

NOTICE 559 OF 2006**DEPARTMENT OF HOUSING****LESS FORMAL TOWNSHIP ESTABLISHMENT
AMENDMENT BILL, 2006**

The Department of Housing hereby publishes the draft Less Formal Township Establishment Amendment Bill, **2006** for public information, discussion and comment.

Interested persons and institutions are invited to submit written comment on the draft legislation on or before **24** May, 2006 to the Director-General, Department of Housing, for the attention of the following person:

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REPUBLIC OF SOUTH AFRICA**LESS FORMAL TOWNSHIP ESTABLISHMENT AMENDMENT BILL, 2006**

(As introduced)

(MINISTER OF HOUSING)

[B – 20061

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.

BILL

To amend the **Less Formal Township Establishment Act, 1991** so as to provide for a Premier to amend or withdraw a notice designating land for less formal settlement after commencement of settlement on the land has taken place.

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

1. Amendment of section 3 of Act 113 of 1991

The following subsections are inserted after section 3(3) of the Act:

(3A) The Premier may at any time, on good grounds and upon notice being given to persons likely to be affected thereby and after considering any representations made by such persons, amend or withdraw a notice contemplated in subsection (1), despite the fact that settlement has commenced in terms of section 8 in respect of the land in question.

(3B) A person whose right or interest in or to such land is adversely affected by an amendment or withdrawal contemplated in subsection (3A), is entitled to be compensated by the owner of such land for any loss, including any direct consequential loss, caused by such amendment or withdrawal.

2. Short title

This Act is called the Less Formal Township Establishment Amendment Act, 2006.

LESS FORMAL TOWNSHIP ESTABLISHMENT AMENDMENT BILL, 2006

MEMORANDUM ON THE OBJECTS OF THE BILL

1. The Less Formal Township Establishment Act (hereinafter called "the Act") was promulgated in 1991, 3 years before the Interim Constitution came into operation.
2. The main purpose of the Act was to fast track development of residential land which was urgently required to alleviate the housing back-log.
3. Section 3(1) of the Act provides that when the Administrator (now Premier) is satisfied that in any area persons have an urgent need to obtain land on which to settle in a less formal manner, he may by notice in the Official Gazette, and on the conditions mentioned in the Notice, designate land made available by him under section 2(1) as land for less formal settlement,
4. Section 3(3) of the Act provides that the Administrator (now Premier) may, at any time prior to the commencement of settlement in terms of section 8, amend or withdraw a notice referred to in subsection (1).
5. It has been brought to the attention of the Department of Housing that several notices as contemplated in section 3(1) of the Act were published more than 10 years ago and that the housing needs prevailing in the areas at the time of publishing the notices are very different from the present needs of those areas.
6. As it is not possible to amend or withdraw such notices as contemplated in section 3(3) of the Act where settlement of the land has already taken place, it is deemed necessary to amend section 3(3) by the insertion of two sub clauses after the section to allow for such notices, or provisions in such notices, to be amended or withdrawn to meet the current housing needs of those areas.
7. It is submitted that in view of the constitutional obligations of the State as stated in section 26 of the Constitution the amendment constitutes a legislative measure that the

state has to take in order to achieve the progressive realisation of the right of access to adequate housing (section 26(2) of the Constitution).

8. The new sub clause **(3A)** provides that any withdrawal or amendment of a designation notice may only be done on good grounds and upon prior notice being given to persons likely to be affected and after considering any representations made by such persons.
9. The new **sub** clause (3B) affords protection to persons whose right or interest in or to the land in respect of which a designation notice is amended or withdrawn by providing that **such** persons are entitled to be compensated for any loss caused by such amendment or withdrawal.