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STAATSKOERANT

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OFFICE OF THE PRESIDENT

KANTOOR VAN DIE PRESIDENT

No. 1526.

4 October 1995

No. 1526.

4 Oktober 1995

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

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

No. 67 of 1995: Development Facilitation Act, 1995.

No. 67 van 1995: Wet op Ontwikkelingsfasilitering, 1995.

GENERAL EXPLANATORY NOTE:

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

 Words underlined with a solid line indicate insertions in existing enactments.

ACT

To introduce extraordinary measures to facilitate and speed up the implementation of reconstruction and development programmes and projects in relation to land; and in so doing to lay down general principles governing land development throughout the Republic; to provide for the establishment of a Development and Planning Commission for the purpose of advising the government on policy and laws concerning land development at national and provincial levels; to provide for the establishment in the provinces of development tribunals which have the power to make decisions and resolve conflicts in respect of land development projects; to facilitate the formulation and implementation of land development objectives by reference to which the performance of local government bodies in achieving such objectives may be measured; to provide for nationally uniform procedures for the subdivision and development of land in urban and rural areas so as to promote the speedy provision and development of land for residential, small-scale farming or other needs and uses; to promote security of tenure while ensuring 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.

ARRANGEMENT OF ACT

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(English text signed by the President.)
(Assented to 28 September 1995.)

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

INTRODUCTION

Definitions

1. In this Act, unless the context otherwise indicates—
- (i) “beneficial occupier” means, in relation to the occupation of land in a land development area where land development takes the form of upgrading an existing settlement, any person who has been in peaceful and undisturbed occupation of such land for a continuous period of not less than five years; (xxxiv)
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10
 - (ii) “Commission” means the Development and Planning Commission established by section 5; (x)
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 - (iii) “condition of establishment” means a condition imposed by a tribunal under section 33 or section 51, according to the context; (xxviii)
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 - (iv) “conveyancer” means a conveyancer as defined in section 102 of the Deeds Registries Act, 1937 (Act No. 47 of 1937); (xxix)
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 - (v) “deeds registry” means a deeds registry as defined in section 102 of the Deeds Registries Act, 1937; (xxii)
15
 - (vi) “designated officer” means an appropriate officer in a provincial administration or in the employ of a local government body, designated by the MEC to serve as the designated officer for the purposes of Chapter V or VI, or both those Chapters; (i)
20
 - (vii) “diagram” means a diagram as defined in section 49 of the Land Survey Act, 1927 (Act No. 9 of 1927); (ix)
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 - (viii) “environment” means the environment as defined in section 1 of the Environment Conservation Act, 1989 (Act No. 73 of 1989); (xiv)
25
 - (ix) “environmental evaluation” means an evaluation of the environmental impact of a proposed land development, conducted in accordance with the integrated environmental management guidelines which are from time to time issued or amended by the Department of Environment Affairs and Tourism; (xv)
30
 - (x) “general plan” means a general plan of a land development area or of a portion thereof which has been approved in terms of the Land Survey Act, 1927; (ii)
30
 - (xi) “initial ownership” means the form of title established by section 62; (xxxv)
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 - (xii) “land availability agreement” means—
35
 - (a) in relation to land development in terms of Chapter V, an agreement contemplated in section 44; or
 - (b) in relation to land development in terms of Chapter VI, an agreement contemplated in section 53; (iii)
 - (xiii) “land development” means any procedure aimed at changing the use of land for the purpose of using the land mainly for residential, industrial, business, small-scale farming, community or similar purposes, including such a procedure in terms of Chapter V, VI or VII, but excluding such a procedure in terms of any other law relating exclusively to prospecting or mining; (iv)
40
 - (xiv) “land development applicant” means—
45
 - (a) in relation to land development in terms of Chapter V, any person or body referred to in section 31(1); or
 - (b) in relation to land development in terms of Chapter VI, any person or body referred to in section 49(1); (vi)
 - (xv) “land development application” means—
50
 - (a) in relation to land development in terms of Chapter V, an application lodged under section 31(2); or
 - (b) in relation to land development in terms of Chapter VI, an application lodged under section 49(2); (v)
 - (xvi) “land development area” means any area of land which is the subject of land development, including—
55
 - (a) such an area shown on a layout plan and forming the subject of land development in terms of Chapter V, or on a settlement plan and forming the subject of land development in terms of Chapter VI;

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

INLEIDING

Woordomskrywing

- 5 1. In hierdie Wet, tensy uit die samehang anders blyk, beteken—
- (i) “aangewese beampte” ’n geskikte beampte in ’n provinsiale administrasie of in die diens van ’n plaaslike owerheidsliggaam, deur die LUR aangewys om as die aangewese beampte vir die doeleindes van Hoofstuk V of VI, of beide daardie Hoofstukke, te dien; (vi)
- 10 (ii) “algemene plan” ’n algemene plan van ’n grondontwikkelingsgebied of ’n gedeelte daarvan wat ingevolge die Opmetingswet, 1927 (Wet No. 9 van 1927), goedgekeur is; (x)
- (iii) “grondbesikbaarheidsooreenkoms”—
- 15 (a) met betrekking tot grondontwikkeling ingevolge Hoofstuk V, ’n in artikel 44 beoogde ooreenkoms; of
- (b) met betrekking tot grondontwikkeling ingevolge Hoofstuk VI, ’n in artikel 53 beoogde ooreenkoms; (xii)
- (iv) “grondontwikkeling” enige prosedure wat op die verandering van die gebruik van grond gerig is met die doel om die grond hoofsaaklik vir residensiële, industriële, besigheids-, kleinskaalboerdery-, gemeenskaps- of soortgelyke doeleindes te gebruik, insluitende sodanige prosedure ingevolge Hoofstuk V, VI of VII, maar met uitsluiting van sodanige prosedure ingevolge enige ander wet wat uitsluitlik betrekking het op prospektering of mynbou; (xiii)
- 25 (v) “grondontwikkelingsaansoek”—
- (a) met betrekking tot grondontwikkeling ingevolge Hoofstuk V, ’n aansoek kragtens artikel 31(2) ingedien; of
- (b) met betrekking tot grondontwikkeling ingevolge Hoofstuk VI, ’n aansoek kragtens artikel 49(2) ingedien; (xv)
- 30 (vi) “grondontwikkelingsapplikant”—
- (a) met betrekking tot grondontwikkeling ingevolge Hoofstuk V, enige in artikel 31(1) bedoelde persoon of liggaam; of
- (b) met betrekking tot grondontwikkeling ingevolge Hoofstuk VI, enige in artikel 49(1) bedoelde persoon of liggaam; (xiv)
- 35 (vii) “grondontwikkelingsgebied” enige grondgebied wat die voorwerp van grondontwikkeling is, insluitende—
- (a) sodanige gebied op ’n uitlegplan aangedui en wat die voorwerp uitmaak van grondontwikkeling ingevolge Hoofstuk V, of op ’n vestigingsplan en wat die voorwerp uitmaak van grondontwikkeling ingevolge Hoof-
- 40 stuk VI;
- (b) enige grond wat nie onderverdeel is of bedoel is om onderverdeel te word nie, maar waarop daar geboue is, of waarop daar beoog word om geboue op te rig, of waarop daar erwe uitgelê is, of waarop daar geboue is wat naby mekaar geleë is, en wat vir enige van die doeleindes bedoel in die omskrywing van “grondontwikkeling” gebruik word; en
- 45 (c) ’n groep van stukke grond of van onderverdelings van ’n stuk grond wat met openbare plekke verbind is en wat hoofsaaklik vir daardie doeleindes gebruik word of wat bestem is om aldus gebruik te word en wat op kaarte of ’n algemene plan aangedui word; (xvi)
- 50 (viii) “hierdie Wet” ook die regulasies; (xxxii)
- (ix) “kaart” ’n kaart soos omskryf in artikel 49 van die Opmetingswet, 1927; (vii)
- (x) “Kommissie” die Ontwikkelings- en Beplanningskommissie by artikel 5 ingestel; (ii)
- (xi) “Landmeter-generaal” die Landmeter-generaal soos omskryf in artikel 49 van die Opmetingswet, 1927; (xxxii)
- 55 (xii) “LUR”, in soverre ’n bepaling van hierdie Wet van toepassing is in of ten opsigte van ’n provinsie, ’n lid van die uitvoerende raad van ’n provinsie aan wie die Premier die uitvoering van die funksies wat aan ’n LUR by of kragtens sodanige bepaling toevertrou is, opgedra het; (xx)
- 60 (xiii) “Minister” met betrekking tot die administrasie van—

- (b) any land which is not subdivided or intended to be subdivided but on which there are buildings, or on which it is intended to erect buildings or on which sites are laid out, or on which there are buildings in close proximity to each other, and which is used for any of the purposes referred to in the definition of “land development”; and 5
- (c) 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 those purposes or are intended to be so used and which are shown on diagrams or a general plan; (vii)
- (xvii) “layout 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”, but excluding small-scale farming, and approved as part of a land development application by a tribunal in terms of Chapter V; (xxxii) 10
- (xviii) “local government area” means the area of jurisdiction of a local government body in terms of any law; (xviii) 15
- (xix) “local government body” means any institution or body referred to 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, in terms of section 229 of the Constitution, continues to be in force in the former Republics of Transkei, Bophuthatswana, Venda or Ciskei; 20
- (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 by section 13 of the Local Government Transition Act, 1993 (Act No. 209 of 1993), and which is, in terms of that section, deemed to be an institution or body referred to in section 84(1)(f) of the Provincial Government Act, 1961; 25
- (c) any local government body established under section 30(1)(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; 30
- (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); 35
- (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); 40
- (h) any regional services council established under section 3 of the Regional Services Councils 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); 45
- (j) any joint decision-making body, joint local authority or single local authority referred to in paragraphs (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; 50

- (a) Hoofstukke I, III, IV en V, die Minister van Grondsake, handelende in oorleg met die Minister van Behuising;
- (b) Hoofstuk II, die Minister verantwoordelik vir die implementering van die Heropbou- en Ontwikkelingsprogram, handelende in oorleg met die Minister van Behuising en die Minister van Grondsake;
- (c) Hoofstuk VI, die Minister van Grondsake, handelende in oorleg met die Minister van Landbou; en
- (d) Hoofstuk VII, die Minister van Grondsake; (xxi)
- (xiv) "omgewing" die omgewing soos omskryf in artikel 1 van die Wet op Omgewingsbewaring, 1989 (Wet No. 73 van 1989); (viii)
- (xv) "omgewingsevaluering" 'n evaluering van die invloed op die omgewing van 'n voorgestelde grondontwikkeling, uitgevoer in ooreenstemming met die geïntegreerde omgewingsbestuursriglyne wat van tyd tot tyd deur die Departement van Omgewingsake en Toerisme uitgereik of gewysig word; (ix)
- (xvi) "onderverdelingsregister" 'n register bedoel in artikel 46(1) van die Registrasie van Aktes Wet, 1937 (Wet No. 47 van 1937); (xxix)
- (xvii) "opmeter" 'n persoon wat as 'n professionele landmeter of 'n topografiese en ingenieursopmeter of 'n topografiese en ingenieursopmeter kragtens die Wet op Professionele en Tegnieuse Opmeters, 1984 (Wet No. 40 van 1984), geregistreer is, en wie se naam in die register bedoel in artikel 7(4) van daardie Wet ingeskryf is; (xxx)
- (xviii) "plaaslike owerheidsgebied" die jurisdiksiegebied van 'n plaaslike owerheidsliggaam ingevolge enige wet; (xviii)
- (xix) "plaaslike owerheidsliggaam" enige instelling of liggaam bedoel in artikel 84(1)(f) van die Wet op Provinsiale Bestuur, 1961 (Wet No. 32 van 1961), en ook—
- (a) enige plaaslike owerheidsliggaam ingestel by of kragtens enige wet wat ingevolge artikel 229 van die Grondwet van krag bly in die voormalige gebiede van Transkei, Bophuthatswana, Venda of Ciskei;
- (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 artikel 13 van die Oorgangswet op Plaaslike Regering, 1993 (Wet No. 209 van 1993), en wat ingevolge daardie artikel geag word 'n instelling of liggaam te wees soos bedoel in artikel 84(1)(f) van die Wet op Provinsiale Bestuur, 1961;
- (c) enige plaaslike owerheidsliggaam ingestel kragtens artikel 30(1)(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;
- (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);
- (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;
- (h) enige streeksdiensteraad kragtens artikel 3 van die Wet op Streeksdiensteraade, 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;
- (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;
- (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) 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; (xix)
- (xx) "MEC", insofar as a provision of this Act is applicable in or in respect of a province, means a member of the executive council of a province to whom the Premier has assigned the performance of the functions entrusted to a MEC by or under such a provision; (xii) 5
- (xxi) "Minister" means, in relation to the administration of—
- (a) Chapters I, III, IV and V, the Minister of Land Affairs, acting in consultation with the Minister of Housing; 10
- (b) Chapter II, the Minister responsible for the implementation of the Reconstruction and Development Programme, acting in consultation with the Minister of Housing and the Minister of Land Affairs;
- (c) Chapter VI, the Minister of Land Affairs, acting in consultation with the Minister of Agriculture; and 15
- (d) Chapter VII, the Minister of Land Affairs; (xiii)
- (xxii) "prescribe" means prescribe by regulation; (xxxvi)
- (xxiii) "province" means any province of the Republic established by section 124(1) of the Constitution; (xxi) 20
- (xxiv) "provincial commission" means a provincial development and planning commission established or recognised under section 11(1); (xx) 20
- (xxv) "registrar" means a registrar as defined in section 102 of the Deeds Registries Act, 1937; (xxiii)
- (xxvi) "regulation" means a regulation made under this Act; (xxiv)
- (xxvii) "settlement 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 small-scale farming, or for small scale farming together with any of the other purposes referred to in the definition of "land development", and approved by a tribunal as part of a land development application in terms of Chapter VI; (xxxiii) 25
- (xxviii) "State" includes a province; (xxvi)
- (xxix) "subdivision register" means a register referred to in section 46(1) of the Deeds Registries Act, 1937; (xvi)
- (xxx) "surveyor" means a person registered as a professional land surveyor or a professional topographical and engineering surveyor or a topographical and engineering 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 that Act; (xvii) 35
- (xxxi) "Surveyor-General" means the Surveyor-General as defined in section 49 of the Land Survey Act, 1927; (xi) 40
- (xxxii) "this Act" includes the regulations; (viii)
- (xxxiii) "town and regional planner" means a person registered as a town and regional planner in terms of the Town and Regional Planners Act, 1984 (Act No. 19 of 1984), and whose name is entered in the register referred to in section 9(2) of that Act; (xxvii) 45
- (xxxiv) "tribunal" means an administrative development tribunal established for a province by section 15(1); (xxx)
- (xxxv) "tribunal registrar" means a tribunal registrar or a deputy tribunal registrar designated by the MEC under section 15(9); (xxxi)
- (xxxvi) "zoning scheme" means any townplanning or zoning scheme administered by a local government body or any other competent authority and which relates 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 the scheme and matters connected therewith. (xxv) 55

CHAPTER I

General principles for land development and conflict resolution

Application of principles for land development

2. The general principles set out in section 3 apply throughout the Republic and—
- (a) shall also apply to the actions of the State and a local government body; 60

- (l) enige oorgangsraad ingestel kragtens die Oorgangswet op Plaaslike Regering, 1993, wat plaaslike owerheidsfunksies tot uitsluiting van enige van die bogemelde plaaslike owerheidsliggame uitoefen; (xix)
- 5 (xx) "provinsiale kommissie" 'n provinsiale ontwikkelings- en beplanningskommissie kragtens artikel 11(1) ingestel of erken; (xxiv)
- (xxi) "provinsie" enige provinsie van die Republiek by artikel 124(1) van die Grondwet ingestel; (xxiii)
- (xxii) "registrasiekantoor" 'n registrasiekantoor soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937; (v)
- 10 (xxiii) "registrateur" 'n registrator soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937; (xxv)
- (xxiv) "regulasie" 'n regulasie kragtens hierdie Wet uitgevaardig; (xxvi)
- (xxv) "soneringskema" enige dorpsaanleg- of soneringskema deur 'n plaaslike owerheidsliggaam of enige ander bevoegde owerheid geadministreer, en wat betrekking het op die sonering of reservering van grond in gebiede wat uitsluitlik of hoofsaaklik vir residensiële, besigheids-, industriële, plaaslike owerheids-, regerings- of ander doeleindes gebruik staan te word, die verbod of beperking op die gebruik van grond in stryd met die bepalinge van die skema en aangeleenthede wat daarmee verband hou; (xxxvi)
- 15 (xxvi) "Staat" ook 'n provinsie; (xxviii)
- (xxvii) "stads- en streeksbeplanner" 'n persoon as 'n stads- en streeksbeplanner ingevolge die Wet op Stads- en Streeksbeplanners, 1984 (Wet No. 19 van 1984), geregistreer, en wie se naam in die in artikel 9(2) van daardie Wet bedoelde register ingeskryf is; (xxxiii)
- 20 (xxviii) "stigtingsvoorwaarde" 'n voorwaarde deur 'n tribunaal kragtens artikel 33 of artikel 51, na gelang van die samehang, opgelê; (iii)
- (xxix) "transportbesorger" 'n transportbesorger soos omskryf in artikel 102 van die Registrasie van Aktes Wet, 1937; (iv)
- (xxx) "tribunaal" 'n administratiewe ontwikkelingstribunaal vir 'n provinsie by artikel 15(1) ingestel; (xxxiv)
- 30 (xxxii) "tribunaalregistrateur" 'n tribunaalregistrator of 'n adjunk-tribunaalregistrator deur die LUR kragtens artikel 15(9) aangewys; (xxxv)
- (xxxiii) "uitlegplan" 'n plan wat die relatiewe ligging van erwe, persele, openbare plekke en sones in 'n grondontwikkelingsgebied aandui en wat gebruik word of gebruik staan te word vir enige van die doeleindes bedoel in die omskrywing van "grondontwikkeling", maar met uitsluiting van kleinskaalboerdery, en wat as deel van 'n grondontwikkelingsaansoek deur 'n tribunaal ingevolge Hoofstuk V goedgekeur is; (xvii)
- 35 (xxxiiii) "vestigingsplan" 'n plan wat die relatiewe ligging van erwe, persele, openbare plekke en sones in 'n grondontwikkelingsgebied aandui en wat gebruik word of gebruik staan te word vir kleinskaalboerdery, of vir kleinskaalboerdery tesame met enige van die ander doeleindes bedoel in die omskrywing van "grondontwikkeling", en wat deur 'n tribunaal as deel van 'n grondontwikkelingsaansoek ingevolge Hoofstuk VI goedgekeur is; (xxvii)
- 40 (xxxv) "voordeeltrekkende okkupeerder" met betrekking tot die okkupasie van grond in 'n grondontwikkelingsgebied waar grondontwikkeling die vorm van opgradering van 'n bestaande vestiging aanneem, enige persoon wat sodanige grond vir 'n ononderbroke tydperk van minstens vyf jaar vreedzaam en ongesteurd geokkupeer het; (i)
- 45 (xxxvi) "voorlopige eiendomsreg" die titelvorm by artikel 62 ingestel; (xi)
- 50 (xxxvii) "voorskryf" by regulasie voorskryf. (xxii)

HOOFSTUK I

Algemene beginsels vir grondontwikkeling en konfliktoplossing

55 Toepassing van beginsels vir grondontwikkeling

2. Die algemene beginsels in artikel 3 uiteengesit, is dwarsdeur die Republiek van toepassing en—

- (a) ook op optredes van die Staat en 'n plaaslike owerheidsliggaam;

- (b) serve to guide the administration of any physical plan, transport plan, guide plan, structure plan, zoning scheme or any like plan or scheme administered by any competent authority in terms of any law;
- (c) serve as guidelines by reference to which any competent authority shall exercise any discretion or take any decision in terms of this Act or any other law dealing with land development, including any such law dealing with the subdivision, use and planning of or in respect of land; and 5
- (d) for the purposes of—
 - (i) Chapter II, serve as the general framework within which the Commission shall perform its functions and make recommendations and within which those recommendations shall be considered by any competent authority; 10
 - (ii) Chapter III, serve as principles by reference to which a tribunal shall reach decisions;
 - (iii) Chapter IV, provide the guidelines with which the formulation and implementation of land development objectives of local government bodies and the carrying out of land development projects shall be consistent; 15
 - (iv) Chapters V and VI, guide the consideration of land development applications and the performance of functions in relation to land development; and 20
 - (v) Chapter VII, guide the administration of the registration of land tenure rights.

General principles for land development

3. (1) The following general principles apply, on the basis set out in section 2, to all land development: 25
- (a) Policy, administrative practice and laws should provide for urban and rural land development and should facilitate the development of formal and informal, existing and new settlements.
 - (b) Policy, administrative practices and laws should discourage the illegal occupation of land, with due recognition of informal land development processes. 30
 - (c) Policy, administrative practice and laws should promote efficient and integrated land development in that they—
 - (i) promote the integration of the social, economic, institutional and physical aspects of land development; 35
 - (ii) promote integrated land development in rural and urban areas in support of each other;
 - (iii) promote the availability of residential and employment opportunities in close proximity to or integrated with each other;
 - (iv) optimise the use of existing resources including such resources relating to agriculture, land, minerals, bulk infrastructure, roads, transportation and social facilities; 40
 - (v) promote a diverse combination of land uses, also at the level of individual erven or subdivisions of land;
 - (vi) discourage the phenomenon of “urban sprawl” in urban areas and contribute to the development of more compact towns and cities; 45
 - (vii) contribute to the correction of the historically distorted spatial patterns of settlement in the Republic and to the optimum use of existing infrastructure in excess of current needs; and
 - (viii) encourage environmentally sustainable land development practices and processes. 50
 - (d) Members of communities affected by land development should actively participate in the process of land development.
 - (e) The skills and capacities of disadvantaged persons involved in land development should be developed. 55
 - (f) Policy, administrative practice and laws should encourage and optimise the contributions of all sectors of the economy (government and non-government) to land development so as to maximise the Republic’s capacity to undertake land development and to this end, and without derogating from the generality of this principle— 60

- (b) dien as riglyne by die administrasie van enige fisiese plan, vervoerplan, gidsplan, struktuurplan, soneringskema of enige soortgelyke plan of skema deur enige bevoegde owerheid ingevolge enige wet geadminestreer;
- 5 (c) dien as riglyne met verwysing waarna enige bevoegde gesag enige diskresie uitoefen of enige besluit neem ingevolge hierdie Wet of enige ander wet wat op grondontwikkeling betrekking het, insluitende enige sodanige wet wat op die onderverdeling, gebruik en beplanning van of ten opsigte van grond betrekking het; en
- 10 (d) vir die doeleindes van—
- (i) Hoofstuk II, dien dit as die algemene raamwerk waarbinne die Kommissie sy werksaamhede verrig en aanbevelings doen en waarbinne daardie aanbevelings deur enige bevoegde owerheid oorweeg word;
- (ii) Hoofstuk III, dien dit as beginsels met verwysing waarna 'n tribunaal besluite neem;
- 15 (iii) Hoofstuk IV, verskaf dit die riglyne waarmee die formulering en implementering van grondontwikkelingsdoelwitte van plaaslike owerheidsliggame en die uitvoering van grondontwikkelingsprojekte bestaanbaar moet wees;
- (iv) Hoofstukke V en VI, dien dit as riglyne vir die oorweging van grondontwikkelingsaansoeke en die verrigting van werksaamhede met betrekking tot grondontwikkeling; en
- 20 (v) Hoofstuk VII, dien dit as riglyne vir die administrasie van die registrasie van grondtitelregte.

Algemene beginsels vir grondontwikkeling

- 25 3. (1) Die volgende algemene beginsels is, op die grondslag in artikel 2 uiteengesit, van toepassing op alle grondontwikkeling:
- (a) Beleid, administratiewe praktyk en wette behoort vir stedelike en landelike grondontwikkeling voorsiening te maak en behoort die ontwikkeling van formele en informele, bestaande en nuwe vestigings te fasiliteer.
- 30 (b) Beleid, administratiewe praktyk en wette behoort die onwettige okkupasie van grond met behoorlike inagneming van informele grondontwikkelingsprosesse te ontmoedig.
- (c) Beleid, administratiewe praktyk en wette behoort effektiewe en geïntegreerde grondontwikkeling te bevorder, deurdat dit—
- 35 (i) die integrasie van die sosiale, ekonomiese, institusionele en fisiese aspekte van grondontwikkeling bevorder;
- (ii) geïntegreerde grondontwikkeling in landelike en stedelike gebiede ter ondersteuning van mekaar bevorder;
- 40 (iii) die beskikbaarheid van residensiële en indiensnemingsgeleenthede naby of geïntegreerd met mekaar bevorder;
- (iv) die gebruik van bestaande hulpbronne, insluitende sodanige hulpbronne met betrekking tot landbou, grond, minerale, grootmaatinfrastruktuur, paaie, vervoer en sosiale fasiliteite optimaliseer;
- 45 (v) 'n diverse kombinasie van grondgebruike, ook op die vlak van individuele erwe of onderverdelings van grond, bevorder;
- (vi) die verskynsel van stedelike spreiding in stedelike gebiede ontmoedig en tot die ontwikkeling van meer kompakte dorpe en stede bydra;
- (vii) tot die regstelling van die historiese verwronge ruimtelike vestigingspatrone in die Republiek bydra en tot die optimale gebruik van bestaande infrastruktuur wat bestaande behoeftes oorskry; en
- 50 (viii) omgewingshoudbare grondontwikkelingspraktyke en -prosesse aanmoedig.
- (d) Lede van gemeenskappe wat deur grondontwikkeling geraak word, behoort aktief aan die proses van grondontwikkeling deel te neem.
- 55 (e) Die vaardighede en vermoëns van minderbevoorregte persone betrokke by grondontwikkeling behoort ontwikkel te word.
- (f) Beleid, administratiewe praktyk en wette behoort die bydraes van alle sektore van die ekonomie (regerings- en nie-regerings-) tot grondontwikkeling aan te moedig en te optimaliseer ten einde die Republiek se vermoë om grondontwikkeling te onderneem te maksimaliseer, en vir hierdie doel, en sonder om afbreuk te doen aan die algemeenheid van hierdie beginsel—
- 60

- (i) national, provincial and local governments should strive clearly to define and make known the required functions and responsibilities of all sectors of the economy in relation to land development as well as the desired relationship 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 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 to any person who requires such information.
- (g) Laws, procedures and administrative practice relating to land development should—
- (i) be clear and generally available to those likely to be affected thereby;
- (ii) in addition to serving as regulatory measures, also provide guidance and information to those affected thereby;
- (iii) be calculated to promote trust and acceptance on the part of those likely to be affected thereby; and
- (iv) give further content to the fundamental rights set out in the Constitution.
- (h) Policy, administrative practice and laws should promote sustainable land development at the required scale in that they should—
- (i) promote land development which is within the fiscal, institutional and administrative means of the Republic;
- (ii) promote the establishment of viable communities;
- (iii) promote sustained protection of the environment;
- (iv) meet the basic needs of all citizens in an affordable way; and
- (v) ensure the safe utilisation of land by taking into consideration factors such as geological formations and hazardous undermined areas.
- (i) Policy, administrative practice and laws should promote speedy land development.
- (j) Each proposed land development area should be judged on its own merits and no particular use of land, such as residential, commercial, conservational, industrial, community facility, mining, agricultural or public use, should in advance or in general be regarded as being less important or desirable than any other use of land.
- (k) Land development should result in security of tenure, provide for the widest possible range of tenure alternatives, including individual and communal tenure, and in cases where land development takes the form of upgrading an existing settlement, not deprive beneficial occupiers of homes or land or, where it is necessary for land or homes occupied by them to be utilised for other purposes, their interests in such land or homes should be reasonably accommodated in some other manner.
- (l) A competent authority at national, provincial and local government level should co-ordinate the interests of the various sectors involved in or affected by land development so as to minimise conflicting demands on scarce resources.
- (m) Policy, administrative practice and laws relating to land development should stimulate the effective functioning of a land development market based on open competition between suppliers of goods and services.
- (2) The Minister may by notice in the *Gazette*—
- (a) prescribe any principle for land development in addition to, but not inconsistent with, the principles set out in subsection (1); and
- (b) prescribe any principle set out in subsection (1) in greater detail, but not inconsistent therewith,
- whereupon such principle shall apply throughout the Republic on the basis set out in section 2.

- 5 (i) behoort nasionale, provinsiale en plaaslike owerhede daarna te streef om die funksies en verantwoordelikhede wat van alle sektore van die ekonomie met betrekking tot grondontwikkeling vereis word, sowel as die gewenste verhouding tussen sodanige sektore, duidelik te omskryf en bekend te maak; en
- 10 (ii) verstrek 'n bevoegde gesag in 'n nasionale, provinsiale of plaaslike owerheid wat verantwoordelik is vir die administrasie van enige wet met betrekking tot grondontwikkeling, besonderhede van die identiteit van die wetgewing wat deur so 'n gesag geadministreer word, die poste en name van persone verantwoordelik vir die administrasie van sodanige wetgewing en die adresse en ligging van die kantore van sodanige persone, aan enige persoon wat sodanige inligting verlang.
- (g) Wette, prosedures en administratiewe praktyk met betrekking tot grondontwikkeling behoort—
- 15 (i) duidelik en algemeen beskikbaar te wees vir 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;
- 20 (iii) daarop bereken te wees om vertrouwe en aanvaarding by diegene wat waarskynlik daardeur geraak sal word, te bevorder; en
- (iv) verdere inhoud te gee aan die fundamentele regte uiteengesit in die Grondwet.
- (h) Beleid, administratiewe praktyk en wette behoort volhoubare grondontwikkeling op die vereiste skaal te bevorder deurdat dit—
- 25 (i) grondontwikkeling bevorder wat binne die fiskale, institusionele en administratiewe vermoëns van die Republiek is;
- (ii) die vestiging van lewensvatbare gemeenskappe bevorder;
- (iii) volgehoue beskerming van die omgewing bevorder;
- 30 (iv) op 'n bekostigbare wyse voldoen aan die basiese behoeftes van alle burgers; en
- (v) die veilige gebruik van grond, met inagneming van faktore soos geologiese formasies en gevaarlike ondermynde gebiede, verseker.
- (i) Beleid, administratiewe praktyk en wette behoort spoedige grondontwikkeling te bevorder.
- 35 (j) Elke voorgestelde grondontwikkelingsgebied behoort op eie meriete beoordeel te word en geen spesifieke grondgebruik, soos residensiële, kommersiële, bewarings-, industriële, gemeenskapsfasiliteits-, mynbou-, landbou- of openbare gebruik, behoort vooruit of in die algemeen as minder belangrik of wenslik beskou te word as enige ander grondgebruik nie.
- 40 (k) Grondontwikkeling behoort sekuriteit van titel tot gevolg te hê, vir die wydste moontlike verskeidenheid titelalternatiewe voorsiening te maak, insluitende individuele of gemeenskaplike titel, en in gevalle waar grondontwikkeling die vorm van opgradering van 'n bestaande vestiging aanneem, nie voordeeltrekkende okkupeerders van wonings of grond te ontnem nie of, waar dit nodig is dat grond en wonings wat deur hulle geokkupeer word, gebruik word vir ander doeleindes, behoort hulle belange in sodanige grond of wonings redelikerwys op 'n ander wyse geakkommodeer te word.
- 45 (l) 'n Bevoegde gesag op nasionale, provinsiale en plaaslike owerheidsvlak behoort die belange van die onderskeie sektore wat betrokke is by of geraak word deur grondontwikkeling te koördineer ten einde strydige aansprake op skaars hulpbronne te minimaliseer.
- (m) Beleid, administratiewe praktyk en wette met betrekking tot grondontwikkeling behoort die effektiewe funksionering van 'n grondontwikkelingsmark gebaseer op ope mededinging tussen verskaffers van goedere en dienste te stimuleer.
- 55 (2) Die Minister kan by kennisgewing in die *Staatskoerant*—
- (a) benewens die beginsels in subartikel (1) uiteengesit, maar nie strydig daarmee nie, enige beginsel vir grondontwikkeling voorskryf; en
- 60 (b) enige beginsel in subartikel (1) uiteengesit in meer besonderhede, maar nie strydig daarmee nie, voorskryf,
- en daarna geld sodanige beginsel dwarsdeur die Republiek op die grondslag in artikel 2 uiteengesit.

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

- (a) prescribe any principle for land development in addition to, but not inconsistent with, the principles set out in subsection (1) or prescribed by the Minister under subsection (2);
- (b) prescribe any principle set out in subsection (1) or prescribed by the Minister under subsection (2) in greater detail, but not inconsistent therewith; and
- (c) publish for general information provincial policy relating to land development or any aspect thereof which is consistent with the 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 province on the basis set out in section 2.

(4) (a) The Minister shall, before prescribing any principle under subsection (2), cause a draft of such principle to be published in the *Gazette* and shall consider any comment on such draft principle received from any person during the period 30 days after such publication.

(b) A list of principles prescribed under subsection (2) shall be laid upon the Table of Parliament in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if Parliament by resolution disapproves of any such principles or any provision thereof, such principles or provision shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such principles or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such principles or such provision before it so ceased to be of force and effect.

(5) (a) The Premier shall, before prescribing any principle or policy under subsection (3), cause a draft of such principle or policy to be published in the *Provincial Gazette* and shall consider any comment on such draft principle or policy received from any person during the period thirty days after such publication.

(b) A list of principles and policies prescribed under subsection (3) shall be submitted to the provincial legislature, and if such provincial legislature by resolution disapproves of any such principle or policy, or any provision thereof, such principles or policy, or provision, shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such principles, policy or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such principles, policy or such provision before it so ceased to be of force and effect.

