat aldus as eksterne of hoofdienste geklassifiseer is.

Vestiging en terugvalling van openbare strate en plekke

36. (1) Die eiendomsreg van alle openbare strate en openbare plekke as sodanig aangedui op die algemene plan van 'n grondontwikkelingsgebied vestig 20 sonder vergoeding in die plaaslike owerheidsliggaam in wie se plaaslike owerheidsgebied die grondontwikkelingsgebied geleë is gelyktydig wanneer eiendomsoordrag van grond registreerbaar word soos bedoel in artikel 33(1).

(2) Indien 'n algemene plan van 'n grondontwikkelingsgebied—

- 25 (a) in geheel of gedeeltelik gerojier word, val die eiendomsreg van die openbare strate en openbare plekke in die grondontwikkelingsgebied op sodanige gerojierde plan of deel daarvan aangedui op sodanige rojering terug na die aanvanklike eienaar van die betrokke grond;
- (b) gewysig word op 'n wyse wat die sluiting van sodanige straat of plek of 30 deel daarvan ingevolge enige wet vereis, val die eiendomsreg in sodanige straat, plek of deel terug na die aanvanklike eienaar van die betrokke grond.

Ondersoek en magtiging vir nie-statutêre grondontwikkelingsprosesse

37. (1) Waar enige plaaslike owerheidsliggaam of enige ander belanghebbende persoon of liggaam, insluitende 'n groep persone, uit hoofde van die 35 vestiging van persone op, die oprigting of okkupasie van enige struktuur op of uitleg van, grond, redelike gronde het om te glo dat—

- (a) 'n grondontwikkeling plaasvind of plaasgevind het of 'n grondontwikkelingsgebied gestig is of sal word sonder dat die prosedure soos in hierdie Wet of in enige ander toepaslike wet uiteengesit, gevolg is; en
- 40 (b) dit in die belang van die persone woonagtig of wat op sodanige grond sal woon, is, en dit in die openbare belang is dat 'n vrystelling kragtens artikel 25(3)(b)(i) of (ii) verleen word,

mag sodanige liggaam, persoon of groep die aangeleentheid na die aangewese beampte vir ondersoek verwys.

45 (2) Na ondersoek van die aangeleentheid, lê die aangewese beampte sy of haar verslag daaroor aan die tribunaal voor.

(3) So gou redelikerwys moontlik na ontvangs van die in subartikel (2) beoogde verslag, stel die tribunaal homself tevrede of die uitleg, verdeling, vestiging of beskikking van of oor die grond of die oprigting of okkupasie van die 50 geboue daarop, die onregmatige stigting van 'n grondontwikkelingsgebied uitmaak of sal uitmaak of op enige wyse enige oogmerke van hierdie Wet of enige ander wet wat die stigting van grondontwikkelingsgebiede reël, verydel of sal verydel, tensy 'n vrystelling kragtens artikel 25(3)(b)(i) of (ii) verleen word, en indien die tribunaal aldus tevrede gestel is, mag dit 'n vrystelling beoog in 55 daardie artikel ten opsigte van sodanige grondontwikkelingsgebied verleen.

(4) A tribunal may in considering a report referred to in subsection (2) conduct such enquiries, hear such evidence and take such steps as it may consider appropriate in the circumstances and shall in considering the matter take into account—

- (a) the health or safety of the public generally, or of any class or classes of persons, including persons residing in the land development area; 5
- (b) the feasibility of providing rudimentary services and of the upgrading of such services over a period of time in the future;
- (c) the feasibility of housing persons in temporary buildings in the land development area, whether or not such buildings have been or are to be erected by such persons; 10
- (d) the feasibility of the development of appropriate community facilities and services;
- (e) the suitability or otherwise of the land development area for residential settlement taking into account its location in relation to employment and transport facilities; 15
- (f) the feasibility of providing occupants of the land development area with appropriate security of land tenure;
- (g) the feasibility of developing permanent dwellings over a period of time in the future; 20
- (h) the feasibility of establishing an appropriate local government body or to include the land development area within the local government area of such body and of providing the municipal services for the land development area;
- (i) the possibility of persons settling in the land development area being able to acquire sites which are affordable for them, taking into account their likely income and other means of finance, including finance provided by the State; 25
- (j) the feasibility of the land development area being lawfully established in accordance with the exemption referred to in subsection (3); 30
- (k) the rights of any person in or in respect of the relevant land and, where applicable, the feasibility of such land or rights being expropriated or otherwise acquired for the purposes of establishing a land development area; 35
- (l) any similar matter prescribed; and
- (m) any other similar matter that the tribunal may deem appropriate.

(5) Where a tribunal considers it appropriate to do so after consideration of the matter as set out in terms of subsection (4), it may grant an exemption referred to in subsection (3).

(6) The provisions of any law on establishment of a land development area or land use planning shall not apply in relation to land which is the subject of an exemption referred to in subsection (3) or of pending proceedings contemplated in that subsection. 40

Proof of certain facts in connection with applications to establish land development areas 45

38. (1) A surveyor, town and regional planner, professional engineer, attorney, notary, conveyancer or soil geologist who prepares a document required for a land development application under this Chapter and who signs the prescribed certificate on such document, accepts by virtue of such signature the responsibility and any liability for the accuracy of the prescribed facts mentioned in such document. 50

(2) The designated officer and a tribunal shall accept, during the course of consideration of a land development application, that the facts referred to in subsection (1) in connection with such application in respect of which a certificate referred to in that subsection has been signed, have for the purposes of such consideration been conclusively proved. 55

(4) 'n Tribunaal mag by die oorweging van 'n in subartikel (2) bedoelde verslag sodanige ondersoekeloods, sodanige getuienis aanhoor en sodanige stappe neem as wat dit in die omstandighede dienstig ag, en neem by die oorweging van die aangeleentheid in ag—

- 5 (a) die gesondheid of veiligheid van die publiek in die algemeen, of van enige klas of klasse van persone, insluitende persone wat in die grondontwikkelingsgebied woon;
- (b) die doenlikheid van die verskaffing van rudimentêre dienste en van die opgradering van sodanige dienste oor 'n tydperk in die toekoms;
- 10 (c) die doenlikheid van die huisvesting van persone in tydelike geboue in die grondontwikkelingsgebied, hetsy sodanige geboue deur sodanige persone opgerig is of staan te word, al dan nie;
- (d) die doenlikheid van die ontwikkeling van toepaslike gemeenskapsfasiliteite en -dienste;
- 15 (e) die geskiktheid of andersins van die grondontwikkelingsgebied vir residensiële vestiging met inagneming van die ligging ten aansien van indiensnemings- en vervoerfasiliteite;
- (f) die doenlikheid van die verskaffing aan okkupeerders van die grondontwikkelingsgebied van toepaslike sekuriteit van grondtitel;
- 20 (g) die doenlikheid van die ontwikkeling van permanente wonings oor 'n tydperk in die toekoms;
- (h) die doenlikheid van die stigting van 'n toepaslike plaaslike owerheidsliggaam, of om die grondontwikkelingsgebied binne die plaaslike owerheidsgebied van sodanige liggaam in te sluit, en om die munisipale dienste vir die grondontwikkelingsgebied te voorsien;
- 25 (i) die moontlikheid dat persone wat in die grondontwikkelingsgebied vestig in staat is om erwe te verkry wat bekostigbaar vir hulle is, met inagneming van hulle waarskynlike inkomstes en ander finansieringsbronne, insluitende finansiering deur die Staat verskaf;
- 30 (j) die doenlikheid of die grondontwikkelingsgebied regtens ooreenkomstig die in subartikel (3) bedoelde vrystelling gestig kan word;
- (k) die regte van enige persoon in of ten opsigte van die betrokke grond en, waar van toepassing, die doenlikheid om sodanige grond of regte te onteien of andersins te verkry vir die doeleindes van die stigting van 'n
- 35 grondontwikkelingsgebied;
- (l) enige soortgelyke aangeleentheid voorgeskryf;
- (m) enige ander soortgelyke aangeleentheid wat die tribunaal toepaslik mag ag.

(5) Waar 'n tribunaal dit toepaslik ag om aldus te doen na oorweging van die
40 aangeleentheid soos ingevolge subartikel (4) uiteengesit, mag dit 'n in subartikel (3) bedoelde vrystelling verleen.

(6) Die bepalings van enige wet met betrekking tot die stigting van 'n grondontwikkelingsgebied of grondgebruiksbeplanning geld nie met betrekking tot grond wat die onderwerp is van 'n in subartikel (3) bedoelde vrystelling of
45 van hangende verrigtinge beoog in daardie subartikel nie.

Bewys van sekere feite in verband met aansoeke om grondontwikkelingsgebiede te stig

38. (1) 'n Opmeter, stads- en streeksbeplanner, professionele ingenieur, prokureur, notaris, transportbesorger of grondgeoloog wat 'n dokument voorberei wat vir 'n grondontwikkelingsaansoek kragtens hierdie Hoofstuk vereis
50 word en wat die voorgeskrewe sertifikaat op sodanige dokument onderteken, aanvaar uit hoofde van sodanige handtekening die verantwoordelikheid en enige aanspreeklikheid vir die akkuraatheid van die voorgeskrewe feite in die dokument vermeld.

55 (2) Die aangewese beampte en 'n tribunaal aanvaar, in die loop van oorweging van 'n grondontwikkelingsaansoek, dat die in subartikel (1) bedoelde feite ten opsigte van sodanige aansoek ingevolge waarvan 'n sertifikaat bedoel in daardie subartikel onderteken is, vir die doeleindes van sodanige oorweging afdoende bewys is.

Establishment of land development areas on behalf of State or local government body

39. (1) The State or a local government body may in the prescribed manner and subject to the prescribed guidelines appoint any person to carry on a land development in terms of this Chapter on land owned by the State or such local government body, in terms of a land availability agreement submitted to and approved by a tribunal. 5

(2) Any land which has been made available in terms of subsection (1)—

- (a) shall remain subject to the control of the responsible Minister or MEC, who may, or of the relevant local government body; as the case may be, which may, in the event of a breach of the conditions on which the land was so made available by the person or body to whom or which the land was made available, withdraw any land thus made available and thereafter deal with such land as the Minister, MEC or local government body, as the case may be, may deem fit; 10 15
- (b) shall not in any way be alienated or further encumbered by the person or body who or which has so made the land available, while the land concerned remains so available to the person or body concerned;
- (c) may be alienated by the relevant person or body to whom or which the land has been made available, only in the capacity as the duly authorised agent of the owner of the land and on the conditions on which the land has been made available to such person or body. 20

Delegation of powers

40. (1) The Minister may delegate or assign any power or duty conferred or imposed upon him or her by or under this Chapter, except the power conferred upon him or her under section 41, to a Premier or to any officer in the Departments of Land Affairs or Housing. 25

(2) A Premier may delegate or assign any power or duty conferred or imposed upon him or her under this Chapter, including any duty or power assigned to him or her under subsection (1) to any officer in the provincial administration concerned or in the employ of a local government body. 30

(3) A delegation or assignment under subsections (1) or (2) shall not prevent the Minister or the Premier, as the case may be, from himself or herself exercising the power or to perform the duty concerned.

Minister may make regulations

35

41. (1) The Minister may make regulations in relation to—

- (a) the forms of application or notice in terms of this Chapter;
- (b) the persons or bodies to be notified of a land development application;
- (c) the appointment of one or more designated officers, who may be persons in the service of the provincial administration or a local government body, and the area for which they have been appointed; 40
- (d) the procedure to be followed for the extension of the boundaries of an established land development area and the amendment or cancellation of a general plan;
- (e) the duties of a land development applicant, designated officer or a local government body to give notice to any person or body of any fact relating to the establishment of a land development area; 45
- (f) the classification of engineering services into internal and external or trunk services and guidelines with which a services agreement shall comply; 50
- (g) the plans and specifications relating to engineering services to be lodged by an applicant with any local government body;

Stigting van grondontwikkelingsgebiede namens Staat of plaaslike owerheidsliggaam

39. (1) Die Staat of 'n plaaslike owerheidsliggaam mag op die voorgeskrewe wyse en onderhewig aan die voorgeskrewe riglyne enige persoon aanwys om 'n grondontwikkeling ingevolge hierdie Hoofstuk te doen op grond waarvan die Staat of sodanige plaaslike owerheidsliggaam die eienaar is, ingevolge 'n grondbesikbaarheidsooreenkoms voorgelê aan en goedgekeur deur 'n tribunaal.
- (2) Enige grond wat ingevolge subartikel (1) beskikbaar gestel is,—
- (a) bly onderhewig aan die beheer van die verantwoordelike Minister of LUR, of van die betrokke plaaslike owerheidsliggaam, na gelang van die geval, wat, in die geval van 'n verbreking van die voorwaardes waarop die grond aldus beskikbaar gestel is deur die persoon of liggaam aan wie die grond beskikbaar gestel is, enige grond aldus beskikbaar gestel, mag terugtrek en daarna met sodanige grond mag handel soos die Minister, LUR of die plaaslike owerheidsliggaam, na gelang van die geval, mag goeddink;
- (b) word nie op enige wyse deur die persoon of liggaam wat die grond aldus beskikbaar gestel het, vervreem of verder beswaar, terwyl die betrokke grond aldus aan die betrokke persoon of liggaam beskikbaar bly nie;
- (c) mag deur die betrokke persoon of liggaam aan wie of waaraan die grond beskikbaar gestel is vervreem word slegs in die hoedanigheid as die behoorlik gevolmagtigde agent van die eienaar van die grond en op die voorwaardes waarop die grond aan sodanige persoon of liggaam beskikbaar gestel is.

25 Delegasie van bevoegdhede

40. (1) Die Minister mag enige bevoegdheid of plig aan hom of haar toegeken of opgelê by of kragtens hierdie Hoofstuk, uitgesonderd die bevoegdheid kragtens artikel 41 aan hom of haar verleen, aan 'n Premier of aan enige beampte in die Departemente van Grondsake of Behuising oormaaik.
- (2) 'n Premier mag enige bevoegdheid of plig aan hom of haar kragtens hierdie Hoofstuk toegeken of opgelê, insluitende enige plig of bevoegdheid aan hom of haar kragtens subartikel (1) oorgemaak, aan enige beampte van die betrokke provinsiale administrasie of in die diens van 'n plaaslike owerheidsliggaam oormaaik.
- (3) Oormaking kragtens subartikels (1) of (2) verhoed nie die Minister of Premier, na gelang van die geval, om self die betrokke bevoegdheid uit te oefen of die betrokke plig uit te voer nie.

