



# GOVERNMENT GAZETTE

OF THE REPUBLIC OF SOUTH AFRICA

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REPUBLIEK VAN SUID-AFRIKA

STAATSKOERANT

*Registered at the Post Office as a Newspaper*

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Selling price • Verkoopprys  
(GST excluded/AVB uitgesluit)

Local **60c** Plaaslik  
Other countries 95c Buitelands  
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Vol. 287

CAPE TOWN, 30 MAY 1989

No. 11901

KAAPSTAD, 30 MEI 1989

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STATE PRESIDENT'S OFFICE

KANTOOR VAN DIE STAATSPRESIDENT

No. 1053.

30 May 1989

No. 1053.

30 Mei 1989

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

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

No. 62 of 1989: National Building Regulations and Building Standards Amendment Act, 1989.

No. 62 van 1989: Wysigingswet op Nasionale Bouregulasies en Boustandaarde, 1989.



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- (d) by the substitution for the definition of "Minister" of the following definition:  
 "Minister' means the Minister of **[Industries, Commerce and Tourism]** Economic Affairs and Technology;"
- (e) by the substitution for the definition of "erection" of the following definition: 5  
 "erection', in relation to a building, includes the alteration, conversion, extension, rebuilding, re-erection, **[repair or]** subdivision of or addition to, or repair of any part of the structural system of, any building; and "erect" shall have a corresponding meaning;" 10
- (f) by the substitution for the definition of "local authority" of the following definition:  
 "local authority' means—  
 (a) any institution, council or body contemplated in section 84 (1) (f) of the **[Republic of South Africa Constitution Act, 1961 (Act 15 No. 32 of 1961)]** Provincial Government Act, 1961 (Act No. 32 of 1961);  
 (b) **[in relation to the Territory—**  
 (i) any town council constituted or deemed to have been constituted in terms of the provisions of the Municipal Ordinance, 20 1963 (Ordinance No. 13 of 1963), of the Territory;  
 (ii) any village management board constituted or deemed to have been constituted in terms of the Village Management Boards Ordinance, 1963 (Ordinance No. 14 of 1963), of the Territory]; 25  
 (c) any statutory body designated by the Minister, after consultation with the Administrator of the province in question **[or the Territory, as the case may be]**, by notice in the *Gazette* as a local authority for the purposes of this Act or any provision thereof;" 30  
 and
- (g) by the insertion after the definition of "statutory body" of the following definition:  
 "structural system', in relation to a building, means the system of constructional elements and components of any building which is provided to resist the loads acting upon it and to transfer such loads to the ground upon which the foundation of the building rests;" 35

## Amendment of section 2 of Act 103 of 1977, as amended by section 2 of Act 36 of 1984

2. Section 2 of the principal Act is hereby amended—  
 (a) by the substitution for paragraph (a) of subsection (2) of the following paragraph: 40  
 "(a) The Minister may, on such conditions as he may think fit and after consultation with the council and the Administrator of the province in question, of his own accord or at the request of a local authority or any other person, by notice in the *Gazette* exempt the area of jurisdiction, or any part thereof, of any local authority from the application of **[any of or all the national building regulations]** this Act, or of any provision or provisions thereof which are mentioned in the notice." 45
- (b) by the substitution for paragraph (a) of subsection (4) of the following paragraph: 50  
 "(a) if he, with the concurrence of the **[Prime Minister, the]** Minister of Defence, the Minister of Law and Order and the Minister of Justice, is **[satisfied]** of the opinion that the erection or proposed erection of any building or class of buildings by or on behalf of the State is in the interest of or connected with the security of the Republic, exempt 55 **[such erection or proposed erection]** the State in relation to any such building or class of buildings;" and