General principles for decision-making and conflict resolution

4. (1) The general principles set out in subsection (2) apply—
- (a) to any decision which a competent authority, including a tribunal, may make in respect of any application to allow land development, or in respect of land development which affects the rights, obligations or freedoms of any person or body, whether the application is made or the development undertaken in terms of this Act or, subject to paragraph (c), in terms of any other law;
 - (b) without derogating from the generality of paragraph (a), to any decision—
 - (i) on the question whether any illegal use of land should henceforth be regarded as lawful;
 - (ii) approving or disapproving of any proposed change to the use of land in the course of proposed land development;
 - (iii) relating to the level or standard of engineering services that are to be provided in respect of land development;
 - (iv) relating to the permitted 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 for the rights and obligations of any person or body of a failure to provide any comment, make any decision or perform any other act within a period of time contemplated in subparagraph (iv); and
 - (c) where a decision referred to in paragraphs (a) and (b) is made under any other law, only when such decision is made during the course of the administration

- (3) Die Premier van 'n provinsie kan by proklamasie in die *Provinsiale Koerant*—
- (a) benewens die beginsels in subartikel (1) uiteengesit of deur die Minister kragtens subartikel (2) voorgeskryf, maar nie strydig daarmee nie, enige beginsel vir grondontwikkeling voorskryf;
- 5 (b) enige beginsel in subartikel (1) uiteengesit of deur die Minister kragtens subartikel (2) voorgeskryf, in meer besonderhede, maar nie strydig daarmee nie, voorskryf; en
- (c) ter algemene inligting 'n provinsiale beleid met betrekking tot grondontwikkeling of enige aspek daarvan wat bestaanbaar is met die beginsels uiteengesit in of voorgeskryf kragtens subartikels (1) en (2) en paragrawe (a)
- 10 en (b), publiseer,
- en daarna geld sodanige beginsel of beleid in die provinsie op die grondslag in artikel 2 uiteengesit.
- (4) (a) Die Minister moet, voordat enige beginsel kragtens subartikel (2) voorgeskryf
- 15 word, 'n konsep van sodanige beginsel in die *Staatkoerant* laat publiseer en moet enige kommentaar op sodanige konsepbeginsel ontvang vanaf 'n persoon gedurende 'n tydperk van 30 dae na sodanige publikasie oorweeg.
- (b) 'n Lys van beginsels kragtens subartikel (2) voorgeskryf, moet op dieselfde wyse as die lys bedoel in artikel 17 van die Interpretasiewet, 1957 (Wet No. 33 van 1957),
- 20 in die Parlement ter Tafel gelê word, en indien die Parlement by besluit enige sodanige beginsel of enige bepaling daarvan afkeur, verval daardie beginsel of bepaling, maar sonder afbreuk aan die geldigheid van enigiets ingevolge sodanige beginsel of bepaling gedoen voordat dit aldus verval het, of enige reg of verpligting verkry of opgedoen ingevolge sodanige beginsel of bepaling voordat dit aldus verval het.
- (5) (a) Die Premier moet, voordat enige beginsel of beleid kragtens subartikel (3) voorgeskryf word, 'n konsep van sodanige beginsel of beleid in die *Provinsiale Koerant* laat publiseer en moet enige kommentaar op sodanige konsepbeginsel of -beleid ontvang vanaf 'n persoon gedurende 'n tydperk van 30 dae na sodanige publikasie oorweeg.
- 30 (b) 'n Lys van beginsels en beleid kragtens subartikel (3) voorgeskryf, moet aan die provinsiale wetgewer voorgelê word, en indien sodanige provinsiale wetgewer by besluit enige sodanige beginsel of beleid of enige bepaling daarvan afkeur, verval daardie beginsels of beleid of bepaling, maar sonder afbreuk aan die geldigheid van enigiets ingevolge sodanige beginsels, beleid of bepaling gedoen voordat dit aldus
- 35 verval het, of enige reg of verpligting verkry of opgedoen ingevolge sodanige beginsels, beleid of bepaling voordat dit aldus verval het.

Algemene beginsels vir besluitneming en konflikoplossing

4. (1) Die algemene beginsels in subartikel (2) uiteengesit, is van toepassing—
- (a) op enige besluit wat 'n bevoegde gesag, insluitende 'n tribunaal, kan neem
- 40 ten opsigte van enige aansoek om grondontwikkeling toe te laat, of ten opsigte van grondontwikkeling wat die regte, verpligtinge of vryhede van enige persoon of liggaam raak, hetsy die aansoek gedoen word of die grondontwikkeling onderneem word kragtens hierdie Wet of, behoudens paragraaf (c), kragtens enige ander wet;
- 45 (b) sonder om aan die algemeenheid van paragraaf (a) afbreuk te doen, op enige besluit—
- (i) oor die vraag of enige onwettige gebruik van grond voortaan as wettig beskou moet word;
- (ii) wat enige voorgestelde verandering van die gebruik van grond in die
- 50 loop van voorgestelde grondontwikkeling goed- of afkeur;
- (iii) betreffende die vlak of standaard van ingenieursdienste wat ten opsigte van grondontwikkeling verskaf moet word;
- (iv) betreffende die toegelate tydperke waarbinne kommentaar of besware ingedien en owerheidsbesluite geneem moet word in die loop van
- 55 grondontwikkelingsprosedures; en
- (v) betreffende die gevolge vir enige grondontwikkeling of vir die regte en verpligtinge van enige persoon of liggaam van 'n versuim om enige kommentaar te lewer, enige besluit te neem of enige ander handeling binne 'n tydperk beoog in subparagraaf (iv) te verrig; en
- 60 (c) waar 'n besluit bedoel in paragrawe (a) en (b) geneem is kragtens enige ander wet, slegs wanneer sodanige besluit geneem is in die loop van die uitvoering

of a law made after the commencement of this Act by the legislature of a province or by a local government body, including such a law which is inconsistent with Chapter III.

- (2) The decisions contemplated in subsection (1) shall be taken in accordance with the following general principles: 5
- (a) The decisions shall be consistent with the principles or a policy set out in or prescribed under section 3.
 - (b) The decisions shall be made by at least one appropriate officer in the service of a provincial administration or local government body, and experts in the field of agriculture, planning, engineering, geology, mining, environmental management, law, survey or such other field as may be determined by the Premier. 10
 - (c) The officer and experts shall, before conducting a hearing or reaching a decision, enquire into and consider the desirability of first referring any dispute between two or more parties in relation to land development to mediation and if they— 15
 - (i) consider mediation appropriate, they shall refer the dispute to mediation; or
 - (ii) consider mediation inappropriate, or if mediation has failed, the officer and experts shall conduct a hearing appropriate in the circumstances and reach a decision binding upon persons or bodies affected thereby, including the State or any local government body. 20
 - (d) The hearing conducted by the officer and experts is open to the public and any person entitled to appear at the hearing may be represented by any other person. 25
 - (e) The officer and experts shall upon request provide written reasons for any decision reached by them.
 - (f) The Director-General of a provincial administration shall keep a record of reasons provided in terms of paragraph (e), make such record available for inspection by members of the public and permit the publication of such reasons by any person or body. 30
 - (g) A decision made by the officer and experts shall be subject to review by any division of the Supreme Court of South Africa having jurisdiction.

CHAPTER II

Development and Planning Commission 35

Establishment of Development and Planning Commission

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

(2) The Minister may, by notice in the *Gazette*, disestablish the Commission as soon as its functions in terms of this Act have been concluded. 40

Functions and powers of Commission and co-ordination of advice

6. (a) The Commission—
- (i) 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 45
 - (ii) unless and until a provincial commission has been established or recognised under 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 subparagraph (i) insofar as such matter relates to land development and falls within a functional area specified in Schedule 6 to the Constitution. 50
- (b) The Minister shall, for the purpose of debating or co-ordinating the advice given by the Commission or of debating or co-ordinating the implementation of such advice throughout the Republic or in any part thereof, from time to time convene and attend meetings of MECs.

van 'n wet wat deur die wetgewer van 'n provinsie of deur 'n plaaslike owerheidsliggaam gemaak is na die inwerkingtreding van hierdie Wet, insluitende sodanige wet wat strydig met Hoofstuk III is.

(2) Die besluite bedoel in subartikel (1) word in ooreenstemming met die volgende algemene beginsels geneem:

- (a) Die besluite moet bestaanbaar wees met die beginsels of 'n beleid uiteengesit in of voorgeskryf kragtens artikel 3.
- (b) Die besluite word geneem deur minstens een geskikte beamppte in die diens van 'n provinsiale administrasie of 'n plaaslike owerheidsliggaam, en deskundiges op die gebied van landbou, beplanning, ingenieurswese, geologie, mynbou, omgewingsbestuur, die reg, opmeting of enige ander gebied wat die Premier kan bepaal.
- (c) Voordat 'n verhoor gehou of 'n besluit geneem word, stel die beamppte en deskundiges ondersoek in na en oorweeg die wenslikheid daarvan om enige geskil tussen twee of meer partye met betrekking tot grondontwikkeling eers na bemiddeling te verwys en indien hulle—
- (i) van oordeel is dat bemiddeling wenslik is, verwys hulle die geskil na bemiddeling; of
- (ii) bemiddeling onwenslik ag, of indien bemiddeling misluk het, hou die beamppte en deskundiges 'n verhoor wat in die omstandighede wenslik is, en neem hulle 'n besluit wat bindend is op die persone of liggame wat daardeur geraak word, insluitende die Staat of enige plaaslike owerheidsliggaam.
- (d) Die verhoor wat deur die beamppte en deskundiges gehou word, is toeganklik vir die publiek en enige persoon wat geregtig is om by die verhoor te verskyn, kan deur enige ander persoon verteenwoordig word.
- (e) Die beamppte en deskundiges voorsien op versoek skriftelike redes vir enige besluit deur hulle geneem.
- (f) Die Direkteur-generaal van 'n provinsiale administrasie hou 'n rekord van redes verskaf ingevolge paragraaf (e), stel sodanige rekord beskikbaar vir inspeksie deur lede van die publiek en laat die publikasie van sodanige redes deur enige persoon of liggaam toe.
- (g) 'n Besluit van die beamppte en deskundiges is onderhewig aan hersiening deur enige afdeling van die Hooggeregshof van Suid-Afrika wat jurisdiksie het.

35

HOOFSTUK II

Ontwikkelings- en Beplanningskommissie

Instelling van Ontwikkelings- en Beplanningskommissie

5. (1) Daar word hierby 'n regs persoon ingestel wat as die Ontwikkelings- en Beplanningskommissie bekend staan.

(2) Die Minister kan by kennisgewing in die *Staatskoerant* die Kommissie ontbind sodra sy funksies ingevolge hierdie Wet afgehandel is.

Funksies en bevoegdhede van Kommissie en koördinerende van advies

6. (a) Die Kommissie kan—

- (i) uit eie beweging, en moet op versoek van die Minister, die Minister oor enige aangeleentheid wat val binne die bestek van die Kommissie se opdrag soos in artikel 14 uiteengesit, adviseer; en
- (ii) tensy en totdat 'n provinsiale kommissie kragtens artikel 11 ingestel of erken is, uit eie beweging, en moet op versoek van enige Premier of LUR, sodanige Premier of LUR oor enige in subparagraaf (i) bedoelde aangeleentheid adviseer, sover sodanige aangeleentheid betrekking het op grondontwikkeling en binne 'n funksionele gebied vermeld in Bylae 6 by die Grondwet val.
- (b) Die Minister moet, met die oog op die debattering of koördinerende van die advies deur die Kommissie gegee, of die debattering of koördinerende van die implementering van sodanige advies dwarsdeur die Republiek of in enige deel daarvan, van tyd tot tyd vergaderings van LUR'e byeenroep en bywoon.

Constitution of Commission

7. (1) The Commission consists of—
- (a) not more than 24 members (who are in the opinion of the Minister fairly representative of urban and rural interests or sectors) appointed by the Minister, of whom—
 - (i) nine shall be persons nominated by the Premiers (each Premier nominating one person): Provided that paragraph (b) applies in the event of a provincial commission having been established or recognised under section 11 in respect of any province, and the Premier of such a province may not nominate a person;
 - (ii) not more than three shall be persons nominated by sectors or subsectors who own property, undertake or finance land development in urban and rural areas;
 - (iii) not more than three shall be persons nominated by organisations and community-based groups in civil society who represent the interests of communities intended to benefit from land development in urban and rural areas; and
 - (iv) not more than nine shall be persons who have expertise and experience relevant to the functions of the Commission;
 - (b) because of his or her office, the chairperson of each provincial commission or, during his or her absence, the deputy chairperson.
- (2) Prior to the appointment of a person to the Commission, the Minister shall—
- (a) make known his or her intention so to appoint such person by notice in the *Gazette*; and
 - (b) 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.
- (3) (a) The Minister shall designate one of the members of the Commission as the chairperson and another member as the deputy chairperson, who shall act as chairperson of the Commission whenever the chairperson is for any reason unable to act as such.
- (b) The chairperson shall hold office for the period specified by the Minister upon his or her appointment, but not exceeding three years.
- (4) Whenever both the chairperson and the deputy chairperson of the Commission are absent or unable to fulfill any of the functions of the chairperson, the members of the Commission shall designate any other member of the Commission to act as chairperson of the Commission during such absence or incapacity.
- (5) (a) The Minister may at the request of a member of the Commission other than the chairperson, the deputy chairperson or a member who serves on the Commission because of his or her office, appoint an alternate member for that member.
- (b) An alternate of a member may in the event of the absence of that member from a meeting of the Commission, attend the meeting and when so attending shall be deemed to be a member of the Commission.
- (6) The Director General of the Department of Land Affairs shall cause notice of the appointment of a member or alternate member of the Commission, and the date of the appointment, to be published in the *Gazette*.

Period of office of members or alternate members of Commission

8. (1) A member or alternate member of the Commission holds office for the period specified by the Minister upon his or her appointment, but not exceeding three years, or, if no such period is specified, for a period of three years from the date of his or her appointment and may be reappointed on the termination of such period.
- (2) A member or alternate member of the Commission vacates his or her office if—
- (a) he or she resigns;
 - (b) his or her estate is sequestrated or he or she applies for the assistance referred to in section 10(1)(c) of the Agricultural Credit Act, 1966 (Act No. 28 of 1966);
 - (c) he or she is incapacitated by physical or mental illness;

Samestelling van Kommissie

7. (1) Die Kommissie bestaan uit—
- (a) hoogstens 24 lede (wat na die mening van die Minister betreklik verteenwoordigend van stedelike en landelike belange of sektore is) wat deur die Minister aangestel word, van wie—
- (i) nege persone moet wees wat deur die Premiers benoem word (elke Premier benoem een persoon): Met dien verstande dat in die geval waar 'n provinsiale kommissie ten opsigte van enige provinsie kragtens artikel 11 ingestel of erken is, paragraaf (b) van toepassing is en die Premier van sodanige provinsie nie 'n persoon kan benoem nie;
- (ii) hoogstens drie persone moet wees wat deur sektore of subsektore wat die eienaars van grond is of grondontwikkeling in stedelike en landelike gebiede onderneem of finansier, benoem word;
- (iii) hoogstens drie persone moet wees wat deur organisasies en gemeenskapsgebaseerde groepe in die burgerlike samelewing wat die belange verteenwoordig van gemeenskappe wat bestem is om by grondontwikkeling in stedelike en landelike gebiede te baat, benoem word; en
- (iv) hoogstens nege persone moet wees met kundigheid en ervaring wat verband hou met die funksies van die Kommissie;
- (b) uit hoofde van sy of haar amp, die voorsitter van elke provinsiale kommissie of, gedurende sy of haar afwesigheid, die ondervoorsitter.
- (2) Voor die aanstelling van 'n persoon op die Kommissie—
- (a) maak die Minister sy of haar voorneme om sodanige persoon aldus aan te stel by kennisgewing in die *Staatskoerant* bekend; en
- (b) neem die Minister enige kommentaar of beswaar wat hy of sy mag ontvang van enige persoon of liggaam ten opsigte van sodanige aanstelling in aanmerking.
- (3) (a) Die Minister wys een van die lede van die Kommissie aan as die voorsitter en 'n ander lid as die ondervoorsitter, wat as voorsitter van die Kommissie optree wanneer die voorsitter om enige rede nie in staat is om aldus op te tree nie.
- (b) Die voorsitter beklee sy of haar amp vir die tydperk deur die Minister by sy of haar aanstelling bepaal, maar wat nie drie jaar oorskry nie.
- (4) Wanneer beide die voorsitter en die ondervoorsitter van die Kommissie afwesig is of nie in staat is om enige van die funksies van die voorsitter te verrig nie, wys die lede van die Kommissie enige ander lid van die Kommissie aan om as voorsitter van die Kommissie gedurende sodanige afwesigheid of onvermoë op te tree.
- (5) (a) Die Minister kan op versoek van 'n lid van die Kommissie behalwe die voorsitter, die ondervoorsitter of 'n lid wat uit hoofde van sy of haar amp in die Kommissie dien, 'n plaasvervanger vir daardie lid aanstel.
- (b) 'n Plaasvervanger van 'n lid kan in die geval van die afwesigheid van daardie lid van 'n vergadering van die Kommissie, die vergadering bywoon en wanneer hy of sy die vergadering aldus bywoon word hy of sy geag 'n lid van die Kommissie te wees.
- (6) Die Direkteur-generaal van die Departement van Grondsaake laat 'n kennisgewing van die aanstelling van 'n lid of plaasvervangende lid van die Kommissie, en die datum van aanstelling, in die *Staatskoerant* publiseer.

Ampstermyn van lede of plaasvervangende lede van Kommissie

8. (1) 'n Lid of plaasvervangende 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 of, indien geen sodanige tydperk bepaal word nie, vir 'n tydperk van drie jaar vanaf die datum van sy of haar aanstelling en kan by die verstryking van sodanige tydperk heraan gestel word.
- (2) 'n Lid of plaasvervangende 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 om die hulp bedoel in artikel 10(1)(c) van die Wet op Landboukrediet, 1966 (Wet No. 28 van 1966);
- (c) hy of sy onbevoeg raak weens fisiese of geestelike ongesteldheid;

- (d) he or she is convicted of an offence involving dishonesty or corruption or 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, a provincial legislature or the council or other governing body of a local government body.

(3) The Minister may at any time terminate the period of office of a member or alternate member of the Commission if there are sufficient reasons therefor.

Meetings of Commission

9. (1) The first meeting of the Commission is held at the time and place determined by the Minister, and thereafter meetings are held at the times and places determined by the chairperson of the Commission.

(2) The chairperson or, in his or her absence, the deputy 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 a meeting.

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

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

(5) A member or alternate member of the Commission shall not take part in the discussion of or the making of decisions about any matter before the Commission and in which he or she or his or her spouse, immediate family, partner or 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, is appointed on the conditions of service, including conditions relating to the payment of remuneration and allowances, which the Minister determines 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 because 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 the *Provincial Gazette*—

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

(2) A provincial commission shall, in relation to any matter pertaining to land development and falling within a functional area specified in Schedule 6 to the Constitution, perform such functions of the Commission in relation to a province as the Premier or MEC may determine.

(3) In the case of—

- (a) a provincial commission established under subsection (1)(a), sections 7(1)(a) (ii), (iii) and (iv), (2), (3), (4), (5) and (6), 8, 9 and 10 shall *mutatis mutandis* apply in respect of such a provincial commission and in such application a reference in the said sections to the Minister and the Director-General of the Department of Land Affairs shall be construed as a reference to the Premier and the Director-General of a provincial administration, respectively; and

- (b) a provincial commission recognised under subsection (1)(b), the composition and meetings of such a commission shall be regulated by the law under which it was established.

- (d) hy of sy aan 'n misdryf skuldig bevind word waarvan oneerlikheid of korrupsie 'n element is of tot gevangenisstraf sonder die keuse van 'n boete gevonniss word; of
- (e) hy of sy as 'n kandidaat vir verkiesing as 'n lid van die Parlement, 'n provinsiale wetgewer of die raad of ander bestuursliggaam van 'n plaaslike owerheidsliggaam benoem word.
- (3) Die Minister kan te eniger tyd die ampstermyn van 'n lid of plaasvervangende lid van die Kommissie beëindig indien daar voldoende redes daarvoor bestaan.

Vergaderings van Kommissie

9. (1) Die eerste vergadering van die Kommissie word gehou op die tyd en plek deur die Minister bepaal, en daarna word vergaderings gehou op die tye en plekke deur die voorsitter van die Kommissie bepaal.
- (2) Die voorsitter of, in sy of haar afwesigheid, die ondervoorsitter, kan te eniger tyd in sy of haar diskresie 'n spesiale vergadering van die Kommissie belê, en belê 'n vergadering binne veertien dae na ontvangs van 'n versoek om so 'n vergadering te belê wat deur minstens agt lede van die Kommissie onderteken is.
- (3) 'n Kworum vir 'n vergadering van die Kommissie is twee derdes van die lede van die Kommissie.
- (4) Die prosedure by vergaderings van die Kommissie, insluitende die prosedure vir die neem van besluite, word deur die Kommissie onderworpe aan die voorskrifte van die Minister, indien enige, bepaal.
- (5) 'n Lid of plaasvervangende lid van die Kommissie neem nie deel nie aan die bespreking van of die neem van besluite oor enige aangeleentheid wat voor die Kommissie dien en waarby hy of sy of sy of haar gade, onmiddellike familie, vennoot of werkgewer, anders as die Staat, of die vennoot of werkgewer van sy of haar gade, enige direkte of indirekte finansiële belang het.

Diensvoorwaardes van lede of plaasvervangende lede van Kommissie

10. (1) 'n Lid of plaasvervangende lid van die Kommissie, anders as 'n persoon wat in die voltydse diens van die Staat is, word op die diensvoorwaardes aangestel, insluitende voorwaardes met betrekking tot die betaling van vergoeding en toelaes, wat die Minister met die instemming van die Minister van Finansies bepaal.
- (2) Diensvoorwaardes kragtens subartikel (1) bepaal, kan verskil afhange van daarvan of die betrokke persoon 'n lid of plaasvervangende lid is, of uit hoofde van sy of haar amp of op 'n voltydse of deeltydse grondslag of in 'n professionele hoedanigheid in die 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 ten opsigte van 'n provinsie instel; of
- (b) enige liggaam van persone, raad of kommissie ingestel by of kragtens enige wet, as 'n provinsiale ontwikkelings- en beplanningskommissie ten opsigte van 'n provinsie erken.
- (2) 'n Provinsiale kommissie verrig, met betrekking tot enige aangeleentheid wat op grondontwikkeling betrekking het en wat binne 'n funksionele gebied vermeld in Bylae 6 by die Grondwet val, sodanige werksaamhede van die Kommissie met betrekking tot 'n provinsie wat die Premier of LUR bepaal.
- (3) In die geval van—
- (a) 'n provinsiale kommissie kragtens subartikel (1)(a) ingestel, is artikels 7(1)(a)(ii), (iii) en (iv), (2), (3), (4), (5) en (6), 8, 9 en 10 *mutatis mutandis* van toepassing ten opsigte van sodanige provinsiale kommissie en by sodanige toepassing word 'n verwysing in gemelde artikels na die Minister en die Direkteur-generaal van die Departement van Grondsake uitgelê as 'n verwysing na onderskeidelik die Premier en die Direkteur-generaal van 'n provinsiale administrasie; en
- (b) 'n provinsiale kommissie kragtens subartikel (1)(b) erken, word die samestelling en vergaderings van sodanige kommissie deur die wet waarkragtens dit ingestel is, gereël.

Administrative and research functions of Commission and provincial commissions

12. (1) The administrative, secretarial and research functions of the Commission shall be performed by—

- (a) officers and employees in the public service designated for such purpose by the Directors-General of the Departments of Land Affairs and of Housing and of the Office of the President, acting in consultation with each other; and 5
- (b) consultants appointed in the employ of those Departments on such conditions of service as the Minister, the Minister of Housing and the Minister responsible for the implementation of the Reconstruction and Development Programme, with the concurrence of the Minister of Finance, determine. 10

(2) The administrative, secretarial and research functions of a provincial commission shall be performed—

- (a) by officers and employees in a provincial administration designated for such purpose by the Premier; and
- (b) by consultants appointed in the employ of a provincial administration on the conditions of service determined by the Premier with the concurrence of the MEC responsible for the treasury function. 15

Expenditure of Commission and provincial commission

13. The expenditure in connection with the exercise of its powers and the performance of its functions in the case of— 20

- (a) the Commission, shall be paid out of money appropriated by Parliament for such purpose;
- (b) a provincial commission established under section 11(1)(a), shall be paid out of money appropriated by a provincial legislature for such purpose; and
- (c) a provincial commission recognised under section 11(1)(b), shall be paid in accordance with the law under which it was established. 25

Terms of reference of Commission

14. The Commission shall advise the Minister or, subject to section 6(a)(ii), any Premier or MEC, on the following matters:

- (a) Policy and laws relating to the following aspects of planning development generally, including land development: 30
 - (i) The appropriate scope of planning, including the relationship between spatial and non-spatial planning;
 - (ii) the appropriate levels of government at which planning should be carried out, the kind of planning to be done at each level and the co-ordination between different departments, levels of government and other bodies responsible for planning; 35
 - (iii) the appropriate documentation or instruments to be used for planning at each level of government;
 - (iv) the appropriate emphasis that should be placed upon development, including land development, for the benefit of low income and historically disadvantaged communities; 40
 - (v) the appropriate methods of monitoring compliance with the general principles set out in Chapter 1 and the setting and achievement of objectives for land development by national, provincial and local government; 45
 - (vi) the appropriate levels and methods of public participation in planning at different levels of government; and
 - (vii) the integration of environmental conservation with planning at different levels of government. 50
- (b) Policy and laws relating to measures to identify, assemble and release land for land development, particularly for the benefit of low-income and historically disadvantaged communities, including—
 - (i) measures to provide incentives to the owners of land to release land for land development; 55
 - (ii) measures to discourage the withholding of land which is suitable for land development; and

Administratiewe en navorsingswerkzaamhede van Kommissie en provinsiale kommissies

12. (1) Die administratiewe, sekretariële en navorsingswerkzaamhede van die Kommissie word verrig deur—

- 5 (a) beamptes en werknemers in die diens van die Staat wat deur die Direkteurs-generaal van die Departemente van Grondsake en van Behuising en van die Kantoor van die President in oorleg met mekaar vir daardie doel benoem word; en
- 10 (b) konsultante aangestel in die diens van daardie Departemente op die diensvoorwaardes wat die Minister, die Minister van Behuising en die Minister verantwoordelik vir die implementering van die Heropbou- en Ontwikkelingsprogram met die instemming van die Minister van Finansies bepaal.

(2) Die administratiewe, sekretariële en navorsingswerkzaamhede van 'n provinsiale kommissie word verrig deur—

- 15 (a) beamptes en werknemers in 'n provinsiale administrasie wat vir daardie doel deur die Premier aangewys is; en
- (b) konsultante in die diens van 'n provinsiale administrasie aangestel op die diensvoorwaardes wat die Premier in oorleg met die LUR verantwoordelik vir die tesouriefunksie bepaal.

20 Uitgawes van Kommissie en provinsiale kommissie

13. Die uitgawes in verband met die uitoefening van sy bevoegdhede en die verrigting van sy werkzaamhede in die geval van—

- (a) die Kommissie, word betaal uit geld deur die Parlement vir daardie doel bewillig;
- 25 (b) 'n provinsiale kommissie wat kragtens artikel 11(1)(a) ingestel is, word betaal uit geld deur 'n provinsiale wetgewer vir daardie doel bewillig; en
- (c) 'n provinsiale kommissie wat kragtens artikel 11(1)(b) erken is, word betaal ooreenkomstig die wet waarkragtens dit ingestel is.

Opdrag van Kommissie

30 14. Die Kommissie adviseer die Minister of, behoudens artikel 6(a)(ii), enige Premier of LUR, oor die volgende aangeleenthede:

- (a) Beleid en wette met betrekking tot die volgende aspekte van die beplanning van ontwikkeling in die algemeen, insluitende grondontwikkeling:
- 35 (i) Die gepaste omvang van beplanning, insluitende die verhouding tussen ruimtelike en nie-ruimtelike beplanning;
- (ii) die gepaste regeringsvlakke waarop beplanning uitgevoer moet word, die soort beplanning wat op elke vlak gedoen moet word en die koördinasie tussen verskillende departemente, regeringsvlakke en ander liggame verantwoordelik vir beplanning;
- 40 (iii) die gepaste dokumentasie of instrumente wat vir beplanning op elke regeringsvlak gebruik moet word;
- (iv) die gepaste klem wat geplaas moet word op ontwikkeling, insluitende grondontwikkeling, tot voordeel van lae-inkomste- en histories agtergeblewe gemeenskappe;
- 45 (v) die gepaste metodes vir die monitering van die nakoming van die algemene beginsels in Hoofstuk I uiteengesit en van die stel en bereiking van doelwitte vir grondontwikkeling deur nasionale, provinsiale en plaaslike regering;
- (vi) die gepaste vlakke en metodes van openbare deelname aan beplanning op verskillende regeringsvlakke; en
- 50 (vii) die integrasie van omgewingsbewaring met beplanning op verskillende regeringsvlakke.
- (b) Beleid en wette met betrekking tot maatreëls om grond te identifiseer, te versamel en beskikbaar te stel vir grondontwikkeling, veral tot voordeel van
- 55 lae-inkomste- en histories agtergeblewe gemeenskappe, insluitende—
- (i) maatreëls om eienaars van grond aan te moedig om grond vir grondontwikkeling beskikbaar te stel;
- (ii) maatreëls om die terughouding van grond wat geskik is vir grondontwikkeling te ontmoedig; en

- (iii) the setting of objectives for land development by national, provincial and local government.
- (c) Policy and laws relating to land development, land development procedures, environmental sustainability, heritage conservation and the establishment and administration of appropriate land-use control systems for land development in both urban and rural areas. 5
- (d) Nationally uniform policy and laws relating to the cadastre, tenure types, land registration procedures and matters relating to security of tenure, including—
 - (i) the reform of land survey systems and procedures and the procedures and institutional arrangements relating to the registration of rights in land which the Commission considers appropriate and expedient; 10
 - (ii) subject to any general land reform programme, alternative forms of land tenure, including communal tenure, landholding by community-based institutions and tribal or customary systems of landholding; and
 - (iii) measures to facilitate and speed up the disbursement of end-user finance, in the form of subsidies, loans or other forms of financing, for the purpose of land development. 15
- (e) Policy and laws relating to engineering infrastructure and services and related services to be provided by public authorities, including—
 - (i) the appropriate levels and standards of such services; 20
 - (ii) the appropriate tariff structures for such services;
 - (iii) the financing of such services, in particular the financing of bulk infrastructure; and
 - (iv) institutional arrangements for the management and provision of such services, in particular the responsibilities of the government and non-government sectors in relation to the provision of bulk and internal services. 25
- (f) Financial and fiscal policy and laws related to land development which might have an effect on the relationship between different tiers of government or different government bodies. 30
- (g) Any other matter specified by the Minister by notice in the *Gazette*. 30

CHAPTER III

Development tribunals

Establishment and composition of 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. 35

(2) A tribunal consists of a chairperson, a deputy chairperson and the other member or members appointed from time to time by the Premier with the approval of the provincial legislature.

(3) The chairperson, deputy chairperson and the other member or members of a tribunal shall be appointed by reason of their qualifications in and knowledge or experience of land development or the law and shall be persons who are in the Premier's opinion competent to perform the functions assigned to them in terms of this Chapter. 40

(4) (a) As far as may be practicable in the circumstances, one half of the members of a tribunal shall be appointed from appropriate officers in the service of a provincial administration and officers in the service of local government bodies in a province, and the other half from persons outside such service. 45

(b) Prior to the appointment of a person as a member of a tribunal, the Premier shall—

- (i) make known his or her intention so to appoint such person by notice in the *Provincial Gazette*; 50
- (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; and
- (iii) submit his or her proposals together with any such comment or objection to the provincial legislature for its approval of the appointment of such person as a tribunal member: Provided that if the provincial legislature is not in session 55

- (iii) die stel van doelwitte vir grondontwikkeling deur nasionale, provinsiale en plaaslike regering.
- (c) Beleid en wette met betrekking tot grondontwikkeling, grondontwikkelingsprosedures, omgewingshoudbaarheid, erfenisbewaring en die instelling en administrasie van gepaste grondgebruikkontrolestelsels vir grondontwikkeling in beide stedelike en landelike gebiede.
- (d) Nasionaal eenvormige beleid en wette met betrekking tot die grondregister, titelsoorte, grondregistrasieprosedures en aangeleenthede met betrekking tot sekuriteit van titel, insluitende—
- (i) die hervorming van grondopmetingstelsels en -prosedures en die prosedures en institusionele reëlings met betrekking tot die registrasie van grondregte wat die Kommissie gepas en wenslik ag;
- (ii) behoudens enige algemene grondhervormingsprogram, alternatiewe vorme van grondtitel, insluitende gemeenskaplike titel, grondbesit deur gemeenskapsgebaseerde instellings en stam- of tradisionele stelsels van grondbesit; en
- (iii) maatreëls om die uitbetaling van eindgebruikerfinansiering, in die vorm van subsidies, lenings of ander vorme van finansiering, vir die doeleindes van grondontwikkeling te fasiliteer en te bespoedig.
- (e) Beleid en wette met betrekking tot ingenieursinfrastruktuur en -dienste en verbandhoudende dienste wat deur openbare owerhede verskaf moet word, insluitende—
- (i) die gepaste vlakke en standaarde van sodanige dienste;
- (ii) die gepaste tariefstrukture vir sodanige dienste;
- (iii) die finansiering van sodanige dienste, veral die finansiering van grootmaatinfrastruktuur; en
- (iv) institusionele reëlings vir die bestuur en verskaffing van sodanige dienste, veral die verantwoordelikhede van die regering- en nie-regeringsektore ten opsigte van die verskaffing van grootmaat- en interne dienste.
- (f) Finansiële en fiskale beleid en wette met betrekking tot grondontwikkeling wat 'n invloed op die verhouding tussen verskillende regeringsvlakke of verskillende regeringsliggame kan hê.
- (g) Enige ander aangeleentheid deur die Minister by kennisgewing in die *Staatskoerant* bepaal.

HOOFSTUK III

Ontwikkelingstribunale

Instelling en samestelling van tribunale

15. (1) 'n Tribunaal word hierby ingestel vir elke provinsie wat in elke geval as die ontwikkelingstribunaal van die betrokke provinsie bekend staan.

(2) 'n Tribunaal bestaan uit 'n voorsitter, 'n ondervoorsitter en die ander lid of lede wat van tyd tot tyd deur die Premier met die goedkeuring van die provinsiale wetgewer aangestel word.

(3) Die voorsitter, ondervoorsitter en die ander lid of lede van die tribunaal word op grond van hul kwalifikasies in en kennis of ervaring van grondontwikkeling of die reg aangestel en moet persone wees wat na die mening van die Premier bevoeg is om die werksaamhede ingevolge hierdie Hoofstuk aan hulle opgedra, te verrig.

(4) (a) Sover dit onder die omstandighede uitvoerbaar is, word een helfte van die lede van 'n tribunaal aangestel uit geskikte beamptes in die diens van 'n provinsiale administrasie en beamptes in die diens van plaaslike owerheidsliggame in 'n provinsie, en die ander helfte uit persone buite sodanige diens.

(b) Voor die aanstelling van 'n persoon as lid van 'n tribunaal—

- (i) maak die Premier sy of haar voorneme om sodanige persoon aldus aan te stel, bekend by kennisgewing in die *Provinsiale Koerant*;
- (ii) neem die Premier enige kommentaar of beswaar ten opsigte van sodanige aanstelling, wat deur hom of haar van enige persoon of liggaam ontvang word, in ag; en
- (iii) lê die Premier sy of haar voorstelle saam met enige sodanige kommentaar of beswaar aan die provinsiale wetgewer voor vir goedkeuring van die aanstelling van sodanige persoon as 'n lid van die tribunaal: Met dien

at the time when the Premier wishes to make an appointment, and if in the opinion of the Premier it is desirable to make an appointment subject to the subsequent approval thereof by the provincial legislature, the Premier may make such an appointment. If during its ensuing next session the provincial legislature disapproves or fails to approve such appointment, it shall lapse. Pending such approval or disapproval, the provisions of subsections (5) to (12) shall *mutatis mutandis* apply to a person appointed as member of the tribunal in terms of this proviso as if he or she had been appointed with the approval of the provincial legislature. 5

(5) The chairperson, deputy chairperson and the other member or members of a tribunal hold office for the period specified by the Premier upon their appointment and are appointed on the conditions, including conditions relating to the payment of remuneration and allowances, determined by him or her with the concurrence of the MEC responsible for the treasury function. 10

(6) (a) The tribunal registrar shall cause notice of the appointment of a member of a tribunal and the date of the appointment to be published in the *Provincial Gazette*. 15

(b) A member of a tribunal vacates his or her office if—

- (i) he or she resigns;
- (ii) his or her estate is sequestrated or he or she applies for the assistance referred to in section 10(1)(c) of the Agricultural Credit Act, 1966; 20
- (iii) he or she is incapacitated by physical or mental illness;
- (iv) he or she is convicted of an offence involving dishonesty or corruption or sentenced to imprisonment without the option of a fine; or
- (v) he or she is nominated as a candidate for election as a member of Parliament, a provincial legislature, or the council or other governing body of a local government body. 25

(c) The Premier may, and if so directed by the provincial legislature, shall, at any time terminate the period of office of a member of a tribunal if there are sufficient reasons therefor.