Minister mag regulasies uitvaardig

41. (1) Die Minister kan regulasies uitvaardig met betrekking tot—
- (a) die vorme van aansoek of kennisgewing ingevolge hierdie Hoofstuk;
- (b) die persone of liggame wat in kennis gestel moet word van 'n grondontwikkelingsaansoek;
- (c) die aanstelling van een of meer aangewese beamptes, wat persone in diens van die provinsiale administrasie of 'n plaaslike owerheidsliggaam mag wees, en die gebied waarvoor hulle aangestel is;
- (d) die prosedure wat gevolg moet word vir die uitbreiding van die grense van 'n gestigte grondontwikkelingsgebied en die wysiging of rojering van 'n algemene plan;
- (e) die pligte van 'n grondontwikkelingsapplikant, aangewese beampte of 'n plaaslike owerheidsliggaam om aan enige persoon of liggaam kennis te gee van enige feit met betrekking tot die stigting van 'n grondontwikkelingsgebied;
- (f) die klassifisering van ingenieursdienste in interne en eksterne of grootmaatdienste en riglyne waaraan 'n diensteooreenkoms moet voldoen;
- (g) die planne en spesifikasies met betrekking tot ingenieursdienste wat by enige plaaslike owerheidsliggaam deur 'n applikant ingedien moet word;

- (h) the effect of non-compliance with any time limit prescribed under this Chapter;
 - (i) the powers, duties and functions of local government bodies or any class thereof in relation to the establishment of land development areas;
 - (j) the upgrading or further development of any land development area, including a land development area being developed by virtue of an exemption contemplated in section 25(3)(b); 5
 - (k) inspections and investigations in relation to applications to establish land development areas;
 - (l) the fees and travelling allowances, if any, to be charged in respect of any act, matter or thing required or authorised to be done under this Chapter; 10
 - (m) the regulation of the use of land in a land development area, including zoning schemes or other measures for—
 - (i) the zoning or reservation of land into areas to be used exclusively or mainly for residential, business, industrial, local authority, governmental or other purposes with due regard to existing uses; 15
 - (ii) the prohibition or restriction of the use of land in such land development area in conflict with the terms of such scheme or other measures; 20
 - (iii) a replanning of any such land development area;
 - (iv) the regulation and limitation of buildings, including the demolition of or imposition of a special charge in respect of buildings erected or altered contrary to any such scheme or any other measures;
 - (v) the prohibition of the transfer of land where any requirement by virtue of powers conferred under this paragraph has not been fulfilled; 25
 - (vi) the amendment or substitution of such schemes or other measures and the preparation, approval and coming into operation of such an amendment or substitution; 30
 - (vii) the consultation and taking into account of objections and representations of any person or body in relation to any such amendment or substitution;
 - (viii) the payment by any person of compensation or a development contribution in relation to any such amendment or substitution; 35
 - (ix) any provision relating to land development or land use planning in general;
 - (n) any matter which in terms of this Chapter is required or permitted to be prescribed;
 - (o) in general all matters which he or she deems necessary or expedient to prescribe in order that the objects of this Chapter or this Act may be achieved. 40
- (2) The Minister may make different regulations in respect of different areas.

State and local government bound

42. This Chapter shall bind the State and local government bodies. 45

CHAPTER VI

LAND DEVELOPMENT PROCEDURES IN RELATION TO RURAL SETTLEMENT

Application to establish a land development area

43. (1) The following land development applicants may apply for establishment of a land development area in terms of this Chapter: 50
- (a) An owner of land including the State or a local government body in respect of land owned by it;

- (h) die uitwerking van nie-voldoening aan enige tydsbepaling kragtens hierdie Hoofstuk voorgeskryf;
 - (i) die bevoegdhede, pligte en funksies van plaaslike owerheidsliggame of enige klas daarvan met betrekking tot die stigting van grondontwikkelingsgebiede;
 - (j) die opgradering of verdere ontwikkeling van enige grondontwikkelingsgebied, insluitende 'n grondontwikkelingsgebied wat ontwikkel word uit hoofde van 'n vrystelling beoog in artikel 25(3)(b);
 - (k) inspeksies en ondersoeke met betrekking tot aansoeke om grondontwikkelingsgebiede te stig;
 - (l) die gelde en reistoelaes, indien enige, wat gehef word ten opsigte van enige handeling, aangeleentheid of saak vereis of gemagtig om kragtens hierdie Hoofstuk gedoen te word;
 - (m) die regulering van grondgebruik in 'n grondontwikkelingsgebied, insluitende soneringskemas of ander maatreëls vir—
 - (i) die sonering of reservering van grond in gebiede wat uitsluitlik of hoofsaaklik vir residensiële-, besigheids-, industriële-, plaaslike owerheids-, regerings- of ander doeleindes gebruik word, met behoorlike inagneming van bestaande gebruike;
 - (ii) die verbod op of beperking van grondgebruik in sodanige grondontwikkelingsgebied in stryd met die bepalinge van sodanige skema of ander maatreëls;
 - (iii) 'n herbeplanning van enige sodanige grondontwikkelingsgebied;
 - (iv) die regulering en beperking van geboue, insluitende die sloping van of oplegging van 'n spesiale heffing ten opsigte van geboue opgerig of verander in stryd met enige sodanige skema of enige ander maatreëls;
 - (v) die verbod op die oordrag van grond waar enige vereiste uit hoofde van bevoegdhede opgelê kragtens hierdie paragraaf nie aan voldoen is nie;
 - (vi) die wysiging of vervanging van sodanige skemas of ander maatreëls en die voorbereiding, goedkeuring en inwerkingtreding van sodanige wysiging of vervanging;
 - (vii) die konsultasie en inagneming van besware en vertoe van enige persoon of liggaam met betrekking tot enige sodanige wysiging of vervanging;
 - (viii) die betaling deur enige persoon van vergoeding of 'n ontwikkelingsbydrae met betrekking tot enige sodanige wysiging of vervanging;
 - (ix) enige bepaling met betrekking tot grondontwikkeling of grondgebruiksbeplanning in die algemeen;
 - (n) enige aangeleentheid wat ingevolge hierdie Hoofstuk vereis word of toegelaat word om voorgeskryf te word;
 - (o) in die algemeen alle aangeleenthede wat hy of sy nodig of wenslik ag om voorgeskryf te word ten einde die doeleindes van hierdie Hoofstuk of hierdie Wet te verwesenlik.
- (2) Die Minister kan verskillende regulasies ten opsigte van verskillende gebiede uitvaardig.

Staat en plaaslike owerheid gebonde

42. Hierdie Hoofstuk bind die Staat en plaaslike owerheidsliggame.

HOOFTUK VI

GRONDONTWIKKELINGSPROSEDURE MET BETREKKING TOT LANDELIKE VESTIGING

Aansoek om 'n grondontwikkelingsgebied te stig

43. (1) Die volgende grondontwikkelingsapplikante mag aansoek doen om die stigting van 'n grondontwikkelingsgebied ingevolge hierdie Hoofstuk:
- (a) 'n Eienaar van grond insluitende die Staat of 'n plaaslike owerheidsliggaam ten opsigte van grond waarvan dit die eienaar is;

- (b) An agent or independent contractor acting on behalf of the owner of land;
 - (c) A person acting with the consent of the owner of the land;
 - (d) A person to whom the land has been made available by the State or a local government body in terms of a land availability agreement; or 5
 - (e) A person acting on behalf of the owner of land in any capacity.
- (2) A land development applicant wishing to establish a land development to be shown on a partition plan in terms of this Chapter on any land shall lodge an application with a designated officer in the prescribed manner accompanied by such documents and information as may be prescribed. 10
- (3) The land development applicant shall give notice of an application referred to in subsection (2) to such persons or bodies as may be prescribed.
- (4) Any notice referred to in subsection (3) shall, in the prescribed form, call upon any person or body to whom such notice has been given either—
- (a) to provide comments in writing on such application and which are delivered to the designated officer within such period of time as may be prescribed and set out in such notice; or 15
 - (b) failing the delivery of such comments within such period, or if such comments were delivered but constitute an objection to any aspect of the application, to appear in person or through a representative before a tribunal on a date set out in the notice. 20
- (5) A notice referred to in subsection (3) shall have the same effect, *mutatis mutandis*, as if it were a subpoena issued by a tribunal as intended in section 16(10).

Submission to tribunal

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44. The designated officer shall, prior to the date of a tribunal hearing as intended in section 43(4), consider—
- (a) an application referred to in section 43(2);
 - (b) any comments, objections or representations received within the period referred to in section 43(4); and 30
 - (c) any reply by the land development applicant to such comments, objections or representations which may have been provided by such applicant within the prescribed period,
- and shall within the prescribed period submit the application and such comments, objections, representations and reply, together with his or her report and recommendation on the application, to the tribunal for its consideration. 35

Consideration of application by tribunal

45. (1) After receipt of a report, recommendation and other documents from the designated officer as intended in section 44, and on or as soon as reasonably possible after the date set out in a notice referred to in section 43(4), a tribunal shall consider and may approve or refuse the land development in whole or in part or postpone a decision thereon and may in approving such application impose one or more conditions contemplated in subsection (2). 40
- (2) In approving a land development application in terms of this Chapter, a tribunal may approve or impose any condition relating to— 45
- (a) whether or not the land in the proposed land development is to be subdivided or not in accordance with this Chapter;
 - (b) the ownership of the land forming the subject of the application and the administration of settlement by persons on such land by any person, trust, body of persons or juristic person subject to such terms and conditions as may be set out in any applicable law or as may be approved by the tribunal; 50

- (b) 'n Agent of onafhanklike kontrakteur wat namens die eienaar van die grond optree;
- (c) 'n Persoon wat met die toestemming van die eienaar van die grond optree;
- 5 (d) 'n Persoon aan wie die grond deur die Staat of 'n plaaslike owerheidsliggaam ingevolge 'n grondbeskikbaarheidsooreenkoms beskikbaar gestel is; of
- (e) 'n Persoon wat namens die eienaar van grond in enige hoedanigheid optree.
- 10 (2) 'n Grondontwikkelingsapplikant wat 'n grondontwikkeling wat verskyn op 'n verdelingsplan ingevolge hierdie Hoofstuk op enige grond wil doen, dien 'n aansoek op die voorgeskrewe wyse, tesame met sodanige dokumente en inligting as wat voorgeskryf mag word, by 'n aangewese beampte in.
- (3) Die grondontwikkelingsapplikant gee kennis van 'n in subartikel (2)
- 15 bedoelde aansoek aan sodanige persone of liggame soos wat voorgeskryf mag word.
- (4) Enige in subartikel (3) bedoelde kennisgewing, in die voorgeskrewe vorm, gelas enige persoon of liggaam aan wie sodanige kennisgewing gegee is om of—
- 20 (a) skriftelike kommentaar te lewer op sodanige aansoek en wat aan die aangewese beampte gelewer moet word binne sodanige tydperk as wat voorgeskryf en in sodanige kennisgewing uiteengesit word; of
- (b) by gebreke aan die aflewering van sodanige kommentaar binne sodanige tydperk, of indien sodanige kommentaar gelewer is maar neerkom op 'n beswaar rakende enige aspek van die aansoek, om in persoon of
- 25 deur 'n verteenwoordiger voor 'n tribunaal op 'n datum in die kennisgewing uiteengesit, te verskyn.
- (5) 'n In subartikel (3) bedoelde kennisgewing het dieselfde effek, *mutatis mutandis*, asof dit 'n subpoena uitgereik deur 'n tribunaal soos bedoel in artikel 16(10), is.

30 Voorlegging aan tribunaal

- 44. Die aangewese beampte oorweeg, voor die datum van 'n tribunaalverhoor soos bedoel in artikel 43(4)—
- (a) 'n in artikel 43(2) bedoelde aansoek;
- (b) enige kommentaar, besware of verdoë ontvang binne die in artikel
- 35 43(4) bedoelde tydperk; en
- (c) enige antwoord deur die grondontwikkelingsapplikant op sodanige kommentaar, besware of verdoë wat deur sodanige applikant binne die voorgeskrewe tydperk verskaf mag word,
- en lê binne die voorgeskrewe tydperk die aansoek en sodanige kommentaar,
- 40 besware, verdoë en antwoord, tesame met sy of haar verslag en aanbeveling ten aansien van die aansoek, aan die tribunaal vir oorweging voor.

Oorweging van aansoek deur tribunaal

- 45. (1) Na ontvangs van 'n verslag, aanbeveling en ander dokumente van die aangewese beampte soos bedoel in artikel 44, en op of so spoedig as wat
- 45 redelikerwys moontlik is na die datum in 'n in artikel 43(4) bedoelde kennisgewing uiteengesit, oorweeg 'n tribunaal die grondontwikkeling en kan 'n aansoek in geheel of ten dele goedkeur of afwys of 'n besluit daaroor uitstel, en mag by die goedkeuring van sodanige aansoek een of meer voorwaardes soos beoog in subartikel (2), oplê.
- 50 (2) By goedkeuring van 'n grondontwikkelingsaansoek ingevolge hierdie Hoofstuk mag 'n tribunaal enige voorwaarde oplê of goedkeur met betrekking tot—
- (a) of die grond in die voorgestelde grondontwikkeling ooreenkomstig hierdie Hoofstuk onderverdeel moet word al dan nie;
- (b) die besit van die grond wat die onderwerp van die aansoek uitmaak en
- 55 die administrasie van vestiging deur persone op sodanige grond deur enige persoon, trust, liggaam van persone of regspersoon onderhewig aan sodanige bepalings en voorwaardes as wat in enige toepaslike wet uiteengesit mag word of deur die tribunaal goedgekeur mag word;

- (c) whether or not the use of land in the proposed land development is to be regulated by—
 - (i) the provisions of the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983);
 - (ii) provisions relating to the use of land outside land development areas which have been prescribed generally for the purpose; 5
 - (iii) specific provisions for special or strategic projects which have been prescribed for the purpose;
 - (d) whether or not the provisions of—
 - (i) any law on physical planning; 10
 - (ii) any law requiring the approval of an authority for the subdivision of land;
 - (iii) any other law, which in the opinion of the tribunal may have a dilatory or adverse effect on the proposed land development for the settlement of persons therein, 15
 shall apply in respect of the land in question; and
 - (e) any other matter considered appropriate by the tribunal.
- (3) A condition imposed in terms of—
- (a) subsection (2)(c)(i) shall have effect notwithstanding any provision to the contrary contained in any law contemplated in that subsection; and 20
 - (b) relating to the suspension of the operation of any law referred to in subsection (2)(d), shall have the effect of so suspending such law, upon notice of such condition being given by the designated officer in the Provincial Gazette or, if a later date is stated in such notice, with effect from such later date. 25
- (4) Any condition imposed under subsection (2) which requires any act to be performed by a land development applicant shall state by which stage during the land development such condition is to be fulfilled or shall take effect, as the case may be.