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- (c) by the addition of the following subsections:
- “(5) Subject to the provisions of subsections (7) and (8), the Minister may, on such conditions as he may think fit and with the concurrence of the Minister of Defence, exempt the owner of—
- (a) any place as defined in section 1 of the National Key Points Act, 1980 (Act No. 102 of 1980)—
- (i) that has been declared a National Key Point in terms of section 2 of the said Act; or
- (ii) in respect of which the Minister of Defence has certified that it will be declared a National Key Point under the said section 2 of that Act; or
- (b) any prohibited place as defined in section 1 (1) of the Protection of Information Act, 1982 (Act No. 84 of 1982), after notice in writing to the local authority in question from the provisions of this Act.
- (6) Subject to the provisions of subsection (7), the owner of any building which is or is to be erected on mining property and which is or is to be used exclusively for the operation of a mine or any works or machinery, as defined in the Mines and Works Act, 1956 (Act No. 27 of 1956), and which is in terms of section 2 of that Act subject to the supervision of the Government Mining Engineer, shall be exempted from the provisions of this Act.
- (7) An owner shall in respect of the erection or proposed erection of a building with regard to which an exemption contemplated in subsection (4), (5) or (6) applies, and in connection with—
- (a) connections to electricity supply, water supply, sewer and stormwater drainage systems;
- (b) provision on the relevant site for parking of more than 100 vehicles;
- (c) service by the local authority’s fire brigade in place of or in addition to any fire protection service provided by the owner,
- supply the local authority concerned with sufficient details to enable such local authority to—
- (i) provide any connection, road traffic control and fire brigade service which may be required; or
- (ii) give notice in writing to such owner that it cannot so provide any such service.
- (8) The owner of a National Key Point in respect of which an exemption contemplated in subsection (5) applies, shall, if the provisions of the National Key Points Act, 1980 (Act No. 102 of 1980), cease to apply in respect of him, forthwith submit to the local authority concerned such plans, specifications and certificates as may be prescribed by the national building regulations, and shall comply with such requirements of this Act as should in the opinion of that local authority be complied with to ensure the safety and health of the occupants of any relevant building.”.

**Amendment of section 6 of Act 103 of 1977**

3. Section 6 of the principal Act is hereby amended—
- (a) by the substitution for subsection (2) of the following subsection:
- “(2) When a fire protection plan is required in terms of this Act by the local authority, the building control officer concerned shall incorporate in his recommendations referred to in subsection (1) (a) a report of the person designated as the chief fire officer by such local authority, or of any other person to whom such duty has been assigned by such chief fire officer, and if such building control officer has also been designated as the chief fire officer concerned, he himself shall so report in such recommendations.”;
- and
- (b) by the deletion of subsection (3).

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## Amendment of section 7 of Act 103 of 1977

## 4. Section 7 of the principal Act is hereby amended—

- (a) by the substitution for paragraph (a) of subsection (1) of the following paragraph:
- “(a) is satisfied that the application in question complies with the requirements of this Act and any other applicable law, it shall **[within 30 days after the receipt of such application]** grant its approval in respect thereof;”;
- (b) by the substitution in subsection (1) for the words in paragraph (b) which follow upon subparagraph (bb) of the following words:
- “such local authority shall **[within 30 days after the receipt of such application]** refuse to grant its approval in respect thereof and give written reasons for such refusal.”;
- (c) by the substitution for the proviso to subsection (1) of the following proviso:
- “Provided that the local authority shall grant or refuse, as the case may be, its approval in respect of any application **[returned to the applicant in terms of section 6 (3), shall be deemed not to have been received by the local authority]**, where the architectural area of the building to which the application relates is less than 500m<sup>2</sup>, within a period of 30 days after receipt of the application and, where the architectural area of such building is 500m<sup>2</sup> or larger, within a period of 60 days after receipt of the application.”;
- (d) by the deletion of subsection (2);
- (e) by the substitution for subsection (5) of the following subsection:
- “(5) Any application in respect of which a local authority refused in accordance with subsection (1) (b) to grant its approval, **[shall not again be considered by such local authority unless the plans, specifications or other documents in question substantially differ from the plans, specifications or other documents relating to such application at the time when such local authority refused in accordance with subsection (1) (b) to grant its approval in respect thereof]** may, notwithstanding the provisions of section 22, at no additional cost and subject to the provisions of subsection (1) be submitted anew to the local authority within a period not exceeding one year from the date of such refusal—
- (a) (i) if the plans, specifications and other documents have been amended in respect of any aspect thereof which gave cause for the refusal; and
- (ii) if the plans, specifications and other documents in their amended form do not substantially differ from the plans, specifications or other documents which were originally submitted; or
- (b) where an application is submitted under section 18.”; and
- (f) by the substitution for subsection (6) of the following subsection:
- “(6) The provisions of this section shall not be construed so as to prohibit a local authority, before granting or refusing its approval in accordance with subsection (1) in respect of an application, from granting at the written request of the applicant and on such conditions as **[it]** the local authority may think fit, provisional authorization to an applicant to commence or proceed with the erection of a building to which such application relates.”.