(7) The deputy chairperson of a tribunal shall act as chairperson of the tribunal whenever the chairperson is for any reason unable to act as such. 30

(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 chairperson and if there is no other member of a tribunal, the Premier shall appoint a person who complies with the requirements prescribed in subsection (3), to act as chairperson of the tribunal during the inability of the chairperson and the deputy chairperson. 35

(9) The administrative functions of a tribunal shall be performed by an officer in the service of a provincial administration, to be known as the tribunal registrar, and one or more deputies to such tribunal registrar, designated by the MEC responsible for urban and rural development functions, by reason of his, her or their knowledge of land development, the law or administration. 40

(10) (a) A tribunal has its seat at the place or places determined from time to time by the Premier by notice in the *Provincial Gazette*.

(b) A tribunal has jurisdiction in the province for which it has been established. 45

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

(d) The chairperson of a tribunal may from time to time direct a particular member or members performing functions of the tribunal in terms of section 17(1), to perform such functions in relation to only a particular area in a province, including one or more local government areas or parts thereof. 50

(11) If any vacancy occurs on a tribunal, the vacancy may be filled by the appointment of any person in accordance with subsections (3), (4), (5) 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. 55

(12) A member of a tribunal shall not take part in the discussion of or the making of decisions about any matter before the tribunal in which he or she or his or her spouse, immediate family, partner or employer, including the State or a local government body (but only where the State or such local government body is a land development applicant

5 verstande dat indien die provinsiale wetgewer nie in sitting is op die tydstip
wanneer die Premier 'n aanstelling wil doen nie, en indien die Premier van
mening is dat dit wenslik is om 'n aanstelling te doen onderworpe aan die
latere goedkeuring daarvan deur die provinsiale wetgewer, kan die Premier
sodanige aanstelling doen. Indien die provinsiale wetgewer gedurende sy
eersvolgende sitting weier of versuim om sodanige aanstelling goed te keur,
verval die aanstelling. Hangende sodanige goedkeuring of afkeuring, is die
bepalings van subartikels (5) tot (12) *mutatis mutandis* van toepassing op 'n
persoon wat as lid van die tribunaal ingevolge hierdie voorbehoudsbepaling
aangestel is asof hy of sy met die goedkeuring van die provinsiale wetgewer
aangestel is.

10 (5) Die voorsitter, ondervoorsitter en die ander lid of lede van 'n tribunaal beklee
hulle ampte vir die tydperk by hulle aanstelling deur die Premier bepaal, en word
aangestel op die voorwaardes, insluitende voorwaardes met betrekking tot die betaling
15 van vergoeding en toelaes, wat hy of sy in oorleg met die LUR verantwoordelik vir die
tesouriefunksie bepaal.

(6) (a) Die tribunaalregistrator laat 'n kennisgewing van die aanstelling van 'n lid
van 'n tribunaal en die datum van aanstelling in die *Provinsiale Koerant* publiseer.

(b) 'n Lid van 'n tribunaal ontruim sy of haar amp indien—

- 20 (i) hy of sy bedank;
(ii) sy of haar boedel gesekwestreer word of indien hy of sy aansoek doen om die
hulp bedoel in artikel 10(1)(c) van die Wet op Landboukrediet, 1966;
(iii) hy of sy onbevoeg raak weens fisiese of geestelike ongesteldheid;
(iv) hy of sy aan 'n misdryf skuldig bevind word waarvan oneerlikheid of
25 korrupsie 'n element is of tot gevangenisstraf sonder die keuse van 'n boete
gevonnis word; of
(v) hy of sy as 'n kandidaat vir verkiesing as 'n lid van die Parlement, 'n
provinsiale wetgewer, of die raad of ander bestuursliggaam van 'n plaaslike
owerheidsliggaam benoem word.

30 (c) Die Premier kan, en moet indien aldus gelas deur die provinsiale wetgewer, te
eniger tyd die ampstermyn van 'n lid van 'n tribunaal beëindig indien daar voldoende
redes daarvoor bestaan.

(7) Die ondervoorsitter van 'n tribunaal tree op as voorsitter van die tribunaal
wanneer die voorsitter om enige rede nie in staat is om aldus op te tree nie.

35 (8) Wanneer beide die voorsitter en die ondervoorsitter van 'n tribunaal om enige
rede nie in staat is om as voorsitter van 'n tribunaal op te tree nie, wys die Premier
enige ander lid van die tribunaal, indien enige, aan om as voorsitter op te tree, en indien
daar nie 'n ander lid van die tribunaal is nie, stel die Premier 'n persoon aan wat
voldoen aan die vereistes in subartikel (3) voorgeskryf, om as voorsitter van die
40 tribunaal op te tree gedurende die onvermoë van die voorsitter en die ondervoorsitter.

(9) Die administratiewe werksaamhede van 'n tribunaal word verrig deur 'n beampte
in die diens van 'n provinsiale administrasie, wat as die tribunaalregistrator bekend
staan, en een of meer adjunkte van sodanige tribunaalregistrator, wat aangewys word
deur die LUR verantwoordelik vir stedelike en landelike ontwikkelingswerksaamhede
45 op grond van sy, haar of hulle kennis van grondontwikkeling, die reg of administrasie.

(10) (a) 'n Tribunaal is op die plek of plekke gesetel wat van tyd tot tyd deur die
Premier by kennisgewing in die *Provinsiale Koerant* bepaal word.

(b) 'n Tribunaal het jurisdiksie in die provinsie waarvoor dit ingestel is.

(c) Die werksaamhede van 'n tribunaal kan by 'n in paragraaf (a) bedoelde setel of
50 op enige ander plek in die betrokke provinsie verrig word.

(d) Die voorsitter van 'n tribunaal kan van tyd tot tyd 'n bepaalde lid of lede wat
werksaamhede van die tribunaal ingevolge artikel 17(1) verrig, gelas om sodanige
werksaamhede slegs met betrekking tot 'n bepaalde gebied in 'n provinsie te verrig,
insluitende een of meer plaaslike owerheidsgebiede of dele daarvan.

55 (11) Indien enige vakature in 'n tribunaal ontstaan, kan die vakature deur die
aanstelling van enige persoon ooreenkomstig subartikels (3), (4), (5) en (6) gevul word,
en enige persoon aldus aangestel, beklee sy of haar amp vir die onverstreke gedeelte
van die ampstermyn van die lid in wie se plek hy of sy aangestel is.

60 (12) 'n Lid van 'n tribunaal neem nie deel nie aan die bespreking van of die neem
van besluite oor enige aangeleentheid wat voor die tribunaal dien en waarby hy of sy
of sy of haar gade, onmiddellike familie, vennoot of werkgewer, insluitende die Staat
of 'n plaaslike owerheidsliggaam (maar slegs waar die Staat of sodanige plaaslike
owerheidsliggaam 'n grondontwikkelingsapplikant of beswaarmaker in sodanige

or objector in such matter) or the partner or employer of his or her spouse has, directly or indirectly, any pecuniary interest.

Functions of tribunal

16. A tribunal—

- (a) shall deal with any matter brought before it in terms of section 30(1), 33, 34, 40, 42, 51, 48(1), 57 or 61 or any matter arising therefrom; 5
- (b) in dealing with any matter referred to in paragraph (a), (c) or (d) may—
 - (i) grant urgent interim relief pending the making of a final order by the tribunal;
 - (ii) give final decisions or grant or decline final orders; 10
 - (iii) refer any matter to mediation as contemplated in section 22;
 - (iv) conduct any necessary investigation;
 - (v) give directions relevant to its functions to any person in the service of a provincial administration or a local government body;
 - (vi) grant or decline approval, or impose conditions to its approval, of any application made to it in terms of this Act; 15
 - (vii) determine any time period within which any act in relation to land development is to be performed by a person;
 - (viii) decide any question concerning its own jurisdiction;
- (c) shall deal with any other matter with which it is required to deal in terms of this Act; 20
- (d) may generally deal with all matters necessary or incidental to the performance of its functions in terms of or under this Act.

Decisions of tribunal

17. (1) A tribunal may decide that any of its functions or any investigation which it deems necessary in connection with a matter which is being considered by the tribunal, shall be performed or carried out on its behalf by any member or members thereof designated by the chairperson: Provided that where any matter referred to in section 16(a) or (b)(ii) or (iv) serves before a tribunal, the functions of the tribunal shall be performed by at least four members, two of whom shall be in the service of a provincial administration or a local government body and at least two shall be members appointed from outside such service. 25 30

(2) 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 them to act as presiding officer. 35

(3) The decision of the majority of the members of a tribunal shall for the purposes of this Act be deemed to be a decision of the tribunal: Provided that—

- (a) where a function of a tribunal is, subject to subsection (1), performed by a single member, the decision of that member shall be the decision of the tribunal; and 40
- (b) the chairperson or the member designated by him or her in terms of subsection (2) shall, in the event of an equality of votes, have a casting vote in addition to his or her deliberative vote.

(4) A decision, award, order or determination of a tribunal may be executed, *mutatis mutandis*, as if it were a decision, award, order or a determination made by a Magistrate's Court in terms of the Magistrate's Court Act, 1944 (Act No. 32 of 1944). 45

(5) A tribunal shall, subject to the rules prescribed under section 26, within a reasonable time after it has made a decision, provide reasons for its decision in writing to any interested person or body requesting such reasons and, if such reasons were so requested, also to the provincial government. 50

aangeleentheid is) of die vennoot of werkgewer van sy of haar gade, enige direkte of indirekte finansiële belang het.

Wersaamhede van tribunaal

16. 'n Tribunaal—

- 5 (a) handel met enige aangeleentheid wat ingevolge of voortspruitend uit artikel 30(1), 33, 34, 40, 42, 51, 48(1), 57 of 61 voor hom gebring word;
- (b) kan, in die hantering van enige aangeleentheid bedoel in paragraaf (a), (c) of (d)—
- 10 (i) dringende tussentydse hulp verleen hangende die maak van 'n finale bevel deur die tribunaal;
- (ii) finale beslissings gee of finale bevele toestaan of afwys;
- (iii) enige aangeleentheid na bemiddeling, soos beoog in artikel 22, verwys;
- (iv) enige nodige ondersoek doen;
- 15 (v) aan enige persoon in die diens van 'n provinsiale administrasie of 'n plaaslike owerheidsliggaam lasgewings uitreik wat verband hou met die tribunaal se werksaamhede;
- (vi) enige aansoek wat ingevolge hierdie Wet voor hom dien, goedkeur of afwys of voorwaardelik goedkeur;
- (vii) enige tydperk waarbinne enige handeling met betrekking tot grondontwikkeling deur 'n persoon verrig moet word, bepaal;
- 20 (viii) enige vraag rakende die tribunaal se eie jurisdiksie beslis;
- (c) handel met enige ander saak waarmee die tribunaal ingevolge hierdie Wet moet handel;
- (d) kan in die algemeen met alle aangeleenthede wat nodig is vir of aanvullend is tot die verrigting van die tribunaal se werksaamhede ingevolge of kragtens hierdie Wet handel.
- 25

Besluite van tribunaal

17. (1) 'n Tribunaal kan besluit dat enige van sy werksaamhede of enige ondersoek wat nodig geag word in verband met 'n aangeleentheid wat deur die tribunaal oorweeg word, deur enige lid of lede daarvan deur die voorsitter aangewys, namens die tribunaal verrig of uitgevoer moet word: Met dien verstande dat waar enige aangeleentheid bedoel in artikel 16(a) of (b)(ii) of (iv) voor 'n tribunaal dien, die werksaamhede van die tribunaal deur minstens vier lede verrig word, van wie twee in die diens van 'n provinsiale administrasie of 'n plaaslike owerheidsliggaam moet wees en minstens 35 twee lede van buite sodanige diens aangestel moet wees.

(2) Wanneer die voorsitter meer as een lid van die tribunaal aangewys het om enige werksaamhede van die tribunaal soos beoog in subartikel (1) te verrig, wys hy of sy een van hulle aan om as voorsittende beampte op te tree.

(3) Die beslissing van die meerderheid van die lede van 'n tribunaal word vir die doeleindes van hierdie Wet geag 'n beslissing van die tribunaal te wees: Met dien verstande dat—

- (a) waar 'n werksaamhede van 'n tribunaal, behoudens subartikel (1), deur 'n enkele lid verrig word, die beslissing van daardie lid die beslissing van die tribunaal is; en
- 45 (b) die voorsitter of die lid deur hom of haar ingevolge subartikel (2) aangewys in die geval van 'n gelykopverdeling van stemme, benewens sy of haar beraadslagende stem, 'n beslissende stem het.

(4) 'n Beslissing, toekenning, bevel of vasstelling van 'n tribunaal kan uitgevoer word, *mutatis mutandis*, asof dit 'n beslissing, toekenning, bevel of vasstelling is wat deur 'n Landdroshof ingevolge die Wet op Landdroshowe, 1944 (Wet No. 32 van 50 1944), gemaak is.

(5) 'n Tribunaal voorsien, behoudens die reëls kragtens artikel 26 voorgeskryf, binne 'n redelike tydperk nadat hy 'n besluit geneem het, skriftelike redes vir sy besluit aan enige belanghebbende persoon of liggaam wat sodanige redes versoek en, indien 55 sodanige redes aldus versoek is, ook aan die provinsiale regering.

Acquisition of information

18. (1) A tribunal may in writing, under the hand of the chairperson or of an officer in the service of a provincial administration or local government body authorised thereto by the chairperson, require any person who in its opinion may be able to give any material information needed for the purposes of or in connection with any matter which is to be dealt with in terms of this Act, and which the said person could have been compelled to give if he or she had appeared before the tribunal on a subpoena issued under subsection (2)(a), to furnish it with such information within such period and in such form as it may specify. 5

(2) A tribunal (or any member or members thereof) conducting an investigation may— 10

(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 a bearing upon the subject of the enquiry, to appear before it at a time and place specified in the subpoena, to be questioned or to produce that book, document or thing; and 15

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

(3) 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 (2)(a) and may interrogate him or her 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. 20

(4) 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 the treasury function 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. 25 30

(5) The law relating to privilege as applicable to a witness subpoenaed to give evidence or to produce any book, document or thing before a court of law, shall apply *mutatis mutandis* to the interrogation of any person or the submission of any book, document or thing in terms of this section. 35

Minutes

19. A tribunal shall be a tribunal of record.

Costs

20. A tribunal may in respect of the performance of any of its functions in terms of section 16, make an order as to costs according to the requirements of the law or fairness and any such order may also be made against any organisation, professional or other person acting on behalf of or in any manner assisting a person if that organisation, professional or other person acted unreasonably. 40

Offences

21. Any person who—

- (a) fails to comply with any requirement in terms of section 18(1) or wilfully furnishes a tribunal with false information;
- (b) has been subpoenaed under section 18(2)(a) and who fails without sufficient cause to attend at the time and place specified in the subpoena; 50
- (c) has been subpoenaed under section 18(2)(a) or has been called under section 18(3) and who refuses to be sworn or to make an affirmation as a witness or fails to answer fully and satisfactorily to the best of his or her knowledge and

Verkryging van inligting

18. (1) 'n Tribunaal kan skriftelik, onder die handtekening van die voorsitter of 'n beampte in die diens van 'n provinsiale administrasie of plaaslike owerheidsliggaam wat deur die voorsitter daartoe gemagtig is, enige persoon wat na sy mening in staat mag wees om enige wesenlike inligting te verstrek wat benodig word vir die doeleindes van of in verband met enige aangeleentheid waarmee ingevolge hierdie Wet gehandel moet word, en wat gemelde persoon verplig kon word om te verstrek indien hy of sy voor die tribunaal verskyn het ooreenkomstig 'n subpoena uitgereik kragtens subartikel (2)(a), verplig om sodanige inligting aan die tribunaal te verstrek binne die tydperk en in die vorm wat die tribunaal bepaal.

(2) 'n Tribunaal (of enige lid of lede daarvan) wat 'n ondersoek uitvoer, kan—

(a) enige persoon wat na die tribunaal se mening in staat mag wees om 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 betrekking het op die onderwerp van die ondersoek in sy of haar besit of bewaring of onder sy of haar beheer het, dagvaar om voor hom te verskyn op die tyd en plek in die subpoena aangedui, om ondervra te word of om daardie boek, dokument of saak voor te lê; en

(b) enige boek, dokument of saak aldus voorgelê, vir ondersoek behou.

(3) 'n Tribunaal kan enige by die ondersoek aanwesige persoon wat ingevolge subartikel (2)(a) as getuie gedagvaar is of kon geword het, oproep en aan hom of haar die eed oplê of van hom of haar 'n bevestiging aanneem en kan hom of haar ondervra en van hom of haar vereis om enige boek, dokument of saak in sy of haar besit of bewaring of onder sy of haar beheer, voor te lê.

(4) Aan enigiemand wat gedagvaar is om as getuie voor 'n tribunaal te verskyn, kan, indien die tribunaalregistrateur oortuig is dat hy of sy weens sy of haar verskyning ooreenkomstig die subpoena enige finansiële verlies gely het of genoodsaak was om enige persoonlike uitgawes aan te gaan, die toelaes betaal word uit gelde bewillig deur die wetgewer van die provinsie wat die Premier in oorleg met die LUR verantwoordelik vir die tesouriefunksie in die provinsie van tyd tot tyd bepaal, of die bedrag van sodanige verlies of uitgawe, wat ook al die minste is: Met dien verstande dat indien die persoon wat as getuie gedagvaar is in die voltydse diens van die Staat of 'n plaaslike owerheidsliggaam is, die toelaes of bedrag aan hom of haar betaalbaar bepaal word in ooreenstemming met die wette wat sy of haar diens reël.

(5) Die reg met betrekking tot privilegie soos van toepassing op 'n getuie wat gedagvaar is om voor 'n geregshof getuienis af te lê, of 'n boek, dokument of saak voor te lê, is *mutatis mutandis* van toepassing op die ondervraging van enige persoon of die voorlegging van 'n boek, dokument of saak ingevolge hierdie artikel.

Notule

19. 'n Tribunaal is 'n tribunaal van oorkonde.

Koste

20. 'n Tribunaal kan ten opsigte van die verrigting van enige van sy werksaamhede ingevolge artikel 16 'n bevel betreffende koste uitreik in ooreenstemming met die vereistes van die reg of billikheid en enige sodanige bevel kan ook teen 'n organisasie, professionele of ander persoon wat namens 'n persoon optree of hom of haar op enige wyse bystaan, uitgereik word, indien daardie organisasie, professionele of ander persoon onredelik opgetree het.

Misdrywe

21. Enigiemand wat—

(a) versuim om te voldoen aan enige vereiste ingevolge artikel 18(1) of doelbewus valse inligting aan 'n tribunaal verstrek;

(b) kragtens artikel 18(2)(a) as getuie gedagvaar is en sonder voldoende rede versuim om op die tyd en plek vermeld in die subpoena teenwoordig te wees;

(c) kragtens artikel 18(2)(a) as getuie gedagvaar is of wat kragtens artikel 18(3) opgeroep is en wat weier om as getuie ingesweer te word of te bevestig of wat versuim om vrae wat regtens aan hom of haar gestel is volledig en

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;

- (d) during the proceedings of a tribunal insults, disparages or belittles any member of a tribunal in that capacity, or prejudices the proceedings or findings of a tribunal in any manner whatsoever; 5
- (e) wilfully disrupts the proceedings of a tribunal or misconducts himself or herself in any manner during such proceedings; or
- (f) does anything in relation to a tribunal which if done in relation to a court of law would constitute contempt of court, 10

shall be guilty of an offence and liable on conviction to a fine not exceeding R2 000 or imprisonment for a period not exceeding six months.

Mediation

22. (1) If any party to a dispute serving before a tribunal applies to the tribunal for the appointment of a mediator, the tribunal may, or if the tribunal is, after an enquiry contemplated in section 4(2)(c), 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 shall, after consultation with the parties to any dispute, appoint a 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. 15 20

(2) The Premier shall appoint a panel of mediators by reason of their qualifications in and experience or knowledge of mediating land development or similar disputes, for the purpose of being appointed as mediators in terms of subsection (1). 25

(3) The panel of mediators referred to in subsection (2) shall be appointed by the Premier for the period specified by him or her upon their appointment and on the conditions, including conditions relating to the payment of remuneration and allowances determined by him or her with the concurrence of the MEC responsible for the treasury function. 30

(4) 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 the powers conferred on a tribunal by section 18(2) and (3). 35

(5) All discussions taking place and all disclosures and submissions made during mediation shall be privileged, unless the parties agree to the contrary.

Appeals against tribunal decisions

23. (1) Any decision or determination by a tribunal is final: Provided that any party to a dispute relating to a matter referred to in section 16(a) or (b)(ii) may within the period and in the manner prescribed by the rules made under section 26, 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 a province established or recognised under section 24. 40 45

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

(3) The development appeal tribunal 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 or fairness.

Establishment of development appeal tribunal

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24. (1) A Premier shall, by notice in the *Provincial Gazette*—

- (a) establish a development appeal tribunal for a province; or

- bevredigend na die beste van sy of haar kennis en oortuiging te beantwoord, of om enige boek, dokument of saak in sy of haar besit of bewaring of onder sy of haar beheer voor te lê wanneer regtens van hom of haar vereis word om dit te doen, of wat versuim om teenwoordig te bly totdat hy of sy deur die
- 5 tribunaal van verdere bywoning verskoon word;
- (d) gedurende die verrigtinge van 'n tribunaal enige lid van 'n tribunaal in daardie hoedanigheid beledig, minag of verkleineer, of wat die verrigtinge en bevindinge van 'n tribunaal op enige wyse benadeel;
- (e) die verrigtinge van 'n tribunaal opsetlik ontwig of hom- of haarself op enige
- 10 wyse gedurende sodanige verrigtinge wangedra; of
- (f) enigiets met betrekking tot 'n tribunaal doen wat indien dit met betrekking tot 'n geregshof gedoen sou word, sou neerkom op minagting van die hof, is aan 'n misdryf skuldig en by skuldigbevinding strafbaar met 'n boete van hoogstens R2 000 of gevangenisstraf vir 'n tydperk van hoogstens ses maande.

15 Bemiddeling

22. (1) Indien enige party tot 'n geskil wat voor 'n tribunaal dien by die tribunaal aansoek doen om die aanstelling van 'n bemiddelaar, kan die tribunaal, of indien die tribunaal, na 'n in artikel 4(2)(c) beoogde ondersoek, van mening is dat enige geskil wat voor hom dien, voordat enige verdere ondersoek deur die tribunaal gehou word,

20 eers na bemiddeling verwys moet word, moet die tribunaal, na oorleg met die partye tot enige geskil, enige persoon wat vir alle partye tot die geskil aanvaarbaar is, as 'n bemiddelaar in sodanige geskil aanwys: Met dien verstande dat indien al die partye tot die geskil nie in staat is om ooreen te kom oor die persoon wat aldus aangestel moet word nie, die tribunaal enige persoon uit die paneel van bemiddelaars in subartikel (2)

25 bedoel, kan aanwys om as 'n bemiddelaar in daardie geskil op te tree.

(2) Die Premier stel 'n paneel van bemiddelaars aan op grond van hul kwalifikasies in en ondervinding of kennis van bemiddeling van grondontwikkelings- of soortgelyke geskille, vir die doel om as bemiddelaars ingevolge subartikel (1) aangestel te word.

(3) Die in subartikel (2) bedoelde paneel van bemiddelaars word deur die Premier

30 aangestel vir die tydperk wat hy of sy by hulle aanstelling bepaal en op die voorwaardes, insluitende voorwaardes met betrekking tot die betaling van vergoeding en toelaes, wat hy of sy met die instemming van die LUR verantwoordelik vir die tesouriefunksie bepaal.

(4) 'n Bemiddelaar kragtens subartikel (1) aangestel, moet met die partye tot 'n

35 geskil beraadslaag, die navrae doen en ondersoek instel wat hy of sy nodig ag, poog om 'n skikking van die geskil te bewerkstellig en 'n verslag aan die tribunaal opstel rakende die uitslag van sy of haar bemiddeling, en vir hierdie doeleindes het hy of sy al die bevoegdhede wat aan 'n tribunaal deur artikel 18(2) en (3) verleen word.

(5) Alle besprekings, onthullings en voorleggings wat gedurende bemiddeling

40 plaasvind of gemaak word, is geprivilegeerd, tensy die partye tot die teendeel ooreenkom.

Appèlle teen tribunaalbeslissings

23. (1) Enige beslissing of vasstelling van 'n tribunaal is finaal: Met dien verstande dat enige party tot 'n geskil met betrekking tot 'n in artikel 16(a) of (b)(ii) bedoelde

45 aangeleentheid binne die tydperk en op die wyse voorgeskryf deur 'n reël kragtens artikel 26 gemaak, teen die beslissing van 'n tribunaal met betrekking tot daardie geskil of enige verbandhoudende bevel rakende koste, na die ontwikkelingsappèltribunaal vir 'n provinsie kragtens artikel 24 ingestel of erken, kan appelleer.

(2) Hangende 'n appèl ingevolge subartikel (1), kan 'n tribunaal op aansoek die

50 tussentydse bevel maak wat hy redelik ag.

(3) Die ontwikkelingsappèltribunaal kan die bevel of beslissing waarteen geappelleer word, bekragtig, wysig of tersyde stel of enige ander bevel of beslissing maak, insluitende 'n bevel rakende koste ooreenkomstig die vereistes van die reg of billikheid.

55 Instelling van ontwikkelingsappèltribunaal

24. (1) 'n Premier—

(a) stel 'n ontwikkelingsappèltribunaal vir 'n provinsie in; of

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

(2) (a) A development appeal tribunal established under subsection (1)(a) consists of five members appointed by the Premier *mutatis mutandis* in accordance with section 15(3), (4), (5) and (6): Provided that at least one member shall have knowledge of the law. 5

(b) Despite anything to the contrary contained in any law referred to in subsection (1)(b), at least the majority of the members of a development appeal tribunal recognised under that subsection shall be appointed by the Premier *mutatis mutandis* in accordance with section 15(3), (4), (5) and (6): Provided that at least one member shall have knowledge of the law. 10

(c) Despite anything to the contrary contained in any law referred to in subsection (1)(b), an appeal shall be heard by not less than three members of a development appeal tribunal.

(3) A development appeal tribunal may decide any appeal made to it in terms of section 23. 15

(4) A development appeal tribunal is a tribunal of record.

(5) A development appeal tribunal shall, subject to the rules made under section 26, within a reasonable time after it has made a decision, provide reasons for its decision in writing to any interested person or body requesting such reasons and, if such reasons were so requested, also to the provincial government. 20

(6) A member of a development appeal tribunal shall not take part in the discussion of or the making of decisions about any matter before the development appeal tribunal in which he or she or his or her spouse, immediate family, partner or employer, including the State or a local government body (but only where the State or such local government body is a land development applicant or objector in such matter) or the partner or employer of his or her spouse has, directly or indirectly, any pecuniary interest. 25

Review by Supreme Court

25. (1) Without derogating from the constitutional right of any person to gain access to a court of law, the proceedings of a tribunal or of a development appeal tribunal 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). 30

(2) To the extent that a review relates to an interested person's rights which have been affected as a result of a mistake of law as to the suspension under section 34 of a servitude or restrictive condition of title or as to the suspension under section 33(2)(j) or 51(2)(d) of the operation of a law, the review court may nevertheless review the matter if, in the absence of such mistake, the decision of the tribunal or development appeal tribunal could not reasonably be justified on the facts found by the tribunal or development appeal tribunal. 35

(3) A review court may regard review proceedings referred to in subsections (1) and (2) as sufficiently urgent to justify non-compliance with the ordinary rules of such court, if delays in the land development concerned will probably adversely affect the ability of intended beneficiaries to afford sites or housing units, or will probably adversely affect a substantial number of persons or persons with particularly pressing needs. 40

Rules of procedure

26. (1) The Minister may in respect of a tribunal and a development appeal tribunal established or recognised under section 24 make, amend or repeal rules regulating—

- (a) the form of process and the procedure at or in connection with the proceedings of a tribunal or development appeal tribunal;
- (b) the procedure at or in connection with mediation; 50
- (c) the representation of any party in mediation proceedings, before a tribunal or development appeal tribunal, and the basis upon which such party who requires representation by any other person, but who is unable to afford such representation, may qualify for financial or other assistance from the State;

(b) erken enige liggaam van persone, raad of kommissie by of kragtens enige wet ingestel as 'n ontwikkelingsappèltribunaal vir 'n provinsie, by kennisgewing in die *Provinsiale Koerant*.

(2) (a) 'n Ontwikkelingsappèltribunaal kragtens subartikel (1)(a) ingestel, bestaan uit vyf lede aangestel deur die Premier, *mutatis mutandis* ooreenkomstig artikel 15(3), (4), (5) en (6): Met dien verstande dat minstens een lid kennis van die reg moet hê.

(b) Ondanks andersluidende bepalings van enige in subartikel (1)(b) bedoelde wet, word minstens die meerderheid van die lede van 'n ontwikkelingsappèltribunaal wat kragtens daardie subartikel erken is, deur die Premier aangestel, *mutatis mutandis* ooreenkomstig artikel 15(3), (4), (5) en (6): Met dien verstande dat minstens een lid kennis van die reg moet hê.

(c) Ondanks andersluidende bepalings van enige in subartikel (1)(b) bedoelde wet, word 'n appèl aangehoor deur minstens drie lede van 'n ontwikkelingsappèltribunaal.

(3) 'n Ontwikkelingsappèltribunaal kan enige appèl ingevolge artikel 23 aangeteken, 15 beslis.

(4) 'n Ontwikkelingsappèltribunaal is 'n tribunaal van oorkonde.

(5) 'n Ontwikkelingsappèltribunaal voorsien, behoudens die reëls kragtens artikel 26 gemaak, binne 'n redelike tydperk nadat hy 'n besluit geneem het, skriftelike redes vir sy besluit aan enige belanghebbende persoon of liggaam wat sodanige redes versoek 20 en, indien sodanige redes aldus versoek is, ook aan die provinsiale regering.

(6) 'n Lid van 'n ontwikkelingsappèltribunaal neem nie deel nie aan die bespreking van of die neem van besluite oor enige aangeleentheid wat voor die ontwikkelingsappèltribunaal dien en waarby hy of sy of sy of haar gade, onmiddellike familie, vennoot of werkgewer, insluitende die Staat of 'n plaaslike owerheidsliggaam (maar 25 slegs waar die Staat of sodanige plaaslike owerheidsliggaam 'n grondontwikkelingsapplikant of beswaarmaker in sodanige aangeleentheid is) of die vennoot of werkgewer van sy of haar gade, enige direkte of indirekte finansiële belang het.

Hersiening deur Hooggeregshof

25. (1) Sonder om afbreuk te doen aan die grondwetlike reg van enigiemand op 30 toegang tot 'n geregshof, kan die verrigtinge van 'n tribunaal of 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.

(2) Vir sover 'n hersiening betrekking het op 'n belanghebbende persoon se regte wat 35 aangetas is as gevolg van 'n regsdwaling met betrekking tot die opskorting van 'n serwituut of 'n beperkende titelvoorwaarde kragtens artikel 34, of met betrekking tot die opskorting van die toepassing van 'n wet kragtens artikel 33(2)(j) of 51(2)(d), kan die hersieningshof nogtans die aangeleentheid hersien indien, by ontstentenis van so 'n regsdwaling, die beslissing van die tribunaal of ontwikkelingsappèltribunaal nie 40 redelikerwys geregverdig sou kon word op grond van die feite wat die tribunaal of ontwikkelingsappèltribunaal bevind het nie.

(3) 'n Hersieningshof kan die hersieningsverrigtinge in subartikels (1) en (2) bedoel as voldoende dringend beskou om die nie-nakoming van die normale reëls van sodanige hof te regverdig, indien verdragings in die betrokke grondontwikkeling die 45 vermoë van beoogde begunstigdes om erwe of behuisingseenhede te bekostig waarskynlik nadelig sal raak, of waarskynlik 'n wesenlike aantal persone of persone met besonder dringende behoeftes nadelig sal raak.

Prosedurereëls

26. (1) Die Minister kan ten opsigte van 'n tribunaal en 'n ontwikkelingsappèltribunaal kragtens artikel 24 ingestel of erken, reëls maak, wysig of herroep tot reëling 50 van—

- (a) die vorm van prosesstukke en die prosedure by of in verband met die verrigtinge van 'n tribunaal of ontwikkelingsappèltribunaal;
- (b) die prosedure by of in verband met bemiddeling;
- 55 (c) die verteenwoordiging van enige party by bemiddelingsverrigtinge, voor 'n tribunaal of ontwikkelingsappèltribunaal, en die grondslag waarop sodanige party wat verteenwoordiging deur enige ander persoon benodig, maar wat sodanige verteenwoordiging nie kan bekostig nie, vir finansiële of ander bystand deur die Staat kwalifiseer;

- (d) with the concurrence of the Minister of Finance, the fees and costs payable in respect of the service or execution of any process of a tribunal or development appeal tribunal and the tariff of costs and expenses payable in respect of such service or execution;
- (e) the powers, functions and duties of the tribunal registrar and the hours during which his or her office shall be open for the transaction of business; 5
- (f) the period within which an appeal under section 23 shall be noted;
- (g) the order of preference to be given to matters serving before a tribunal or development appeal tribunal, in order to ensure that priority is given to matters where delays are likely to adversely affect the ability of intended beneficiaries to afford sites or housing units, or are likely to affect a substantial number of persons or persons with particularly pressing needs; 10
- (h) generally all matters necessary for or incidental to the exercise of the powers and the performance of the functions of a tribunal or development appeal tribunal. 15
- (2) A Premier may, with the concurrence of the Minister, repeal or amend any rule made under subsection (1) in respect of a province.
- (3) The provisions of section 46 (3) shall, *mutatis mutandis*, apply to rules made, amended or repealed under subsection (1).
- (4) (a) The Premier shall, before he or she repeals or amends any rule under subsection (2), cause a draft of such repeal or amendment to be published in the *Provincial Gazette* and shall consider any comment on such draft repeal or amendment received from any person during the period 30 days after such publication. 20
- (b) A list of repeals or amendments made under subsection (2) shall be submitted to the provincial legislature, and if such provincial legislature by resolution disapproves of any such repeal or amendment or any provision thereof, such repeal or amendment, or such provision, shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such repeal, amendment or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such repeal, amendment or such provision before it so ceased to be of force and effect. 25 30

CHAPTER IV

Land development objectives

Body responsible for setting land development objectives

27. (1) The land development objectives referred to in section 28 shall, subject to subsections (2), (3), and (4), be set— 35
- (a) in respect of any particular local government area, by the local government body having jurisdiction, with the approval of the MEC, which approval shall not be refused unless—
- (i) the land development objectives in the opinion of the MEC fail to deal adequately with the subject matter to which land development objectives in terms of section 28 shall relate; or 40
- (ii) the land development objectives are, in the opinion of the MEC, inconsistent or cannot be reconciled with other objectives set or planning done in terms of any other law in the province; or
- (iii) the procedures and other requirements prescribed under subsection (3) have, in the opinion of the MEC, not been complied with, 45
- and the MEC has, on request therefor, provided the local government body concerned with his or her written reasons for having an opinion referred to in subparagraph (i), (ii) or (iii), as the case may be; and
- (b) outside such local government area, by the MEC. 50
- (2) If a local government body fails to set land development objectives, either generally or in respect of any particular case, within a period of time prescribed by the MEC in the *Provincial Gazette*, the MEC may set land development objectives in

- (d) met die instemming van die Minister van Finansies, die gelde en koste betaalbaar ten opsigte van die betekening of tenuitvoerlegging van prosesstukke van 'n tribunaal of ontwikkelingsappèltribunaal en die tarief van koste en uitgawes betaalbaar ten opsigte van sodanige betekening of tenuitvoerlegging;
- (e) die bevoegdheids, werksaamhede en pligte van die tribunaalregistrator en die ure waartydens sy of haar kantoor vir sake oop moet wees;
- (f) die tydperk waarin 'n appèl kragtens artikel 23 aangeteken moet word;
- (g) die voorkeurorde wat aan aangeleenthede wat voor 'n tribunaal of ontwikkelingsappèltribunaal dien, gegee moet word, ten einde te verseker dat voorkeur gegee word aan aangeleenthede waar verdragings die vermoë van beoogde begunstigdes om erwe of behuisingseenhede te bekostig waarskynlik nadelig sal raak, of waarskynlik 'n wesenlike aantal persone of persone met besonder dringende behoeftes sal raak;
- (h) in die algemeen alle aangeleenthede wat nodig is vir of bykomstig is tot die uitoefening van die bevoegdheids en die verrigting van die werksaamhede van 'n tribunaal of ontwikkelingsappèltribunaal.