Amendment of application, conditions and continuation of application by new land development applicant 30

46. Subject to such procedures and conditions as may be prescribed—
- (a) an application to establish a land development in terms of this Chapter may be amended;
 - (b) any condition imposed or approved under section 45(2) may be amended or deleted; 35
 - (c) a land development which is the subject of a land development application in terms of this Chapter may be divided into two or more land developments;
 - (d) where the land development applicant or owner of land in respect of which an application for a land development has been made in terms of this Chapter, has changed, the new land development applicant or owner may continue with the application; 40
 - (e) the designated officer shall inform the registrar of any event contemplated in paragraphs (a) to (d). 45

Land developments in terms of this Chapter on behalf of State or local government body

47. (1) The State or a local government body may in the prescribed manner and subject to the prescribed guidelines appoint any person to carry on a land development in terms of this Chapter on land owned by the State or such local government body, in terms of a land availability agreement submitted to and approved by a tribunal. 50

- (2) Any land which has been made available in terms of subsection (1)—

- (c) of die grondgebruik in die voorgestelde grondontwikkeling gereël moet word al dan nie deur—
- (i) die bepalings van die Wet op Bewaring van Landbouhulpbronne, 1983 (Wet No. 43 van 1983);
 - 5 (ii) bepalings met betrekking tot grondgebruik buite stedelike gebiede wat in die algemeen vir die doel voorgeskryf is;
 - (iii) spesifieke bepalings vir spesiale of strategiese projekte wat vir die doel voorgeskryf is;
- (d) of die bepalings van—
- 10 (i) enige wet met betrekking tot fisiese beplanning;
 - (ii) enige wet wat die goedkeuring van 'n owerheid vir die onderverdeling van grond vereis;
 - (iii) enige ander wet, wat na die mening van die tribunaal 'n vertragende of nadelige invloed op die voorgestelde grondontwikkeling
 - 15 vir die vestiging van persone daarin mag hê,
- ten opsigte van die betrokke grond geld, al dan nie; en
- (e) enige ander aangeleentheid wat deur die tribunaal as toepaslik geag word.
- (3) 'n Voorwaarde opgelê—
- 20 (a) ingevolge subartikel (2)(c)(i) is van krag ondanks enige andersluidende bepalings van enige wet beoog in daardie subartikel; en
 - (b) met betrekking tot die opskorting van die werking van enige in subartikel (2)(d) bedoelde wet, het die effek om sodanige wet op te skort,
- 25 by publikasie van sodanige voorwaarde deur die aangewese beampte in die *Provinsiale Koerant*, of indien 'n latere datum in sodanige kennisgewing voorgeskryf word, vanaf sodanige latere datum.
- (4) Enige voorwaarde kragtens subartikel (2) opgelê wat vereis dat enige handeling deur 'n grondontwikkelingsapplikant uitgevoer word, moet aandui op
- 30 watter tydstip gedurende die grondontwikkeling sodanige voorwaarde vervul moet word, of van krag moet word, na gelang van die geval.

Wysiging van aansoek, voorwaardes en voortsetting van aansoek deur nuwe grondontwikkelingsapplikant

46. Onderhewig aan sodanige prosedures en voorwaardes as wat voorgeskryf
- 35 mag word,—
- (a) mag 'n aansoek om 'n grondontwikkeling ingevolge hierdie Hoofstuk te stig, gewysig word;
 - (b) mag enige voorwaarde opgelê of goedgekeur kragtens artikel 45(2) gewysig of geskrap word;
 - 40 (c) mag 'n grondontwikkeling wat die onderwerp van 'n grondontwikkelingsaansoek ingevolge hierdie Hoofstuk is, in twee of meer grondontwikkelings verdeel word;
 - (d) mag die nuwe grondontwikkelingsapplikant of eienaar, waar die grondontwikkelingsapplikant of eienaar van grond ten opsigte waarvan 'n
 - 45 aansoek vir 'n grondontwikkeling ingevolge hierdie Hoofstuk gebring is, verander het, met die aansoek voortgaan;
 - (e) verwittig die aangewese beampte die registrateur van enige in paragrawe (a) tot (d) beoogde gebeurtenis.

Grondontwikkeling ingevolge hierdie Hoofstuk namens Staat of plaaslike owerheidsliggaam

47. (1) Die Staat of 'n plaaslike owerheidsliggaam mag op die voorgeskrewe wyse en onderhewig aan die voorgeskrewe riglyne enige persoon aanwys om 'n grondontwikkeling ingevolge hierdie Hoofstuk te doen op grond waarvan die Staat of sodanige plaaslike owerheidsliggaam die eienaar is, ingevolge 'n
- 55 grondbeskikbaarheidsooreenkoms voorgelê aan en goedgekeur deur 'n tribunaal.
- (2) Enige grond wat ingevolge subartikel (1) beskikbaar gestel is—

- (a) shall remain subject to the control of the responsible Minister or MEC, who may, or of the relevant local government body, as the case may be, which may, in the event of a breach of the conditions on which the land was so made available by the person or body to whom or which the land was made available, withdraw any land thus made available and thereafter deal with such land as the Minister, MEC or local government body, as the case may be, may deem fit; 5
- (b) shall not in any way be alienated or further encumbered by the person or body which has so made the land available, while the land concerned remains so available to the person or body concerned; and 10
- (c) may be alienated by the relevant person or body to whom or which the land has been made available, only in its capacity as the duly authorised agent of the owner of the land and on the conditions on which the land has been made available to such person or body.

Subdivision of land

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48. (1) A land development applicant intending to subdivide any land for the purposes of a land development contemplated in this Chapter shall draw up or cause to be drawn up a partition plan indicating such intended subdivision and submit such partition plan as part of an application contemplated in section 43(2).

(2) A land development applicant may, subject to any condition imposed or approved in terms of section 45(2), subdivide land in a proposed land development area as contemplated in this Chapter or cause such land to be subdivided in accordance with the provisions of this Chapter into pieces of land to be used for such purposes as may be shown on a partition plan. 20

Lodging of documents with Surveyor-General and Registrar of Deeds

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49. A land development applicant who has been notified that his or her application for a land development in terms of this Chapter has been approved shall, within the prescribed period, lodge—

- (a) with the Surveyor-General, such plans, diagrams and other information which the Surveyor-General may require to approve a diagram in accordance with such approved application, insofar as it relates to an approved partition plan; 30
- (b) with the registrar, such approved plans and diagrams, together with such title deeds and other documents as may be required for registration by the registrar. 35

Settlement of persons in a land development

50. Settlement of any persons in any land development shall take place only after a surveyor has surveyed such land and placed the beacons: Provided that a tribunal may in any particular case grant permission that such settlement may take place in the manner determined by it even if the beacons concerned have not yet been placed. 40

Delegation

51. (1) The Minister may delegate or assign any power or duty conferred or imposed upon him or her by or under this Chapter, except the power conferred upon him or her under section 52, to a Premier or to any officer in the Departments of Land Affairs or Agriculture. 45

(2) A Premier may delegate or assign any power or duty conferred or imposed upon him or her under this Chapter, including any duty or power assigned to him or her under subsection (1) to any officer in the provincial administration concerned or in the employ of a local government body. 50

- (a) bly onderworpe aan die beheer van die betrokke Minister, LUR, of van die betrokke plaaslike owerheidsliggaam, na gelang van die geval, wat, in die geval van 'n verbreking van die voorwaardes waarop die grond aldus beskikbaar gestel is deur die persoon of liggaam aan wie of waaraan die grond beskikbaar gestel is, enige grond aldus beskikbaar gestel mag terugtrek en daarna met sodanige grond mag handel soos wat die Minister, LUR, of die plaaslike owerheidsliggaam, na gelang van die geval, mag goedvind;
- (b) word nie op enige wyse deur die persoon of liggaam wat die grond aldus beskikbaar gestel het vervreem of verder beswaar nie, terwyl die betrokke grond aldus aan die betrokke persoon of liggaam beskikbaar bly;
- (c) mag deur die betrokke persoon of liggaam aan wie of waaraan die grond beskikbaar gestel is vervreem word slegs in die hoedanigheid as die behoorlik gevolmagtigde agent van die eienaar van die grond en op die voorwaardes waarop die grond aan sodanige persoon of liggaam beskikbaar gestel is.

Onderverdeling van grond

48. (1) 'n Grondontwikkelingsapplikant wat voornemens is om enige grond vir die doeleindes van 'n grondontwikkeling beoog in hierdie Hoofstuk, onder te verdeel, stel 'n verdelingsplan op of laat dit opstel, waarop sodanige beoogde onderverdeling aangedui word en lê sodanige verdelingsplan as deel van sy aansoek beoog in artikel 43(2), voor.

(2) 'n Grondontwikkelingsapplikant mag, onderhewig aan enige voorwaarde opgelê of goedgekeur ingevolge artikel 45(2), grond in 'n voorgestelde grondontwikkelingsgebied soos bedoel in hierdie Hoofstuk onderverdeel of sodanige grond laat onderverdeel ooreenkomstig die bepalinge van hierdie Hoofstuk, in stukke grond wat vir sodanige doeleindes gebruik staan te word as wat op 'n verdelingsplan aangedui mag word.

Indiening van dokumente by Landmeter-generaal en Registrateur van Aktes

49. 'n Grondontwikkelingsapplikant wat in kennis gestel is dat sy of haar aansoek vir 'n grondontwikkeling ingevolge hierdie Hoofstuk goedgekeur is, dien binne die voorgeskrewe tydperk—

- (a) by die Landmeter-generaal sodanige planne, kaarte en ander inligting in wat die Landmeter-generaal mag vereis om 'n kaart ooreenkomstig sodanige goedgekeurde aansoek goed te keur, insoverre dit betrekking het op 'n goedgekeurde verdelingsplan;
- (b) by die registrateur sodanige goedgekeurde planne en kaarte in, tesame met sodanige titelaktes en ander dokumente as wat deur die registrateur vir registrasie vereis mag word.

40 Vestiging van persone op 'n grondontwikkeling

50. Vestiging van enige persone op enige grondontwikkeling vind plaas slegs nadat 'n opmeter sodanige grond opgemeet het en die bakens geplaas het: Met dien verstande dat 'n tribunaal in enige besondere geval toestemming kan verleen dat sodanige vestiging mag plaasvind op die wyse deur dit bepaal, selfs indien die betrokke bakens nog nie geplaas is nie.

Delegasie

51. (1) Die Minister mag enige bevoegdheid of plig aan hom of haar toegeken of opgelê by of kragtens hierdie Hoofstuk, uitgesonderd die bevoegdheid kragtens artikel 52 aan hom of haar verleen, aan 'n Premier of aan enige beampte in die Departemente van Grondsake of Landbou oormaa.

(2) 'n Premier mag enige bevoegdheid of plig aan hom of haar kragtens hierdie Hoofstuk toegeken of opgelê, insluitende enige plig of bevoegdheid aan hom of haar kragtens subartikel (1) oorgemaak, aan enige beampte van die betrokke provinsiale administrasie of in die diens van 'n plaaslike owerheidsliggaam oormaa.

(3) A delegation or assignment under subsections (1) or (2) shall not prevent the Minister or the Premier, as the case may be, from himself or herself exercising the power or to perform the duty concerned.

Minister may make regulations

52. (1) The Minister may make regulations in relation to— 5
- (a) the forms of application or notice in terms of this Chapter; 5
 - (b) the persons or bodies to be notified of a land development application; 10
 - (c) the appointment of one or more designated officers who may be persons in the service of a provincial administration or a local government body and the area for which they have been appointed; 10
 - (d) the duties of a land development applicant, designated officer or local government body to give notice to any person or body of any fact relating to the establishment of a land development in terms of this Chapter; 15
 - (e) the effect of non-compliance with any time limit prescribed under this Chapter; 15
 - (f) the powers, duties or functions of local government bodies or any other competent authority or any class thereof in relation to land development in terms of this Chapter; 20
 - (g) the inspections and investigations in relation to applications for land development in terms of this Chapter; 20
 - (h) the fees and travelling allowances, if any, to be charged in respect of any act, matter or thing required and authorised to be done in terms of this Chapter; 25
 - (i) the regulation of the use of land in a land development contemplated in this Chapter; 25
 - (j) the sizes of the pieces of land into which a land development contemplated in this Chapter shall be subdivided; 30
 - (k) the guidelines for a land availability agreement as contemplated in this Chapter; 30
 - (l) the supply of services to persons who are settled in a land development contemplated in this Chapter; 30
 - (m) the number of people who may inhabit a land development contemplated in this Chapter; 35
 - (n) the grant of financial or other assistance to any person; 35
 - (o) any steps which may be taken if a land development applicant does not comply with the conditions of a land availability agreement; 35
 - (p) any other matter which in terms of this Chapter is required or permitted to be prescribed; 40
 - (q) any other matter which he or she considers necessary to prescribe in order to achieve the objects of this Chapter. 40
- (2) The Minister may make different regulations in respect of different areas.

State and local government bound

53. This Chapter shall bind the State and local government bodies.

CHAPTER VII

LAND TENURE MATTERS

45

Registration arrangement involving surveyor and conveyancer

54. (1) Any land development applicant referred to in Chapter V may apply to a tribunal for the approval of a registration arrangement as contemplated in this section.

(2) A tribunal shall not unreasonably decline to grant an application referred to in subsection (1) if— 50

(3) Oormaking kragtens subartikels (1) of (2) verhoed nie die Minister of die Premier, na gelang van die geval, om self die betrokke bevoegdheid uit te oefen of die betrokke plig uit te voer nie.