(2) 'n Premier kan, met die instemming van die Minister, enige reël kragtens subartikel (1) ten opsigte van 'n provinsie gemaak, herroep of wysig.

(3) Die bepalinge van artikel 46(3) is *mutatis mutandis* van toepassing op reëls kragtens subartikel (1) gemaak, gewysig of herroep.

(4) (a) Die Premier moet voordat hy of sy 'n reël kragtens subartikel (2) herroep of wysig 'n konsep van sodanige herroeping of wysiging in die *Provinsiale Koerant* laat publiseer en moet enige kommentaar op sodanige konsepherroeping of -wysiging ontvang vanaf 'n persoon gedurende 'n tydperk van 30 dae na sodanige publikasie oorweeg.

(b) 'n Lys van herroepings of wysigings kragtens subartikel (2) gedoen, moet aan die provinsiale wetgewer voorgelê word, en indien sodanige provinsiale wetgewer by besluit enige sodanige herroeping of wysiging of enige bepaling daarvan afkeur, verval sodanige herroeping of wysiging of sodanige bepaling, maar sonder afbreuk aan die geldigheid van enigiets ingevolge sodanige herroeping, wysiging of sodanige bepaling gedoen voordat dit aldus verval het, of enige reg of verpligting verkry of opgedoen ingevolge sodanige herroeping, wysiging of sodanige bepaling voordat dit aldus verval het.

35

HOOFTUK IV

Grondontwikkelingsdoelwitte

Liggaam verantwoordelik vir stel van grondontwikkelingsdoelwitte

27. (1) Die in artikel 28 bedoelde grondontwikkelingsdoelwitte word, behoudens subartikels (2), (3) en (4), gestel—

- (a) ten opsigte van enige besondere plaaslike owerheidsgebied, deur die plaaslike owerheidsliggaam wat jurisdiksie het, met die goedkeuring van die LUR, welke goedkeuring nie geweier word nie, tensy—
- (i) die grondontwikkelingsdoelwitte, na die mening van die LUR, nie genoegsaam handel met die onderwerpe waarop grondontwikkelingsdoelwitte ingevolge artikel 28 betrekking moet hê nie; of
- (ii) die grondontwikkelingsdoelwitte, na die mening van die LUR, strydig of onversoenbaar is met ander doelwitte of beplanning ingevolge enige ander wet in die provinsie gestel of gedoen; of
- (iii) die prosedures en ander vereistes kragtens subartikel (3) voorgeskryf, na die mening van die LUR, nie nagekom is nie, en die LUR, op versoek daarvoor, die betrokke plaaslike owerheidsliggaam van sy of haar geskrewe redes vir sy of haar in subparagraaf (i), (ii) of (iii) bedoelde mening, na gelang van die geval, voorsien het; en
- (b) buite sodanige plaaslike owerheidsgebied, deur die LUR.
- (2) Indien 'n plaaslike owerheidsliggaam versuim om binne 'n tydperk voorgeskryf deur die LUR in die *Provinsiale Koerant*, hetsy in die algemeen of ten opsigte van enige besondere geval, grondontwikkelingsdoelwitte te stel, kan die LUR grondontwikkelingsdoelwitte ten opsigte van daardie plaaslike owerheidsgebied stel, en

respect of that local government area, and objectives so set shall prevail over objectives subsequently set by the local government body.

(3) Land development objectives shall be set in the manner, within the time limits and after following the procedures prescribed by the MEC in the *Provincial Gazette*.

(4) The procedures referred to in subsection (3) shall include procedures relating to— 5

(a) the manner in which members of the public and interested bodies shall be consulted in the setting of land development objectives; and

(b) the manner in which the setting of land development objectives shall be co-ordinated with the functions of any department of State or other authority responsible for the administration or formulation of any plan dealing with 10 subject matter which is the same as or similar to the subject matter set out in section 28.

(5) The Minister may, at the request of the MEC, perform the functions assigned to and exercise the powers conferred on the MEC by this Chapter.

Subject matter of land development objectives 15

28. (1) Land development objectives shall relate to—

(a) the objectives of the relevant authority in relation to access to and the standard of services for land development, including public transport and water, health and education facilities;

(b) the objectives (with reference to local circumstances, including demographic 20 circumstances and prevailing spatial patterns) relating to urban and rural growth and form in the relevant area, including objectives in relation to—

(i) the integration of areas settled by low-income communities into the relevant area as a whole;

(ii) the sustained utilisation of the environment; 25

(iii) the planning of transportation;

(iv) the provision of bulk infrastructure for the purpose of land development;

(v) the overall density of settlements, with due regard to the interests of beneficial occupiers;

(vi) the co-ordination of land development in consultation with other 30 authorities;

(vii) land-use control;

(viii) the optimum utilisation of natural resources; and

(ix) such other matters as the MEC may determine by notice in the *Provincial 35 Gazette*;

(c) the development strategies of the relevant authority in relation to—

(i) facilitation of the optimal involvement of sectors of the economy or of subsectors thereof involved in land development;

(ii) access to finance for land development;

(iii) available administrative or proposed new administrative structures to 40 deal with land development in the relevant area;

(iv) such other matters as the MEC may determine by notice in the *Provincial 45 Gazette*;

(d) the quantum of land development objectives in the sense of—

(i) the number of housing units, sites or other facilities planned for; 45

(ii) whether such units, sites or other facilities will be delivered by means of upgrading land or built environments, undertaking new land developments or the letting of land or buildings;

(iii) the rate at which the production or delivery of such units, sites or 50 facilities will increase during a period in future, which period may be determined by the MEC in the *Provincial Gazette*; and

(iv) the other matters determined by the MEC by notice in the *Provincial 55 Gazette*.

(2) A local government body or the MEC may require the persons or bodies determined by him or her to carry out environmental evaluations in order to assess the 55 likely impact of any land development objective upon the environment.

doelwitte aldus gestel, geniet voorrang bo doelwitte wat daarna deur die plaaslike owerheidsliggaam gestel word.

(3) Grondontwikkelingsdoelwitte word gestel op die wyse, binne die tydperke en nadat die prosedures gevolg is wat die LUR in die *Provinsiale Koerant* voorskryf.

5 (4) Die in subartikel (3) bedoelde prosedures sluit prosedures in wat betrekking het op—

- (a) die wyse waarop lede van die publiek en belanghebbende liggame geraadpleeg moet word by die stel van grondontwikkelingsdoelwitte; en
- 10 (b) die wyse waarop die stel van grondontwikkelingsdoelwitte gekoördineer moet word met die werksaamhede van enige staatsdepartement of ander gesag verantwoordelik vir die administrasie of formulering van enige plan met betrekking tot onderwerpe wat dieselfde is as of soortgelyk is aan die onderwerpe in artikel 28 uiteengesit.

(5) Die Minister kan, op versoek van die LUR, die werksaamhede en bevoegdheede 15 wat deur hierdie Hoofstuk aan die LUR opgedra en verleen is, verrig en uitoefen.

Onderwerp van grondontwikkelingsdoelwitte

28. (1) Grondontwikkelingsdoelwitte moet betrekking hê op—

- (a) die doelwitte van die betrokke owerheid met betrekking tot toegang tot en die 20 standarde van dienste vir grondontwikkeling, insluitende openbare vervoer en water-, gesondheids- en opvoedkundige fasiliteite;
- (b) die doelwitte (met verwysing na plaaslike omstandighede, insluitende demografiese omstandighede en heersende ruimtelike patrone) ten opsigte van stedelike en landelike groei en vorm in die betrokke gebied, insluitende 25 doelwitte met betrekking tot—
 - (i) die integrasie van gebiede beset deur lae-inkomstegemeenskappe met die betrokke gebied as 'n geheel;
 - (ii) die volhoubare benutting van die omgewing;
 - (iii) die beplanning van vervoer;
 - (iv) die verskaffing van grootmaatinfrastruktuur vir die doel van grond- 30 ontwikkeling;
 - (v) die oorhoofse digtheid van vestigings, met behoorlike inagneming van die belange van voordeeltrekkende okkupeerders;
 - (vi) die koördinasie van grondontwikkeling in oorleg met ander owerhede;
 - (vii) grondgebruikbeheer;
 - 35 (viii) die optimale benutting van natuurlike hulpbronne; en
 - (ix) die ander aangeleenthede wat die LUR by kennisgewing in die *Provinsiale Koerant* kan bepaal;
- (c) die ontwikkelingstrategieë van die betrokke owerheid met betrekking tot—
 - 40 (i) fasilitering van die optimale betrokkenheid van sektore van die ekonomie of van subsektore daarvan betrokke by grondontwikkeling;
 - (ii) toegang tot finansiering vir grondontwikkeling;
 - (iii) beskikbare administratiewe of voorgestelde nuwe administratiewe strukture om met grondontwikkeling in die betrokke gebied te handel;
 - (iv) die ander aangeleenthede wat die LUR by kennisgewing in die 45 *Provinsiale Koerant* kan bepaal;
- (d) die omvang van grondontwikkelingsdoelwitte in die sin van—
 - (i) die getal behuisingseenhede, erwe of ander fasiliteite waarvoor beplan 50 word;
 - (ii) of sodanige eenhede, erwe of ander fasiliteite gelewer sal word by wyse van opgradering van grond of beboude omgewings, die onderneming van nuwe grondontwikkeling of die verhuring van grond of geboue;
 - (iii) die tempo waarteen die produksie of aflewering van sodanige eenhede, erwe of fasiliteite sal toeneem gedurende 'n tydperk in die toekoms, 55 welke tydperk deur die LUR in die *Provinsiale Koerant* bepaal kan word; en
 - (iv) die ander aangeleenthede wat die LUR by kennisgewing in die *Provinsiale Koerant* bepaal.

(2) 'n Plaaslike owerheidsliggaam of die LUR kan van die persone of liggame wat hy of sy bepaal, vereis om omgewingsevaluerings uit te voer ten einde die 60 invloed van enige grondontwikkelingsdoelwit op die omgewing te bepaal.

Effect of land development objectives and other plans

29. (1) A tribunal or any other competent authority shall not approve a land development application in terms of this Act or any other law dealing with the establishment of land development areas, if such application is inconsistent with any land development objective contemplated in this Chapter: Provided that no provision in this Chapter shall be so construed that it entails the delay of any land development application where no land development objectives have been set. 5

(2) If a land development objective set in terms of this Chapter is expressly inconsistent or incompatible with any plan as defined in section 1 of the Physical Planning Act, 1991 (Act No. 125 of 1991), the land development objective shall prevail over the plan and the plan shall for the purposes of that Act be deemed to have been amended accordingly. 10

(3) Despite anything to the contrary contained in the Physical Planning Act, 1991, the MEC may, subject to the procedures deemed fit by him or her or that he or she may prescribe by notice in the *Provincial Gazette*, amend or withdraw, whether in whole or in part, a guide plan referred to in section 37(1) of that Act, which is deemed to be a regional structure plan or an urban structure plan by virtue of a declaration contemplated in section 37(2)(a)(ii) of that Act. 15

CHAPTER V

Land development procedures excluding procedures relating to the development of small-scale farming 20

Exemption from provisions of this Chapter

30. (1) A tribunal may, on the terms and conditions and in accordance with the procedures determined in the regulations or, if there are no regulations, determined by the tribunal, grant exemption from any or all of the provisions of this Chapter to any local government body or any other interested person or body, including a group of persons referred to in section 42(1), in respect of an area or proposed land development area— 25

- (a) which is already settled by persons and which is intended to be upgraded into a fully established land development area over a period of time; or 30
- (b) which is intended to be settled by persons on an urgent basis prior to completing the establishment of a land development area in that area, with the intention that such area shall be upgraded over a period of time into a fully established land development area.

(2) For the purposes of applying any provision of this Act from which an exemption has not been granted under subsection (1), to land development contemplated in that subsection, the local government body or other interested person or body, including a group of persons referred to in section 42(1), or if so directed by a tribunal, any other body, person or group of persons shall be regarded as a land development applicant for all purposes of this Chapter. 40

Land development application

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

- (a) An owner of land, including the State or a local government body, in respect of land owned by it; 45
- (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 land;
- (d) a person to whom land has been made available by the State or a local government body in terms of a land availability agreement; or
- (e) a person acting on behalf of the owner of land in any other capacity. 50

(2) A land development applicant shall lodge a land development application, accompanied by the prescribed documents and information, with a designated officer in the prescribed manner.

Uitwerking van grondontwikkelingsdoelwitte en ander planne

29. (1) 'n Tribunaal of enige ander bevoegde owerheid keur nie 'n grondontwikkelingsaansoek ingevolge hierdie Wet of enige ander wet wat betrekking het op die stigting van grondontwikkelingsgebiede goed nie indien so 'n aansoek strydig is met enige grondontwikkelingsdoelwit beoog in hierdie Hoofstuk: Met dien verstande dat geen bepaling in hierdie Hoofstuk só vertolk word dat dit in die geval waar geen grondontwikkelingsdoelwitte gestel is nie, die vertraging van 'n grondontwikkelingsaansoek tot gevolg het.

(2) Indien 'n grondontwikkelingsdoelwit ingevolge hierdie Hoofstuk gestel, uitdruklik onbestaanbaar of onversoenbaar is met enige plan soos in artikel 1 van die Wet op Fisiese Beplanning, 1991 (Wet No. 125 van 1991), omskryf, geniet die grondontwikkelingsdoelwit voorrang bo die plan en word die plan vir die doeleindes van daardie Wet geag dienooreenkomstig gewysig te wees.

(3) Ondanks andersluidende bepalings van die Wet op Fisiese Beplanning, 1991, kan die LUR, behoudens die prosedures wat hy of sy dienstig ag of wat hy of sy by kennisgewing in die *Provinsiale Koerant* voorskryf, 'n in artikel 37(1) van daardie Wet bedoelde gidsplan, wat geag word 'n streekstruktuurplan of 'n stedelike struktuurplan te wees uit hoofde van 'n in artikel 37(2)(a)(ii) van daardie Wet bedoelde verklaring, in die geheel of gedeeltelik wysig of intrek.

20

HOOFSTUK V

Grondontwikkelingsprosedures met uitsluiting van prosedures met betrekking tot die ontwikkeling van kleinskaalboerdery

Vrystelling van bepalings van hierdie Hoofstuk

30. (1) 'n Tribunaal kan op die bedinge en voorwaardes en ooreenkomstig die prosedures wat in die regulasies bepaal is of, indien daar geen regulasies is nie, wat die tribunaal bepaal, vrystelling van enige of al die bepalings van hierdie Hoofstuk aan enige plaaslike owerheidsliggaam of enige ander belanghebbende persoon of liggaam, insluitende 'n in artikel 42(1) bedoelde groep persone, verleen ten opsigte van 'n gebied of voorgestelde grondontwikkelingsgebied—

- 30 (a) wat reeds deur persone beset word en wat bestem is om oor 'n tydperk tot 'n volledig gestigte grondontwikkelingsgebied opgegradeer te word; of
- (b) wat bestem is om op 'n dringende grondslag beset te word deur persone voordat die stigting van 'n grondontwikkelingsgebied in daardie gebied voltooi is, met die bedoeling dat daardie gebied oor 'n tydperk opgegradeer sal word tot 'n volledig gestigte grondontwikkelingsgebied.

(2) Vir die doeleindes van die toepassing van enige bepaling van hierdie Wet waarvan 'n vrystelling nie kragtens subartikel (1) verleen is nie, op grondontwikkeling in daardie subartikel bedoel, word die plaaslike owerheidsliggaam of ander belanghebbende persoon of liggaam, insluitende 'n groep persone in artikel 42(1) beoog, of indien 'n tribunaal so gelas, enige ander liggaam, persoon of groep persone vir alle doeleindes van hierdie Hoofstuk geag 'n grondontwikkelingsapplikant te wees.

Grondontwikkelingsaansoek

31. (1) Die volgende grondontwikkelingsapplikante kan ingevolge hierdie Hoofstuk om die stigting van 'n grondontwikkelingsgebied aansoek doen:

- 45 (a) 'n Eienaar van grond, insluitende die Staat of 'n plaaslike owerheidsliggaam, ten opsigte van grond waarvan hy die eienaar is;
- (b) 'n agent of onafhanklike kontrakteur wat namens die eienaar van grond optree;
- (c) 'n persoon wat met die toestemming van die eienaar van grond optree;
- 50 (d) 'n persoon aan wie grond deur die Staat of 'n plaaslike owerheidsliggaam ingevolge 'n grondbesikbaarheidsooreenkoms beskikbaar gestel is; of
- (e) 'n persoon wat namens die eienaar van grond in enige ander hoedanigheid optree.

(2) 'n Grondontwikkelingsapplikant dien 'n grondontwikkelingsaansoek, vergesel van die dokumente en inligting wat voorgeskryf word, by 'n aangewese beampte op die voorgeskrewe wyse in.

(3) A land development applicant shall give notice of a land development application to the prescribed persons or bodies.

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

- (a) to provide the designated officer with comments in writing on the land development application within the period of time prescribed and specified in the notice; or 5
- (b) failing the delivery of comments within such period, or if comments were delivered but constitute an objection to any aspect of the land development application, to appear in person or through a representative before a tribunal on a date specified in the notice. 10

(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 under section 18(2).

(6) The designated officer shall within the prescribed period provide the land development applicant with any comments, objections or representations received in terms of subsection (4)(a), to which the land development applicant may reply within the prescribed period. 15

Submission of land development application to tribunal

32. The designated officer shall, prior to the consideration of the land development application by a tribunal on the date contemplated in section 31(4)(b), consider— 20

- (a) the land development application;
- (b) any comments, objections or representations received within the period referred to in section 31(4)(a);
- (c) any reply by the land development applicant to such comments, objections or representations, 25

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

Consideration of application by tribunal 30

33. (1) After receipt of the documents referred to in section 32 and on the date referred to in section 31(4)(b), a tribunal shall consider and may approve or refuse the land development application in whole or in part or postpone its decision thereon and may in approving the land development application impose one or more of the conditions contemplated in subsection (2). 35

(2) In approving a land development application a tribunal may, either of its own accord or in response to that application, impose 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; 40
- (c) the provision of streets, parks and other open spaces;
- (d) the suspension of restrictive conditions or servitudes affecting the land on which a land development area is to be established;
- (e) the registration of additional servitudes affecting the land on which a land development area is to be established; 45
- (f) the question whether any building standards laid down in regulations made under the National Building Regulations and Building Standards Act, 1977 (Act No. 103 of 1977), or in any zoning scheme, regulation or bylaw of a local authority under any law, are to apply in respect of the erection of buildings or any class of buildings on a land development area; 50
- (g) the question whether it is nevertheless necessary for building plans to be submitted to and approved by the competent authority prior to the erection of buildings in the case where a condition is imposed to the effect that the building standards contemplated in paragraph (f) will not apply in respect of a land development area; 55

(3) 'n Grondontwikkelingsapplikant gee kennis van 'n grondontwikkelingsaansoek aan die persone of liggame wat voorgeskryf word.

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

- 5 (a) die aangewese beampte van skriftelike kommentaar te voorsien rakende die grondontwikkelingsaansoek binne die tydperk voorgeskryf en in die kennisgewing vermeld; of
- (b) waar geen kommentaar binne sodanige tydperk gelewer word nie, of indien
- 10 kommentaar gelewer is wat neerkom op 'n beswaar ten aansien van enige aspek van die grondontwikkelingsaansoek, in persoon of deur 'n verteenwoordiger voor 'n tribunaal op 'n datum in die kennisgewing vermeld, te verskyn.

(5) 'n In subartikel (3) bedoelde kennisgewing het *mutatis mutandis* dieselfde uitwerking as 'n subpoena wat deur 'n tribunaal kragtens artikel 18(2) uitgereik is.

- 15 (6) Die aangewese beampte verskaf enige kommentaar, besware of vertoë ingevolge subartikel (4)(a) ontvang binne die voorgeskrewe tydperk aan die grondontwikkelingsapplikant, wat binne die voorgeskrewe tydperk daarop kan antwoord.

Voorlegging van grondontwikkelingsaansoek aan tribunaal

32. Die aangewese beampte oorweeg, voor die oorweging van die grondontwikkelingsaansoek deur 'n tribunaal op die datum bedoel in artikel 31(4)(b)—

- (a) die grondontwikkelingsaansoek;
- (b) enige kommentaar, besware of vertoë wat binne die in artikel 31(4)(a) bedoelde tydperk ontvang is;
- 25 (c) enige antwoord wat deur die grondontwikkelingsapplikant op sodanige kommentaar, besware of vertoë verstrek is,

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

30 Oorweging van aansoek deur tribunaal

33. (1) Na ontvangs van die in artikel 32 bedoelde dokumente en op die in artikel 31(4)(b) bedoelde datum, oorweeg 'n tribunaal die grondontwikkelingsaansoek en kan hy die grondontwikkelingsaansoek in geheel of ten dele goedkeur of afwys of sy besluit daaroor uitstel, en by goedkeuring van die grondontwikkelingsaansoek een of meer van

35 die in subartikel (2) bedoelde voorwaardes oplê.

(2) By goedkeuring van 'n grondontwikkelingsaansoek kan 'n tribunaal, hetsy uit eie beweging of in antwoord op daardie aansoek, enige stigtingsvoorwaarde oplê met betrekking tot—

- (a) die verskaffing van ingenieursdienste;
- 40 (b) die verskaffing of oordrag van grond aan enige bevoegde owerheid vir gebruik as 'n openbare oopruimte, of die betaling van 'n geldsom in die plek daarvan;
- (c) die verskaffing van strate, parke en ander oopruimtes;
- (d) die opskorting van beperkende voorwaardes of serwitute wat die grond
- 45 waarop 'n grondontwikkelingsgebied gestig gaan word, raak;
- (e) die registrasie van bykomende serwitute wat die grond waarop 'n grondontwikkelingsgebied gestig gaan word, raak;
- (f) die vraag of enige boustandaarde wat in regulasies kragtens die Wet op
- 50 Nasionale Bouregulasies en Boustandaarde, 1977 (Wet No. 103 van 1977), neergelê is, of in enige soneringskema, regulasie of verordening van 'n plaaslike owerheid kragtens enige wet, van toepassing is ten opsigte van die oprigting van geboue of enige klas van geboue op 'n grondontwikkelingsgebied;
- (g) die vraag of dit nietemin nodig is dat bouplanne ingedien en deur die
- 55 bevoegde owerheid goedgekeur moet word voor die oprigting van geboue in die geval waar 'n voorwaarde opgelê is met die strekking dat die in paragraaf (f) beoogde boustandaarde nie van toepassing is nie ten opsigte van 'n grondontwikkelingsgebied;

- (h) the question whether the use of land in a land development area is to be regulated by—
- (i) a zoning scheme or other measure under any law governing land development or land-use planning in the area concerned;
 - (ii) general provisions relating to land use which have been prescribed; or 5
 - (iii) specific provisions relating to special or strategic projects which have been prescribed;
- (i) any amendment to a zoning scheme, other measure or provision referred to in paragraph (h), for the purpose of applying it to a land development area;
- (j) the question whether the provisions of— 10
- (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) any law requiring the approval of an authority for the subdivision of land; 15
 - (v) any law requiring the issuing 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
 - (vi) any other law relating to land development, but not the Restitution of Land Rights Act, 1994 (Act No. 22 of 1994), which in the opinion of the tribunal may have a dilatory effect on the development of a land development area or the settlement of persons therein, 20
- shall apply in respect of a land development area in question: Provided that a decision to suspend the application of a law shall be taken after the tribunal 25
- has afforded the authority, if any, which is responsible for the administration of the law, and any other interested person or body an opportunity to provide the tribunal with its views on the expedience of such a decision in the circumstances;
- (k) the provision of educational and other community facilities; 30
- (l) the question whether the land in the land development area is to be subdivided in terms of this Chapter and if not, whether any other provisions of this Chapter will apply;
- (m) the ownership of the land forming the subject of a land development application and the administration of the settlement of persons on such land by 35
- any person, trust, body of persons or juristic person with due regard to the wishes of the community concerned and subject to the provisions of any law;
- (n) the environment or environmental evaluations;
- (o) the manner in which members of any community residing in a settlement shall be consulted during the process of land development whenever land 40
- development takes the form of the upgrading of an existing settlement;
- (p) the manner in which the interests of any beneficial occupier of the land development area are to be accommodated whenever land development takes the form of the upgrading of an existing settlement; and
- (q) any other matter considered necessary by the tribunal. 45
- (3) A condition of establishment imposed under—
- (a) subsection (2)(d), has the effect that the restrictive condition or servitude concerned is suspended, subject to section 34;
 - (b) subsection (2)(f) or (g)— 50
 - (i) has effect despite 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;
 - (ii) does not prevent any owner or prospective owner of land in a land development area from submitting building plans to the competent 55
- authority for its approval prior to the erection of the building concerned

- (h) die vraag of grondgebruik in 'n grondontwikkelingsgebied gereël moet word deur—
- (i) 'n soneringskema of ander maatreël kragtens enige wet wat grondontwikkeling of grondgebruikbeplanning in die betrokke gebied reël;
- 5 (ii) algemene bepalings met betrekking tot grondgebruik wat voorgeskryf is; of
- (iii) besondere bepalings met betrekking tot spesiale of strategiese projekte wat voorgeskryf is;
- (i) enige wysiging van 'n soneringskema, ander maatreël of bepaling in
- 10 paragraaf (h) bedoel, met die doel om dit op 'n grondontwikkelingsgebied toe te pas;
- (j) die vraag 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);
- 15 (ii) enige wet met betrekking tot fisiese beplanning;
- (iii) artikel 12 van die Wet op Nasionale Paaie, 1971 (Wet No. 54 van 1971);
- (iv) enige wet wat die goedkeuring van 'n owerheid vir die onderverdeling van grond vereis;
- (v) enige wet wat die uitreiking van 'n kwitansie, sertifikaat of enige ander
- 20 dokument deur 'n plaaslike owerheidsliggaam, openbare belasting-beampte of ander bevoegde owerheid as 'n voorvereiste vir die oordrag van grond in 'n grondontwikkelingsgebied vereis; of
- (vi) enige ander wet met betrekking tot grondontwikkeling, maar nie die Wet op Herstel van Grondregte, 1994 (Wet No. 22 van 1994), nie, wat na die
- 25 mening van die tribunaal 'n verdragende uitwerking op die ontwikkeling van 'n grondontwikkelingsgebied of die vestiging van persone daarin kan hê,
- ten opsigte van 'n betrokke grondontwikkelingsgebied van toepassing is: Met dien verstande dat 'n besluit om die toepassing van 'n wet op te skort geneem
- 30 word nadat die tribunaal die gesag, indien enige, wat vir die administrasie van die wet verantwoordelik is, en enige ander belanghebbende persoon of liggaam 'n geleentheid gebied het om die tribunaal van sy mening rakende die wenslikheid van sodanige besluit onder die omstandighede, te voorsien;
- (k) die verskaffing van opvoedkundige en ander gemeenskapsfasiliteite;
- 35 (l) die vraag of die grond in die grondontwikkelingsgebied onderverdeel moet word ingevolge hierdie Hoofstuk, en indien nie, of enige ander bepalings van hierdie Hoofstuk van toepassing sal wees;
- (m) die eiendomsreg van die grond waarop 'n grondontwikkelingsaansoek betrekking het en die administrasie van die vestiging van persone op
- 40 sodanige grond deur enige persoon, trust, liggaam van persone of regs persoon met inagneming van die wense van die betrokke gemeenskap en behoudens die bepalings van enige wet;
- (n) die omgewing of omgewingsevaluerings;
- (o) die wyse waarop die lede van 'n gemeenskap wat in 'n vestiging woon,
- 45 gedurende die grondontwikkelingsproses geraadpleeg moet word wanneer grondontwikkeling die vorm aanneem van die opgradering van 'n bestaande vestiging;
- (p) die wyse waarop die belange van enige voordeeltrekkende okkupeerder van die grondontwikkelingsgebied geakkommodeer moet word wanneer grondontwikkeling die vorm aanneem van die opgradering van 'n bestaande
- 50 vestiging; en
- (q) enige ander aangeleentheid wat die tribunaal nodig ag.
- (3) 'n Stigtingsvoorwaarde opgelê kragtens—
- (a) subartikel (2)(d), het die effek dat die betrokke beperkende voorwaarde of
- 55 serwituut, behoudens artikel 34, opgeskort word;
- (b) 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
- 60 owerheidsliggaam magtig om bouregulasies of verordeninge neer te lê;
- (ii) belet nie 'n eienaar of voornemende eienaar van grond in 'n grondontwikkelingsgebied om bouplanne aan die bevoegde owerheid vir goedkeuring voor te lê voordat die betrokke gebou opgerig word nie of

or complying with any national building regulation, zoning scheme, regulation or bylaw contemplated in that subsection;

(c) subsection (2)(h) or (i) has effect despite any provision to the contrary in any other law governing land development or land-use planning or zoning schemes; 5

(d) subsection 2(j) relating to the suspension of the application of any law referred to in that subsection, has the effect of suspending the application of such a law.

(4) A condition of establishment referred to in subsection (3) comes into operation upon notice of the condition being given by the designated officer in the *Provincial Gazette*, or if a later date is stated in the notice, from such later date. 10

(5) A condition imposed under subsection (2) according to which a land development applicant shall perform any act, shall state by which stage in the course of the establishment of the land development area such act shall be performed.

(6) The designated officer shall inform the registrar of the approval of a land development application. 15

Suspension and removal of servitudes and restrictive conditions

34. (1) A tribunal may, of its own accord or on application from a land development applicant and with the consent of the holder or beneficiary of a servitude or restrictive condition, impose a condition of establishment contemplated in section 33(2)(d), in respect of— 20

(a) any servitude registered against the title of land in a land development area; and

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

if the tribunal is of the opinion that the servitude or condition is inconsistent with, or undesirable in relation to, the use, occupation, development or subdivision of the land, and that the suspension of the servitude or condition in terms of any other procedure will unnecessarily delay the land development concerned. 25

(2) A tribunal may—

(a) where the owner of the dominant tenement in relation to a servitude referred to in subsection (1)(a) or any beneficiary of a condition referred to in subsection (1)(b) is not prepared to grant his or her consent to the suspension of the servitude or condition for a consideration or under conditions which the tribunal regards as a fair consideration or fair conditions; or 30

(b) where it is not practicable to obtain such consent within a reasonable time on account of the nature of the rights concerned, or the number of persons involved or because the whereabouts of a person contemplated in paragraph (a) or of every such person is not readily ascertainable, 35

impose a condition contemplated in subsection (1) without the contemplated consent.

(3) A servitude or restrictive condition suspended by a condition of establishment of which notice has been given in terms of section 33(4), shall be removed when a subdivision register is opened in respect of the land in a land development area. 40

(4) The registrar concerned shall as soon as possible after a removal contemplated in subsection (3) make the entries in and endorsements on any register and title deed in his or her office or submitted to him or her which he or she deems necessary to reflect such removal: Provided that if such removal affects a diagram or general plan filed in the office of the Surveyor-General the registrar shall notify the Surveyor-General accordingly. 45

(5) A person who has suffered damage or whose land or real right in land has been adversely affected as a result of a removal in terms of subsection (3) or a suspension in terms of section 33(2)(d) may, within a period of three years after the removal or suspension and to the extent to which he or she has not already received other compensation, claim compensation from the person who was, at the time of such removal or suspension, the owner of the land in respect of which the condition or servitude was removed or suspended. 50 55

(6) The amount of compensation referred to in subsection (5) shall be an amount agreed upon between the claimant and the owner referred to in that subsection or, failing

- om te voldoen aan enige nasionale bouregulasie, soneringskema, regulasie of verordening in daardie subartikel beoog nie;
- (c) subartikel (2)(h) of (i) is van krag ondanks andersluidende bepalings van enige ander wet wat grondontwikkeling of grondgebruikbeplanning of soneringskemas reël;
- (d) subartikel (2)(j) met betrekking tot die opskorting van die toepassing van enige in daardie subartikel bedoelde wet, het die effek dat die toepassing van so 'n wet opgeskort word.
- (4) 'n In subartikel (3) bedoelde stigtingsvoorwaarde tree in werking op die datum van kennisgewing van die voorwaarde deur die aangewese beampte in die *Provinsiale Koerant*, of indien 'n latere datum in die kennisgewing vermeld word, vanaf sodanige latere datum.
- (5) 'n Voorwaarde kragtens subartikel (2) opgelê waarvolgens 'n grondontwikkelingsapplikant enige handeling moet verrig, bepaal die tydstip waarop die handeling gedurende die stigting van die grondontwikkelingsgebied verrig moet word.
- (6) Die aangewese beampte stel die registrateur van die goedkeuring van 'n grondontwikkelingsaansoek in kennis.

Opskorting en opheffing van serwitute en beperkende voorwaardes

34. (1) 'n Tribunaal kan, uit eie beweging of op aansoek van 'n grondontwikkelingsapplikant en met die toestemming van die houer of begunstigde van 'n serwituut of beperkende voorwaarde, 'n in artikel 33(2)(d) beoogde stigtingsvoorwaarde oplê ten opsigte van—
- (a) enige serwituut geregistreer teen die titel van grond in 'n grondontwikkelingsgebied; en
- (b) enige ander beperkende voorwaarde aldus geregistreer of andersins ten opsigte van sodanige grond van krag,
- indien die tribunaal van mening is dat die serwituut of voorwaarde onbestaanbaar is met, of onwenslik is met betrekking tot, die gebruik, okkupasie, ontwikkeling of onderverdeling van die grond, en dat die opskorting van die serwituut of voorwaarde ingevolge enige ander prosedure die betrokke grondontwikkeling onnodig sal vertraag.
- (2) 'n Tribunaal kan—
- (a) waar die eienaar van die heersende eiendom met betrekking tot 'n in subartikel (1)(a) bedoelde serwituut of enige begunstigde van 'n in subartikel (1)(b) bedoelde voorwaarde nie bereid is om sy of haar toestemming tot die opskorting van die serwituut of voorwaarde teen vergoeding of op voorwaardes wat die tribunaal as billike vergoeding of billike voorwaardes beskou, te verleen nie; of
- (b) waar dit onmoontlik is om sodanige toestemming te verkry binne 'n redelike tydperk weens die aard van die betrokke regte, of die getal persone betrokke of omdat die plek waar 'n in paragraaf (a) bedoelde persoon of elke sodanige persoon hom of haar bevind nie geredelik vasstelbaar is nie,
- 'n in subartikel (1) beoogde voorwaarde sonder die beoogde toestemming oplê.
- (3) 'n Serwituut of beperkende voorwaarde wat deur 'n stigtingsvoorwaarde waarvan kennis ingevolge artikel 33(4) gegee is, opgeskort is, word opgehef wanneer 'n onderverdelingsregister ten opsigte van die grond in 'n grondontwikkelingsgebied geopen word.
- (4) Die betrokke registrateur maak so spoedig moontlik na 'n in subartikel (3) beoogde opheffing die inskrywings in en endossemente op enige register en titelakte in sy of haar kantoor of aan hom of haar voorgelê wat hy of sy nodig ag om die opheffing aan te dui: Met dien verstande dat indien sodanige opheffing 'n kaart of algemene plan wat in die kantoor van die Landmeter-generaal geliasseer is, beïnvloed, die registrateur die Landmeter-generaal dienooreenkomstig moet inlig.
- (5) 'n Persoon wat skade gely het of wie se grond of saaklike reg ten aansien van grond nadelig geraak is weens 'n opheffing ingevolge subartikel (3) of 'n opskorting ingevolge artikel 33(2)(d), kan binne 'n tydperk van drie jaar na die opheffing of opskorting en in die mate waarin hy of sy nie reeds ander vergoeding ontvang het nie, skadevergoeding eis van die persoon wat ten tyde van die opheffing of opskorting die eienaar van die grond was ten opsigte waarvan die voorwaarde of serwituut opgehef of opgeskort is.
- (6) Die bedrag van vergoeding bedoel in subartikel (5), is 'n bedrag waarop die eiser en die eienaar bedoel in daardie subartikel ooreenkom, of, indien so 'n ooreenkoms nie

such agreement within one month of a claim having been made under that subsection, shall be an amount determined—

- (a) in the event of such owner not being the State or a local government body, by arbitration in terms of the Arbitration Act, 1965 (Act No. 42 of 1965); or
- (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 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 Minister, Premier or local government body, as the case may be;
 - (ii) to property, shall be construed as 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 33(2)(d) or to a removal in terms of subsection (3), as the case may be.

(7) This section or section 33(2)(d) does not authorise the suspension or removal of any registered right to minerals, and nothing contained in this Act detracts from the remedies of the holder of rights to minerals under the common law.

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

35. (1) Subject to the procedures and conditions prescribed—

- (a) a land development application may be amended;
- (b) any condition of establishment may be amended or deleted;
- (c) a land development area may be divided into two or more land development areas;
- (d) another land development applicant may continue with the land development application in the place of the original or a subsequent land development applicant.

(2) The designated officer shall, subject to the procedures and conditions prescribed, inform the registrar and the Surveyor-General of any event contemplated in subsection (1).

Restriction on certain contracts

36. (1) After a land development applicant has taken steps to establish a land development area, including steps preceding a land development application, no person shall enter into any contract, including a contract subject to a suspensive or other condition—

- (a) for the sale, exchange, alienation or disposal in any other manner of an erf in that land development area;
- (b) for the erection of a dwelling on such erf;
- (c) granting an option to purchase or sell such erf or granting a right of first refusal in respect of such erf; or
- (d) to otherwise acquire such erf, unless—
 - (i) the land development application has been approved under section 33; and
 - (ii) the steps contemplated in section 38(1) have been completed or, to the extent that such steps have not yet been completed, the land development applicant has furnished the guarantees referred to in section 38(2)(d) in respect of the completion of such steps, which guarantees shall also be furnished where the ownership (as opposed to the initial ownership) of such erf is involved; or
 - (iii) a tribunal has approved a registration arrangement contemplated in section 61 and the conditions imposed in respect of such approval have been complied with.

(2) Any contract entered into contrary to subsection (1) shall be invalid.

(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

binne een maand nadat 'n eis kragtens daardie subartikel ingestel is, bereik kan word nie, 'n bedrag bepaal—

- 5 (a) in die geval waar sodanige eienaar nie die Staat of 'n plaaslike owerheidsliggaam is nie, deur arbitrasie ingevolge die Wet op Arbitrasie, 1965 (Wet No. 42 van 1965); of
- 10 (b) in die geval waar sodanige eienaar die Staat of 'n plaaslike owerheidsliggaam is *mutatis mutandis* ingevolge artikels 12, 14 en 15 van die Onteieningswet, 1975 (Wet No. 63 van 1975), asof die serwituut of voorwaarde onteien is vir openbare doeleindes soos in daardie Wet bedoel, en vir doeleindes hiervan word enige verwysing in daardie Wet—
- (i) na “Minister”, uitgelê as 'n verwysing na die Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval;
- (ii) na eiendom, uitgelê as 'n verwysing na sodanige serwituut of voorwaarde;
- 15 (iii) na 'n onteiening ingevolge daardie Wet, uitgelê as 'n verwysing na 'n opskorting ingevolge artikel 33(2)(d) of 'n opheffing ingevolge subartikel (3), na gelang van die geval.

(7) Hierdie artikel of artikel 33(2)(d) magtig nie die opskorting of opheffing van enige geregistreerde reg op minerale nie, en geen bepaling van hierdie Wet doen 20 afbreuk aan die remedies van die houer van mineraalregte kragtens die gemene reg nie.

Wysiging van grondontwikkelingsaansoek en stigtingsvoorwaardes, verdeling van grondontwikkelingsgebied en voortsetting van grondontwikkelingsaansoek deur 'n ander grondontwikkelingsapplikant

- 25 35. (1) Behoudens die prosedures en voorwaardes wat voorgeskryf word—
- (a) kan 'n grondontwikkelingsaansoek gewysig word;
- (b) kan enige stigtingsvoorwaarde gewysig of geskrap word;
- (c) kan 'n grondontwikkelingsgebied verdeel word in twee of meer grondontwikkelingsgebiede;
- 30 (d) kan 'n ander grondontwikkelingsapplikant die grondontwikkelingsaansoek in die plek van die oorspronklike of 'n daaropvolgende grondontwikkelingsapplikant voortsit.
- (2) Die aangewese beampte verwittig, behoudens die prosedures en voorwaardes wat voorgeskryf word, die registrateur en die Landmeter-generaal van enige gebeurtenis in subartikel (1) beoog.

35 Beperking op sekere kontrakte

36. (1) Nadat 'n grondontwikkelingsapplikant stappe gedoen het om 'n grondontwikkelingsgebied te stig, insluitend stappe wat 'n grondontwikkelingsaansoek voorafgaan, sluit geen persoon 'n kontrak nie, insluitende 'n kontrak onderworpe aan 'n opskortende of ander voorwaarde—
- 40 (a) waarby 'n erf in daardie grondontwikkelingsgebied verkoop, verruil, vervreem of op enige ander wyse oor beskik word;
- (b) met betrekking tot die oprigting van 'n gebou op sodanige erf;
- (c) waarby 'n opsie om sodanige erf te koop of te verkoop of 'n voorkoopsreg in verband daarmee verleen word; of
- 45 (d) om sodanige erf andersins te verkry, tensy—
- (i) die grondontwikkelingsaansoek kragtens artikel 33 goedgekeur is; en
- (ii) die stappe in artikel 38(1) beoog, afgehandel is of, vir sover sodanige stappe nog nie afgehandel is nie, die grondontwikkelingsapplikant die waarborge bedoel in artikel 38(2)(d) ten opsigte van die voltooiing van sodanige stappe verskaf het, welke waarborge ook verskaf moet word 50 waar die eiendomsreg (in teenstelling met voorlopige eiendomsreg) op sodanige erf betrokke is; of
- (iii) 'n tribunaal 'n registrasiereëling in artikel 61 beoog, goedgekeur het en daar aan die voorwaardes onderworpe waaraan die goedkeuring verleen 55 is, voldoen is.
- (2) Enige kontrak wat in stryd met subartikel (1) gesluit word, is ongeldig.
- (3) Die bepalings van hierdie artikel belet nie die sluiting nie van—
- (a) 'n kontrak vir die verkryging op enige wyse deur enige persoon van—
- (i) grond waarop hy of sy 'n grondontwikkelingsgebied wil stig onder-

- subject to the condition that one or more of the erven therein shall be transferred to the seller;
- (ii) land in respect of which a land development application has been made, and such person notifies the designated officer in writing of his or her acquisition of the land, and that he or she wishes to continue with such application; 5
- (b) a contract between a land development applicant and a building contractor for the erection of a building on an erf prior to the disposal of the erf by the land development applicant;
- (c) any other contract prescribed. 10
- (4) A registrar is not obliged to satisfy himself or herself as to whether 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

37. A land development applicant who has been notified that his or her land development application has been approved shall, within the prescribed period, lodge— 15
- (a) with the Surveyor-General the plans, diagrams, documents and other information which the Surveyor-General requires to approve or provisionally approve the general plan in accordance with the approved application; and
- (b) with the registrar the approved plans and diagrams, together with the title deeds and other documents required by the registrar for the opening of a subdivision register: Provided that the registrar shall not be obliged to open a subdivision register if the land development area is situated within more than one province or within the area of jurisdiction of more than one deeds registry or deeds registry referred to in section 66. 20 25

Commencement of registration of ownership

38. (1) A registrar shall commence registration of ownership of land in a land development area, when—
- (a) a general plan of the land development area has been approved or provisionally approved; 30
- (b) a subdivision register for the land development area has been opened;
- (c) the designated officer has informed the registrar that any conditions of establishment relating to the land development application and which have to be complied with prior to the commencement of such registration, have been complied with; and 35
- (d) the designated officer has informed the registrar that the respective obligations of the land development applicant and the relevant local government body to provide the engineering services contemplated in section 40, have been fulfilled.
- (2) Despite the provisions of subsection (1), a registrar shall commence transfer of initial ownership of erven in a land development area when— 40
- (a) the designated officer has informed the registrar in terms of section 33(6) that the land development application has been approved;
- (b) in the event of the area shown on the layout plan not comprising the whole of the piece or pieces of land in respect of which land development is taking place, a diagram corresponding to the outside perimeter of the layout plan and prepared by a professional land surveyor, has been approved by the Surveyor-General; 45
- (c) beacons in respect of individual, proposed erven have been placed by a surveyor in accordance with the layout plan; 50
- (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—
- (i) a guarantee in the prescribed form in favour of that surveyor, conveyancer, professional engineer, local government body or other person determined by the designated officer, and issued by a financial 55

- worpe aan die voorwaarde dat een of meer erwe daarin aan die verkoper oorgedra word;
- (ii) grond ten opsigte waarvan 'n grondontwikkelaarsaansoek gedoen is, en sodanige persoon die aangewese beampte skriftelik kennis gee van sy of haar verkryging van die grond, en dat hy of sy met sodanige aansoek wil voortgaan;
- (b) 'n kontrak tussen 'n grondontwikkelaarsapplikant en 'n boukontraakteur vir die oprigting van 'n gebou op 'n erf voor die vervreemding van die erf deur die grondontwikkelaarsapplikant;
- (c) enige ander kontrak wat voorgeskryf word.
- (4) 'n Registrateur is nie verplig om hom- of haarself daarvan te vergewis of enige registreerbare transaksie wat by 'n registrasiekantoor ingedien is op 'n kontrak bedoel in subartikel (2) gebaseer is of daardeur beïnvloed is nie.

Indiening van dokumente by Landmeter-generaal en registrateur

37. 'n Grondontwikkelaarsapplikant wat in kennis gestel is dat sy of haar grondontwikkelaarsaansoek goedgekeur is, dien binne die voorgeskrewe tydperk—
- (a) by die Landmeter-generaal die planne, kaarte, dokumente en ander inligting in wat die Landmeter-generaal vereis om die algemene plan in ooreenstemming met die goedgekeurde aansoek goed te keur of voorlopig goed te keur; en
- (b) by die registrateur die goedgekeurde planne en kaarte, tesame met die titelaktes en ander dokumente in wat die registrateur vir die opening van 'n onderverdelingsregister vereis: Met dien verstande dat 'n registrateur nie verplig is om 'n onderverdelingsregister te open nie indien die grondontwikkelaarsgebied in meer as een provinsie of binne die jurisdiksiegebied van meer as een registrasiekantoor of registrasiekantoor bedoel in artikel 66 geleë is.

Aanvang van registrasie van eiendomsreg

38. (1) 'n Registrateur begin met registrasie van eiendomsreg op grond in 'n grondontwikkelaarsgebied wanneer—
- (a) 'n algemene plan van die grondontwikkelaarsgebied goedgekeur of voorlopig goedgekeur is;
- (b) 'n onderverdelingsregister vir die grondontwikkelaarsgebied geopen is;
- (c) die aangewese beampte die registrateur in kennis gestel het dat enige stigtingsvoorwaardes met betrekking tot die grondontwikkelaarsaansoek waaraan voor die aanvang van sodanige registrasie voldoen moes word, nagekom is; en
- (d) die aangewese beampte die registrateur in kennis gestel het dat die onderskeie verpligtinge van die grondontwikkelaarsapplikant en die betrokke plaaslike owerheidsliggaam om ingenieursdienste in artikel 40 beoog, te verskaf, nagekom is.
- (2) Ondanks die bepalinge van subartikel (1), begin 'n registrateur met oordrag van voorlopige eiendomsreg op erwe in 'n grondontwikkelaarsgebied, wanneer—
- (a) die aangewese beampte die registrateur ingevolge artikel 33(6) in kennis gestel het dat die grondontwikkelaarsaansoek goedgekeur is;
- (b) in die geval waar die gebied op die uitlegplan aangedui nie die geheel van die stuk of stukke grond ten opsigte waarvan grondontwikkeling plaasvind, uitmaak nie, 'n kaart wat met die buitelyne van die uitlegplan ooreenstem en deur 'n professionele landmeter voorberei, deur die Landmeter-generaal goedgekeur is;
- (c) bakens ten opsigte van individuele, voorgestelde erwe deur 'n opmeter geplaas is in ooreenstemming met die uitlegplan;
- (d) die aangewese beampte die registrateur in kennis gestel het dat die grondontwikkelaarsapplikant, of die betrokke plaaslike owerheidsliggaam, na gelang van die geval, die aangewese beampte—
- (i) van 'n waarborg in die voorgeskrewe vorm voorsien het ten gunste van daardie opmeter, transportbesorger, professionele ingenieur, plaaslike owerheidsliggaam of ander persoon wat die aangewese beampte bepaal het, welke waarborg deur 'n finansiële instelling of ander garant wat vir

- institution or other guarantor acceptable to the designated officer, in an amount sufficient to cover the costs of—
- (aa) opening a subdivision register if the land development applicant does not within the period referred to in section 37(b) lodge with the registrar the documents required by him or her for such opening; 5
 - (bb) complying with conditions of establishment; and
 - (cc) fulfilling the respective obligations of the land development applicant and the relevant local government body to provide the engineering services contemplated in section 40; and
- (ii) the powers of attorney and other documents prescribed or necessary to enable the person in whose favour such guarantee is made to perform the acts contemplated in subparagraph (i); 10
- (e) a condition of establishment suspending servitudes or other restrictive conditions, if any, has come into operation in terms of section 33(4);
 - (f) in the event that the area shown on the layout plan comprises more than one piece of land, all such pieces of land are owned by the same person or body or all the owners, where there is more than one owner, have granted a power of attorney in favour of the same person or body, including one of such owners, authorising the person or body to transfer initial ownership on their behalf; 15
 - (g) any mortgagee in respect of land shown on the layout plan has consented to the cancellation of the mortgage bond or the release from time to time of the sites shown on the layout plan from the operation of the bond; 20
 - (h) an application contemplated in section 61(1) has been granted and certificates issued under section 61(4), the layout plan and the application referred to in section 61(6) have been lodged with the registrar; and 25
 - (i) the registrar has completed the entries in his or her records in terms of section 61(7).
- (3) The provisions of—
- (a) subsections (1) and (2) shall not preclude the implementation of a transaction concluded in pursuance of a condition of establishment; and 30
 - (b) subsection (2)(d) shall not apply where a general plan has been approved, the subdivision register has been opened, the conditions of establishment have been complied with and the land development applicant's service obligations have been fulfilled.
- (4) A diagram referred to in subsection (2)(b) shall be approved by the Surveyor-General, despite the fact that any other or component 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 that subsection, has not yet been approved: Provided that the other or component diagram shall subsequently be prepared and submitted to the Surveyor-General in such form and manner so as not to necessitate any substantial amendment of the diagram referred to in subsection (2)(b). 40

Erection of buildings

39. If in terms of a condition of establishment it is unnecessary for building plans to be lodged with any competent authority, there shall be no restriction at any stage on the erection of buildings and the settlement of persons in the land development area, except by virtue of such a condition of establishment or a zoning scheme, other measure or prescribed provision contemplated in section 33(2)(h). 45

Engineering services

40. (1) Every land development area shall be provided with the engineering services agreed upon between the land development applicant and the local government body in a services agreement complying with the prescribed guidelines and approved by a tribunal. 50

die aangewese beampte aanvaarbaar was, uitgereik is tot 'n bedrag wat voldoende is om die koste van—

- (aa) die opening van 'n onderverdelingsregister te dek indien die grondontwikkingsapplikant nie binne die in artikel 37(b) bedoelde tydperk die dokumente wat deur die registrateur vir sodanige opening vereis word, indien nie;
- (bb) die nakoming van die stigtingsvoorwaardes te dek; en
- (cc) die nakoming van die onderskeie verpligtinge van die grondontwikkingsapplikant en die betrokke plaaslike owerheidsliggaam om die ingenieursdienste in artikel 40 beoog, te verskaf, te dek; en
- (ii) van die volmagte en ander dokumente wat voorgeskryf of nodig is, voorsien het om die persoon in wie se guns sodanige waarborg verstrekkend word in staat te stel om die in subparagraaf (i) bedoelde handeling uit te voer;
- (e) 'n stigtingsvoorwaarde wat serwitute of ander beperkende voorwaardes opskort, indien enige, ingevolge artikel 33(4) in werking getree het;
- (f) in die geval waar die gebied op die uitlegplan aangedui uit meer as een stuk grond bestaan, alle sodanige stukke grond deur dieselfde persoon of liggaam besit word of al die eenaars, waar daar meer as een eenaar is, 'n volmag ten gunste van dieselfde persoon of liggaam verleen het, insluitende een van sodanige eenaars, wat die persoon of liggaam magtig om voorlopige eiendomsreg namens hulle oor te dra;
- (g) enige verbandhouer ten opsigte van grond wat op 'n uitlegplan aangedui word, toegestem het tot die kansellering van die verband, of die ontheffing van tyd tot tyd van die erwe wat op die uitlegplan aangedui word van die werking van die verband;
- (h) 'n aansoek in artikel 61(1) beoog, toegestaan is en die sertifikate kragtens artikel 61(4) uitgereik, die uitlegplan en die aansoek in artikel 61(6) bedoel, by die registrateur ingedien is; en
- (i) die registrateur die inskrywings in sy of haar rekords ingevolge artikel 61(7) voltooi het.
- (3) Die bepalinge van—
- (a) subartikels (1) en (2) verhinder nie die implementering van 'n transaksie gesluit ter uitvoering van 'n stigtingsvoorwaarde nie; en
- (b) subartikel (2)(d) is nie van toepassing nie waar 'n algemene plan goedgekeur is, die onderverdelingsregister geopen is, die stigtingsvoorwaardes nagekom is en die grondontwikkingsapplikant se diensteverpligtinge nagekom is.
- (4) 'n Kaart bedoel in subartikel (2)(b) word deur die Landmeter-generaal goedgekeur, ondanks die feit dat enige ander of komponente kaart wat 'n onderverdeling of konsolidasie van die stuk of stukke grond in daardie subartikel bedoel, aandui, nog nie goedgekeur is nie en afgesien daarvan dat sodanige goedkeuring andersins of normaalweg as 'n voorvereiste sou dien vir die goedkeuring van die kaart in daardie subartikel bedoel: Met dien verstande dat die ander of komponente kaart daarna voorberei en aan die Landmeter-generaal voorgelê moet word in 'n vorm en op 'n wyse wat nie wesenlike wysigings van die kaart in subartikel (2)(b) bedoel, noodsaaklik maak nie.

Oprigting van geboue

39. Indien dit ingevolge 'n stigtingsvoorwaarde onnodig is om bouplanne by enige bevoegde owerheid in te dien, mag die oprigting van geboue en die vestiging van persone in 'n grondontwikkelingsgebied nie in enige stadium beperk word nie, behalwe uit hoofde van sodanige stigtingsvoorwaarde of 'n soneringskema, ander maatreël of voorgeskrewe bepaling in artikel 33(2)(h) beoog.

Ingenieursdienste

40. (1) Elke grondontwikkelingsgebied word voorsien van die ingenieursdienste waarop die grondontwikkingsapplikant en die plaaslike owerheidsliggaam ooreenkóm in 'n diensteooreenkoms wat aan die voorgeskrewe riglyne voldoen en deur 'n tribunaal goedgekeur is.

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

- (a) the land development applicant shall provide the engineering services classified by regulation as internal services; and
- (b) the local government body concerned shall provide the services so classified as external or trunk services. 5

Vesting and reversion of ownership of public streets and places

41. (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 time when transfer of land in ownership become registrable as contemplated in section 38(1). 10

(2) If the 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 the cancelled plan or part thereof shall upon such cancellation revert to the person or body who or which was the owner of the land concerned at the time of the land development application in question; 15
- (b) amended in terms of any law which authorises the closing of such street or place or portion thereof, the ownership of such street, place or portion shall revert to the person or body who or which was the owner of the land concerned at the time of the land development application. 20

Investigation and authorisation of non-statutory land development processes

42. (1) Where any local government body or any other interested person or body, including a group of interested persons, has by reason of the actual or likely settlement of persons on, the erection or occupation of any structure on or the layout of land, reasonable grounds for believing that— 25

- (a) such activities are performed contrary to the procedures prescribed in this Act or in any other law; or
- (b) it is in the public interest and the interests of the persons residing or who are going to reside on such land that an exemption under section 30(1) be granted, such body, person or group may refer the matter to the designated officer for investigation. 30

(2) The designated officer shall investigate the matter and submit his or her report thereon to a tribunal. 35

(3) As soon as is reasonably possible after receiving the report contemplated in subsection (2), a tribunal shall establish whether the settlement of persons, or the erection or occupation of buildings on the land or the layout of the land is in any manner inconsistent with any provision or object of this Act or any other law governing the establishment of land development areas unless an exemption under section 30(1) is granted, and if the tribunal is satisfied that such inconsistency exists, it may grant or decline to grant an exemption contemplated in that section in respect of such area. 40

(4) A tribunal may in considering a report referred to in subsection (2) conduct the enquiries, hear the evidence and take the steps considered necessary by it in the circumstances and shall in considering the matter take into account— 45

- (a) the health or safety of the public generally, or of any class of persons, including persons residing in the area concerned;
- (b) the feasibility of providing rudimentary services in the area concerned and of the upgrading of such services over a period of time;
- (c) the feasibility of housing persons in temporary buildings erected by themselves in the area; 50
- (d) the feasibility of the development of appropriate community facilities and services in the area;
- (e) the suitability of the area for residential settlement, taking into account its location in relation to employment and transport facilities; 55
- (f) the feasibility of providing occupants of the area with appropriate security of land tenure;

(2) Behoudens enige vrystelling wat deur 'n tribunaal met betrekking tot 'n besondere diensteooreenkoms gemagtig is, verskaf—

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

Vestiging en terugval van eiendomsreg van openbare strate en plekke

41. (1) Die eiendomsreg op alle openbare strate en openbare plekke wat as sodanig aangedui word op die algemene plan van 'n grondontwikkelingsgebied vestig sonder
10 vergoeding in die plaaslike owerheidsliggaam in wie se plaaslike owerheidsgebied die grondontwikkelingsgebied geleë is op die tydstip wanneer eiendomsoordrag van grond registreerbaar word soos in artikel 38(1) beoog.

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

- 15 (a) in die geheel of gedeeltelik gerojeer word, val die eiendomsreg van die openbare strate en openbare plekke in die grondontwikkelingsgebied wat op die gerojeerde plan of deel daarvan aangedui word, by sodanige rojering terug op die persoon of liggaam wat die eienaar van die betrokke grond was op die tydstip van die betrokke grondontwikkelingsaansoek;
- 20 (b) gewysig word ingevolge enige wet wat die sluiting van sodanige straat of plek of deel daarvan magtig, val die eiendomsreg in sodanige straat, plek of deel terug op die persoon of liggaam wat die eienaar van die betrokke grond was op die tydstip van die grondontwikkelingsaansoek.

Ondersoek en magtiging van nie-statutêre grondontwikkelingsprosesse

42. (1) Waar enige plaaslike owerheidsliggaam of enige ander belanghebbende
25 persoon of liggaam, insluitende 'n groep belanghebbende persone, na aanleiding van die werklike of waarskynlike vestiging van persone op grond, die oprigting of okkupasie van enige struktuur daarop of die uitleg daarvan, redelike gronde het om te glo dat—

- 30 (a) sodanige aktiwiteite in stryd met die prosedures in hierdie Wet of enige ander wet voorgeskryf, uitgevoer word; of
- (b) dit in die openbare belang en die belang van die persone is wat op die grond woon of daar gaan woon dat 'n vrystelling kragtens artikel 30(1) verleen word,

kan sodanige liggaam, persoon of groep die aangeleentheid na die aangewese beamppte
35 vir ondersoek verwys.

(2) Die aangewese beamppte ondersoek die aangeleentheid en lê sy of haar verslag daaroor aan 'n tribunaal voor.

(3) So gou as wat redelikerwys moontlik is na ontvangs van die in subartikel (2) beoogde verslag, stel 'n tribunaal vas of die vestiging van persone of die oprigting of
40 okkupasie van geboue op die grond of die uitleg van die grond op enige wyse in stryd is met enige bepaling of doelstelling van hierdie Wet of enige ander wet wat die stigting van grondontwikkelingsgebiede reël tensy 'n vrystelling kragtens artikel 30(1) verleen word, en indien die tribunaal van sodanige strydigheid oortuig is, kan hy 'n vrystelling beoog in daardie artikel ten opsigte van sodanige gebied verleen of weier.

45 (4) 'n Tribunaal kan by die oorweging van 'n in subartikel (2) bedoelde verslag die ondersoek instel, die getuienis aanhoor en die stappe doen wat hy in die omstandighede nodig ag, en neem by die oorweging van die aangeleentheid in ag—

- (a) die gesondheid of veiligheid van die publiek in die algemeen, of van enige klas persone, insluitende persone wat in die betrokke gebied woon;
- 50 (b) die doenlikheid van die verskaffing van rudimentêre dienste in die betrokke gebied en van die opgradering van sodanige dienste oor 'n tydperk;
- (c) die doenlikheid van die huisvesting van persone in tydelike geboue deur hulleself in die gebied opgerig;
- (d) die doenlikheid van die ontwikkeling van toepaslike gemeenskapsfasiliteite en -dienste in die gebied;
- 55 (e) die geskiktheid van die gebied vir residensiële vestiging met inagneming van die ligging daarvan ten aansien van indiensnemings- en vervoerfasiliteite;
- (f) die doenlikheid van die voorsiening aan okkupeerders van die gebied van gepaste sekuriteit van grondtitel;

- (g) the feasibility of erecting permanent dwellings over a period of time;
- (h) the feasibility of establishing an appropriate local government body or including the area within the local government area of such a body and of providing municipal services to the area;
- (i) the possibility of persons settling in the area being able to acquire sites which are affordable to them, taking into account their likely income and other means of finance, including finance provided by the State; 5
- (j) the feasibility of the area being fully established as a land development area over a period of time;
- (k) the rights of any person in or in respect of the area and, if necessary, the feasibility of such area or rights being expropriated or otherwise acquired for the purpose of establishing a land development area; 10
- (l) the environmental sustainability of developing the area;
- (m) any similar matter prescribed;
- (n) any other similar matter which the tribunal may deem necessary. 15

(5) The provisions of any law on the 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 proceedings contemplated in that subsection which are pending.

Proof of certain facts in connection with applications to establish land development areas 20

43. (1) A surveyor, town and regional planner, professional engineer, environmental consultant, attorney, notary, conveyancer or engineering geologist who prepares a document required for a land development application in terms of this Chapter and who signs the prescribed certificate on such document, thereby accepts responsibility and any liability for the accuracy of the prescribed facts mentioned in such document. 25

(2) The designated officer and a tribunal shall, for the purposes of considering a land development application, accept that the facts referred to in subsection (1) have been conclusively proved.

Land development on behalf of State or local government body 30

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

(2) Any land which has been made available in terms of subsection (1)— 35

- (a) shall remain subject to the control of the Minister, MEC or local government body, as the case may be, who or which may, in the event of a breach of the conditions on which the land was so made available by the person to whom the land was made available, withdraw the land thus made available and thereafter deal with such land as the Minister, MEC or local government body, as the case may be, deems fit; 40
- (b) shall not in any way be alienated or further encumbered by the State or local government body while the land remains available to the person concerned; and
- (c) may be alienated by the person to whom the land has been made available, only in his or her capacity as the duly authorised agent of the State or local government body and on the conditions on which the land has been made available to such person. 45

Delegation

45. (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

- (g) die doenlikheid van die oprigting van permanente wonings oor 'n tydperk;
- (h) die doenlikheid van die totstandkoming van 'n gepaste plaaslike owerheidsliggaam, of die insluiting van die gebied by die plaaslike owerheidsgebied van sodanige liggaam, en van die voorsiening van munisipale dienste aan die gebied;
- 5 (i) die moontlikheid dat persone wat hulle in die gebied vestig in staat sal wees om erwe te verkry wat vir hulle bekostigbaar is, met inagneming van hulle waarskynlike inkomste en ander finansieringsbronne, insluitende finansiering wat deur die Staat voorsien word;
- 10 (j) die doenlikheid om die gebied oor 'n tydperk volledig as 'n grondontwikkelingsgebied te vestig;
- (k) die regte van enige persoon in of ten opsigte van die gebied en, indien nodig, die doenlikheid om sodanige gebied of regte te onteien of andersins te verkry vir die doel van die stigting van 'n grondontwikkelingsgebied;
- 15 (l) die omgewingshoudbaarheid van die ontwikkeling van die gebied;
- (m) enige soortgelyke aangeleentheid voorgeskryf;
- (n) enige ander soortgelyke aangeleentheid wat die tribunaal nodig ag.
- (5) Die bepalings van enige wet met betrekking tot die stigting van 'n grondontwikkelingsgebied of grondgebruikbeplanning is nie van toepassing op grond ten opsigte waarvan 'n in subartikel (3) bedoelde vrystelling verleen is of ten opsigte waarvan verrigtinge in daardie subartikel beoog, hangende is nie.
- 20

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

43. (1) 'n Opmeter, stads- en streekbeplanner, professionele ingenieur, omgewings-
- 25 konsultant, prokureur, notaris, transportbesorger of ingenieursgeoloog wat 'n dokument voorberei wat vir 'n grondontwikkelingsaansoek ingevolge hierdie Hoofstuk vereis word en wat die voorgeskrewe sertifikaat op sodanige dokument onderteken, aanvaar daarmee die verantwoordelikheid en enige aanspreeklikheid vir die akkuraatheid van die voorgeskrewe feite in die dokument vermeld.
- 30 (2) Die aangewese beampte en 'n tribunaal aanvaar, vir die doeleindes van oorweging van 'n grondontwikkelingsaansoek, dat die in subartikel (1) bedoelde feite afdoende bewys is.

Grondontwikkeling namens Staat of plaaslike owerheidsliggaam

44. (1) Die Staat of 'n plaaslike owerheidsliggaam kan, op die voorgeskrewe wyse
- 35 en behoudens die voorgeskrewe riglyne, enige persoon ingevolge 'n grondbeskikbaarheidsooreenkoms voorgelê aan en goedgekeur deur 'n tribunaal, aanwys om grondontwikkeling ingevolge hierdie Hoofstuk te doen op grond waarvan die Staat of sodanige plaaslike owerheidsliggaam die eienaar is.
- (2) Enige grond wat ingevolge subartikel (1) beskikbaar gestel is—
- 40 (a) bly onderworpe aan die beheer van die Minister, LUR of plaaslike owerheidsliggaam, na gelang van dié geval, wat, in die geval van 'n verbreking van die voorwaardes waarop die grond aldus beskikbaar gestel is deur die persoon aan wie die grond beskikbaar gestel is, die grond aldus beskikbaar gestel, kan terugneem en daarna met sodanige grond kan handel
- 45 soos die Minister, LUR of die plaaslike owerheidsliggaam, na gelang van die geval, goeddink;
- (b) word nie op enige wyse deur die Staat of plaaslike owerheidsliggaam vervreem of verder beswaar terwyl die grond tot beskikking van die betrokke persoon is nie; en
- 50 (c) kan deur die persoon aan wie die grond beskikbaar gestel is, vervreem word slegs in sy of haar hoedanigheid as die behoorlik gevolmagtigde agent van die Staat of plaaslike owerheidsliggaam en op die voorwaardes waarop die grond aan sodanige persoon beskikbaar gestel is.

Delegering

- 55 45. (1) Die Minister kan enige bevoegdheid of plig aan hom of haar verleen of opgelê by of kragtens hierdie Hoofstuk, uitgesonderd die bevoegdheid by artikel 46 aan

under section 46, to a Premier or to any officer in the Department of Land Affairs or Housing.