Minister mag regulasies uitvaardig

- 5 52. (1) Die Minister kan regulasies uitvaardig met betrekking tot—
- (a) die vorme van aansoek of kennisgewing ingevolge hierdie Hoofstuk;
 - (b) die persone of liggame wat in kennis gestel moet word van 'n grondontwikkelingsaansoek;
 - 10 (c) die aanstelling van een of meer aangewese beamptes, wat persone in diens van 'n provinsiale administrasie of 'n plaaslike owerheidsliggaam mag wees, en die gebied waarvoor hulle aangestel word;
 - (d) die pligte van 'n grondontwikkelingsapplikant, aangewese beampte of 'n plaaslike owerheidsliggaam om aan enige persoon of liggaam kennis te gee van enige feit met betrekking tot die stigting van 'n grondontwik-
 - 15 keling ingevolge hierdie Hoofstuk;
 - (e) die uitwerking van nie-voldoening aan enige tydsbepaling kragtens hierdie Hoofstuk voorgeskryf;
 - (f) die bevoegdhede, pligte en funksies van plaaslike owerheidsliggame of enige ander bevoegde owerheid of enige klas daarvan met betrekking
 - 20 tot grondontwikkeling ingevolge hierdie Hoofstuk;
 - (g) die inspeksies en ondersoeke met betrekking tot aansoeke vir grondontwikkeling ingevolge hierdie Hoofstuk;
 - (h) die gelde en reistoelaes, indien enige, wat gehef word ten opsigte van enige handeling, aangeleentheid of saak vereis of gemagtig om in-
 - 25 gevolge hierdie Hoofstuk gedoen te word;
 - (i) die reëling van grondgebruik in 'n grondontwikkeling beoog in hierdie Hoofstuk;
 - (j) die groottes van die stukke grond waarin 'n grondontwikkeling beoog in hierdie Hoofstuk, onderverdeel moet word;
 - 30 (k) die riglyne vir 'n grondbesikbaarheidsooreenkoms soos beoog in hierdie Hoofstuk;
 - (l) die verskaffing van dienste aan persone wat op 'n grondontwikkeling beoog in hierdie Hoofstuk, gevestig is;
 - (m) die getal persone wat 'n grondontwikkeling beoog in hierdie Hoofstuk,
 - 35 mag bewoon;
 - (n) die toestaan van finansiële of ander hulp aan enige persoon;
 - (o) enige stappe wat gedoen mag word indien 'n grondontwikkelingsapplikant nie aan die voorwaardes van 'n grondbesikbaarheidsooreenkoms voldoen nie;
 - 40 (p) enige ander aangeleentheid wat ingevolge hierdie Hoofstuk vereis of toegelaat word om voorgeskryf te word;
 - (q) enige ander aangeleentheid wat hy of sy noodsaaklik ag om voor te skryf ten einde die doel van hierdie Hoofstuk te verwesenlik.
- (2) Die Minister kan verskillende regulasies ten opsigte van verskillende
- 45 gebiede uitvaardig.

Staat en plaaslike owerheid gebonde

53. Hierdie Hoofstuk bind die Staat en plaaslike owerheidsliggame.

HOOFSTUK VII

GRONDTITELAANGELEENTHEDE

50 Registrasiereëling met opmeter en transportbesorger betrokke

54. (1) Enige grondontwikkelingsapplikant in Hoofstuk V bedoel mag by 'n tribunaal aansoek doen vir die goedkeuring van 'n registrasiereëling soos beoog in hierdie artikel.
- (2) 'n Tribunaal wys nie 'n in subartikel (1) bedoelde aansoek onredelikerwys
- 55 van die hand nie indien—

- (a) the provisions of section 33(2) have been complied with to the satisfaction of the tribunal;
- (b) the tribunal is satisfied that the conveyancer and surveyor responsible for the issuing of the certificates contemplated in subsection (4) have sufficient experience and are in possession of sufficient insurance properly to issue such a certificate; and 5
- (c) the tribunal is satisfied, if the land development applicant is the State or a local government body or a person or body with whom the State or local government body has concluded a land availability agreement, and if the State or local government body concerned has not yet acquired 10 transfer of the relevant land, that such land has been expropriated in favour of the State or such local government body by any competent authority.

(3) A tribunal may grant an application in terms of subsection (1) subject to such conditions as it may deem appropriate: Provided that any condition requiring registration in a deeds registry shall be imposed under section 28(2) and not under this subsection. 15

(4) (a) At any time after an application in terms of subsection (1) has been granted, the surveyor contemplated in subsection (2)(b) may issue a certificate in the prescribed form certifying that the beacons referred to in section 33(2)(c) were placed by him or her as required in terms of that section and to the effect that he or she is of the opinion that there is no substantial risk that a general plan will not be approved accordingly. 20

(b) At any time after an application in terms of subsection (1) has been granted, and if granted subject to conditions referred to in subsection (3), after such a condition requiring to be fulfilled prior to a certificate contemplated in this section being issued, has been fulfilled, the conveyancer contemplated in subsection (2)(b) may issue a certificate in the prescribed form describing the remaining registrable transactions required in a deeds registry before erven in the land development area will become capable of being transferred in ownership as contemplated in section 33(1) and to the effect that he or she is of the opinion that, in the light of the circumstances contemplated in paragraphs (a) to (c) of subsection (2), there is no substantial risk that such erven shall not become so registrable. 30

(5) The provisions of section 38 relating to professional responsibility and liability shall *mutatis mutandis* apply to a certificate referred to in subsection (4). 35

(6) The certificates referred to in subsection (4) shall be filed with the designated officer contemplated in Chapter V and such certificates, together with the layout plan referred to in section 33(2)(c) and an application by the owner of the land concerned for the registrar to take the steps in terms of subsection (7), shall be lodged with the relevant registrar. 40

(7) Upon receipt of the certificates and other documents referred to in subsection (6), the registrar shall make such entries into his or her records as may be necessary in order to—

- (a) reflect that a registration arrangement as contemplated in this section is in operation in relation to the relevant land; and 45
- (b) create a separate register for the registration of initial ownership by reference to the numbers relating to individual, proposed erven appearing upon the layout plan referred to in section 33(2)(c), until such initial ownership is converted into ownership as contemplated in section 55(7). 50

Initial ownership

55. (1) As soon as the steps referred to in section 54(7) have been taken by the registrar, a form of title to be known as initial ownership may be registered in a deeds registry. 55

(2) Transfer of initial ownership shall be registered in accordance with the provisions of the Deeds Registries Act, 1937.

(3) Initial ownership in respect of an erf in a land development area shall be transferred by means of a deed of initial transfer in a form prescribed under the Deeds Registries Act, 1937. 60

- (a) na die bevrediging van die tribunaal aan die bepalings van artikel 33(2) voldoen is;
- (b) die tribunaal tevrede is dat die transportbesorger en opmeter verantwoordelik vir die uitreiking van die in subartikel (4) beoogde sertifikaat, voldoende ondervinding het en in besit is van voldoende versekering om behoorlik sodanige sertifikaat uit te reik; en
- (c) die tribunaal tevrede is, indien die grondontwikkelaarsapplikant die Staat of 'n plaaslike owerheidsliggaam, of 'n persoon of liggaam waarmee die Staat of plaaslike owerheidsliggaam 'n grondbeskikbaarheidsooreenkoms aangegaan het, is, en indien die Staat of betrokke plaaslike owerheidsliggaam nog nie oordrag van die betrokke grond verkry het nie, dat sodanige grond ten gunste van die Staat of sodanige plaaslike owerheidsliggaam deur enige bevoegde owerheid onteien is.
- (3) 'n Tribunaal kan 'n aansoek ingevolge subartikel (1) goedkeur onderhewig aan sodanige voorwaardes as wat dit toepaslik mag ag: Met dien verstande dat enige voorwaarde wat registrasie in 'n aktesregister vereis kragtens artikel 28(2) en nie kragtens hierdie subartikel nie, opgelê word.
- (4) (a) Te eniger tyd na 'n aansoek ingevolge subartikel (1) toegestaan is mag die in subartikel (2)(b) beoogde opmeter 'n sertifikaat in die voorgeskrewe vorm uitreik wat sertifiseer dat die bakens bedoel in subartikel 33(2)(c) deur hom of haar soos ingevolge daardie artikel vereis, geplaas is en tot die effek dat hy of sy van mening is dat daar geen wesenlike risiko is dat 'n algemene plan nie dienoooreenkomstig goedgekeur sal word nie.
- (b) Te eniger tyd na 'n aansoek ingevolge subartikel (1) toegestaan is, en indien toegestaan onderhewig aan voorwaardes bedoel in subartikel (3), nadat sodanige voorwaarde wat vereis word om vervul te word voor 'n in hierdie artikel beoogde sertifikaat uitgereik word, vervul is, mag die transportbesorger beoog in subartikel (2)(b) 'n sertifikaat in die voorgeskrewe vorm uitreik wat die oorblywende registreerbare transaksies vereis in 'n akteskantoor voordat erwe in die grondontwikkingsgebied vatbaar word vir eiendomsoordrag soos beoog in artikel 33(1), beskryf, en tot die effek dat hy of sy van mening is dat, in die lig van die in paragrafe (a) tot (c) van subartikel (2) beoogde omstandighede, daar geen wesenlike risiko is dat sodanige erwe nie aldus registreerbaar sal raak nie.
- (5) Die bepalings van artikel 38 met betrekking tot professionele verantwoordelikheid en aanspreeklikheid geld *mutatis mutandis* ten opsigte van 'n in subartikel (4) bedoelde sertifikaat.
- (6) Die in subartikel (4) bedoelde sertifikate word by die aangewese beampte in Hoofstuk V beoog ingedien en sodanige sertifikate tesame met die uitlegplan bedoel in artikel 33(2)(c) en 'n aansoek deur die eienaar van die betrokke grond aan die registrateur om die stappe ingevolge subartikel (7) te neem, word by die betrokke registrateur ingedien.
- (7) By ontvangs van 'n sertifikaat en ander dokumente bedoel in subartikel (6), maak die registrateur sodanige inskrywing in sy of haar register as wat nodig mag wees ten einde—
- (a) aan te toon dat 'n registrasiereëling soos beoog in hierdie artikel in werking is met betrekking tot die betrokke grond; en
- (b) 'n afsonderlike register vir die registrasie van voorlopige eiendomsreg te skep met verwysing na die nommers met betrekking tot individuele, voorgestelde erwe wat op die uitlegplan bedoel in subartikel 33(2)(c) voorkom, tot sodanige voorlopige eiendomsreg in eiendomsreg soos beoog in artikel 55(7), omskep is.

Voorlopige eiendomsreg

55. (1) Sodra die stappe in artikel 54(7) bedoel deur die registrateur gedoen is, mag 'n titelvorm wat as voorlopige eiendomsreg bekend staan in die registrasiekantoor geregistreer word.
- (2) Oordrag van voorlopige eiendomsreg word ooreenkomstig die bepalings van die Registrasie van Aktes Wet, 1937, geregistreer.
- (3) Voorlopige eiendomsreg ten opsigte van 'n erf in 'n grondontwikkingsgebied word oorgedra deur middel van 'n voorlopige transportakte in 'n vorm wat kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf word.

(4) Registration of transfer of initial ownership under subsection (2) shall vest in the holder of such initial ownership—

(a) the right to occupy and use the relevant erf as if he or she were the owner thereof until the upgrading of such initial ownership into ownership as contemplated in subsection (7). 5

(b) the right to acquire ownership in respect of such erf as contemplated in subsection (7); and

(c) the right to encumber the initial ownership by means of a mortgage, or to encumber the initial ownership with a personal servitude, but not the right otherwise to alienate or deal with such initial ownership. 10

(5) (a) Land in respect of which initial ownership has been transferred shall not, until such initial ownership has been converted into ownership under subsection (7), in any way be alienated or further encumbered by the person or body who or which has transferred the initial ownership, save as may be required or necessary to comply with a condition of establishment or to render such land capable of registration as intended in section 33(1). 15

(b) Notwithstanding the provisions of section 6 of the Deeds Registries Act, 1937, a registrar may cancel initial ownership if, subject to subsection (6), the owner of the relevant land, the holder of the initial ownership in respect thereof, the holder of a personal servitude referred to in subsection (4)(c), if any, and the mortgagee in respect of such initial ownership, if any, agree thereto. 20

(c) No transfer duty, stamp duty or other fees shall be payable in respect of a cancellation in terms of paragraph (b).

(6) In the event of initial ownership being offered for sale during the course of the administration of a deceased estate, at a sale in execution or at a sale in consequence of the insolvency or liquidation of the holder of such initial ownership, any person, including a mortgagee, acquiring such asset at or pursuant to such sale shall not acquire such initial ownership but shall, instead, be entitled to the cancellation of such initial ownership and the transfer of initial ownership in respect of the same site to him or her, *mutatis mutandis* in terms of subsection (5)(b): Provided that the agreement of the owner of the land and of the holder of the initial ownership shall not be required. 25 30

(7) Immediately upon an erf which is the object of initial ownership becoming registrable in ownership as contemplated in section 33(1), such initial ownership shall be converted into ownership and from such conversion the ownership of such erf shall vest exclusively in the person who was the holder of initial ownership in respect of such erf immediately before the conversion. 35

(8) Upon a conversion into ownership in terms of subsection (7)—

(a) any mortgage bond or personal servitude registered in respect of initial ownership as contemplated in subsection (4)(c), shall thereupon be converted into a mortgage or personal servitude, as the case may be, in respect of the erf in question; and 40

(b) such ownership shall be subject to any condition, servitude, mortgage bond or other right registered immediately before such conversion against the title of the land or relevant erf in the relevant land development area. 45

(9) (a) In order to give effect to subsections (7) and (8), the registrar shall make the necessary entries and endorsements in respect of his or her registers and other documents, as well as in respect of any relevant documents produced to him or her. 50

(b) No transfer duty, stamp duty or other fees shall be payable in respect of such entries and endorsements.

Upgrading of informal tenure

56. (1) Whenever a land development takes the form of the upgrading, *in situ*, of an existing settlement, informal or unregistered tenure arrangements existing among occupants of such land development may be upgraded into ownership in such manner as may be prescribed by the Minister. 55

- (4) Registrasie van oordrag van voorlopige eiendomsreg kragtens subartikel (2) vestig in die houer van sodanige voorlopige eiendomsreg—
- (a) die reg om die betrokke erf te okkupeer en te gebruik asof hy of sy die eienaar daarvan is tot die opgradering van sodanige voorlopige eiendomsreg na eiendomsreg soos beoog in subartikel (7);
- (b) die reg om eiendomsreg ten opsigte van sodanige erf soos beoog in subartikel (7), te verkry; en
- (c) die reg om die voorlopige eiendomsreg deur middel van 'n verband te beswaar of om sodanige voorlopige eiendomsreg met 'n persoonlike serwituut te beswaar, maar nie die reg om sodanige voorlopige eiendomsreg andersins te vervreem of daarmee te handel nie.
- (5) (a) Grond ten opsigte waarvan voorlopige eiendomsreg oorgedra is, word nie, totdat sodanige voorlopige eiendomsreg kragtens subartikel (7) in eiendomsreg omskep is nie, op enige wyse vervreem of verder beswaar deur die persoon of liggaam wie of wat die voorlopige eiendomsreg oorgedra het nie, behalwe soos vereis mag word of nodig is om aan 'n stigtingsvoorwaarde te voldoen of om sodanige grond vatbaar vir registrasie soos bedoel in artikel 33(1), te maak.
- (b) Ondanks die bepalings van artikel 6 van die Registrasie van Aktes Wet, 1937, mag 'n registrateur voorlopige eiendomsreg rojeer indien, onderworpe aan subartikel (6), die eienaar van die betrokke grond, die houer van die voorlopige eiendomsreg ten opsigte daarvan, die houer van 'n persoonlike serwituut bedoel in subartikel 4(c), indien enige, en die verbandhouer ten opsigte van sodanige voorlopige eiendomsreg, indien enige, daartoe toestem.
- (c) Geen hereregte, seëlregte of enige ander gelde is betaalbaar ten opsigte van 'n rojering ingevolge paragraaf (b) nie.
- (6) Indien voorlopige eiendomsreg te koop aangebied word gedurende die administrasie van 'n bestorwe bedoel, op 'n verkoping in eksekusie of op 'n verkoping as gevolg van die insolvensie of likwidasië van die houer van sodanige voorlopige eiendomsreg, verkry enige persoon, insluitende 'n verbandnemer, wat sodanige bate by of voortvloeiend uit sodanige verkoping verkry, nie sodanige voorlopige eiendomsreg nie, maar is instelle daarvan, geregtig op die kansellasië van sodanige voorlopige eiendomsreg en die oordrag aan hom of haar van voorlopige eiendomsreg ten opsigte van sodanige erf, *mutatis mutandis* ingevolge subartikel (5)(b): Met dien verstande dat die instemming van die eienaar van die grond en van die houer van die voorlopige eiendomsreg nie vereis sal word nie.
- (7) Onmiddellik wanneer 'n erf wat die voorwerp van voorlopige eiendomsreg is, registreerbaar word in eiendomsreg soos beoog in artikel 33(1), word sodanige voorlopige eiendomsreg omskep in eiendomsreg en vanaf sodanige omskepping vestig eiendomsreg van sodanige eiendom uitsluitlik in die persoon wat onmiddellik voor die omskepping die houer van voorlopige eiendomsreg ten opsigte van sodanige erf was.
- (8) By 'n omskepping in eiendomsreg ingevolge subartikel (7)—
- (a) word enige verband of persoonlike serwituut geregistreer ten opsigte van voorlopige eiendomsreg soos beoog in subartikel (4)(c), omskep in 'n verband of persoonlike serwituut, na gelang van die geval, ten opsigte van die betrokke erf; en
- (b) is sodanige eiendomsreg aan enige voorwaarde, serwituut, verband of ander reg onmiddellik voor sodanige omskepping teen die titel van die grond of die betrokke erf in die grondontwikkelingsgebied geregistreer, onderworpe.
- (9) (a) Ten einde gevolg te gee aan subartikels (7) en (8), maak die registrateur die nodige inskrywings en endossemente ten opsigte van sy of haar registers en ander dokumente, asook ten opsigte van enige relevante dokumente aan hom of haar voorgelê.
- (b) Geen hereregte, seëlregte of ander gelde is ten opsigte van sodanige inskrywings en endossemente betaalbaar nie.

Opgradering van informele titel

56. (1) Wanneer 'n grondontwikkeling die vorm van 'n opgradering, *in situ*, van 'n bestaande vestiging aanneem, mag informele of ongeregistreerde titelreëlings wat tussen okkupeerders van sodanige grondontwikkeling bestaan, opgradeer word na eiendomsreg op die wyse deur die Minister voorgeskryf.

- (2) The regulations referred to in subsection (1) may relate to—
- (a) the role of any committee which includes members of the community residing on the land development in question, in the upgrading of such informal tenure arrangements into ownership;
 - (b) the use of aerial photographs or other technology;
 - (c) the compilation of a draft layout or partition plan;
 - (d) the co-operation between various parties involved in the land development and the persons residing in the land development in respect of the identification of physical boundaries and the adjudication of disputes;
 - (e) the numbering of structures or dwellings in the land development;
 - (f) the development of a formal layout plan or partition plan for the land development;
 - (g) the placing of beacons in the land development;
 - (h) the stage of the land development at which surveys will be carried out, a general plan will be submitted to the relevant Surveyor-General and the manner in which proposed erven in the land development will be rendered capable of registration in ownership.

Special deeds of transfer

57. (1) As soon as erven in a land development area have become capable of being transferred in ownership as contemplated in section 33(1), a deed of transfer contemplated in this section may be prepared and lodged with a registrar: Provided that nothing contained in this section shall preclude the registration of transfer in terms of any other lawful procedure.

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

- (a) a conveyancer; or
- (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be.

(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or any other person referred to in subsection (2)(b) in the manner prescribed under that Act.

(4) A person referred to in subsection (2)(b)—

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

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

(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937.

(7) An erf in a land development area shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1).

- (2) Die in subartikel (1) bedoelde regulasies mag betrekking hê op—
- (a) die rol van enige komitee, wat lede van die gemeenskap wat op die betrokke grondontwikkeling woon, insluit, in die opgradering van sodanige informele titelreëlings na eiendomsreg;
 - 5 (b) die gebruik van lugfotos of ander tegnologie;
 - (c) die samestelling van 'n konsep uitleg- of verdelingsplan;
 - (d) die samewerking tussen verskillende partye betrokke by die grondontwikkeling en die persone woonagtig op die grondontwikkeling ten opsigte van die identifisering van fisiese grense en die beslegting van
 - 10 (e) die numering van strukture en wonings op die grondontwikkeling;
 - (f) die ontwikkeling van 'n formele uitlegplan of verdelingsplan vir die grondontwikkeling;
 - (g) die plasing van bakens op die grondontwikkeling;
 - 15 (h) die stadium van die grondontwikkeling waarop opmetings gedoen word, 'n algemene plan aan die betrokke Landmeter-generaal voorgelê word en die wyse waarop die voorgestelde erwe in die grondontwikkeling vatbaar gestel sal word vir registrasie in eiendomsreg.

Spesiale aktes van oordrag

- 20 57. (1) Sodra erwe in 'n grondontwikkelingsgebied vatbaar word vir oordrag van eiendomsreg soos beoog in artikel 33(1), mag 'n transportakte in hierdie artikel beoog voorberei en by 'n registrateur ingedien word: Met dien verstande dat niks in hierdie artikel vervat die registrasie van oordrag ingevolge enige ander wettige prosedure verhinder nie.
- 25 (2) 'n Transportakte bedoel in subartikel (1), word voorberei deur—
- (a) 'n transportbesorger; of
 - (b) indien die eienaar van die betrokke grond die Staat of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die
 - 30 geval, wat vir die doel deur die Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.
- (3) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (2)(a) of die ander
- 35 persoon bedoel in subartikel (2)(b) op die wyse ingevolge daardie wet voorgeskryf, onderteken.
- (4) 'n Persoon bedoel in subartikel (2)(b)—
- (a) toon die feit aan dat die transportakte bedoel in subartikel (1) of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of
 - 40 toestemming, na gelang van die geval, en aanvaar deur aldus te doen, *mutatis mutandis*, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, *mutatis mutandis* soos kragtens daardie wet voorgeskryf; en
 - (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n in hierdie artikel beoogde transportakte, uitvoer.
 - 50
- (5) 'n Transportbesorger of ander persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937
- 55 voorgeskryf, in.
- (6) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (5) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937.
- 60 (7) 'n Erf in 'n grondontwikkelingsgebied word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (1).

(8) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.

Deeds of transfer relating to initial ownership

58. The provisions of section 57(2) to (8) shall, *mutatis mutandis*, apply also to the registration of transfer of initial ownership. 5

Application and administration of land tenure matters contemplated in this Act in former homelands

59. Notwithstanding anything to the contrary contained in any other law, any transaction, diagram, plan, document, step or action referred to or contemplated in this Act which is capable of or which requires to be approved by a Surveyor-General or registered in a deeds registry, may, in the case of a territory which was, immediately before the commencement of the Constitution— 10

(a) known as Transkei, Bophuthatswana, Venda or Ciskei, be so approved or registered *mutatis mutandis* in accordance with the provisions of this Act, the Land Survey Act, 1927 and the Deeds Registries Act, 1937: Provided that, for all purposes of such approval or registration, any reference in the said Land Survey Act, Deeds Registries Act or this Act to a "registrar", "Surveyor-General" or a "deeds registry" shall be deemed to be a reference to a registrar, Surveyor-General or deeds registry as defined or intended in any corresponding Act, regulation or enactment relating to land survey or the registration of deeds which, by virtue of section 229 of the Constitution, continues to be in force in such territory; or 15 20

(b) known as KwaNdebele or KwaZulu, be so approved or registered *mutatis mutandis* in accordance with the provisions of this Act, the Land Survey Act, 1927 and the Deeds Registries Act, 1937, to the exclusion of any corresponding Act, regulation or enactment relating to land survey or the registration of deeds which, by virtue of section 229 of the Constitution, continues to be in force in such territory. 25 30

CHAPTER VIII

GENERAL

Amendment of laws

60. The laws mentioned in the Schedule are hereby amended to the extent set out in the third column. 35

Short title and commencement

61. This Act shall be called the Development Facilitation Act, 1994, and shall come into operation on a date fixed by the President by proclamation in the Gazette.

(8) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing nie en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.

5 Transportaktes met betrekking tot voorlopige eiendomsreg

58. Die bepalings van artikel 57(2) tot (8) is, *mutatis mutandis*, ook van toepassing op die registrasie van oordrag van voorlopige eiendomsreg.

Toepassing en administrasie in die voormalige tuislande van grondtitel-aangeleenthede in hierdie Wet beoog

- 10 59. Ondanks andersluidende bepalings van die een of ander wet, kan enige transaksie, kaart, plan, dokument, stap of handeling bedoel of beoog in hierdie Wet wat vatbaar is vir of wat vereis word om deur 'n Landmeter-generaal goedgekeur te word of in 'n registrasiekantoor geregistreer te word, in die geval van 'n gebied wat onmiddellik voor die inwerkingtreding van die Grondwet—
- 15 (a) as Transkei, Bophuthatswana, Venda of Ciskei bekend was, aldus goedgekeur of geregistreer word, *mutatis mutandis*, ooreenkomstig die bepalings van hierdie Wet, die Opmetingswet, 1927 en die Registrasie van Aktes Wet, 1937: Met dien verstande dat vir alle doeleindes van sodanige goedkeuring of registrasie, word enige verwysing in die
- 20 gemelde Opmetingswet, Registrasie van Aktes Wet of hierdie Wet na 'n "registrateur", "Landmeter-generaal" of 'n "registrasiekantoor" geag 'n verwysing te wees na 'n registrateur, Landmeter-generaal, of registrasiekantoor soos bedoel of omskryf in enige ooreenstemmende wet, regulasie of verordening met betrekking tot grondopmeting of die
- 25 registrasie van aktes wat, uit hoofde van artikel 229 van die Grondwet, van krag bly in sodanige gebied; of
- (b) as KwaNdebele of KwaZulu bekend was, aldus goedgekeur of geregistreer word, *mutatis mutandis*, ooreenkomstig die bepalings van hierdie Wet, die Opmetingswet, 1927 en die Registrasie van Aktes
- 30 Wet, 1937, tot die uitsluiting van enige ooreenstemmende wet, regulasie of verordening met betrekking tot grondopmeting of die registrasie van aktes wat, uit hoofde van artikel 229 van die Grondwet, van krag bly in sodanige gebied.

HOOFSTUK VIII

35

ALGEMEEN

Herroeping van wette

60. Die wette in die bylae vermeld word hiermee gewysig na die mate in die derde kolom uiteengesit.

Korttitel en datum van inwerkingtreding

- 40 61. Hierdie Wet staan as die Wet op Ontwikkelingsfasilitering, 1994 bekend, en tree in werking op 'n datum deur die President by proklamasie in die Staatskoerant bepaal.

Schedule

DEVELOPMENT FACILITATION ACT

No. and year and law	Short title	Extent of repeal or Amendment
Act No. 47 of 1937	Deeds Registries Act, 1937	1 The amendment of section 3 by the insertion after paragraph (d) of the following paragraph: “(d)<i>bis</i> register rights of initial ownership as contemplated in section 55 of the Development Facilitation Act 1994;” 2 The amendment of section 10 by the substitution for paragraph (q) of subsection (1) of the following subsection: “(1)(q) the form of applications, deeds and registers which shall be used in connection with the registration of a right of leasehold, of initial ownership contemplated in section 55 of the Development Facilitation Act ... 1994 and any other real right in respect of land held under such right of leasehold or initial ownership;” 3 The amendment of subsection (1) of section 102 by the substitution for the definition of “immovable property” of the following definition: “‘immovable property’ includes— (a) any registered lease of rights to minerals; (b) any registered lease of land which, when entered into, was for a period of not less than ten years or for the natural life of the lessee or any other person mentioned in the lease, or which is renewable from time to time at the will of the lessee indefinitely or for periods which together with the first period amount in all to not less than ten years; [and] (c) a registered right of leasehold; and (d) a registered right of initial ownership as contemplated in section 55 of the Development Facilitation Act ... 1994;”
Act No. 68 of 1981	Alienation of Land Act, 1981	1 The amendment of section 1 by the substitution for the definition of “registrable” of the following definition: “‘registrable’, in relation to land, means capable of being registered as the subject of a separate title deed in a deeds registry in that the requirements of any law relating to such registration have been complied with, <u>and includes being capable of transfer in initial ownership as contemplated in section 55 of the Development Facilitation Act, 1994 (Act No. ... of 1994).</u>”
Act No. 2 of 1987	Housing Act (House of Representatives), 1987	1 The amendment of section 86A— (i) by the substitution for subsection (1) of the following subsection: “(1) If the Housing Board, a local authority or a utility company or other body intends to transfer ownership in respect of any piece of land on which a dwelling was constructed in terms of the provisions of the Housing Act, 1966 (Act No. 4 of 1966), or this Act, before 1 July 1983 or before a later date determined by the Minister by notice in the <i>Gazette</i>, it may do so, notwithstanding the provisions of this Act, by [submitting] lodging a deed of transfer, [certificate of ownership] on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), and made out in the name of the transferee, at the deeds registry for the registration of such piece of land with a dwelling thereon in the name of the transferee.”; (ii) by the substitution for subsections (3), (4) and (5) of the following subsections: “(3) A deed of transfer referred to in subsection (1) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be.