(2) A Premier may delegate or assign any power or duty conferred or imposed upon him or her by or under this Chapter, including any power or duty delegated or assigned to him or her under subsection (1), to any officer in the provincial administration or in the employ of a local government body. 5

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

Regulations 10

46. (1) The Minister may, subject to the provisions of subsection (3), make regulations regarding—

- (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 designated officers and the areas for which they are appointed; 15
- (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 or of a land development application;
- (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; 20
- (f) the classification of engineering services into internal and external or trunk services and guidelines with which a services agreement shall comply;
- (g) the plans and specifications relating to engineering services to be lodged by a land development applicant with a local government body; 25
- (h) the effect of non-compliance with any time limit prescribed under this Chapter;
- (i) the powers, duties and functions of a local government body in relation to the establishment of a land development area; 30
- (j) the upgrading or further development of any land development area, including an area which is being developed by virtue of an exemption contemplated in section 30(1);
- (k) inspections and investigations in relation to a land development application;
- (l) the fees and travelling allowances, if any, to be charged or paid in respect of any act required or authorised to be done under this Chapter; 35
- (m) the regulation of the use of land in a land development area, including the amendment or substitution of zoning schemes or other measures for—
 - (i) the zoning or reservation of land into areas to be used exclusively or mainly for specific purposes; 40
 - (ii) the prohibition or restriction of the use of land in a land development area in conflict with the terms of such scheme or other measures;
 - (iii) the replanning of a land development area;
 - (iv) the regulation and limitation of buildings, including the demolition of, or the imposition of a special charge in respect of, buildings erected or altered contrary to any such scheme or other measures; 45
- (n) the preparation, approval and coming into operation of such an amendment or substitution;
- (o) the consultation in respect of, and consideration of objections and representations made by any person or body in relation to any such amendment or substitution; 50
- (p) the payment by any person of compensation or a development contribution in respect of any such amendment or substitution and the basis for the calculation thereof;
- (q) land-use planning in general; 55

hom of haar verleen, aan 'n Premier of aan enige beampte in die Departement van Grondsake of Behuising delegeer of opdra.

(2) 'n Premier kan enige bevoegdheid of plig aan hom of haar by of kragtens hierdie Hoofstuk verleen of opgelê, insluitende enige bevoegdheid of plig aan hom of haar kragtens subartikel (1) gedelegeer of opgedra, aan enige beampte in die provinsiale administrasie of in die diens van 'n plaaslike owerheidsliggaam delegeer of opdra.

(3) 'n Delegasie of opdrag kragtens subartikels (1) of (2) belet nie die Minister of 'n Premier, na gelang van die geval, om self die betrokke bevoegdheid uit te oefen of die betrokke plig uit te voer nie.

10 Regulasies

46. (1) Die Minister kan, behoudens die bepalings van subartikel (3), regulasies uitvaardig in verband met—

- (a) die vorms van aansoek of kennisgewing ingevolge hierdie Hoofstuk;
- 15 (b) die persone of liggame wat in kennis gestel moet word van 'n grondontwikkelingsaansoek;
- (c) die aanstelling van aangewese beamptes en die gebiede waarvoor hulle aangestel word;
- (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 of van 'n grondontwikkelingsaansoek;
- 20 (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;
- 25 (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 'n plaaslike owerheidsliggaam deur 'n grondontwikkelingsapplikant ingedien moet word;
- 30 (h) die uitwerking van die nie-nakoming van enige tydsbeperking kragtens hierdie Hoofstuk voorgeskryf;
- (i) die bevoegdhede, pligte en werksaamhede van 'n plaaslike owerheidsliggaam met betrekking tot die stigting van 'n grondontwikkelingsgebied;
- 35 (j) die opgradering of verdere ontwikkeling van enige grondontwikkelingsgebied, insluitende 'n gebied wat ontwikkel word uit hoofde van 'n in artikel 30(1) beoogde vrystelling;
- (k) inspeksies en ondersoeke met betrekking tot 'n grondontwikkelingsaansoek;
- 40 (l) die gelde en reistoelaes, indien enige, wat gehef of betaal moet word ten opsigte van enige handeling wat kragtens hierdie Hoofstuk verrig moet of kan word;
- (m) die regulering van grondgebruik in 'n grondontwikkelingsgebied, met inbegrip van die wysiging of vervanging van soneringskemas of ander maatreëls met betrekking tot—
 - 45 (i) die sonering of reservering van grond in gebiede wat uitsluitlik hoofsaaklik vir bepaalde doeleindes gebruik moet word;
 - (ii) die verbod op of beperking van grondgebruik in 'n grondontwikkelingsgebied in stryd met die bepalings van sodanige skema of ander maatreëls;
 - (iii) die herbeplanning van 'n grondontwikkelingsgebied;
 - 50 (iv) die regulering en beperking van geboue, insluitende die sloping van, of die instelling van 'n spesiale heffing ten opsigte van, geboue opgerig of verander in stryd met enige sodanige skema of ander maatreëls;
- (n) die voorbereiding, goedkeuring en inwerkingtreding van sodanige wysiging of vervanging;
- 55 (o) die oorlegpleging ten opsigte van, en die oorweging van besware en voorstelle gemaak deur enige persoon of liggaam met betrekking tot, enige sodanige wysiging of vervanging;
- (p) die betaling deur enige persoon van vergoeding of 'n ontwikkelingsbydrae ten opsigte van enige sodanige wysiging of vervanging en die basis vir die berekening daarvan;
- 60 (q) grondgebruikbeplanning in die algemeen;

(r) any matter which in terms of this Chapter is required or permitted to be prescribed;

(s) any other matter which he or she considers necessary to prescribe in order to achieve the objects of this Chapter.

(2) The Minister may make different regulations in respect of different areas. 5

(3) (a) The Minister shall, before making any regulations under subsection (1), cause draft regulations to be published in the *Gazette* and shall consider any comment on such draft regulations received from any person during the period 30 days after such publication.

(b) A list of regulations made under subsection (1) shall be laid upon the Table of Parliament in the same manner as the list referred to in section 17 of the Interpretation Act, 1957 (Act No. 33 of 1957), and if Parliament by resolution disapproves of any such regulations or any provision thereof, such regulations or provision shall cease to be of force and effect, but without prejudice to the validity of anything done in terms of such regulations or such provision before it so ceased to be of force and effect, or to any right or liability acquired or incurred in terms of such regulations or such provision before it so ceased to be of force and effect. 10 15

State and local government bound

47. This Chapter binds the State and local government bodies.

CHAPTER VI

20

Land development procedures including procedures relating to the development of small-scale farming

Exemption from provisions of this Chapter

48. (1) A tribunal may, on the terms and conditions and in accordance with the procedures determined in the regulations or, if there are no regulations, determined by the tribunal, grant exemption from any or all of the provisions of this Chapter to any local government body or any other interested person or body, including a group of persons referred to in section 57(1), in respect of an area or proposed land development area— 25

(a) which is already settled by persons and which is intended to be upgraded into a fully established land development area over a period of time; or 30

(b) which is intended to be settled by persons on an urgent basis prior to completing the establishment of a land development area in that area, with the intention that such area shall be upgraded over a period of time into a fully established land development area. 35

(2) For the purposes of applying any provision of this Act from which an exemption has not been granted under subsection (1), to land development contemplated in that subsection, the local government body or other interested person or body, including a group of persons referred to in section 57(1), or if so directed by a tribunal, any other body, person or group of persons shall be regarded as a land development applicant for all purposes of this Chapter. 40

Land development application

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

(a) An owner of land, including the State or a local government body, in respect of land owned by it; 45

(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 land;

(d) a person to whom land has been made available by the State or a local government body in terms of a land availability agreement; or 50

(e) a person acting on behalf of the owner of land in any capacity.

(2) A land development applicant shall lodge a land development application, accompanied by the prescribed documents and information, with a designated officer in the prescribed manner.

- (r) enige aangeleentheid wat ingevolge hierdie Hoofstuk voorgeskryf moet of kan word;
- (s) enige ander aangeleentheid wat hy of sy nodig ag om voor te skryf ten einde die oogmerke van hierdie Hoofstuk te verwesenlik.
- 5 (2) Die Minister kan verskillende regulasies ten opsigte van verskillende gebiede uitvaardig.
- (3) (a) Die Minister moet, voordat enige regulasies kragtens subartikel (1) gemaak word, die konsepregulasies in die *Staatskoerant* laat publiseer en moet enige kommentaar op sodanige konsepregulasies ontvang vanaf 'n persoon gedurende 'n tydperk van
- 10 30 dae na sodanige publikasie oorweeg.
- (b) 'n Lys van regulasies gemaak kragtens subartikel (1) moet op dieselfde wyse as die lys bedoel in artikel 17 van die Interpretasiewet, 1957 (Wet No 33 van 1957), in die Parlement ter Tafel gelê word, en indien die Parlement by besluit enige sodanige regulasies of enige bepaling daarvan afkeur, verval sodanige regulasies of bepaling,
- 15 maar sonder afbreuk aan die geldigheid van enigiets ingevolge sodanige regulasies of bepaling gedoen voordat dit aldus verval het, of enige reg of verpligting verkry of opgedoen ingevolge sodanige regulasies of bepaling voordat dit aldus verval het.

Staat en plaaslike owerheid gebonde

47. Hierdie Hoofstuk bind die Staat en plaaslike owerheidsliggame.

20

HOOFSTUK VI

Grondontwikkelingsprosedures met insluiting van prosedures met betrekking tot die ontwikkeling van kleinskaalboerdery

Vrystelling van bepalings van hierdie Hoofstuk

48. (1) 'n Tribunaal kan op die bedinge en voorwaardes en ooreenkomstig die
- 25 prosedures wat in die regulasies bepaal is of, indien daar geen regulasies is nie, wat die tribunaal bepaal, vrystelling van enige of al die bepalings van hierdie Hoofstuk aan enige plaaslike owerheidsliggaam of enige ander belanghebbende party of liggaam, insluitende 'n in artikel 57(1) bedoelde groep persone, verleen ten opsigte van 'n gebied of voorgestelde grondontwikkelingsgebied—
- 30 (a) wat reeds deur persone beset word en wat bestem is om oor 'n tydperk tot 'n volledig gestigte grondontwikkelingsgebied opgegradeer te word; of
- (b) wat bestem is om op 'n dringende grondslag beset te word deur persone voordat die stigting van 'n grondontwikkelingsgebied in daardie gebied voltooi is, met die bedoeling dat daardie gebied oor 'n tydperk opgegradeer
- 35 sal word tot 'n volledig gestigte grondontwikkelingsgebied.
- (2) Vir die doeleindes van die toepassing van enige bepaling van hierdie Wet, waarvan 'n vrystelling nie kragtens subartikel (1) verleen is nie, op grondontwikkeling in daardie subartikel beoog, word die plaaslike owerheidsliggaam of ander belanghebbende persoon of liggaam, insluitende 'n groep persone in artikel 57(1) bedoel, of
- 40 indien aldus deur 'n tribunaal gelas, enige ander liggaam, persoon of groep persone vir alle doeleindes van hierdie Hoofstuk geag 'n grondontwikkelingsapplikant te wees.

Grondontwikkelingsaansoek

49. (1) Die volgende grondontwikkelingsapplikante kan ingevolge hierdie Hoofstuk om die stigting van 'n grondontwikkelingsgebied aansoek doen:
- 45 (a) 'n Eienaar van grond, insluitende die Staat of 'n plaaslike owerheidsliggaam, ten opsigte van grond waarvan hy die eienaar is;
- (b) 'n agent of onafhanklike kontrakteur wat namens die eienaar van grond optree;
- (c) 'n persoon wat met die toestemming van die eienaar van grond optree;
- 50 (d) 'n persoon aan wie 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.
- (2) 'n Grondontwikkelingsapplikant dien 'n grondontwikkelingsaansoek, vergesels van die dokumente en inligting wat voorgeskryf word, by 'n aangewese beampte op die
- 55 voorgeskrewe wyse in.

(3) A land development applicant shall give notice of a land development application to the prescribed persons or bodies.

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

- (a) to provide the designated officer with comments in writing on the land development application within the period of time prescribed and specified in the notice; or 5
- (b) failing the delivery of comments within such period, or if such comments were delivered but constitute an objection to any aspect of the land development application, to appear in person or through a representative 10 before a tribunal on a date specified 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 under section 18(2).

(6) The designated officer shall within the prescribed period provide the land development applicant with any comments, objections or representations received in terms of subsection (4)(a), to which the land development applicant may reply within the prescribed period. 15

Submission of land development application to tribunal

50. The designated officer shall, prior to the consideration of the land development application by a tribunal on the date contemplated in section 49(4)(b), consider— 20

- (a) the land development application;
- (b) any comments, objections or representations received within the period referred to in section 49(4)(a);
- (c) any reply by the land development applicant to such comments, objections or representations, 25

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

Consideration of application by tribunal 30

51. (1) After receipt of the documents referred to in section 50, and on the date referred to in section 49(4)(b), a tribunal shall consider and may approve or refuse the land development application in whole or in part or postpone its decision thereon and may in approving the land development application impose one or more of the conditions contemplated in subsection (2). 35

(2) In approving a land development application in terms of this Chapter, a tribunal may, either of its own accord or in response to that application, impose any condition of establishment relating to—

- (a) the question whether the land in the land development area is to be subdivided in terms of this Chapter; 40
- (b) the ownership of the land forming the subject of a land development application and the administration of the settlement of persons on such land by any person, trust, body of persons or juristic person with due regard to the wishes of the community concerned, and subject to the provisions of any law;
- (c) the question whether the use of land in the land development area is to be regulated by— 45
 - (i) the Conservation of Agricultural Resources Act, 1983 (Act No. 43 of 1983);
 - (ii) provisions relating to the use of land outside local government areas which have been prescribed generally for that purpose; 50
 - (iii) specific provisions relating to special or strategic projects which have been prescribed;
- (d) the question whether the provisions of—
 - (i) any law on physical planning;
 - (ii) any law requiring the approval of an authority for the subdivision of land; 55
 - (iii) sections 9A and 11 of the Advertising on Roads and Ribbon Development Act, 1940;

(3) 'n Grondontwikkelaarsapplikant gee kennis van 'n grondontwikkelaarsaansoek aan die persone of liggame wat voorgeskryf word.

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

- 5 (a) die aangewese beampte van skriftelike kommentaar te voorsien rakende die grondontwikkelaarsaansoek binne die tydperk wat voorgeskryf en in die kennisgewing vermeld word; of
- (b) waar geen kommentaar binne sodanige tydperk gelewer word nie, of indien kommentaar gelewer is wat neerkom op 'n beswaar ten aansien van enige
- 10 aspek van die grondontwikkelaarsaansoek, in persoon of deur 'n verteenwoordiger voor 'n tribunaal op 'n datum in die kennisgewing vermeld, te verskyn.

(5) 'n In subartikel (3) bedoelde kennisgewing het *mutatis mutandis* dieselfde uitwerking as 'n subpoena wat deur 'n tribunaal kragtens artikel 18(2) uitgereik is.

- 15 (6) Die aangewese beampte verskaf binne die voorgeskrewe tydperk enige kommentaar, besware of versoë ingevolge subartikel (4)(a) ontvang, aan die grondontwikkelaarsapplikant, wat binne die voorgeskrewe tydperk daarop kan antwoord.

Voorlegging van grondontwikkelaarsaansoek aan tribunaal

50 Die aangewese beampte oorweeg, voor die oorweging van die grondontwikkelaarsaansoek deur 'n tribunaal op die in artikel 49(4)(b) beoogde datum—

- (a) die grondontwikkelaarsaansoek;
- (b) enige kommentaar, besware of versoë wat binne die in artikel 49(4)(a) bedoelde tydperk ontvang is;
- 25 (c) enige antwoord wat deur die grondontwikkelaarsapplikant op sodanige kommentaar, besware of versoë verstrek is,
- en lê binne die voorgeskrewe tydperk die grondontwikkelaarsaansoek en sodanige kommentaar, besware, versoë en antwoord, tesame met sy of haar verslag en aanbevelings ten aansien van die grondontwikkelaarsaansoek, aan 'n tribunaal vir oorweging voor.

30 Oorweging van aansoek deur tribunaal

51. (1) Na ontvangs van die in artikel 50 bedoelde dokumente en op die in artikel 49(4)(b) bedoelde datum, oorweeg 'n tribunaal die grondontwikkelaarsaansoek en kan hy die grondontwikkelaarsaansoek in geheel of ten dele goedkeur of afwys of sy besluit daarvoor uitstel, en by die goedkeuring van die grondontwikkelaarsaansoek een of meer

35 van die in subartikel (2) beoogde voorwaardes oplê.

(2) By goedkeuring van 'n grondontwikkelaarsaansoek ingevolge hierdie Hoofstuk, kan 'n tribunaal, hetsy uit eie beweging of in antwoord op daardie aansoek, enige stigtingsvoorwaarde oplê met betrekking tot—

- 40 (a) die vraag of die grond in die grondontwikkelaarsgebied ingevolge hierdie Hoofstuk onderverdeel moet word;
- (b) die eiendomsreg van die grond waarop 'n grondontwikkelaarsaansoek betrekking het en die administrasie van die vestiging van persone op sodanige grond deur enige persoon, trust, liggaam van persone of regsper-
- 45 soon met inagneming van die wense van die betrokke gemeenskap en behoudens die bepalings van enige wet;
- (c) die vraag of die grondgebruik in die grondontwikkelaarsgebied gereël moet word deur—
- (i) die Wet op Bewaring van Landbouhulpbronne, 1983 (Wet No. 43 van 1983);
- 50 (ii) bepalings met betrekking tot die gebruik van grond buite plaaslike owerheidsgebiede wat in die algemeen vir daardie doel voorgeskryf is;
- (iii) spesifieke bepalings met betrekking tot spesiale of strategiese projekte wat voorgeskryf is;
- (d) die vraag of die bepalings van—
- 55 (i) enige wet met betrekking tot fisiese beplanning;
- (ii) enige wet wat die goedkeuring van 'n owerheid vir die onderverdeling van grond vereis;
- (iii) artikels 9A en 11 van die Wet op Adverteer Langs en Toebou van Paaie, 1940;

- (iv) section 12 of the National Roads Act, 1971;
- (v) any other law, but not the Restitution of Land Rights Act, 1994, which in the opinion of the tribunal may have a dilatory or adverse effect on the proposed land development or the settlement of persons therein, shall apply in respect of a land development area in question: Provided that a decision to suspend the application of a law shall be taken after the tribunal has afforded the authority, if any, which is responsible for the administration of the law, and any interested person or body, an opportunity to provide the tribunal with its views on the expedience of such a decision in the circumstances;
- (e) the environment or environmental evaluations;
- (f) the manner in which members of any community residing in a settlement shall be consulted during the process of land development whenever land development takes the form of the upgrading of an existing settlement;
- (g) the manner in which the interests of any beneficial occupier of the land development area are to be accommodated whenever land development takes the form of the upgrading of an existing settlement; and
- (h) any other matter considered necessary by the tribunal.
- (3) A condition of establishment—
- (a) imposed under subsection (2)(c)(i) shall have effect despite any provision to the contrary contained in the law contemplated in that subsection; and
- (b) relating to the suspension of the application of any law referred to in subsection (2)(d), shall have the effect of so suspending such law, and comes into operation upon notice of such condition being given by the designated officer in the *Provincial Gazette* or, if a later date is stated in the notice, with effect from such later date.
- (4) Any condition imposed under subsection (2) according to which a land development applicant shall perform any act, shall state by which stage during the course of the establishment of the land development area such act shall be performed.

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

52. (1) Subject to the procedures and conditions prescribed—
- (a) a land development application may be amended;
- (b) any condition of establishment may be amended or deleted;
- (c) a land development area may be divided into two or more land development areas;
- (d) another land development applicant may continue with the land development application in the place of the original or a subsequent land development applicant.
- (2) The designated officer shall inform the registrar of any event contemplated in subsection (1).

Land development on behalf of State or local government body

53. (1) The State or a local government body may in the prescribed manner and subject to the prescribed guidelines appoint, in terms of a land availability agreement submitted to and approved by a tribunal, any person to carry on land development in terms of this Chapter on land owned by the State or such local government body.
- (2) Any land which has been made available in terms of subsection (1)—
- (a) shall remain subject to the control of the Minister, MEC or local government body, as the case may be, who or which may, in the event of a breach of the conditions on which the land was so made available by the person to whom the land was made available, withdraw the land thus made available and

- (iv) artikel 12 van die Wet op Nasionale Paaie, 1971;
 (v) enige ander wet, maar nie die Wet op Herstel van Grondregte, 1994, nie, wat na die mening van die tribunaal 'n verdragende of nadelige uitwerking op die voorgestelde grondontwikkeling of die vestiging van persone daarin kan hê,

5 ten opsigte van 'n betrokke grondontwikkelingsgebied van toepassing is: Met dien verstande dat 'n besluit om die toepassing van 'n wet op te hef, geneem word nadat die tribunaal die gesag, indien enige, wat verantwoordelik is vir die administrasie van die wet, en enige belanghebbende persoon of liggaam, 'n geleentheid gebied het om die tribunaal van sy mening aangaande die wenslikheid van so 'n besluit onder die omstandighede, te voorsien;

- (e) die omgewing of omgewingsevaluerings;
 (f) die wyse waarop die lede van enige gemeenskap wat in 'n vestiging woon gedurende die grondontwikkelingsproses geraadpleeg moet word wanneer grondontwikkeling die vorm aanneem van die opgradering van 'n bestaande vestiging;
 (g) die wyse waarop die belange van enige voordeeltrekkende okkupeerder van die grondontwikkelingsgebied geakkommodeer moet word wanneer grondontwikkeling die vorm aanneem van die opgradering van 'n bestaande vestiging; en

20 (h) enige ander aangeleentheid wat die tribunaal nodig ag.

(3) 'n Stigtingsvoorwaarde—

- (a) kragtens subartikel (2)(c)(i) opgelê is van krag ondanks enige andersluidende bepalings van die wet in daardie subartikel bedoel; en
 25 (b) met betrekking tot die opskorting van die toepassing van enige in subartikel (2)(d) bedoelde wet, het die effek dat die toepassing van so 'n wet aldus opgeskort word,

en tree in werking op die datum van kennisgewing van sodanige voorwaarde deur die aangewese beampte in die *Provinsiale Koerant*, of indien 'n latere datum in die
 30 kennisgewing vermeld word, vanaf sodanige latere datum.

(4) Enige voorwaarde kragtens subartikel (2) opgelê waarvolgens 'n grondontwikkelingsapplikant 'n handeling moet verrig, bepaal die tydstip waarop die handeling gedurende die stigting van die grondontwikkelingsgebied uitgevoer moet word.

35 Wysiging van grondontwikkelingsaansoek en stigtingsvoorwaardes, verdeling van grondontwikkelingsgebied en voortsetting van grondontwikkelingsaansoek deur 'n ander grondontwikkelingsapplikant

52. (1) Behoudens die prosedures en voorwaardes wat voorgeskryf word, kan—

- (a) 'n grondontwikkelingsaansoek gewysig word;
 40 (b) enige stigtingsvoorwaarde gewysig of geskrap word;
 (c) 'n grondontwikkelingsgebied in twee of meer grondontwikkelingsgebiede verdeel word;
 (d) 'n ander grondontwikkelingsapplikant die grondontwikkelingsaansoek in die plek van die oorspronklike of 'n daaropvolgende grondontwikkelingsapplikant voortsit.

45 (2) Die aangewese beampte verwittig die registrateur van enige in subartikel (1) beoogde gebeurtenis.

Grondontwikkeling namens Staat of plaaslike owerheidsliggaam

50 53. (1) Die Staat of 'n plaaslike owerheidsliggaam kan, op die voorgeskrewe wyse en behoudens die voorgeskrewe riglyne, enige persoon ingevolge 'n grondbeskikbaarheidssooreenkoms voorgelê aan en goedgekeur deur 'n tribunaal, aanwys om grondontwikkeling ingevolge hierdie Hoofstuk te doen op grond waarvan die Staat of sodanige plaaslike owerheidsliggaam die eienaar is.

(2) Enige grond wat ingevolge subartikel (1) beskikbaar gestel is—

- 55 (a) bly onderworpe aan die beheer van die Minister, LUR of 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 aan wie die grond beskikbaar gestel is, die grond aldus beskikbaar gestel kan terugneem en daarna met sodanige grond kan handel soos wat die

thereafter deal with such land as the Minister, MEC or local government body, as the case may be, deems fit;

- (b) shall not in any way be alienated or further encumbered by the State or local government body while the land remains so available to the person concerned;
- (c) may be alienated by the person to whom the land has been made available, only in his or her capacity as the duly authorised agent of the State or local government body, and on the same conditions on which the land has been made available to such person. 5

Subdivision of land

54. (1) A land development applicant intending to subdivide land for the purposes of land development contemplated in this Chapter shall draw up or cause to be drawn up a settlement plan indicating the intended subdivision and submit the settlement plan as part of his or her land development application. 10

(2) A land development applicant may, subject to any condition imposed under section 51(2), subdivide land in a proposed land development area or cause such land to be subdivided in accordance with this Chapter into pieces of land to be used for the purposes shown on the settlement plan. 15

Lodging of documents with Surveyor-General and registrar

55. A land development applicant who has been notified that his or her land development application has been approved shall, within the prescribed period, lodge— 20

- (a) with the Surveyor-General, the plans, diagrams and other information which the Surveyor-General requires to approve a diagram in accordance with the approved application;
- (b) with the registrar, the approved plans and diagrams, together with the title deeds and other documents required for registration by the registrar. 25

Settlement of persons in land development area

56. Settlement of any persons in a land development area shall take place only after a surveyor has surveyed the area 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 have not yet been placed. 30

Investigation and authorisation of non-statutory land development processes

57. (1) Where any local government body or any other interested person or body, including a group of interested persons, has by reason of the actual or likely settlement of persons on, the erection or occupation of any structure on or the layout of land, reasonable grounds for believing that— 35

- (a) such activities are performed contrary to the procedures prescribed in this Act or in any other law; or
- (b) it is in the public interest and the interests of the persons residing or who are going to reside on such land that an exemption under section 48(1) be granted, such body, person or group may refer the matter to the designated officer for investigation. 40

(2) The designated officer shall investigate the matter and submit his or her report thereon to a tribunal.

(3) As soon as is reasonably possible after receiving the report contemplated in subsection (2), a tribunal shall establish whether the settlement of persons, the erection or occupation of buildings on the land or the layout of the land is in any manner inconsistent with any provision or object of this Act or any other law governing the establishment of land development areas unless an exemption under section 48(1) is granted, and if the tribunal is satisfied that such inconsistency exists, it may grant or decline to grant an exemption contemplated in that section in respect of such area. 50

- Minister, LUR of die plaaslike owerheidsliggaam, na gelang van die geval, goevind;
- (b) word nie op enige wyse deur die Staat of plaaslike owerheidsliggaam vervreem of verder beswaar nie terwyl die grond tot beskikking van die
- 5 betrokke persoon is;
- (c) kan deur die persoon aan wie die grond beskikbaar gestel is, vervreem word slegs in sy of haar hoedanigheid as die behoorlik gevolmagtigde agent van die Staat of plaaslike owerheidsliggaam en op dieselfde voorwaardes waarop die grond aan sodanige persoon beskikbaar gestel is.

10 Onderverdeling van grond

54. (1) 'n Grondontwikkelingsapplikant wat voornemens is om grond vir die doeleindes van grondontwikkeling beoog in hierdie Hoofstuk, te onderverdeel, stel 'n vestigingsplan op of laat dit opstel, waarop die voorgenome onderverdeling aangedui word en lê die vestigingsplan voor as deel van sy of haar grondontwikkelingsaansoek.
- 15 (2) 'n Grondontwikkelingsapplikant kan, behoudens enige voorwaarde kragtens artikel 51(2) opgelê, grond in 'n voorgestelde grondontwikkelingsgebied onderverdeel of sodanige grond laat onderverdeel ooreenkomstig hierdie Hoofstuk, in stukke grond wat vir die doeleindes gebruik gaan word wat op die vestigingsplan aangedui word.

Indiening van dokumente by Landmeter-generaal en registrateur

- 20 55. 'n Grondontwikkelingsapplikant wat in kennis gestel is dat sy of haar grondontwikkelingsaansoek goedgekeur is, dien binne die voorgeskrewe tydperk—
- (a) by die Landmeter-generaal die planne, kaarte en ander inligting in wat die Landmeter-generaal vereis om 'n kaart in ooreenstemming met die goedgekeurde aansoek goed te keur;
- 25 (b) by die registrateur die goedgekeurde planne en kaarte in, tesame met die titelaktes en ander dokumente wat deur die registrateur vir registrasie vereis word.

Vestiging van persone op grondontwikkelingsgebied

56. Vestiging van persone op 'n grondontwikkelingsgebied vind slegs plaas nadat 'n
- 30 opmeter die gebied opgemeet 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 die tribunaal bepaal, selfs in die geval waar die bakens nog nie geplaas is nie.

Ondersoek en magtiging van nie-statutêre grondontwikkelingsprosesse

- 35 57. (1) Waar enige plaaslike owerheidsliggaam of enige ander belanghebbende persoon of liggaam, insluitende 'n groep belanghebbende persone, na aanleiding van die werklike of waarskynlike vestiging van persone op grond, die oprigting of okkupasie van enige struktuur daarop of die uitleg daarvan, redelike gronde het om te glo dat—
- 40 (a) sodanige aktiwiteite in stryd met die prosedures in hierdie Wet of enige ander wet voorgeskryf, uitgevoer word; of
- (b) dit in die openbare belang en die belang van die persone is wat op sodanige grond woon of daar gaan woon dat 'n vrystelling kragtens artikel 48(1) verleen word,
- 45 kan sodanige liggaam, persoon of groep die aangeleentheid na die aangewese beampte vir ondersoek verwys.
- (2) Die aangewese beampte ondersoek die aangeleentheid en lê sy of haar verslag daaroor aan 'n tribunaal voor.
- (3) So gou as wat redelikerwys moontlik is na ontvangs van die in subartikel (2)
- 50 beoogde verslag, stel 'n tribunaal vas of die vestiging van persone of die oprigting of okkupasie van geboue op die grond of die uitleg van die grond op enige wyse in stryd is met enige bepaling of doelstelling van hierdie Wet of enige ander wet wat die stigting van grondontwikkelingsgebiede reël tensy 'n vrystelling kragtens artikel 48(1) verleen word, en indien die tribunaal van sodanige strydigheid oortuig is, kan hy 'n vrystelling
- 55 beoog in daardie artikel ten opsigte van sodanige gebied verleen of weier.

(4) A tribunal may in considering a report referred to in subsection (2) conduct the enquiries, hear the evidence and take the steps considered necessary by it 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 of persons, including persons residing in the area concerned; 5
- (b) the feasibility of providing rudimentary services in the area concerned and of the upgrading of such services over a period of time;
- (c) the feasibility of housing persons in temporary buildings erected by themselves in the area;
- (d) the feasibility of the development of appropriate community facilities and services in the area; 10
- (e) the suitability of the area for small-scale farming, taking into account its natural resources and location in relation to agricultural facilities;
- (f) the feasibility of providing occupants of the area with appropriate security of land tenure; 15
- (g) the feasibility of erecting permanent dwellings over a period of time;
- (h) the feasibility of establishing an appropriate local government body or including the area within the local government area of such a body and of providing municipal services to the area;
- (i) the possibility of persons settling in the area being able to acquire sites which are affordable to them, taking into account their likely income and other means of finance, including finance provided by the State; 20
- (j) the feasibility of the area being fully established as a land development area over a period of time;
- (k) the rights of any person in or in respect of the area and, if necessary, the feasibility of such area or rights being expropriated or otherwise acquired for the purpose of establishing a land development area; 25
- (l) the environmental sustainability of developing or permitting small scale farming in the area;
- (m) any similar matter prescribed; and 30
- (n) any other similar matter which the tribunal may deem necessary.

(5) The provisions of any law on the 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 proceedings contemplated in that subsection which are pending. 35

Delegation

58. (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 by section 59, to a Premier or to any officer in the Departments of Land Affairs or Agriculture. 40

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

(3) A delegation or assignment under subsections (1) or (2) shall not prevent the Minister or a Premier, as the case may be, from himself or herself exercising the power or performing the duty concerned. 45

Regulations

59. (1) The Minister may, subject to the provisions of subsection (3), make regulations regarding— 50

- (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 designated officers;
- (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 area; 55

- (4) 'n Tribunaal kan by die oorweging van 'n in subartikel (2) bedoelde verslag die ondersoek instel, die getuienis aanhoor en die stappe doen wat hy in die omstandighede nodig ag, en neem by die oorweging van die aangeleentheid in ag—
- (a) die gesondheid of veiligheid van die publiek in die algemeen, of van enige klas persone, insluitende persone wat in die betrokke gebied woon;
 - (b) die doenlikheid van die verskaffing van rudimentêre dienste in die betrokke gebied en van die opgradering van sodanige dienste oor 'n tydperk;
 - (c) die doenlikheid van die huisvesting van persone in tydelike geboue deur hulleself in die gebied opgerig;
 - (d) die doenlikheid van die ontwikkeling van toepaslike gemeenskapsfasiliteite en -dienste in die gebied;
 - (e) die geskiktheid van die gebied vir kleinskaalboerdery met inagneming van natuurlike hulpbronne en die ligging daarvan met betrekking tot landboufasiliteite;
 - (f) die doenlikheid van die voorsiening aan okkupeerders van die gebied van gepaste sekuriteit van grondtitel;
 - (g) die doenlikheid van die oprigting van permanente wonings oor 'n tydperk;
 - (h) die doenlikheid van die totstandkoming van 'n gepaste plaaslike owerheidsliggaam, of van die insluiting van die gebied by die plaaslike owerheidsgebied van sodanige liggaam, en van die voorsiening van munisipale dienste aan die gebied;
 - (i) die moontlikheid dat persone wat hulle in die gebied vestig in staat sal wees om erwe te verkry wat vir hulle bekostigbaar is, met inagneming van hulle waarskynlike inkomste en ander finansieringsbronne, insluitende finansiering wat deur die Staat voorsien word;
 - (j) die doenlikheid om die gebied oor 'n tydperk volledig as 'n grondontwikkelingsgebied te vestig;
 - (k) die regte van enige persoon in of ten opsigte van die gebied en, indien nodig, die doenlikheid om sodanige gebied of regte te onteien of andersins te verkry vir die doel van die stigting van 'n grondontwikkelingsgebied;
 - (l) die omgewingshoudbaarheid van die ontwikkeling of die toelating van kleinskaalboerdery in die gebied;
 - (m) enige soortgelyke aangeleentheid voorgeskryf; en
 - (n) enige ander soortgelyke aangeleentheid wat die tribunaal nodig ag.
- (5) Die bepalings van enige wet met betrekking tot die stigting van 'n grondontwikkelingsgebied of grondgebruikbeplanning is nie van toepassing op grond ten opsigte waarvan 'n in subartikel (3) bedoelde vrystelling verleen is of ten opsigte waarvan verrigtinge in daardie subartikel beoog, hangende is nie.

Delegering

58. (1) Die Minister kan enige bevoegdheid of plig aan hom of haar verleen of opgelê by of kragtens hierdie Hoofstuk, uitgesonderd die bevoegdheid by artikel 59 aan hom of haar verleen, aan 'n Premier of aan enige beampte in die Departemente van Grondsake of Landbou delegeer of opdra.
- (2) 'n Premier kan enige bevoegdheid of plig aan hom of haar by of kragtens hierdie Hoofstuk verleen of opgelê, insluitende enige bevoegdheid of plig aan hom of haar kragtens subartikel (1) gedelegeer of opgedra, aan enige beampte in die provinsiale administrasie of in die diens van 'n plaaslike owerheidsliggaam delegeer of opdra.
- (3) 'n Delegasie of opdrag kragtens subartikels (1) of (2) belet nie die Minister of 'n Premier, na gelang van die geval, om self die betrokke bevoegdheid uit te oefen of die betrokke plig uit te voer nie.