Bylae

WET OP ONTWIKKELINGSFASILITERING

No. en jaar van wet	Titel	Omvang van herroeping of wysiging
Wet No. 47 van 1937	Registrasie van Aktes Wet, 1937	1 Die wysiging van artikel 3 deur na paragraaf (d) die volgende paragraaf in te voeg: “(d) <i>bis</i> regte van voorlopige eiendomsreg soos beoog in artikel 55 van die Wet op Ontwikkelingsfasilitering ... 1994 registreer;” 2 Die wysiging van artikel 10 deur paragraaf (q) van subartikel (1) deur die volgende subartikel te vervang: “(1)(q) die vorm van aansoeke, aktes en registers wat in verband met die registrasie van 'n reg van huurpag, en van voorlopige eiendomsreg soos beoog in artikel 55 van die Wet op Ontwikkelingsfasilitering ... 1994, en enige ander saaklike reg ten opsigte van grond en onder sodanige reg van huurpag of voorlopige eiendomsreg gehou, gebruik moet word;” 3 Die wysiging van subartikel (1) van artikel 102 deur die omskrywing van “onroerende goed” deur die volgende omskrywing te vervang: “onroerende goed” omvat— (a) 'n geregistreerde huur van regte op minerale; (b) 'n geregistreerde huur van grond waarby, toe dit aangegaan is, 'n huurtyd beding is van nie minder as tien jaar of die natuurlike lewensduur van die huurder of van iemand anders wat in die huurkontrak genoem word, of wat na keuse van die huurder van tyd tot tyd hernu kan word vir 'n onbepaalde duur of vir termyn wat saam met die eerste termyn, altesame nie minder as tien jaar bedra nie; [en] (c) 'n geregistreerde reg van huurpag; en (d) 'n geregistreerde reg van voorlopige eiendomsreg soos beoog in artikel 55 van die Wet op Ontwikkelingsfasilitering ... 1994;”
Wet No. 68 van 1981	Wet op Vervreemding van Grond, 1981	1 Die wysiging van artikel 1 deur die omskrywing van “registreerbaar” deur die volgende omskrywing te vervang: “registreerbaar”, met betrekking tot grond, vatbaar vir registrasie as die onderwerp van 'n afsonderlike titelbewys in 'n registrasiekantoor, deurdat aan die vereistes van enige wet met betrekking tot sodanige registrasie voldoen is, en sluit in grond vatbaar vir oordrag in voorlopige eiendomsreg soos beoog in artikel 55 van die Wet op Ontwikkelingsfasilitering, 1994 (Wet No. ... van 1994).”
Wet No. 2 van 1987	Behuisingswet (Raad van Verteenwoordigers), 1987	1 Die wysiging van artikel 86A— (i) deur subartikel (1) deur die volgende subartikel te vervang: “(1) Indien die Behuisingsraad, 'n plaaslike bestuur of 'n nutsmaatskappy of ander liggaam voornemens is om eiendomsreg oor te dra ten opsigte van 'n stuk grond waarop 'n woning voor 1 Julie 1993, of voor 'n latere datum deur die Minister by kennisgewing in die Staatskoerant bepaal, gebou is ingevolge die bepalings van die Behuisingswet, 1966 (Wet No. 4 van 1966), of hierdie Wet, kan hy dit, ondanks die bepalings van hierdie Wet, doen deur 'n transportakte, [sertifikaat van eiendomsreg] op die vorm vir dié doel kragtens die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), voorgeskryf en uitmaak in die naam van die oordrag-nemer, by die registrasiekantoor vir registrasie van dié stuk met 'n woning daarop in die naam van die oordrag-nemer in te dien.”; (ii) deur subartikels (3), (4) en (5) deur die volgende subartikels te vervang: “(3) 'n Transportakte bedoel in subartikel (1), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.

No. and year and law	Short title	Extent of repeal or Amendment
Act No. 3 of 1987	Development Act (House of Representatives), 1987	(4) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or any other person referred to in subsection (3)(b) in the manner prescribed under that Act. (5) A person referred to in subsection (3)(b)— (a) shall indicate the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (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.”; (iii) By the insertion after subsection (5) of the following subsections: “(6) A conveyancer or other person referred to in subsection (3) shall lodge the deed of transfer together with the necessary supporting documents at a Deeds Registry in the manner prescribed under the Deeds Registries Act, 1937. (7) The registrar shall deal with a deed of transfer and other documents referred to in subsection (6) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (8) The land shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1). (9) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.”. 2 Section 1 shall come into operation on the date three months after the commencement of this Schedule. 1 The amendment of section 40A— (i) by the substitution for subsection (1) of the following subsection: “(1) If the Development Board intends to transfer ownership in respect of any piece of land on which a dwelling was constructed before 1 July 1983, or before a later date determined by the Minister by notice in the <i>Gazette</i>, and which dwelling was let or sold in terms of the provisions of the Community Development Act, 1966 (Act No. 3 of 1966), or this Act, it may do so by [submitting] lodging a deed of transfer, [certificate of ownership] on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), and made out in the name of the transferee, at the deeds registry for the registration of such piece of land in the name of the transferee.”; (ii) by the substitution for subsections (3), (4), (5) of the following subsections: “(3) A deed of transfer referred to in subsection (1) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be.

No. en jaar van wet	Titel	Omvang van herroeping of wysiging
Wet No. 3 van 1987	Ontwikkingswet (Raad van Verteenwoordigers), 1987	(4) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlike gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (3)(a) of die ander persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (5) 'n Persoon bedoel in subartikel (3)(b),— (a) toon die feit aan dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer.”; (iii) Deur na subartikel (5) die volgende subartikels in te voeg: “(6) 'n Transportbesorger of ander persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in. (7) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (6) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (8) Die grond word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (1). (9) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.”. 2 Artikel 1 tree in werking op die datum drie maande na die inwerkingtreding van hierdie Bylae. 1 Die wysiging van artikel 40A— (i) deur subartikel (1) deur die volgende subartikel te vervang: “(1) Indien die Ontwikkelingsraad voornemens is om eiendomsreg oor te dra ten opsigte van 'n stuk grond waarop 'n woning voor 1 Julie 1983, of voor 'n latere datum deur die Minister by kennisgewing in die Staatskoerant bepaal, gebou is en welke woning verhuur of verkoop was ingevolge die bepalings van die Wet op Gemeenskapontwikkeling, 1966 (Wet No. 3 van 1966), of hierdie Wet, kan hy dit doen deur 'n transportakte, [sertifikaat van eiendomsreg] op die vorm vir dié doel kragtens die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), voorgeskryf en uitgemaak in die naam van die oordragnemer, by die registrasiekantoor vir registrasie van dié stuk grond in die naam van die oordragnemer in te dien.”; ii deur subartikels (3), (4), (5) deur die volgende subartikels te vervang: “(3) 'n Transportakte bedoel in subartikel (1), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.

No. and year and law	Short title	Extent of repeal or Amendment
Act No. 81 of 1988	Conversion of Certain Rights into Leasehold or Ownership Act, 1988	(4) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or any other person referred to in subsection (3)(b) in the manner prescribed under that Act. (5) A person referred to in subsection (3)(b)— (a) shall indicate the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (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.”; (iii) By the insertion after subsection (5) of the following subsections: “(6) A conveyancer or other person referred to in subsection (3) shall lodge the deed of transfer together with the necessary supporting documents at a Deeds Registry in the manner prescribed under the Deeds Registries Act, 1937. (7) The registrar shall deal with a deed of transfer and other documents referred to in subsection (6) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (8) The land shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1). (9) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.”. 2 Section 1 shall come into operation on the date three months after the commencement of this Schedule. 1 The amendment of section 5— (i) By the substitution for paragraph (b) of subsection (1) of the following paragraph: “(b) in terms of section 4(1)(b) he shall lodge such declaration and a deed of transfer, [certificate of ownership] on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), and made out in the name of the person mentioned in the declaration, with the registrar concerned. I, who shall—”; (ii) By the insertion after paragraph (b) of subsection (1) of the following paragraphs: “(c) A deed of transfer referred to in paragraph (b) shall be prepared by— (i) a conveyancer; or (ii) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be.

No. en jaar van wet	Titel	Omvang van herroeping of wysiging
Wet No. 81 van 1988	Wet op die Omskeping van Sekere Regte tot Huurpag of Eendomsreg, 1988	(4) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (3)(a) of die ander persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (5) 'n Persoon bedoel in subartikel (3)(b)— (a) toon die feit aan dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer.”; (iii) deur na subartikel (5) die volgende subartikels in te voeg: “(6) 'n Transportbesorger of ander persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in.”; (7) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (6) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (8) Die grond word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (1). (9) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.”. 2 Artikel 1 tree in werking op die datum drie maande na die inwerkingtreding van hierdie Bylae. 1 Die wysiging van artikel 5— (i) Deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang: “(b) ingevolge artikel 4(1)(b) gedoen het, moet hy sodanige verklaring en 'n transportakte, [sertifikaat van eiendomsreg] op die vorm vir dié doel kragtens die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), voorgeskryf en uitgemaak onder die naam van die persoon in die verklaring vermeld by die betrokke registrateur indien. [, wat—]'”; (ii) Deur na paragraaf (b) van subartikel (1) die volgende paragrafe in te voeg: “(c) 'n Transportakte bedoel in paragraaf (b), word voorberei deur— (i) 'n transportbesorger; of (ii) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.

No. and year and law	Short title	Extent of repeal or Amendment
		(d) A deed of transfer referred to in paragraph (b) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in paragraph (c)(i) or any other person referred to in paragraph (c)(ii) in the manner prescribed under that Act. (e) A person referred to in paragraph (c)(ii)— (i) shall indicate the fact that the deed of transfer referred to in paragraph (b), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (ii) 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. (f) A conveyancer or other person referred to in paragraph (c) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.”; (g) The registrar shall deal with a deed of transfer and other documents referred to in paragraph (f) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (h) The affected site shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in paragraph (b). (i) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.”; (iii) By the deletion of paragraph (b) of subsection (3). 2 Section 1 shall come into operation on the date three months after the commencement of this Schedule.
Act No. 112 of 1991	Upgrading of Land Tenure Rights Act, 1991	1 The amendment of section 3— (i) by the substitution for subsection (1) of the following subsection: “(1) Any land tenure right mentioned in Schedule 2 and which was granted in respect of— (a) any erf or any other piece of land in a formalised township for which a township register was or is opened either before or after the commencement of this Act; or (b) any piece of land which is surveyed under a provision of any law and does not form part of a township, shall, upon the submission by the owner of such erf or piece of land at the deeds registry of a deed of transfer, [certificate of ownership] on the form prescribed for that purpose under the Deeds Act and made out in the name of the person who is the holder of the relevant land tenure holder of the relevant land tenure right, be converted into ownership by the registrar of deeds by the registration of such erf or piece of land in the name of such person.”; (ii) By the substitution for subsections (2), (3), (4) and (5) of the following subsections: “(2) A deed of transfer referred to in subsection (1) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be.

No. en jaar van wet	Titel	Omvang van herroeping of wysiging
Wet No. 112 van 1991	Wet op die Opgradering van Grondbesitregte, 1991	(d) 'n Transportakte bedoel in paragraaf (b), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond in die teenwoordigheid van die transportbesorger bedoel in paragraaf (c)(1) of die ander persoon bedoel in paragraaf (c)(ii) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (e) 'n Persoon bedoel in paragraaf (c)(ii),— (i) toon die feit aan dat die transportakte bedoel in paragraaf (b), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endosement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, mutatis mutandis, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, mutatis mutandis soos kragtens daardie wet voorgeskryf; en (ii) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer. (f) 'n Transportbesorger of ander persoon bedoel in paragraaf (c), dien die transportakte tesame met die voorgeskrewe dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in.”; (g) Die registrateur handel met 'n transportakte en ander dokumente bedoel in paragraaf (f) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (h) Die geaffekteerde perseel word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (b). (i) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.”; (iii) Deur die deurhaling van paragraaf (b) van subartikel (3). 2 Artikel 1 tree in werking op die datum drie maande na die inwerkingtreding van hierdie Bylae. 1 Die wysiging van artikel 3— (i) deur subartikel (1) deur die volgende subartikel te vervang: “(1) 'n Grondbesitreg in Bylae 2 vermeld wat toegeken is ten opsigte van— (a) 'n erf of 'n ander stuk grond in 'n geformaliseerde dorp waarvoor 'n dorpregister hetsy voor of na die inwerkingtrede van hierdie Wet geopen is of word; of (b) 'n stuk grond wat kragtens 'n wetsbepaling opgemeet is en nie deel van 'n dorp uitmaak nie, word, by die indiening by die registrasiekantoor deur die eienaar van daardie erf of stuk grond van 'n transportakte, [sertifikaat van eiendomsreg] op die vorm vir dié doel kragtens die Akteswet voorgeskryf en uitgemaak in die naam van die persoon wat die houer van die betrokke grondbesitreg is, deur die registrateur van aktes in eiendomsreg omskep deur die erf of stuk grond in die naam van bedoelde persoon te registreer.”; (ii) Deur subartikels (2), (3), (4) en (5) deur die volgende subartikels te vervang: “(2) 'n Transportakte bedoel in subartikel (1), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.

No. and year and law	Short title	Extent of repeal or Amendment
		(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or any other person referred to in subsection (2)(b) in the manner prescribed under that Act. (4) A person referred to in subsection (2)(b)— (a) shall indicate the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (b) may, notwithstanding anything to the contrary contained in any other law, perform all of the functions of a conveyancer in relation to the registration of a deed of transfer as contemplated in this section. (5) A conveyancer or other person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a deeds registry in the manner prescribed under the Deeds Registries Act, 1937.” (iii) by the insertion after subsection (5) of the following subsections: “(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (7) The erf or piece of land shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1). (8) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.” 2 The amendment of section 13— (i) By the substitution for subsection (1) of the following subsection: “(1) If a township owner, with reference to any formalised township, intends to transfer ownership in respect of any erf or any other piece of land in respect of which no land tenure right has been granted, he may do so by [submitting] lodging a deed of transfer, [certificate of ownership] on the form prescribed for that purpose under the Deeds Act and made out in the name of the transferee, at the deeds registry for the registration of such erf or piece of land in the name of the transferee.”; (ii) By the substitution for subsections (3), (4) and (5) of the following subsections: “(3) A deed of transfer referred to in subsection (1) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be. (4) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or any other person referred to in subsection (3)(b) in the manner prescribed under that Act. (5) A person referred to in subsection (3)(b)—

No. en jaar van wet	Titel	Omvang van herroeping of wysiging
		(3) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlike gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (2)(a) of die ander persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (4) 'n Persoon bedoel in subartikel (2)(b).— (a) toon die feit aan dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer. (5) 'n Transportbesorger of ander persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in.”; (iii) deur na subartikel (5) die volgende subartikels in te voeg: “(6) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (5) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (7) Die erf of stuk grond word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (1). (8) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.”. 2 Die wysiging van artikel 13— (i) Deur subartikel (1) deur die volgende subartikel te vervang: “(1) Indien 'n dorpeienaar, met betrekking tot 'n geformaliseerde dorp, voornemens is om eiendomsreg ten opsigte van 'n erf of 'n ander stuk grond waarop geen grondbesitreg toegeken is nie, oor te dra, kan hy dit doen deur 'n transportakte, [sertifikaat van eiendomsreg] op die vorm vir dié doel kragtens die Akteswet voorgeskryf en uitmaak in die naam van die oordragnemer, by die registrasiekantoor vir registrasie van die erf of stuk grond in die naam van die oordragnemer in te dien”; (ii) Deur subartikels (3), (4) en (5) deur die volgende subartikels te vervang: (3) 'n Transportakte bedoel in subartikel (1), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beamppte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is. (4) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (3)(a) of die ander persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (5) 'n Persoon bedoel in subartikel (3)(b)—

No. and year and law	Short title	Extent of repeal or Amendment
		(a) shall indicate the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (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.”; (iii) By the insertion after subsection (5) of the following subsections: “(6) A conveyancer or other person referred to in subsection (3) shall lodge the deed of transfer together with the necessary supporting documents at a Deeds Registry in the manner prescribed under the Deeds Registries Act, 1937. (7) The registrar shall deal with a deed of transfer and other documents referred to in subsection (6) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (8) The erf or piece of land shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1). (9) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.”. 3 The amendment of section 18F— (i) by the substitution for subsection (2) of the following subsection: “(2) Any land tenure right mentioned in Schedule 2 and granted in respect of any piece of land in an area— (a) which has been declared under section 18A(1) to be a rural settlement; and (b) in respect of which the relevant title deed, diagram, general plan and register have been produced to the registrar of deeds in terms of subsection (1), shall, upon the lodgement by the owner of such piece of land at the relevant deeds registry of a deed of transfer, [certificate of ownership] on the form prescribed for that purpose under the Deeds Act and made out in the name of the person who is the holder of the relevant land tenure right, be converted into ownership by that registrar of deeds by the registration of the piece of land in the name of the said person: Provided that the registrar of deeds shall not so register any piece of land unless a certificate or rights to minerals has been taken out for the reservation of the rights to minerals in respect of such piece of land or the land on which such area is situate, as the case may be.”; (ii) By the substitution for subsections (3), (4), (5), (6) and (7) of the following subsections: “(3) A deed of transfer referred to in subsection (2) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be. (4) A deed of transfer referred to in subsection (2) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or any other person referred to in subsection (3)(b) in the manner prescribed under that Act. (5) A person referred to in subsection (3)(b)—

No. en jaar van wet	Titel	Omvang van herroeping of wysiging
		(a) toon die feit aan dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer.”; (iii) Deur na subartikel (5) die volgende subartikels in te voeg: “(6) 'n Transportbesorger of ander persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in.”; (7) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (6) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (8) Die erf of stuk grond word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (1). (9) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.”. 3 Die wysiging van artikel 18F— (i) deur subartikel (2) deur die volgende subartikel te vervang: “(2) 'n Grondbesit vermeld in Bylae 2 en toegeken ten opsigte van 'n stuk grond in 'n gebied— (a) wat kragtens artikel 18A(1) tot 'n landelike nederstelling verklaar is; en (b) ten opsigte waarvan die betrokke titelbewys, kaart, algemene plan en register ingevolge subartikel (1) aan die registrateur van aktes voorgelê is, word, by die indiening by die betrokke registrasiekantoor deur die eienaar van so 'n stuk grond van 'n transportakte, [sertifikaat van eiendomsreg] op die vorm vir dié doel kragtens die Akteswet voorgeskryf en uitgemaak onder die naam van die persoon wat die houer van die betrokke grondbesitreg is, deur daardie registrateur van aktes in eiendomsreg omskep deur die stuk grond op die naam van bedoelde persoon te registreer: Met dien verstande dat die registrateur van aktes nie 'n stuk grond aldus registreer nie tensy 'n sertifikaat van regte op minerale uitgeneem is vir die voorbehoud van die regte op minerale ten opsigte van so 'n stuk grond op die grond waarop so 'n gebied geleë is, na gelang van die geval.”; (ii) deur subartikels (3), (4), (5), (6) en (7) deur die volgende subartikels te vervang: “(3) 'n Transportakte bedoel in subartikel (2), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beamppte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is. (4) 'n Transportakte bedoel in subartikel (2), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (3)(a) of die ander persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (5) 'n Persoon bedoel in subartikel (3)(b)—

No. and year and law	Short title	Extent of repeal or Amendment
Act No. 113 of 1991	Less Formal Township Establishment Act, 1991	(a) shall indicate the fact that the deed of transfer referred to, in subsection (2), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (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. (6) A conveyancer or other person referred to in subsection (3) shall lodge the deed of transfer together with the necessary supporting documents at a Deeds Registry in the manner prescribed under the Deeds Registries Act, 1937. (7) The registrar shall deal with a deed of transfer and other documents referred to in subsection (6) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937.”; (iii) by the insertion after subsection (7) of the following subsections: “(8) The piece of land shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (2). (9) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.” 4 Sections 1, 2 and 3 shall come into operation on the date three months after the commencement of this Schedule. 1 The amendment of section 9— (i) by the substitution for subsection (1) of the following subsection: “(1) If, at an allocation under section 8(1), the developer intends to transfer ownership of an erf, he shall, as soon as the township register in respect of the designated land has been opened, or, if such allocation takes place after the opening of the township register, as soon as possible after the allocation, [submit] lodge a deed of transfer, [certificate of ownership] made out in the name of the person to whom the erf has been allocated, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), [to] at the deeds registry, whereupon the registrar of deeds shall register the erf in the name of such person.”; (ii) By the substitution for subsections (2), (3) and (4) of the following subsections: “(2) A deed of transfer referred to in subsection (1) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be. (3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or any other person referred to in subsection (2)(b) in the manner prescribed under that Act. (4) A person referred to in subsection (2)(b)— (a) shall indicate the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the

No. en jaar van wet	Titel	Omvang van herroeping of wysiging
Wet No. 113 van 1991	Wet op Minder Formele Dorpstigting, 1991	(a) toon die feit aan dat die transportakte bedoel in subartikel (2), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer. (6) 'n Transportbesorger of ander persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in. (7) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (6) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937; (iii) deur na subartikel (7) die volgende subartikels in te voeg: “(8) Die stuk grond word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (2). (9) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.” 4 Artikels 1, 2 en 3 tree in werking op die datum drie maande na die inwerkingtrede van hierdie Bylae. 1 Die wysiging van artikel 9— (i) deur subartikel (1) deur die volgende subartikel te vervang: “(1) Indien die ontwikkelaar by 'n toekenning kragtens artikel 8(1) voornemens is om eiendomsreg in 'n erf oor te dra, dien hy, sodra die dorpsregister ten opsigte van die aangewese grond geopen is, of, indien sodanige toekenning na die opening van die dorpsregister plaasvind, so spoedig moontlik na die toekenning, 'n transportakte, [sertifikaat van eiendomsreg] uitmaak in die naam van die persoon aan wie die erf toegeken is, op die vorm vir dié doel kragtens die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), voorgeskryf, by die registrasiekantoor in, waarop die registrateur van aktes die erf in die naam van daardie persoon registreer.”; (ii) Deur subartikels (2), (3) en (4) deur die volgende subartikels te vervang: “(2) 'n Transportakte bedoel in subartikel (1), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is. (3) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (2)(a) of die ander persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf onderteken. (4) 'n Persoon bedoel in subartikel (2)(b)— (a) toon die feit aan dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde

No. and year and law	Short title	Extent of repeal or Amendment
		said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (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.”; (iii) by the insertion after subsection (4) of the following subsections: “(5) A conveyancer or other person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a Deeds Registry in the manner prescribed under the Deeds Registries Act, 1937. (6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (7) The erf shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1). (8) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.”. 2. The amendment of section 26— (i) by the substitution for subsection (1) of the following subsection: “(1) If the tribe, in accordance with a decision referred to in section 25(1), intends to transfer ownership in an erf to a tribe member, it shall, after the township register in respect of the land concerned has been opened, [submit] lodge a deed of transfer, [certificate of ownership] made out in the name of the person to whom the erf is to be transferred, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), [to] at the deeds registry, whereupon the registrar of deeds shall register the erf in the name of such person.”; (ii) by the substitution for subsections (2), (3) and (4) of the following subsections: “(2) A deed of transfer referred to in subsection (1) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be. (3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or any other person referred to in subsection (2)(b) in the manner prescribed under that Act. (4) A person referred to in subsection (2)(b)— (a) shall indicate the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act,

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		transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer.”; (iii) deur na subartikel (4) die volgende subartikels in te voeg: “(5) 'n Transportbesorger of ander persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in. (6) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (5) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (7) Die erf word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (1). (8) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.”. 2 Die wysiging van artikel 26— (i) deur subartikel (1) deur die volgende subartikel te vervang: “(1) Indien die stam ooreenkomstig 'n besluit bedoel in artikel 25(1) voornemens is om eiendomsreg in 'n erf aan 'n stamlid oor te dra, dien hy, nadat die dorpregister ten opsigte van die betrokke grond geopen is, 'n transportakte, [sertifikaat van eiendomsreg] uitgemaak in die naam van die persoon aan wie die erf oorgedra moet word, op die vorm vir dié doel kragtens die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), voorgeskryf by die registrasiekantoor in, waarop die registrateur van aktes die erf in die naam van daardie persoon registreer.”; (ii) deur subartikel (2), (3) en (4) deur die volgende subartikels te vervang: “(2) 'n Transportakte bedoel in subartikel (1), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is. (3) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (2)(a) of die ander persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (4) 'n Persoon bedoel in subartikel (2)(b),— (a) toon die feit aan dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoorde

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Act No. 126 of 1993	Provision of Certain Land for Settlement Act, 1993	1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (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.”; (iii) by the insertion after subsection (4) of the following subsections: “(5) A conveyancer or other person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a Deeds Registry in the manner prescribed under the Deeds Registries Act, 1937. (6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (7) The erf shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1). (8) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of any erf in terms of this section.” 3 Sections 1 and 2 shall come into operation on the date three months after the commencement of this Schedule. 1 The amendment of section 9— (i) by the substitution for subsection (1) of the following subsection: “(1) If ownership in a piece of land referred to in section 5 is transferred, the developer shall, as soon as the surveying thereof is completed, [submit] lodge a deed of transfer, [certificate of ownership] made out in the name of the person to which such piece of land has been alienated, on the form prescribed for that purpose under the Deeds Registries Act, 1937 (Act No. 47 of 1937), [to] at the deeds registry, whereupon the registrar of deeds shall register such piece of land in the name of that person.”; (ii) by the substitution for subsections (2), (3) and (4) of the following subsections: “(2) A deed of transfer referred to in subsection (1) shall be prepared by— (a) a conveyancer; or (b) if the owner of the relevant land is the State or any local government body, any officer in the public service or person in the employ of such local government body, as the case may be, who has been designated for the purpose by the relevant Minister, Premier or local government body, as the case may be. (3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Registries Act, 1937 and shall be signed by the owner of the relevant land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or any other person referred to in subsection (2)(b) in the manner prescribed under that Act. (4) A person referred to in subsection (2)(b)— (a) shall indicate the fact that the deed of transfer referred to in subsection (1), or any power of attorney, application or consent, which may be required by the registrar in support of the registration of the said transfer was prepared by him or her, by signing an endorsement to this effect on the said deed of transfer, power of attorney, application or consent, as the case may be, and in so doing accepts, <i>mutatis mutandis</i>, in terms of section 15(A)(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document, <i>mutatis mutandis</i> as prescribed under that Act; and (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.”;

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Wet No. 126 van 1993	Wet op die Beskikbaarstelling van Sekere Grond vir Vestiging, 1993	likheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer.”; (iii) deur na subartikel (4) die volgende subartikels in te voeg: “(5) 'n Transportbesorger of ander persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in. (6) Die registrateur handel met 'n transportakte en ander dokumente bedoel in subartikel (5) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (7) Die erf word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van 'n transportakte bedoel in subartikel (1). (8) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is ten opsigte van die oordrag van enige erf ingevolge hierdie artikel betaalbaar nie.”. 3 Artikel 1 tree in werking op die datum drie maande na die inwerkingtrede van hierdie Bylae. 1 Die wysiging van artikel 9— (i) deur subartikel (1) deur die volgende subartikel te vervang: “(1) Indien eiendomsreg in 'n stuk grond bedoel in artikel 5 oorgedra word, dien die ontwikkelaar, sodra die opmeting daarvan afgehandel is, 'n <i>transportakte</i>, [sertifikaat van eiendomsreg] uitgemaak in die naam van die persoon aan wie sodanige stuk vervreem is, op die vorm vir die doel kragtens die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937), voorgeskryf, by die registrasiekantoor in, waarop die registrateur van aktes sodanige stuk grond in die naam van daardie persoon registreer.”; (ii) deur subartikels (2), (3) en (4) deur die volgende subartikels te vervang: “(2) 'n Transportakte bedoel in subartikel (1), word voorberei deur— (a) 'n transportbesorger; of (b) indien die eienaar van die betrokke grond die Staat is of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in die diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die betrokke Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is. (3) 'n Transportakte bedoel in subartikel (1), is in die vorm kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf en word deur die eienaar van die betrokke grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van die transportbesorger bedoel in subartikel (2)(a) of die ander persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken. (4) 'n Persoon bedoel in subartikel (2)(b),— (a) toon die feit aan dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word ter ondersteuning van die registrasie van die gemelde oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot hierdie effek op die gemelde transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar deur aldus te doen, <i>mutatis mutandis</i>, ingevolge artikel 15(A)(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat, <i>mutatis mutandis</i> soos kragtens daardie wet voorgeskryf; en (b) kan, ondanks andersluidende bepalings van die een of ander wet, al die funksies van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte bedoel in hierdie artikel uitvoer.”;

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		(iii) by the insertion after subsection (4) of the following subsections: “(5) A conveyancer or other person referred to in subsection (2) shall lodge the deed of transfer together with the necessary supporting documents at a Deeds Registry in the manner prescribed under the Deeds Registries Act, 1937. (6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) to all intents and purposes as if such deed of transfer was executed in the presence of the said registrar as contemplated in section 20 of the Deeds Registries Act, 1937. (7) The piece of land shall be deemed to have been transferred on the date of registration by the relevant registrar of a deed of transfer referred to in subsection (1). (8) The provisions of section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty, stamp duty or other fee shall be payable in respect of the transfer of ownership of land— (a) referred to in section 2(1)(a) and (b); or (b) referred to in section 2(1)(c) the owner of which is a development body.” 2 The substitution for section 10 of the following section: “Financial aid 10. The Minister may, from money appropriated by Parliament for this purpose, in the prescribed manner grant and advance a subsidy to any person, including a person, trust, group of persons or juristic person contemplated in section 45(2)(b) of the Development Facilitation Act, 1994 (Act No. ... of 1994)– (a) in relation to any aspect of the development of land which is designated land, or a land development area as contemplated in the Development Facilitation Act, 1994; (b) for the acquisition of designated land or of a land development area contemplated in the said Act; (c) for the benefit of occupants of land not owned by them, for the purpose of carrying on a development on such land, with the consent of the owner of such land and in terms of an agreement complying with the prescribed guidelines entered into between the owner of such land, the Minister and the said occupants.” 3 The repeal of section 11. 4 Section 1 shall come into operation on the date three months after the commencement of this Schedule.