Regulasies

59. (1) Die Minister kan, behoudens die bepalings van subartikel (3), regulasies uitvaardig in verband met—
- (a) die vorms 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 aangewese beamptes;
 - (d) die pligte van 'n grondontwikkelingsappikant, aangewese beampte of 'n plaaslike owerheidsliggaam om aan enige persoon of liggaam kennis te gee

- (e) the effect of non-compliance with any time limit prescribed under this Chapter;
 - (f) the powers, duties and functions of a local government body or any other competent authority in relation to land development;
 - (g) the inspections and investigations in relation to land development applications; 5
 - (h) the fees and travelling allowances, if any, to be charged or paid in respect of any act required or authorised to be done under this Chapter;
 - (i) the regulation of the use of land in a land development area;
 - (j) the guidelines for a land availability agreement contemplated in section 53; 10
 - (k) the supply of services to persons who are settled in a land development area;
 - (l) the granting of financial or other assistance to a land development applicant or intended beneficiary of land development;
 - (m) any steps which may be taken if a land development applicant does not comply with the conditions of a land availability agreement; 15
 - (n) any other matter which in terms of this Chapter is required or permitted to be prescribed;
 - (o) any other matter which he or she considers necessary to prescribe in order to achieve the objects of this Chapter.
- (2) The Minister may make different regulations in respect of different areas. 20
- (3) The provisions of section 46(3) shall, *mutatis mutandis*, apply to regulations made under subsection (1).

State and local government bound

60. This Chapter binds the State and local government bodies.

CHAPTER VII

25

Land tenure matters

Registration arrangement involving surveyor and conveyancer

61. (1) Any land development applicant referred to in Chapter V may apply to a tribunal for the approval of a registration arrangement contemplated in this section.
- (2) A tribunal shall not refuse an application referred to in subsection (1) if— 30
- (a) the provisions of section 38(2)(a) to (g) have been complied with to the satisfaction of the tribunal;
 - (b) the tribunal is satisfied that the conveyancer and professional land surveyor responsible for the issuing of the certificates contemplated in subsection (4) are in possession of sufficient insurance which enables them to issue the certificates; and 35
 - (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 subject to a suspensive condition that the State or local government body concerned becomes the owner of the land, and if the State or local government body concerned has not yet taken transfer of ownership of the land concerned, that such land has been expropriated in favour of the State or such local government body by any competent authority. 40
- (3) A tribunal may grant an application in terms of subsection (1) subject to the conditions it deems appropriate: Provided that any condition requiring registration in a deeds registry shall be imposed under section 33(2) and not under this subsection. 45

- van enige feit met betrekking tot die stigting van 'n grondontwikkelingsgebied;
- (e) die gevolge van die nie-nakoming van enige tydsbeperking kragtens hierdie Hoofstuk voorgeskryf;
- 5 (f) die bevoegdhe, pligte en werksaamhede van 'n plaaslike owerheidsliggaam of enige ander bevoegde owerheid met betrekking tot grondontwikkeling;
- (g) die inspeksies en ondersoeke met betrekking tot grondontwikkelingsaansoeke;
- 10 (h) die gelde en reistoelae, indien enige, wat gehef of betaal moet word ten opsigte van enige handeling wat kragtens hierdie Hoofstuk verrig moet of kan word;
- (i) die regulering van grondgebruik in 'n grondontwikkelingsgebied;
- (j) die riglyne vir 'n in artikel 53 beoogde grondbeskikbaarheidsooreenkoms;
- 15 (k) die verskaffing van dienste aan persone wat op 'n grondontwikkelingsgebied gevestig is;
- (l) die toestaan van finansiële of ander hulp aan 'n grondontwikkelingsapplikant of persoon wat bestem is om deur grondontwikkeling bevoordeel te word;
- 20 (m) enige stappe wat gedoen kan word indien 'n grondontwikkelingsapplikant nie aan die voorwaardes van 'n grondbeskikbaarheidsooreenkoms voldoen nie;
- (n) enige ander aangeleentheid wat ingevolge hierdie Hoofstuk voorgeskryf moet of kan word;
- (o) enige ander aangeleentheid wat hy of sy nodig ag om voor te skryf ten einde die oogmerke van hierdie Hoofstuk te verwesenlik.
- 25 (2) Die Minister kan verskillende regulasies ten opsigte van verskillende gebiede uitvaardig.
- (3) Die bepalings van artikel 46(3) is *mutatis mutandis* van toepassing op regulasies kragtens subartikel (1) gemaak.

30 Staat en plaaslike owerheid gebonde

60. Hierdie Hoofstuk bind die Staat en plaaslike owerheidsliggame.

HOOFSUK VII

Grondtitelaangeleenthede

Registrasiereëling waarby opmeter en transportbesorger betrokke is

- 35 61. (1) Enige in Hoofstuk V bedoelde grondontwikkelingsapplikant kan by 'n tribunaal aansoek doen om die goedkeuring van 'n registrasiereëling in hierdie artikel beoog.
- (2) 'n Tribunaal weier nie 'n in subartikel (1) bedoelde aansoek nie indien—
- 40 (a) die bepalings van artikel 38(2)(a) tot (g) tot bevrediging van die tribunaal nagekom is;
- (b) die tribunaal tevrede is dat die transportbesorger en professionele landmeter verantwoordelik vir die uitreiking van die in subartikel (4) bedoelde sertifikate, oor voldoende versekering beskik wat hulle in staat stel om die
- 45 (c) die tribunaal tevrede is, indien die grondontwikkelingsapplikant die Staat is of 'n plaaslike owerheidsliggaam of 'n persoon of liggaam met wie of waarmee die Staat of plaaslike owerheidsliggaam 'n grondbeskikbaarheidsooreenkoms aangegaan het onderworpe aan 'n opskortende voorwaarde dat die Staat of betrokke plaaslike owerheidsliggaam die eienaar van die
- 50 grond word, en indien die Staat of betrokke plaaslike owerheidsliggaam nog nie oordrag van eiendomsreg op die betrokke grond geneem 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 onderworpe aan
- 55 die voorwaardes wat hy toepaslik ag; Met dien verstande dat enige voorwaarde wat registrasie in 'n registrasiekantoor vereis kragtens artikel 33(2) en nie kragtens hierdie subartikel nie, opgelê word.

(4) (a) At any time after an application in terms of subsection (1) has been granted, the professional land surveyor contemplated in subsection (2)(b) may issue a certificate in the prescribed form certifying that the beacons referred to in section 38(2)(c) were placed 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. 5

(b) At any time after an application in terms of subsection (1) has been granted, and if granted subject to a condition referred to in subsection (3), which condition has to be fulfilled prior to the issuing of a certificate contemplated in this paragraph, after such a condition 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 transfer of ownership of erven in the land development area may be registered as contemplated in section 38(1), and to the effect that he or she is of the opinion that, in the light of the circumstances contemplated in subsection (2)(a) to (c), there is no substantial risk that transfer of ownership of such erven will not be so registered. 10 15

(5) The provisions of section 43 relating to professional responsibility and liability apply *mutatis mutandis* to a certificate referred to in subsection (4).

(6) The land development applicant shall file copies of the certificates referred to in subsection (4) with the designated officer and the originals of such certificates, together with the layout plan and an application by the land development applicant for the registrar to take the steps in terms of subsection (7), shall be lodged with the registrar. 20

(7) Upon receipt of the certificates and the 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 contemplated in this section is in operation in relation to the land development area in question; and 25
- (b) create a separate register for the registration of initial ownership by reference to the numbers of the individual, proposed erven appearing on the layout plan: Provided that the registrar shall not be obliged to create such a register if the land development area is situated within more than one province or within the area of jurisdiction of more than one deeds registry or a deeds registry referred to in section 66. 30

Initial ownership

62. (1) As soon as the entries referred to in section 61(7) have been made by the registrar, a form of title to be known as initial ownership may be registered in a deeds registry. 35

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

(3) The first transfer of initial ownership of an erf in a land development area shall take place by means of a deed of transfer in a form prescribed under the Deeds Registries Act, 1937. 40

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

- (a) the right to occupy and use the erf concerned as if he or she were the owner thereof; 45
- (b) the right to acquire ownership of such erf as contemplated in subsection (7);
- (c) the right to encumber the initial ownership by means of a mortgage or a personal servitude but, subject to paragraph (d) and subsections (5)(b) and (6), not the right otherwise to encumber or deal with the initial ownership: Provided that for the purposes of creating or reserving a personal servitude in terms of this paragraph, a reference to "land" in the Deeds Registries Act, 1937, shall be construed so as to include a reference to a registered right of initial ownership; and 50
- (d) the right to sell such initial ownership.

(4) (a) Te eniger tyd nadat 'n aansoek ingevolge subartikel (1) goedgekeur is, kan die in subartikel (2)(b) bedoelde professionele landmeter 'n sertifikaat in die voorgeskrewe vorm uitreik waarin gesertifiseer word dat die in subartikel 38(2)(c) bedoelde bakens ingevolge daardie subartikel geplaas is en met die strekking dat hy of sy van mening is dat daar geen wesenlike risiko is dat 'n algemene plan nie dienooreenkomstig goedgekeur sal word nie.

(b) Te eniger tyd nadat 'n aansoek ingevolge subartikel (1) goedgekeur is, en indien dit goedgekeur is onderworpe aan 'n in subartikel (3) bedoelde voorwaarde wat eers vervul moet word voordat 'n in hierdie paragraaf beoogde sertifikaat uitgereik kan word, nadat sodanige voorwaarde vervul is, kan die in subartikel (2)(b) bedoelde transportbesorger 'n sertifikaat in die voorgeskrewe vorm uitreik waarin die oorblywende registreerbare transaksies beskryf word wat in 'n registrasiekantoor vereis word voordat oordrag van eiendomsreg op erwe in die grondontwikkelingsgebied geregistreer kan word soos beoog in artikel 38(1), en tot die effek dat hy of sy van mening is dat in die lig van die omstandighede in subartikel (2)(a) tot (c) beoog, daar geen wesenlike risiko is dat oordrag van eiendomsreg op sodanige erwe nie aldus geregistreer sal kan word nie.

(5) Die bepalinge van artikel 43 met betrekking tot professionele verantwoordelikheid en aanspreeklikheid is *mutatis mutandis* van toepassing ten opsigte van 'n in subartikel (4) bedoelde sertifikaat.

(6) Die grondontwikkelingsapplikant moet afskrifte van die in subartikel (4) bedoelde sertifikate by die aangewese beampte indien en die oorspronklike van sodanige sertifikate, tesame met die uitlegplan en 'n aansoek deur die grondontwikkelingsapplikant aan die registrateur om die stappe ingevolge subartikel (7) te doen, word by die registrateur ingedien.

(7) By ontvangs van die sertifikate en die ander in subartikel (6) bedoelde dokumente, maak die registrateur die inskrywing in sy of haar register wat nodig mag wees ten einde—

- (a) aan te toon dat 'n in hierdie artikel beoogde registrasieëling in werking is met betrekking tot die betrokke grondontwikkelingsgebied; en
- (b) 'n afsonderlike register vir die registrasie van voorlopige eiendomsreg te skep met verwysing na die nommers van die individuele, voorgestelde erwe wat op die uitlegplan voorkom: Met dien verstande dat die registrateur nie verplig is om sodanige register te skep nie indien die grondontwikkelingsgebied in meer as een provinsie geleë is of binne die jurisdiksiegebied van meer as een registrasiekantoor of 'n registrasiekantoor in artikel 66 bedoel.

Voorlopige eiendomsreg

62. (1) Sodra die in artikel 61(7) bedoelde inskrywings deur die registrateur gemaak is, kan 'n titelvorm wat as voorlopige eiendomsreg bekend staan in die registrasiekantoor geregistreer word.

(2) Die eerste oordrag van voorlopige eiendomsreg word ooreenkomstig die bepalinge van die Registrasie van Aktes Wet, 1937, geregistreer.

(3) Die eerste oordrag van voorlopige eiendomsreg op 'n erf in 'n grondontwikkelingsgebied geskied deur middel van 'n transportakte in 'n vorm wat kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf word.

(4) Registrasie van oordrag van voorlopige eiendomsreg kragtens subartikel (2) vestig in die houer van die voorlopige eiendomsreg—

- (a) die reg om die betrokke erf te okkupeer en te gebruik asof hy of sy die eienaar daarvan is;
- (b) die reg om eiendomsreg op sodanige erf te verkry soos beoog in subartikel (7);
- (c) die reg om die voorlopige eiendomsreg deur middel van 'n verband of 'n persoonlike serwituut te beswaar, maar behoudens paragraaf (d) en subartikels (5)(b) en (6), nie die reg om die voorlopige eiendomsreg andersins te beswaar of daarmee te handel nie: Met dien verstande dat vir die doeleindes van die skepping of reservering van 'n persoonlike serwituut ingevolge hierdie paragraaf 'n verwysing na "grond" in die Registrasie van Aktes Wet, 1937, vertolk word as sou dit 'n verwysing na geregistreerde voorlopige eiendomsreg insluit; en
- (d) die reg om sodanige voorlopige eiendomsreg te verkoop.

(5) (a) Land in respect of which initial ownership has been transferred shall not, until the initial ownership has been converted into ownership under subsection (7), in any way be alienated or further encumbered by the owner of that land, except to the extent that it may be necessary to comply with a condition of establishment or to register ownership of the land under section 38(1). 5

(b) A registrar may, despite the provisions of section 6 of the Deeds Registries Act, 1937, cancel a deed of transfer conveying initial ownership if, subject to subsection (6), the owner of the land concerned, the holder of the initial ownership of the land, the holder of a personal servitude contemplated in subsection (4)(c) and the mortgagee in respect of the initial ownership, or in respect of such personal servitude, if any, agree thereto and such servitude or bond may be cancelled likewise. 10

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

(6) In the event of initial ownership being sold by the holder thereof or offered for sale during the administration of a deceased estate, a sale in execution, or a sale in consequence of the insolvency or liquidation of the holder of such initial ownership, or where some other event occurs requiring the transfer of such initial ownership, the initial ownership may be transferred in terms of the provisions of the Deeds Registries Act, 1937, as if it were for all purposes a transfer of ownership of land: Provided that such transfer shall not confer upon the transferee any right which the previous holder of initial ownership did not have. 15 20

(7) Immediately upon an erf which is the object of initial ownership becoming registrable in ownership as contemplated in section 38(1), such initial ownership shall be converted into ownership and from such conversion the ownership of such erf shall, subject to any right which would, but for section 65, read with section 64(8), have been recorded in a deeds registry, vest exclusively in the person who was the holder of initial ownership in respect of such erf immediately before the conversion. 25

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

(a) a mortgage bond or personal servitude registered in respect of initial ownership shall be converted into a mortgage or personal servitude in respect of the erf in question; and 30

(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 erf or land in the land development area concerned.

(9) (a) In order to give effect to subsections (7) and (8), the registrar shall make the necessary entries and endorsements in or on his or her registers and other documents in his or her office or submitted to him or her. 35

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

Conversion of informal tenure 40

63. (1) Whenever land development takes the form of the upgrading of an existing settlement, informal or unregistered tenure arrangements existing among occupants of the settlement may, subject to any condition referred to in section 33(2)(p) or 51(2)(g), be converted into ownership in the manner prescribed.

(2) The regulations contemplated in subsection (1) may relate to— 45

(a) the role of any committee, which includes members of the community residing on the settlement in question, in the conversion of such informal tenure arrangements into ownership;

(b) the use of aerial photographs or other technology for the purpose of compiling a layout or settlement plan; 50

(c) the compilation of a draft layout or settlement plan of the settlement;

(d) the co-operation between various parties involved in the upgrading of the settlement and the persons residing in the settlement in respect of the identification of physical boundaries and the adjudication of disputes;

(e) the numbering of structures or dwellings on the settlement; 55

(f) the compilation of a formal layout plan or settlement plan of the settlement;

(g) the placing of beacons on the settlement in accordance with the Land Survey Act, 1927;

(5) (a) Grond ten opsigte waarvan voorlopige eiendomsreg oorgedra is, word nie, alvorens die voorlopige eiendomsreg kragtens subartikel (7) in eiendomsreg omskep is, deur die eienaar van daardie grond op enige wyse vervreem of verder beswaar nie behalwe vir sover dit nodig mag wees om aan 'n stigtingsvoorwaarde te voldoen of om 5 eiendomsreg op die grond kragtens artikel 38(1) te registreer.

(b) 'n Registrateur kan, ondanks die bepalings van artikel 6 van die Registrasie van Aktes Wet, 1937, 'n transportakte waarby voorlopige eiendomsreg oorgedra word, rojeer indien, behoudens subartikel (6), die eienaar van die betrokke grond, die houer van die voorlopige eiendomsreg op die grond, die houer van 'n persoonlike serwituut 10 beoog in subartikel (4)(c) en die houer van 'n verband ten opsigte van die voorlopige eiendomsreg of sodanige persoonlike serwituut, indien enige, daartoe toestem en sodanige serwituut of verband kan op dergelike wyse gekanselleer word.

(c) Geen hereregte of seëlreg is betaalbaar ten opsigte van 'n rojering ingevolge paragraaf (b) nie.

15 (6) In die geval waar voorlopige eiendomsreg deur die houer daarvan verkoop word of te koop aangebied word gedurende die administrasie van 'n bestorwe boedel, 'n verkoping in eksekusie of 'n verkoping as gevolg van die insolvensie of likwidasië van die houer van sodanige voorlopige eiendomsreg, of waar 'n ander gebeurtenis plaasvind wat die oordrag van voorlopige eiendomsreg verg, kan voorlopige eiendoms- 20 reg ingevolge die bepalings van die Registrasie van Aktes Wet, 1937, oorgedra word asof dit vir alle doeleindes eiendomsreg op grond is wat oorgedra word: Met dien verstande dat sodanige oordrag nie aan die oordragnemer enige reg verleen wat die vorige houer van voorlopige eiendomsreg nie gehad het nie.

(7) Onmiddellik wanneer 'n erf wat die voorwerp van voorlopige eiendomsreg is, 25 registreerbaar word in eiendomsreg soos beoog in artikel 38(1), word sodanige voorlopige eiendomsreg omskep in eiendomsreg en vanaf sodanige omskepping vestig die eiendomsreg op sodanige erf, behoudens enige reg wat in 'n registrasiekantoor aangeteken sou wees as dit nie was nie vir die bepalings van artikel 65, saamgelees met artikel 64(8), uitsluitlik in die persoon wat onmiddellik voor die omskepping die houer 30 van voorlopige eiendomsreg op 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, omskep in 'n verband of persoonlike serwituut ten opsigte van die betrokke erf; en

35 (b) is sodanige eiendomsreg aan enige voorwaarde, serwituut, verband of ander reg onmiddellik voor sodanige omskepping teen die titel van die erf of grond in die betrokke grondontwikkelingsgebied geregistreer, onderworpe.

(9) (a) Ten einde gevolg te gee aan subartikels (7) en (8), maak die registrateur die nodige inskrywings en endossemente in of op sy of haar registers en ander dokumente 40 in sy of haar kantoor of aan hom of haar voorgelê.

(b) Geen hereregte, seëlreg of ander gelde is ten opsigte van sodanige inskrywings en endossemente betaalbaar nie.

Omskepping van informele titel

63. (1) Wanneer grondontwikkeling die vorm van 'n opgradering van 'n bestaande 45 vestiging aanneem, kan informele of ongeregistreerde titelreëlings wat tussen okkupeerders van die vestiging bestaan, onderworpe aan enige in artikel 33(2)(p) of 51(2)(g) bedoelde voorwaarde, in eiendomsreg op die voorgeskrewe wyse omskep word.

(2) Die in subartikel (1) beoogde regulasies kan betrekking hê op—

50 (a) die rol van enige komitee, wat lede van die gemeenskap wat op die vestiging woon, insluit, in die omskepping van sodanige informele titelreëlings in eiendomsreg;

(b) die gebruik van lugfoto's of ander tegnologie met die oog op die samestelling van 'n uitleg- of vestigingsplan;

55 (c) die samestelling van 'n konsep uitleg- of vestigingsplan van die vestiging; (d) die samewerking tussen verskillende partye betrokke by die opgradering van die vestiging en die persone woonagtig op die vestiging ten opsigte van die

identifisering van fisiese grense en die beslegting van geskille;

(e) die nommering van strukture en wonings op die vestiging;

(f) die samestelling van 'n formele uitleg- of vestigingsplan van die vestiging;

60 (g) die plasing van bakens op die vestiging ooreenkomstig die Opmetingswet, 1927;

(h) the stage of the upgrading at which surveys shall be carried out, a general plan shall be submitted to the Surveyor-General and the manner in which proposed erven in the settlement shall be rendered capable, in accordance with the Land Survey Act, 1927, and the Deeds Registries Act, 1937, of registration in ownership. 5

(3) The provisions of section 46(3) shall, *mutatis mutandis*, apply to regulations made under subsection (2).

Special deeds of transfer

64. (1) As soon as transfer of ownership of erven in a land development area may be registered under section 38(1), a deed of transfer contemplated in this section may be prepared and lodged with a registrar: Provided that— 10

(a) this section shall not preclude the registration of transfer of ownership of an erf in terms of any other law; and

(b) a deed of transfer contemplated in this section shall be used only in respect of the first transfer of ownership of an erf in a land development area subdivided under this Act. 15

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

(a) a conveyancer; or

(b) if the owner of the erf 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 Minister, Premier or local government body, as the case may be. 20

(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 erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or officer or person referred to in subsection (2)(b) in the manner prescribed under that Act. 25

(4) An officer or person referred to in subsection (2)(b)—

(a) shall disclose 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 for the purposes of the registration of the said transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, *mutatis mutandis*, in terms of section 15A(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and 30 35

(b) may, despite 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 contemplated in this section.

(5) A conveyancer, officer or 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. 40

(6) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937. 45

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

(8) Section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply and no transfer duty or stamp duty shall be payable in respect of the transfer of any erf in terms of this section. 50

Deeds of transfer relating to initial ownership

65. Section 64(2) to (8) shall, *mutatis mutandis*, apply to the registration of the first transfer of initial ownership.

- (h) die stadium van die opgradering waarin opmetings gedoen moet word, 'n algemene plan aan die Landmeter-generaal voorgelê moet word en die wyse waarop die voorgestelde erwe in die vestiging ooreenkomstig die Opmetingswet, 1927, en die Registrasie van Aktes Wet, 1937, voorberei moet word vir registrasie van eiendomsreg daarop.
- 5 (3) Die bepalings van artikel 46(3) is *mutatis mutandis* van toepassing op regulasies kragtens subartikel (2) gemaak.

Spesiale transportaktes

64. (1) Sodra oordrag van eiendomsreg op erwe in 'n grondontwikkelingsgebied 10 kragtens artikel 38(1) geregistreer kan word, kan 'n transportakte in hierdie artikel beoog voorberei en by 'n registrateur ingedien word: Met dien verstande dat—
- (a) hierdie artikel nie die registrasie van oordrag van eiendomsreg op 'n erf ingevolge enige ander wet verhinder nie; en
- (b) 'n in hierdie artikel bedoelde transportakte slegs gebruik word ten opsigte 15 van die eerste oordrag van eiendomsreg op 'n erf in 'n grondontwikkelingsgebied wat kragtens hierdie Wet onderverdeel is.
- (2) 'n In subartikel (1) bedoelde transportakte word voorberei deur—
- (a) 'n transportbesorger; of
- (b) indien die eienaar van die erf die Staat of enige plaaslike owerheidsliggaam 20 is, enige beampte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir die doel deur die Minister, Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.
- (3) Die vorm van 'n in subartikel (1) bedoelde transportakte word kragtens die 25 Registrasie van Aktes Wet, 1937, voorgeskryf en word deur die eienaar van die erf of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van 'n in subartikel (2)(a) bedoelde transportbesorger of 'n in subartikel (2)(b) bedoelde beampte of persoon op die wyse kragtens daardie Wet voorgeskryf, onderteken.
- (4) 'n In subartikel (2)(b) bedoelde beampte of persoon—
- 30 (a) openbaar die feit dat die in subartikel (1) bedoelde transportakte of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag van eiendomsreg, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van 35 die geval, en aanvaar uit hoofde van so 'n ondertekening, *mutatis mutandis*, ingevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en
- (b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n 40 in hierdie artikel beoogde transportakte verrig.
- (5) 'n Transportbesorger, beampte of persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.
- 45 (6) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (5) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.
- (7) Eiendomsreg op 'n erf in 'n grondontwikkelingsgebied word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in 50 subartikel (1).
- (8) Artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op 'n erf ingevolge hierdie artikel nie.

Transportaktes met betrekking tot voorlopige eiendomsreg

- 55 65. Artikel 64(2) tot (8) is *mutatis mutandis* van toepassing op die registrasie van die eerste oordrag van voorlopige eiendomsreg.

Application and administration of registration arrangements contemplated in this Act in former homelands

66. Despite 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 registration in a deeds registry or which must be approved by a Surveyor-General, may, in the case of a territory which was immediately before the commencement of the Constitution— 5

- (a) known as Transkei, Bophuthatswana, Venda or Ciskei, be so registered or approved *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 registration or approval, any reference in the said Land Survey Act, Deeds Registries Act or this Act to a “registrar”, a “Surveyor-General” or a “deeds registry” shall be deemed to be a reference to a registrar, Surveyor-General or deeds registry as contemplated or defined 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 territories; or 10 15
- (b) known as KwaNdebele or KwaZulu, be so registered or approved *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 territories. 20

CHAPTER VIII

General provisions

25

Land development applications made in terms of other laws

67. (1) Any application for land development made in terms of any other law prior to the commencement of this Act, but which has not yet, at such commencement, been approved or rejected by any competent authority in terms of such other law may, despite anything to the contrary contained in such other law, be continued as a land development application under this Act on the basis that— 30

- (a) a tribunal shall only consider such a land development application if it is satisfied that the application originally brought in terms of such other law has been withdrawn and will not be proceeded with in terms of such other law; and 35
- (b) a tribunal may exempt the land development applicant from any provision of this Act if the tribunal is satisfied that the land development applicant has, by complying with any provision of such other law, substantially complied with an equivalent provision of this Act.

(2) After a land development application has been lodged in terms of this Act the same or a substantially similar land development application may not also be brought in terms of any other law. 40

(3) If a land development application has been rejected in terms of this Act, the same or a substantially similar land development application may not, within a period of two years, thereafter be brought in terms of any other law. 45

Amendment of laws

68. The laws specified in the Schedule are hereby amended to the extent set out in the third column thereof.

Short title and commencement

69. This Act shall be called the Development Facilitation Act, 1995, and shall come into operation on a date fixed by the President by proclamation in the *Gazette*. 50

Toepassing en administrasie van registrasiereëlings in hierdie Wet beoog in voormalige tuislande

66. Ondanks andersluidende bepalings van enige ander wet, kan enige transaksie, kaart, plan, dokument, stap of handeling bedoel of beoog in hierdie Wet wat vatbaar is vir registrasie in 'n registrasiekantoor of wat deur 'n Landmeter-generaal goedgekeur moet word, in die geval van 'n gebied wat onmiddellik voor die inwerkingtreding van die Grondwet—

- (a) as Transkei, Bophuthatswana, Venda of Ciskei bekend was, aldus geregistreer of goedgekeur 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 registrasie of goedkeuring, enige verwysing in gemelde Opmetingswet, Registrasie van Aktes Wet of hierdie Wet na 'n "registrateur", 'n "Landmeter-generaal" of 'n "registrasiekantoor" geag word '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 registrasie van aktes wat uit hoofde van artikel 229 van die Grondwet in sodanige gebiede van krag bly; of
- (b) as KwaNdebele of KwaZulu bekend was, aldus geregistreer of goedgekeur word *mutatis mutandis* ooreenkomstig die bepalings van hierdie Wet, die Opmetingswet, 1927, en die Registrasie van Aktes 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 in sodanige gebiede van krag bly.

HOOFTUK VIII

Algemene bepalings

Grondontwikkelingsaansoeke ingevolge ander wette gedoen

67. (1) Enige aansoek om grondontwikkeling gedoen ingevolge enige ander wet voor die inwerkingtreding van hierdie Wet, maar wat nog nie by sodanige inwerkingtreding goedgekeur of afgekeur is deur enige bevoegde gesag ingevolge sodanige ander wet nie, kan, ondanks andersluidende bepalings van sodanige ander wet, voortgesit word as 'n grondontwikkelingsaansoek kragtens hierdie Wet op die grondslag dat—

- (a) 'n tribunaal sodanige grondontwikkelingsaansoek slegs oorweeg indien hy oortuig is dat die aansoek wat oorspronklik gedoen is ingevolge sodanige ander wet teruggetrek is en nie ingevolge sodanige ander wet voortgesit sal word nie; en
- (b) 'n tribunaal die grondontwikkelingsapplikant kan vrystel van enige bepaling van hierdie Wet indien die tribunaal oortuig is dat die grondontwikkelingsapplikant, deur die nakoming van enige bepaling van sodanige ander wet, wesenlik voldoen het aan 'n ekwivalente bepaling van hierdie Wet.

(2) Nadat 'n grondontwikkelingsaansoek ingevolge hierdie Wet ingedien is, kan dieselfde of 'n wesenlik soortgelyke grondontwikkelingsaansoek nie ook ingevolge enige ander wet ingedien word nie.

(3) Indien 'n grondontwikkelingsaansoek ingevolge hierdie Wet afgekeur is, kan dieselfde of 'n wesenlik soortgelyke grondontwikkelingsaansoek nie binne 'n tydperk van twee jaar daarna ingevolge enige ander wet ingedien word nie.

Wysiging van wette

68. Die wette in die Bylae vermeld word hierby gewysig in die mate in die derde kolom daarvan aangedui.

50 Kort titel en datum van inwerkingtreding

69. Hierdie Wet heet die Wet op Ontwikkelingsfasilitering, 1995, en tree in werking op 'n datum deur die President by proklamasie in die *Staatskoerant* bepaal.