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		(iii) deur na subartikel (4) die volgende subartikels in te voeg: “(5) ’n Transportbesorger of ander persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor op die wyse kragtens die Registrasie van Aktes Wet, 1937 voorgeskryf in. (6) Die registrateur handel met ’n transportakte en ander dokumente bedoel in subartikel (5) vir alle doeleindes asof sodanige transportakte in die teenwoordigheid van die gemelde registrateur verly is soos beoog in artikel 20 van die Registrasie van Aktes Wet, 1937. (7) Die stuk grond word geag oorgedra te wees op die datum van registrasie deur die betrokke registrateur van ’n transportakte bedoel in subartikel (1). (8) Die bepalings van artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing en geen hereregte, seëlregte of enige ander gelde is betaalbaar ten opsigte van die oordrag van eiendomsreg in grond— (a) bedoel in artikel 2(1)(a) en (b); of (b) bedoel in artikel 20(1)(c) waarvan die eienaar ’n ontwikkelingsliggaam is.” 2 Artikel 10 deur die volgende artikel te vervang: “Finansiële bystand 10. Die Minister kan uit geld deur die Parlement vir hierdie doel bewillig, op die voorgeskrewe wyse ’n voorskot of subsidie aan enige persoon, insluitende ’n persoon, trust, groep persone of ’n regspersoon beoog in artikel 45(2)(b) van die Wet op Ontwikkelingsfasilitering, 1994 (Wet No. van 1994), toestaan— (a) met betrekking tot enige aspek van die ontwikkeling van grond wat aangewese grond is, of ’n grondontwikkelingsgebied soos beoog in die Wet op Ontwikkelingsfasilitering, 1994; (b) vir die verkryging van aangewese grond of ’n grondontwikkelingsgebied beoog in die gemelde Wet; (c) tot die voordeel van okkupaerders van grond wat nie die eienaar daarvan is nie, vir die doel om ’n grondontwikkeling op sodanige grond te doen, met die toestemming van die eienaar van sodanige grond en ingevolge ’n ooreenkoms wat voldoen aan die voorgeskrewe riglyne, aangegaan tussen die eienaar van sodanige grond, die Minister en die betrokke okkupaerders.” 3 Die herroeping van artikel 11. 4 Artikel 1 tree in werking op die datum drie maande na die inwerkingtreding van hierdie Bylae.

EXPLANATORY MEMORANDUM

1 INTRODUCTION

- 1.1 The implementation of reconstruction and development programmes requires a significant increase in the rate and scale of land development, in respect of a range of land uses such as industrial, commercial, community facility, residential and rural settlement uses.
- 1.2 Almost all of the executive and legislative functions of government relating to such land development are primarily provincial matters in terms of the Interim Constitution. These matters include agriculture, housing, regional planning and development and urban and rural development.
- 1.3 This means that provincial administrations will, initially, be required to administer these functions in terms of existing legislation relating to these topics, some of which previously applied only in the geographical areas comprising former racial zones (such as group areas), self-governing territories and TBVC territories. The initial administrative position will therefore be extraordinarily complex, until provincial legislatures have been able to rationalise legislation through their own legislative programmes.
- 1.4 In addition, the existing laws relating to land development are often not appropriate for application in the developmental context required by reconstruction and development programmes. Some of these laws describe "second class" procedures for certain areas, while others do not facilitate governmental accountability and transparency, do not facilitate public participation; and lack sufficient detail required to empower communities and community-based organisations participating in the land development process for the first time.

2 OBJECTIVES

- 2.1 It is appreciated that it is not possible for all of the necessary reforms to legislation to be accomplished overnight. Instead, a gradual process of considered and careful adjustment and improvement is required.
- 2.2 In the meantime, while such a more thorough process of legislative substitution and improvement continues, several urgent, short term, developmental needs have been identified:
 - 2.2.1 A nationally uniform point of reference, for example in the form of a single piece of legislation, would greatly assist the land development activities of all sectors involved in land development.
 - 2.2.2 It is felt that the land development environment urgently requires measures which could deliver developed land more quickly than is normally the case in terms of the existing legislation, without detracting from certainty of tenure and sound planning. The need is for a legislative "fast track" through technical and complex land development procedures.
 - 2.2.3 There is a need to integrate various dimensions of land development within the context of reconstruction and development programmes, without focusing exclusively upon particular, sectoral, forms of land development (e.g without focusing upon housing on its own).

VERKLARENDE MEMORANDUM

1 INLEIDING

- 1.1 Die implementering van heropbou- en ontwikkelingsprogramme vereis 'n aansienlike toename in die spoed en skaal van grondontwikkeling ten opsigte van 'n verskeidenheid van grondgebruike, soos industriële-, kommersiële, gemeenskapsfasiliteits-, residensiële en landelike vestigingsgebruike.
- 1.2 Byna al die uitvoerende en wetgewende owerheidsfunksies ten opsigte van sodanige grondontwikkeling is hoofsaaklik provinsiale aangeleenthede in gevolge die Interim Grondwet. Hierdie aangeleenthede sluit landbou, behuising, streeksbeplanning en ontwikkeling en stedelike en landelike ontwikkeling in.
- 1.3 Dit beteken dat provinsiale administrasies aanvanklik vereis sal word om hierdie funksies ingevolge bestaande wetgewing met betrekking tot hierdie onderwerpe, waarvan sommige slegs gegeld het in die geografiese gebiede wat voormalige rassesonos (soos groepsgebiede), selfregerende gebiede en TBVC gebiede beslaan, te administreer. Die aanvanklike administrasie sal derhalwe buitengewoon ingewikkeld wees, totdat provinsiale wetgewers in staat is om wetgewing deur hulle eie wetgewende programme te rasionaliseer.
- 1.4 Die bestaande wette met betrekking tot grondontwikkeling is boonop dikwels nie geskik vir toepassing in die ontwikkelingskonteks wat deur heropbou- en ontwikkelingsprogramme vereis word nie. Sommige van hierdie wette omskryf "tweedeklas" prosedure vir sekere gebiede, terwyl ander nie owerheidsaanspreeklikheid en deursigtigheid fasiliteer nie, nie openbare deelname fasiliteer nie; en ontbreek aan voldoende besonderhede wat vereis word om gemeenskappe en gemeenskapsgebaseerde organisasies wat vir die eerste keer in die grondontwikkelingsproses deelneem, te bemagtig.

2 DOELWITTE

- 2.1 Dit word besef dat dit nie moontlik is dat al die nodige hervormings aan wetgewing oornag uitgevoer kan word nie. Insteede daarvan, word 'n geleidelike proses van oorwoë en sorgvuldige aanpassings en verbeterings vereis.
- 2.2 Intussen, terwyl sodanige deegliker proses van wetgewende vervanging en verbeterings voortduur, is verskeie dringende, korttermyn, ontwikkelingsbehoefte geïdentifiseer:
 - 2.2.1 'n Nasionaal eenvormige verwysingspunt, byvoorbeeld in die vorm van 'n enkele stuk wetgewing, sal die grondontwikkelingsaktiwiteite van alle sektore betrokke in grondontwikkeling grootliks bevorder.
 - 2.2.2 Dit word gevoel dat die grondontwikkelingsomgewing dringend maatreëls vereis wat ontwikkelde grond vinniger as wat normaalweg die geval is ingevolge die bestaande wetgewing kan lewer, sonder om aan sekuriteit van titel en grondige beplanning afbreuk te doen. Daar is 'n behoefte aan 'n wetgewende "vinnige baan" deur tegniese en ingewikkelde grondontwikkelingsprosedure.
 - 2.2.3 Daar is 'n behoefte om verskeie grondontwikkelingsdimensies binne die konteks van heropbou- en ontwikkelingsprogramme te integreer, sonder om uitsluitlik op besondere, sektorale, grondontwikkelingsvorme te fokus (bv. sonder om slegs op behuising te fokus).

2.3 Accordingly, it is proposed that a Development Facilitation Act be adopted as a statute made by National Government in order to provide—

2.3.1 nationally uniform norms and standards in relation to land development;

2.3.2 national legislation existing in parallel to the provincial laws initially “inherited” by provincial administrations, so as to provide an alternative which could meet the needs described in 2.2 above; and

2.3.3 the provincial legislatures with the option either to continue using the Development Facilitation Act or, in due course, to adopt their own legislation regarding the same subject matter, after they have had an opportunity to consider longer term and more thorough reforms and improvements.

3 BRIEF DESCRIPTION OF PROPOSED CONTENTS OF DFA

3.1 The proposed Development Facilitation Act consists of eight Chapters.

3.2 **Chapter I** provides general principles governing land development on a national basis, in order to serve as uniform norms and standards for the country.

3.3 **Chapter II** establishes a Development and Planning Commission with express terms of reference set out in the Act, in order to investigate and report on more thorough and longer term reforms required in the land development field, including topics such as planning, land assembly and release, land use control, tenure issues, engineering infrastructure and rural development. Provision is made for bodies at national and provincial levels.

3.4 **Chapter III** describes procedures aimed at resolving typical development conflicts between various stakeholders, and to expedite development decision-making and the granting of approvals during the development process.

3.5 **Chapter IV** describes interim development performance measures (such as housing targets) in terms of which the development performance of local government bodies could be measured by provincial government.

3.6 **Chapter V** describes land development procedures for the subdivision, servicing and land use zoning of development land in the urban context. This Chapter would apply in parallel to other laws administered by Provinces, as an alternative available to the development fraternity.

3.7 **Chapter VI** describes land development procedures for establishing or upgrading rural settlements. The Chapter would also apply in parallel and as an alternative to other, existing laws.

3.8 **Chapter VII** is aimed at amplifying existing land tenure registration matters at a national level, in order to make it possible for end-user finance (such as mortgage loans or government subsidies) to become available at an earlier stage during the development process than would otherwise have been the case. This would hopefully reduce the holding costs of land and services in new developments, thereby reducing the demands on subsidy and loan amounts.

- 2.3 Derhalwe, word dit voorgestel dat 'n Wet op Ontwikkelingsfasilitering aangeneem word as 'n wet wat deur die Nasionale Regering gemaak is ten einde voorsiening te maak vir—
 - 2.3.1 nasionaal eenvormige norme en standarde ten opsigte van grondontwikkeling;
 - 2.3.2 nasionale wetgewing wat parallel bestaan met die provinsiale wette aanvanklik deur provinsiale administrasies "geërf", om sodoende 'n alternatief te voorsien wat die behoeftes omskryf in 2.2 hierbo kan bevredig; en
 - 2.3.3 die keuse van die provinsiale wetgewers om of voort te gaan met die gebruik van die Wet op Opwikkelingsfasilitering, of om mettertyd hulle eie wetgewing aan te neem ten opsigte van dieselfde onderwerp, nadat hulle 'n geleentheid gehad het om langer termyn en deegliker hervormings en verbeterings te oorweeg.

3 KORT BESKRYWING VAN VOORGESTELDE INHOUD VAN WOF

- 3.1 Die voorgestelde Wet op Ontwikkelingsfasilitering bestaan uit agt Hoofstukke.
- 3.2 **Hoofstuk I** voorsien algemene beginsels wat grondontwikkeling op 'n nasionale grondslag beheer, ten einde as eenvormige norme en standarde vir die land te dien.
- 3.3 **Hoofstuk II** stel 'n Ontwikkelings- en Beplanningskommissie in met uitdruklike opdrag in die Wet uiteengesit, ten einde deegliker en langer termyn hervormings wat op die grondontwikkelingsterrein nodig is, te ondersoek en daarvoor verslag te doen, insluitende aangeleenthede soos beplanning, grondversameling en beskikbaarstelling, grondgebruikkontrolle, titelaangeleenthede, ingenieursinfrastruktuur en landelike ontwikkeling. Voorsiening word gemaak vir liggame op nasionale en provinsiale vlakke.
- 3.4 **Hoofstuk III** omskryf prosedure gerig op die oplossing van tipiese ontwikkelingsgeskille tussen verskeie belanghebbendes, en om ontwikkelingsbesluitneming en die toestaan van goedkeurings gedurende die ontwikkelingsproses te bespoedig.
- 3.5 **Hoofstuk IV** omskryf tussentydse ontwikkelingsprestasiemaatreëls (soos behuisingsdoelwitte) ingevolge waarvan die ontwikkelingsprestasie van plaaslike owerheidsliggame deur provinsiale owerhede gemeet kan word.
- 3.6 **Hoofstuk V** omskryf grondontwikkelingsprosedure vir die onderverdeling, dienste voorsiening en grondgebruiksonering van ontwikkelingsgrond in die stedelike konteks. Hierdie Hoofstuk sal parallel met ander wette deur die Provinsies geadministreer, toepassing vind, as 'n alternatief beskikbaar aan die ontwikkelingsgemeenskap.
- 3.7 **Hoofstuk VI** omskryf grondontwikkelingsprosedure vir vestiging of opgradering van landelike vestigings. Hierdie Hoofstuk sal ook parallel met en as 'n alternatief tot ander, bestaande wette, toepassing vind.
- 3.8 **Hoofstuk VII** is gerig op die uitbreiding van bestaande grondtitel-registrasie-aangeleenthede op 'n nasionale vlak, ten einde dit moontlik te maak vir eindgebruikerfinansiering (soos verbande of owerheidssubsidies) om op 'n vroeër stadium gedurende die ontwikkelingsproses as wat andersins die geval sou wees beskikbaar te raak. Dit sal hopelik die houkoste van grond en dienste in nuwe ontwikkelings verminder, en daardeur die aansprake op subsidie- en leningsbedrae verminder.

3.9 **Chapter VIII** refers to a Schedule which amends the provisions of various other laws, essentially to bring about uniformity of special registration procedures on a basis which ensures responsibility on the part of development agencies for the accuracy of registered title.

- 3.9. **Hoofstuk VIII** verwys na 'n Bylae wat die bepalings van verskeie ander wette wysig, hoofsaaklik om eenvormigheid van spesiale registrasieprosedures te weeg te bring op 'n grondslag wat verantwoordelikheid aan die kant van ontwikkelingsagentskappe vir die akkuraatheid van geregistreerde titel verseker.