SCHEDULE

LAWS AMENDED

No. and year of law	Short title	Extent of amendment
Act No. 47 of 1937	Deeds Registries Act, 1937	<p>1. Amendment of section 3 by the insertion after paragraph (d) of subsection (1) of the following paragraph: <u>“(d)bis register deeds of transfer of initial ownership as contemplated in section 62 of the Development Facilitation Act, 1995;”</u>.</p> <p>2. Amendment of section 10 by the substitution for paragraph (q) of subsection (1) of the following paragraph: <u>“(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 62 of the Development Facilitation Act, 1995, and any other real right in respect of land held under such right of leasehold or initial ownership;”</u>.</p> <p>3. Amendment of section 102 by the substitution in subsection (1) for the definition of “immovable property” of the following definition: <u>“ ‘immovable property’ includes—</u> <u>(a) any registered lease of rights to minerals;</u> <u>(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]</u> <u>(c) a registered right of lease hold; and</u> <u>(d) a registered right of initial ownership contemplated in section 62 of the Development Facilitation Act, 1995;”</u>.</p>
Act No. 68 of 1981	Alienation of Land Act, 1981	<p>1. Amendment of section 1— <u>(a) by the substitution for paragraph (a) of the definition of “land” of the following paragraph:</u> <u>“(a) includes—</u> <u>(i) any unit;</u> <u>(ii) any right to claim transfer of land;</u> <u>(iii) any undivided share in land;</u> <u>(iv) initial ownership referred to in section 62 of the Development Facilitation Act, 1995;” and</u></p>

BYLAE
WETTE GEWYSIG

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 47 van 1937	Registrasie van Aktes Wet, 1937	<p>1. Wysiging van artikel 3 deur na paragraaf (d) van subartikel (1) die volgende paragraaf in te voeg:</p> <p><u>“(d)bis aktes van transport van voorlopige eiendomsreg soos beoog in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995, registreer.”</u></p> <p>2. Wysiging van artikel 10 deur paragraaf (q) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p><u>“(q) die vorm van aansoeke, aktes en registers wat in verband met die registrasie van ’n reg van huurpag, van voorlopige eiendomsreg soos beoog in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995, en enige ander saaklike reg ten opsigte van grond en onder sodanige reg van huurpag of voorlopige eiendomsreg gehou, gebruik moet word.”</u></p> <p>3. Wysiging van artikel 102 deur in subartikel (1) die omskrywing van “onroerende goed” deur die volgende omskrywing te vervang:</p> <p>“onroerende goed” omvat—</p> <p>(a) ’n geregistreerde huur van regte op minerale;</p> <p>(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]</p> <p>(c) ’n geregistreerde reg van huurpag; en</p> <p><u>(d) geregistreerde voorlopige eiendomsreg beoog in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995.”</u></p>
Wet No. 68 van 1981	Wet op Vervreemding van Grond, 1981	<p>1. Wysiging van artikel 1—</p> <p>(a) deur paragraaf (a) van die omskrywing van “grond” deur die volgende paragraaf te vervang:</p> <p>“(a) ook—</p> <p>(i) enige eenheid;</p> <p>(ii) enige reg om oordrag van grond te eis;</p> <p>(iii) ’n onverdeelde aandeel in grond;</p> <p><u>(iv) voorlopige eiendomsreg bedoel in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995.”; en</u></p>

Act No. 67, 1995

DEVELOPMENT FACILITATION ACT, 1995

No. and year of law	Short title	Extent of amendment
Act No. 2 of 1987	Housing Act (House of Representatives), 1987	<p>(b) by the substitution for the definition of "registrable" of the following definition:</p> <p><u>"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, and includes capable of being transferred in initial ownership as contemplated in section 62 of the Development Facilitation Act, 1995;"</u></p> <p>1. Amendment of section 86A—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p><u>"(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 Gazette, it may do so, notwithstanding the provisions of this Act, by [submitting] lodging a [certificate of ownership] deed of transfer, 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;"</u></p> <p>(b) by the substitution for subsections (3), (4) and (5) of the following subsections:</p> <p><u>"(3) A deed of transfer referred to in subsection (1) shall be prepared by—</u></p> <p><u>(a) a conveyancer; or</u></p> <p><u>(b) if the owner of the piece of land with a dwelling thereon 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 Minister of Land Affairs, a Premier or a local government body, as the case may be.</u></p> <p><u>(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 piece of land with a dwelling thereon or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or officer or person referred to in subsection (3)(b) in the manner prescribed under that Act.</u></p> <p><u>(5) An officer or person referred to in subsection (3)(b)—</u></p>

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 2 van 1987	Behuisingswet (Raad van Verteenwoordigers), 1987	<p>(b) deur die omskrywing van "registreerbaar" deur die volgende omskrywing te vervang:</p> <p>"'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 ook vatbaar vir oordrag in voorlopige eiendomsreg soos beoog in artikel 62 van die Wet op Ontwikkelingsfasilitering, 1995;"</p> <p>1. Wysiging van artikel 86A—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>"(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 1983, of voor 'n latere datum deur die Minister by kennisgewing in die Staatskoerant bepaal, gebou is ingevolge die bepaling van die Behuisingswet, 1966 (Wet No. 4 van 1966), of hierdie Wet, kan hy dit, ondanks die bepaling van hierdie Wet, doen deur 'n [sertifikaat van eiendomsreg] transportakte, 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 oordragnemer, in te dien.";</p> <p>(b) deur subartikels (3), (4) en (5) deur die volgende subartikels te vervang:</p> <p>"(3) 'n Transportakte bedoel in subartikel (1), word voorberei deur—</p> <p>(a) 'n transportbesorger; of</p> <p>(b) indien die eienaar van die stuk grond met 'n woning daarop die Staat of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister van Grond-sake, 'n Premier of 'n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(4) Die vorm van 'n transportakte bedoel in subartikel (1), word kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf en word deur die eienaar van die stuk grond met 'n woning daarop of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van 'n transportbesorger bedoel in subartikel (3)(a) of beampte of persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p> <p>(5) 'n Beampte of persoon bedoel in subartikel (3)(b)—</p>

No. and year of law	Short title	Extent of amendment
Act No. 3 of 1987	Development Act (House of Representatives), 1987	<p>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p> <p>(b) may, despite 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.”; and</p> <p>(c) by the insertion after subsection (5) of the following subsections:</p> <p>“(6) A conveyancer, officer or 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.</p> <p>(7) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (6) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</p> <p>(8) Ownership of a piece of land with a dwelling thereon shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p> <p>(9) Section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any piece of land with a dwelling thereon in terms of this section.”.</p> <p>2. Section 1 shall come into operation three months after the commencement of this Schedule.</p> <p>1. Amendment of section 40A—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 3 van 1987	Ontwikkingswet (Raad van Verteenwoordigers), 1987	<p>(a) openbaar die feit dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so 'n ondertekening, <i>mutatis mutandis</i>, ingevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig."; en</p> <p>(c) deur na subartikel (5) die volgende subartikels in te voeg:</p> <p>“(6) 'n Transportbesorger, beampte of persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokumente by 'n registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.</p> <p>(7) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (6) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.</p> <p>(8) Eiendomsreg op 'n stuk grond met 'n woning daarop word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1).</p> <p>(9) Artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing op, en geen here-regte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op enige stuk grond met 'n woning daarop ingevolge hierdie artikel nie.”.</p> <p>2. Artikel 1 tree in werking drie maande na die inwerkingtreding van hierdie Bylae.</p> <p>1. Wysiging van artikel 40A—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p>

No. and year of law	Short title	Extent of amendment
		<p>“(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 <u>[submitting] lodging a [certificate of ownership] deed of transfer</u>, 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.”;</p> <p>(b) by the substitution for subsections (3), (4) and (5) of the following subsections:</p> <p>“(3) A deed of transfer referred to in subsection (1) shall be prepared by—</p> <p>(a) a conveyancer; or</p> <p>(b) if the owner of the piece of 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 Minister of Land Affairs, a Premier or a local government body, as the case may be.</p> <p>(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 piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or officer or person referred to in subsection (3)(b) in the manner prescribed under that Act.</p> <p>(5) An officer or person referred to in subsection (3)(b)—</p> <p>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>“(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 <i>Staatskoerant</i> bepaal, gebou is en welke woning verhuur of verkoop was ingevolge die bepalings van die Wet op Gemeenskapsontwikkeling, 1966 (Wet No. 3 van 1966), of hierdie Wet, kan hy dit doen deur ’n [sertifikaat van eiendomsreg] transportakte, 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.”;</p> <p>(b) deur subartikels (3), (4) en (5) deur die volgende subartikels te vervang:</p> <p>“(3) ’n Transportakte bedoel in subartikel (1), word voorberei deur—</p> <p>(a) ’n transportbesorger; of</p> <p>(b) indien die eienaar van die stuk grond die Staat of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister van Grondsake, ’n Premier of plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(4) Die vorm van ’n transportakte bedoel in subartikel (1), word kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf en word deur die eienaar van die stuk grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van ’n transportbesorger bedoel in subartikel (3)(a) of beampte of persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p> <p>(5) ’n Beampte of persoon bedoel in subartikel (3)(b)—</p> <p>(a) openbaar die feit dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van ’n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so ’n</p>

No. and year of law	Short title	Extent of amendment
Act No. 81 of 1988	Conversion of Certain Rights into Leasehold or Ownership Act, 1988	<p>accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p> <p>(b) may, despite 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.”; and</p> <p>(c) by the insertion after subsection (5) of the following subsections:</p> <p>“(6) A conveyancer, officer or 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.</p> <p>(7) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (6) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</p> <p>(8) Ownership of the piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p> <p>(9) Section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any piece of land in terms of this section.”.</p> <p>2. Section 1 shall come into operation three months after the commencement of this Schedule.</p> <p>1. Amendment of section 5—</p> <p>(a) by the substitution for paragraph (b) of subsection (1) of the following paragraph:</p> <p>“(b) in terms of section 4(1)(b), he shall lodge such declaration and a [certificate of ownership] deed of transfer, 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 [who shall—</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 81 van 1988	Wet op die Omskepping van Sekere Regte tot Huurpag of Eiendomsreg, 1988	<p>ondertekening, <i>mutatis mutandis</i>, ingevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig."; en</p> <p>(c) deur na subartikel (5) die volgende subartikels in te voeg:</p> <p>“(6) 'n Transportbesorger, 'n beampte of persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokument by 'n registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.</p> <p>(7) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (6) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.</p> <p>(8) Eiendomsreg op die stuk grond word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1).</p> <p>(9) Artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op enige stuk grond ingevolge hierdie artikel nie.”.</p> <p>2. Artikel 1 tree in werking drie maande na die inwerkingtreding van hierdie Bylae.</p> <p>1. Wysiging van artikel 5—</p> <p>(a) deur paragraaf (b) van subartikel (1) deur die volgende paragraaf te vervang:</p> <p>“(b) ingevolge artikel 4(1)(b) gedoen het, moet hy sodanige verklaring en 'n [sertifikaat van eiendomsreg] transportakte, 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—</p>

No. and year of law	Short title	Extent of amendment
		<p>(i) notwithstanding the provisions of the said Act, register the transfer of ownership of the affected site concerned by signing the certificate of ownership; and</p> <p>(ii) when the transfer of ownership of that affected site has been registered—</p> <p>(aa) make an entry of such transfer of ownership in the applicable registers;</p> <p>(bb) file the declaration and signed certificate of ownership in the deeds registry in such manner as he may consider fit; and</p> <p>(cc) make a copy of the signed certificate of ownership available to the Director-General for delivery to the person to whom that affected site has been transferred.]”;</p> <p>(b) by the insertion after subsection (1) of the following subsection:</p> <p>“(1A) (a) A deed of transfer referred to in subsection (1)(b) shall be prepared by—</p> <p>(i) a conveyancer; or</p> <p>(ii) if the owner of the affected site 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 Minister of Land Affairs, a Premier or a local government body, as the case may be.</p> <p>(b) A deed of transfer referred to in subsection (1)(b) shall be in the form prescribed under the Deeds Registries Act, 1937, and shall be signed by the owner of the affected site or his or her duly authorised agent in the presence of a conveyancer referred to in paragraph (a)(i) or officer or person referred to in paragraph (a)(ii) in the manner prescribed under that Act.</p> <p>(c) An officer or person referred to in paragraph (a)(ii)—</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>(i) ondanks die bepalings van genoemde Wet, die oordrag van eiendomsreg van die betrokke geaffekteerde perseel registreer deur die sertifikaat van eiendomsreg te onderteken; en</p> <p>(ii) wanneer die oordrag van eiendomsreg van daardie geaffekteerde perseel registreer is—</p> <p>(aa) 'n aantekening van bedoelde oordrag van eiendomsreg in die toepaslike registers maak;</p> <p>(bb) die verklaring en ondertekende sertifikaat van eiendomsreg in die registrasiekantoor op die wyse wat hy geskik ag, liasseer; en</p> <p>(cc) 'n afskrif van die ondertekende sertifikaat van eiendomsreg aan die Direkteur-generaal beskikbaar stel vir oorhandiging van die persoon aan wie daardie geaffekteerde perseel oorgedra is.];</p> <p>(b) deur na subartikel (1) die volgende subartikel in te voeg:</p> <p>“(1A) (a) 'n Transportakte bedoel in subartikel (1)(b), word voorberei deur—</p> <p>(i) 'n transportbesorger; of</p> <p>(ii) indien die eienaar van die geaffekteerde perseel die Staat of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister van Grondsake, 'n Premier of 'n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(b) Die vorm van 'n transportakte bedoel in subartikel (1)(b), word kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf en word deur die eienaar van die geaffekteerde perseel of sy of haar behoorlik gevolmagtigde agent in die teenwoordigheid van 'n transportbesorger bedoel in paragraaf (a)(i) of beampte of persoon bedoel in paragraaf (a)(ii) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p> <p>(c) 'n Beampte of persoon bedoel in paragraaf (a)(ii)—</p>

No. and year of law	Short title	Extent of amendment
		<p>(i) shall disclose the fact that the deed of transfer referred to in subsection (1)(b), or any power of attorney, application or consent, which may be required by the registrar for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p> <p>(ii) may, despite 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.</p> <p>(d) A conveyancer, officer or person referred to in paragraph (a) 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.</p> <p>(e) The registrar shall deal with a deed of transfer and the other documents referred to in paragraph (d) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</p> <p>(f) Ownership of the affected site shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1)(b).</p> <p>(g) Section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of the affected site in terms of this section.</p> <p>(h) Sections 4(2) and 5(1)(a)(ii) shall <i>mutatis mutandis</i> apply in respect of a deed of transfer referred to in subsection (1)(b)."; and</p> <p>(c) by the deletion of paragraph (b) of subsection (3).</p> <p>2. Section 1 shall come into operation three months after the commencement of this Schedule.</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>(i) openbaar die feit dat die transportakte bedoel in subartikel (1)(b), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so 'n ondertekening, <i>mutatis mutandis</i>, ingevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(ii) kan, ondanks andersluidende bepalinge van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig.</p> <p>(d) 'n Transportbesorger, beampte of persoon bedoel in paragraaf (a), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.</p> <p>(e) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in paragraaf (d) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.</p> <p>(f) Eiendomsreg op die geaffekteerde perseel word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1)(b).</p> <p>(g) Artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op die geaffekteerde perseel ingevolge hierdie artikel nie.</p> <p>(h) Artikels 4(2) en 5(1)(a)(ii) is <i>mutatis mutandis</i> van toepassing op 'n transportakte bedoel in subartikel (1)(b)."; en</p> <p>(c) deur die skraping van paragraaf (b) van subartikel (3).</p> <p>2. Artikel 1 tree in werking drie maande na die inwerkingtreding van hierdie Bylae.</p>

No. and year of law	Short title	Extent of amendment
Act No. 112 of 1991	Upgrading of Land Tenure Rights Act, 1991	<p>1. Amendment of section 3—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) Any land tenure right mentioned in Schedule 2 and which was granted in respect of—</p> <p>(a) any erf or any other piece of land in a formalized township for which a township register was or is opened either before or after the commencement of this Act; or</p> <p>(b) any piece of land which is surveyed under a provision of any law and does not form part of a township,</p> <p>shall, upon the submission by the owner of such erf or piece of land at the deeds registry of a [certificate of ownership] deed of transfer, 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 the registrar of deeds by the registration of such erf or piece of land in the name of such person.”;</p> <p>(b) by the substitution for subsections (2), (3), (4) and (5) of the following subsections:</p> <p>“(2) A deed of transfer referred to in subsection (1) shall be prepared by—</p> <p>(a) a conveyancer; or</p> <p>(b) if the owner of the erf or piece of 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 Minister, a Premier or a local government body, as the case may be.</p> <p>(3) A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Act and shall be signed by the owner of the erf or piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or an officer or person referred to in subsection (2)(b) in the manner prescribed under that Act.</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 112 van 1991	Wet op Opgradering van Grondbesitregte, 1991	<p>1. Wysiging van artikel 3—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(1) ’n Grondbesitreg in Bylae 2 vermeld wat toegeken is ten opsigte van—</p> <p>(a) ’n erf of ’n ander stuk grond in ’n geformaliseerde dorp waarvoor ’n dorpsregister hetsy voor of na die inwerkingtreding van hierdie Wet geopen is of word; of</p> <p>(b) ’n stuk grond wat kragtens ’n wetsbepaling opgemeet is en nie deel van ’n dorp uitmaak nie,</p> <p>word, by die indiening by die registrasiekantoor deur die eienaar van daardie erf of stuk grond van ’n [sertifikaat van eiendomsreg] transportakte, op die vorm vir dié doel kragtens die Akteswet voorgeskryf en uitgemaak in die naam van die persoon wat die houër 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.”;</p> <p>(b) deur subartikels (2), (3), (4) en (5) deur die volgende subartikels te vervang:</p> <p>“(2) ’n Transportakte bedoel in subartikel (1), word voorberei deur—</p> <p>(a) ’n transportbesorger; of</p> <p>(b) indien die eienaar van die erf of stuk grond die Staat of enige plaaslike owerheidsliggaam is, enige beampete in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister, ’n Premier of ’n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(3) Die vorm van ’n transportakte bedoel in subartikel (1), word kragtens die Akteswet voorgeskryf en word deur die eienaar van die erf of stuk grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van ’n transportbesorger bedoel in subartikel (2)(a) of ’n beampete of persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p>

No. and year of law	Short title	Extent of amendment
		<p>(4) An officer or person referred to in subsection (2)(b)—</p> <p>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Act, responsibility for the correctness of the facts stated in any such document; and</p> <p>(b) may, despite 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.</p> <p>(5) A conveyancer, officer or 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 Act;” and</p> <p>(c) by the insertion after subsection (5) of the following subsections:</p> <p>“(6) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Act.</p> <p>(7) Ownership of the erf or piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p> <p>(8) Sections 17(1) and (2) of the Deeds Act shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf or piece of land in terms of this section.”.</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>(4) 'n Beamppte of persoon bedoel in subartikel (2)(b)—</p> <p>(a) openbaar die feit dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so 'n ondertekening, <i>mutatis mutandis</i>, ingevolge artikel 15A(1) en (2) van die Akteswet verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig.</p> <p>(5) 'n Transportbesorger, beamppte of persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Akteswet voorgeskryf.”; en</p> <p>(c) deur na subartikel (5) die volgende subartikels in te voeg:</p> <p>“(6) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (5) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Akteswet.</p> <p>(7) Eiendomsreg op die erf of stuk grond word geag oorge-dra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1).</p> <p>(8) Artikel 17(1) en (2) van die Akteswet is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op enige erf of stuk grond ingevolge hierdie artikel nie.”.</p>

No. and year of law	Short title	Extent of amendment
		<p>2. Amendment of section 13—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(1) If a township owner, with reference to any formalized 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 <u>[submitting] lodging a [certificate of ownership] deed of transfer 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.</u>”;</p> <p>(b) by the substitution for subsections (3), (4) and (5) of the following subsections:</p> <p>“(3) <u>A deed of transfer referred to in subsection (1) shall be prepared by—</u></p> <p><u>(a) a conveyancer; or</u></p> <p><u>(b) if the owner of the erf or piece of 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 Minister, a Premier or a local government body, as the case may be.</u></p> <p>(4) <u>A deed of transfer referred to in subsection (1) shall be in the form prescribed under the Deeds Act, and shall be signed by the owner of the erf or piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or an officer or person referred to in subsection (3)(b) in the manner prescribed under that Act.</u></p> <p>(5) <u>An officer or person referred to in subsection (3)(b)—</u></p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>2. Wysiging van artikel 13—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p> <p>“(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 <u>[sertifikaat van eiendomsreg] transportakte</u>, op die vorm vir dié doel kragtens die Akteswet voorgeskryf en uitgemaak 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.”;</p> <p>(b) deur subartikels (3), (4) en (5) deur die volgende subartikels te vervang:</p> <p>“(3) ’n <u>Transportakte</u> bedoel in subartikel (1), word voorberei deur—</p> <p>(a) ’n <u>transportbesorger</u>; of</p> <p>(b) indien die eienaar van die erf of stuk grond die Staat of enige plaaslike owerheidsliggaam is, enige beamppte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister, ’n Premier of ’n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(4) Die vorm van ’n <u>transportakte</u> bedoel in subartikel (1), word kragtens die Akteswet voorgeskryf en word deur die eienaar van die erf of stuk grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van ’n transportbesorger bedoel in subartikel (3)(a) of ’n beamppte of persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p> <p>(5) ’n <u>Beamppte</u> of persoon bedoel in subartikel (3)(b)—</p>

No. and year of law	Short title	Extent of amendment
		<p><u>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Act, responsibility for the correctness of the facts stated in any such document; and</u></p> <p><u>(b) may, despite 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.”; and</u></p> <p><u>(c) by the insertion after subsection (5) of the following subsections:</u></p> <p><u>“(6) A conveyancer, officer or 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 Act.</u></p> <p><u>(7) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (6) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Act.</u></p> <p><u>(8) Ownership of the erf or piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</u></p> <p><u>(9) Section 17(1) and (2) of the Deeds Act shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf or piece of land in terms of this section.”.</u></p> <p>3. The amendment of section 18F—</p> <p><u>(a) by the substitution for subsection (2) of the following subsection:</u></p> <p><u>“(2) Any land tenure right mentioned in Schedule 2 and granted in respect of any piece of land in an area—</u></p> <p><u>(a) which has been declared under section 18A(1) to be a rural settlement; and</u></p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>(a) openbaar die feit dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so 'n ondertekening, <i>mutatis mutandis</i>, ingevolge artikel 15A(1) en (2) van die Akteswet verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig;"; en</p> <p>(c) deur na subartikel (5) die volgende subartikels in te voeg:</p> <p>“(6) 'n Transportbesorger, beampte of persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Akteswet voorgeskryf.</p> <p>(7) Die registrateur beskik oor 'n transportakte en die ander dokumente in subartikel (6) bedoel asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Akteswet.</p> <p>(8) Eiendomsreg op die erf of stuk grond word geag oorge- dra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1).</p> <p>(9) Artikel 17(1) en (2) van die Akteswet is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op enige erf of stuk grond ingevolge hierdie artikel nie.”.</p> <p>3. Wysiging van artikel 18F—</p> <p>(a) deur subartikel (2) deur die volgende subartikel te vervang:</p> <p>“(2) 'n Grondbesit vermeld in Bylae 2 en toegeken ten opsigte van 'n stuk grond in 'n gebied—</p> <p>(a) wat kragtens artikel 18A(1) tot 'n landelike nedersetting verklaar is; en</p>

No. and year of law	Short title	Extent of amendment
		<p>(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 <u>[certificate of ownership] deed of transfer</u>, 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 of 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.”;</p> <p>(b) by the substitution for subsections (3), (4), (5), (6) and (7) of the following subsections:</p> <p>“(3) A deed of transfer referred to in subsection (2) shall be prepared by—</p> <p>(a) a conveyancer; or</p> <p>(b) if the owner of the piece of 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 Minister, a Premier or a local government body, as the case may be.</p> <p>(4) A deed of transfer referred to in subsection (2) shall be in the form prescribed under the Deeds Act and shall be signed by the owner of the piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (3)(a) or an officer or person referred to in subsection (3)(b) in the manner prescribed under that Act.</p> <p>(5) An officer or person referred to in subsection (3)(b)—</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>(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 <u>[sertifikaat van eiendomsreg] transportakte</u>, 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.”;</p> <p>(b) deur subartikels (3), (4), (5), (6) en (7) deur die volgende subartikels te vervang:</p> <p>“(3) 'n Transportakte bedoel in subartikel (2), word voorberei deur—</p> <p>(a) 'n transportbesorger; of</p> <p>(b) indien die eienaar van die stuk grond die Staat of enige plaaslike owerheidsliggaam is, enige beamppte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister, 'n Premier of 'n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(4) Die vorm van 'n transportakte bedoel in subartikel (2), word kragtens die Akteswet voorgeskryf en word deur die eienaar van die stuk grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van 'n transportbesorger bedoel in subartikel (3)(a) of 'n beamppte of persoon bedoel in subartikel (3)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p> <p>(5) 'n Beamppte of persoon bedoel in subartikel (3)(b)—</p>

No. and year of law	Short title	Extent of amendment
Act No. 113 of 1991	Less Formal Township Establishment Act, 1991	<p>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Act, responsibility for the correctness of the facts stated in any such document; and</p> <p>(b) may, despite 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.</p> <p>(6) A conveyancer, officer 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 Act.</p> <p>(7) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (6) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Act.”; and</p> <p>(c) by the insertion after subsection (7) of the following subsections:</p> <p>“(8) Ownership of the piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (2).</p> <p>(9) Section 17(1) and (2) of the Deeds Act shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any piece of land in terms of this section.”.</p> <p>4. Sections 1, 2 and 3 shall come into operation three months after the commencement of this Schedule.</p> <p>1. Amendment of section 9—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 113 van 1991	Wet op Minder Formele Dorpsstigting, 1991	<p>(a) openbaar die feit dat die transportakte bedoel in subartikel (2), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van 'n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so 'n ondertekening, <i>mutatis mutandis</i>, in gevolge artikel 15A(1) en (2) van die Akteswet verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig.</p> <p>(6) 'n Transbesorger of ander persoon bedoel in subartikel (3), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Akteswet voorgeskryf.</p> <p>(7) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (6) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is in gevolge artikel 20 van die Akteswet.”; en</p> <p>(c) deur na subartikel (7) die volgende subartikels in te voeg:</p> <p>“(8) Eiendomsreg op die stuk grond word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (2).</p> <p>(9) Artikel 17(1) en (2) van die Akteswet is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van die oordrag van eiendomsreg op enige stuk grond in gevolge hierdie artikel nie.”.</p> <p>4. Artikels 1, 2 en 3 tree in werking drie maande na die inwerkingtreding van hierdie Bylae.</p> <p>1. Wysiging van artikel 9—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p>

No. and year of law	Short title	Extent of amendment
		<p>“(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, <u>[submit] lodge a [certificate of ownership] deed of transfer, 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.”;</u></p> <p>(b) by the substitution for subsections (2), (3) and (4) of the following subsections:</p> <p>“(2) A deed of transfer referred to in subsection (1) shall be prepared by—</p> <p>(a) a conveyancer; or</p> <p>(b) if the owner of the erf 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 Minister of Land Affairs, a Premier or a local government body, as the case may be.</p> <p>(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 erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or an officer or person referred to in subsection (2)(b) in the manner prescribed under that Act.</p> <p>(4) An officer or person referred to in subsection (2)(b)—</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>“(1) Indien die ontwikkelaar by 'n toekenning kragtens artikel 8(1) voornemens is om eien-domsreg 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 <u>[sertifikaat van eien-domsreg] transportakte</u>, uit-gemaak 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.”;</p> <p>(b) deur subartikels (2), (3) en (4) deur die volgende subartikels te vervang:</p> <p>“(2) 'n <u>Transportakte</u> bedoel in subartikel (1), word voorberei deur—</p> <p>(a) 'n <u>transportbesorger</u>; of</p> <p>(b) <u>indien die eienaar van die erf die Staat of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister van Grondsake, 'n Premier of 'n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</u></p> <p>(3) <u>Die vorm van 'n transportakte bedoel in subartikel (1), word kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf en word deur die eienaar van die erf of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van 'n transportbesorger bedoel in subartikel (2)(a) of beampte of persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</u></p> <p>(4) 'n <u>Persoon</u> bedoel in subartikel (2)(b)—</p>

No. and year of law	Short title	Extent of amendment
		<p>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p> <p>(b) may, despite 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.”; and</p> <p>(c) by the insertion after subsection (4) of the following subsections:</p> <p>“(5) A conveyancer, officer or 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.</p> <p>(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</p> <p>(7) Ownership of the erf shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p> <p>(8) Section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf in terms of this section.”.</p> <p>2. The amendment of section 26—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>(a) openbaar die feit dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur onderteiking van 'n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so 'n onderteiking, <i>mutatis mutandis</i>, ingevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig.”; en</p> <p>(c) deur na subartikel (4) die volgende subartikels in te voeg:</p> <p>“(5) 'n Transportbesorger, beaampte of persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.</p> <p>(6) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (5) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.</p> <p>(7) Eiendomsreg op die erf word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1).</p> <p>(8) Artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op enige erf ingevolge hierdie artikel nie.”</p> <p>2. Die wysiging van artikel 26—</p> <p>(a) deur subartikel (1) deur die volgende subartikel te vervang:</p>

No. and year of law	Short title	Extent of amendment
		<p>“(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, <u>[submit] lodge a [certificate of ownership] deed of transfer, 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.”;</u></p> <p>(b) by the substitution for subsections (2), (3) and (4) of the following subsections:</p> <p>“(2) <u>A deed of transfer referred to in subsection (1) shall be prepared by—</u></p> <p><u>(a) a conveyancer; or</u></p> <p><u>(b) if the owner of the erf 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 Minister of Land Affairs, a Premier or a local government body, as the case may be.</u></p> <p><u>(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 erf or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or an officer or person referred to in subsection (2)(b) in the manner prescribed under that Act.</u></p> <p><u>(4) A person or officer referred to in subsection (2)(b)—</u></p> <p><u>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</u></p> <p><u>(b) may, despite 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.”; and</u></p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>“(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 dorpsregister ten opsigte van die betrokke grond geopen is, ’n [sertifikaat van eiendomsreg] transportakte, 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.”;</p> <p>(b) deur subartikels (2), (3) en (4) deur die volgende subartikels te vervang:</p> <p>“(2) ’n Transportakte bedoel in subartikel (1), word voorberei deur—</p> <p>(a) ’n transportbesorger; of</p> <p>(b) indien die eenaar van die erf die Staat of enige plaaslike owerheidsliggaam is, enige beampte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister van Grondsake, ’n Premier of ’n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(3) Die vorm van ’n transportakte bedoel in subartikel (1), word kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf, en word deur die eenaar van die erf of sy of haar behoorlik gevollmagtigde agent, in die teenwoordigheid van ’n transportbesorger bedoel in subartikel (2)(a) of ’n beampte of persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p> <p>(4) ’n Beampte of persoon bedoel in subartikel (2)(b)—</p> <p>(a) openbaar die feit dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van ’n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so ’n ondertekening, <i>mutatis mutandis</i>, in gevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p>

No. and year of law	Short title	Extent of amendment
Act No. 126 of 1993	Provision of Certain Land for Settlement Act, 1993	<p>(c) by the insertion after subsection (4) of the following subsections:</p> <p><u>“(5) A conveyancer, officer or 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.</u></p> <p><u>(6) The registrar shall deal with a deed of transfer and the other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</u></p> <p><u>(7) Ownership of the erf shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</u></p> <p><u>(8) Section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer duty or stamp duty shall be payable in respect of the transfer of ownership of any erf in terms of this section.”</u></p> <p>3. Sections 1 and 2 shall come into operation three months after the commencement of this Schedule.</p> <p>1. Amendment of section 1 by the substitution for the definition of “Minister” of the following definition:</p> <p>“ ‘Minister’ means the Minister of [Regional and] Land Affairs;”.</p> <p>2. Amendment of section 9—</p> <p>(a) by the substitution for subsection (1) of the following subsection:</p> <p>“(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 [certificate of ownership] deed of transfer, 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.”;</p> <p>(b) by the substitution for subsections (2), (3) and (4) of the following subsections:</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
Wet No. 126 van 1993	Wet op die Besikbaarstelling van Sekere Grond vir Vestiging, 1993	<p>(b) kan, ondanks andersluidende bepalinge van enige ander wet, al die werksaamhede van 'n transportbesorger met betrekking tot die registrasie van 'n transportakte beoog in hierdie artikel verrig"; en</p> <p>(c) deur na subartikel (4) die volgende subartikels in te voeg:</p> <p>"(5) 'n Transportbesorger, beamppte of persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.</p> <p>(6) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (5) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.</p> <p>(7) Eiendomsreg op die erf word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1).</p> <p>(8) Artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op enige erf ingevolge hierdie artikel nie."</p> <p>3. Artikels 1 en 2 tree in werking drie maande na die inwerkingtreding van hierdie Bylae.</p> <p>1. Wysiging van artikel 1 deur die omskrywing van "Minister" deur die volgende omskrywing te vervang: "Minister" die Minister van [Streek- en] Grondsake;"</p> <p>2. Wysiging van artikel 9—</p> <p>(a) 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 [sertifikaat van eiendomsreg] transportakte, uitgemaak in die naam van die persoon aan wie sodanige stuk grond vervreem 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 sodanige stuk grond in die naam van daardie persoon registreer.";</p> <p>(b) deur subartikels (2), (3) en (4) deur die volgende subartikels te vervang:</p>

No. and year of law	Short title	Extent of amendment
		<p>“(2) A deed of transfer referred to in subsection (1) shall be prepared by—</p> <p>(a) a conveyancer; or</p> <p>(b) if the owner of the piece of 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 Minister, a Premier or a local government body, as the case may be.</p> <p>(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 piece of land or his or her duly authorised agent in the presence of a conveyancer referred to in subsection (2)(a) or an officer or person referred to in subsection (2)(b) in the manner prescribed under that Act.</p> <p>(4) An officer or person referred to in subsection (2)(b)—</p> <p>(a) shall disclose 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 for the purposes of the registration of the transfer was prepared by him or her, by signing an endorsement to that effect on the deed of transfer, power of attorney, application or consent, as the case may be, and by virtue of such signing accepts, <i>mutatis mutandis</i>, in terms of section 15A(1) and (2) of the Deeds Registries Act, 1937, responsibility for the correctness of the facts stated in any such document; and</p> <p>(b) may, despite anything to the contrary contained in any other law, perform all of the functions of conveyancer in relation to the registration of a deed of transfer as contemplated in this section.”; and</p> <p>(c) by the insertion after subsection (4) of the following subsections:</p> <p>“(5) A conveyancer, officer or 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.</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>“(2) ’n Transportakte bedoel in subartikel (1), word voorberei deur—</p> <p>(a) ’n transportbesorger; of</p> <p>(b) indien die eenaar van die stuk grond die Staat of enige plaaslike owerheidsliggaam is, enige beamppte in die Staatsdiens of persoon in diens van sodanige plaaslike owerheidsliggaam, na gelang van die geval, wat vir dié doel deur die Minister, ’n Premier of ’n plaaslike owerheidsliggaam, na gelang van die geval, aangewys is.</p> <p>(3) Die vorm van ’n transportakte bedoel in subartikel (1), word kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf en word deur die eenaar van die stuk grond of sy of haar behoorlik gevolmagtigde agent, in die teenwoordigheid van ’n transportbesorger bedoel in subartikel (2)(a) of ’n beamppte of persoon bedoel in subartikel (2)(b) op die wyse kragtens daardie Wet voorgeskryf, onderteken.</p> <p>(4) ’n Beamppte of persoon bedoel in subartikel (2)(b)—</p> <p>(a) openbaar die feit dat die transportakte bedoel in subartikel (1), of enige volmag, aansoek of toestemming wat deur die registrateur vereis mag word vir die doeleindes van die registrasie van die oordrag, deur hom of haar voorberei is, deur ondertekening van ’n endossement tot daardie effek op die transportakte, volmag, aansoek of toestemming, na gelang van die geval, en aanvaar uit hoofde van so ’n ondertekening, <i>mutatis mutandis</i>, in gevolge artikel 15A(1) en (2) van die Registrasie van Aktes Wet, 1937, verantwoordelikheid vir die juistheid van die feite in enige sodanige dokument vervat; en</p> <p>(b) kan, ondanks andersluidende bepalings van enige ander wet, al die werksaamhede van ’n transportbesorger met betrekking tot die registrasie van ’n transportakte beoog in hierdie artikel verrig;” en</p> <p>(c) deur na subartikel (4) die volgende subartikels in te voeg:</p> <p>“(5) ’n Transportbesorger, beamppte of persoon bedoel in subartikel (2), dien die transportakte tesame met die nodige ondersteunende dokumente by die registrasiekantoor in op die wyse kragtens die Registrasie van Aktes Wet, 1937, voorgeskryf.</p>

No. and year of law	Short title	Extent of amendment
		<p>(6) The registrar shall deal with a deed of transfer and other documents referred to in subsection (5) as if such deed of transfer were executed in the presence of the registrar in terms of section 20 of the Deeds Registries Act, 1937.</p> <p>(7) Ownership of the piece of land shall be deemed to have been transferred on the date of registration by the registrar of a deed of transfer referred to in subsection (1).</p> <p>(8) Section 17(1) and (2) of the Deeds Registries Act, 1937, shall not apply to and no transfer or stamp duty shall be payable in respect of the transfer of ownership of land referred to—</p> <p>(a) in section 2(1)(a) and (b); or</p> <p>(b) in section 2(1)(c) the owner of which is a development body.”.</p> <p>3. The substitution for section 10 of the following section:</p> <p>“10. The [Administrator] Minister may, from money appropriated by Parliament for this purpose, in the prescribed manner grant an advance or a subsidy to any person, [for the development of designated land] including a person, trust, group of persons or juristic person contemplated in section 51(2)(b) of the Development Facilitation Act, 1995 —</p> <p>(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, 1995;</p> <p>(b) for the acquisition of designated land or of a land development area contemplated in the said Act;</p> <p>(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.”.</p> <p>4. The repeal of section 11.</p> <p>5. Section 2 shall come into operation three months after the commencement of this Schedule.</p>

No. en jaar van wet	Kort titel	Omvang van wysiging
		<p>(6) Die registrateur beskik oor 'n transportakte en die ander dokumente bedoel in subartikel (5) asof sodanige transportakte in die teenwoordigheid van die registrateur onderteken is ingevolge artikel 20 van die Registrasie van Aktes Wet, 1937.</p> <p>(7) Eiendomsreg op die stuk grond word geag oorgedra te wees op die datum van registrasie deur die registrateur van 'n transportakte bedoel in subartikel (1).</p> <p>(8) Artikel 17(1) en (2) van die Registrasie van Aktes Wet, 1937, is nie van toepassing nie op, en geen hereregte of seëlreg is betaalbaar ten opsigte van, die oordrag van eiendomsreg op grond bedoel— <u>(a) in artikel 2(1)(a) en (b); of</u> <u>(b) in artikel 2(1)(c) waarvan die eienaar 'n ontwikkelingsliggaam is.</u>"</p> <p>3. Vervanging van artikel 10 deur die volgende artikel:</p> <p>"10. Die [Administrateur] Minister kan uit geld deur die Parlement vir dié doel bewillig, op die voorgeskrewe wyse 'n voorskot of subsidie aan 'n persoon, insluitende 'n persoon, trust, groep persone of 'n regs-persoon beoog in artikel 51(2)(b) van die Wet op Ontwikkelingsfasilitering, 1995, toestaan [vir die ontwikkeling van aangewese grond]—</p> <p><u>(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, 1995;</u></p> <p><u>(b) vir die verkryging van aangewese grond of 'n grondontwikkelingsgebied beoog in gemelde Wet;</u></p> <p><u>(c) tot die voordeel van okkupeerders van grond wat nie die eienaar daarvan is nie, vir die doel om ontwikkeling 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 okkupeerders."</u></p> <p>4. Die herroeping van artikel 11.</p> <p>5. Artikel 2 tree in werking drie maande na die inwerkingtreding van hierdie Bylae.</p>