## Amendment of section 9 of Act 103 of 1977

## 5. Section 9 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

- “(1) Any person who—
- (a) feels aggrieved by the refusal of a local authority to grant approval referred to in section 7 in respect of the erection of a building;

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(b) feels aggrieved by any notice of prohibition referred to in section 10; or  
(c) disputes the interpretation or application by a local authority of any  
national building regulation or any other building regulation or by-law,  
 may, within the period, in the manner and upon payment of the fees prescribed by  
 regulation, appeal to a review board **[against such refusal]**.” 5

**Amendment of section 13 of Act 103 of 1977**

6. Section 13 of the principal Act is hereby amended by the substitution for subsection (2) of the following subsection:

“(2) Any authorization granted in terms of subsection (1) (b) shall lapse if  
 after the expiry of a period of 6 months the erection of the building has not 10  
commenced, but the building control officer may from time to time extend such  
period at the written request of the owner of such building or any person having  
an interest therein if such building control officer is satisfied that there are sound  
reasons therefor.”

**Amendment of section 14 of Act 103 of 1977**

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7. Section 14 of the principal Act is hereby amended—

(a) by the substitution for paragraph (a) of subsection (1) of the following  
 paragraph:

“(a) issue such certificate of occupancy if it is of the opinion that such  
 building has been erected in accordance with the provisions of this Act 20  
 and the conditions on which approval was granted in terms of section  
 7, and if **[a certificate]** certificates issued in terms of the provisions of  
 subsection (2) and, where applicable, subsection (2A), in respect of  
 such building **[has]** have been submitted to it;”;

(b) by the insertion after subsection (1) of the following subsection: 25

“(1A) The local authority may, at the request of the owner of the  
 building or any other person having an interest therein, grant permission in  
 writing to use the building before the issue of the certificate of occupancy  
 referred to in subsection (1), for such period and on such conditions as may  
 be specified in such permission, which period and conditions may be 30  
 extended or altered, as the case may be, by such local authority.”;

(c) by the insertion after subsection (2) of the following subsection:

“(2A) A professional engineer or other competent person approved by  
 the local authority who has been appointed to design or inspect the  
 erection of the structural system of any building shall, after the completion 35  
 of such structural system, submit to the local authority in question a  
 certificate indicating that such structural system is in accordance with the  
application in respect of which approval was granted in terms of section 7.”;  
 and

(d) by the deletion of paragraph (b) of subsection (4). 40

**Amendment of section 15 of Act 103 of 1977**

8. Section 15 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) Any building control officer or any other person authorized thereto by  
 the local authority may enter any building or land at any reasonable time with 45  
 a view to inspection in connection with the consideration of any application  
 submitted in terms of section 4, or to determine whether the owner of the  
 building or land complies with any provision of this Act or any condition  
 imposed by the local authority in terms of this Act.”

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NATIONAL BUILDING REGULATIONS AND BUILDING  
STANDARDS AMENDMENT ACT, 1989**Amendment of section 17 of Act 103 of 1977, as amended by section 4 of Act 36 of 1984**

9. Section 17 of the principal Act is hereby amended by the addition of the following subsection:

“(8) In the national building regulations provisions may be included which the Minister deems necessary to ensure, notwithstanding the provisions of any other applicable law or the issue of a certificate of occupancy in terms of section 14, the essential maintenance or repair of any building or the efficient operation of any equipment or machinery installed therein.” 5

**Substitution of section 23 of Act 103 of 1977**

10. The following section is hereby substituted for section 23 of the principal Act: 10

**“Exemption from liability**

23. No approval, permission, report, certificate or act granted, issued or performed in terms of this Act by or on behalf of any local authority or the council in connection with a building or the design, erection, demolition or alteration thereof, shall have the effect that— 15

- (a) such local authority or the council be liable to any person for any loss, **[or]** damage, injury or death resulting from or arising out of or in any way connected with the manner in which such building was designed, erected, demolished or altered or the material used in the erection of such building or the quality of workmanship in the erection, demolition or alteration of such building; 20
- (b) the owner of such building be exempted from the duty to take care and to ensure that such building be designed, erected, completed, occupied and used or demolished or altered in accordance with the provisions of this Act and any other applicable law; 25
- (c) any person be exempted from the provisions of any other law applicable in the area of jurisdiction of such local authority.”

**Substitution of section 24 of Act 103 of 1977**

11. The following section is hereby substituted for section 24 of the principal Act:

**“General penalty clause 30**

24. Any person convicted of an offence under this Act in respect of which a fine or imprisonment is not expressly provided for, shall be liable to a fine not exceeding **[R600]** R4 000 or to imprisonment for a period not exceeding **[6]** 12 months.”

**Amendment of section 28 of Act 103 of 1977 35**

12. Section 28 of the principal Act is hereby amended by the substitution for subsection (1) of the following subsection:

“(1) The Minister may on such conditions as he may think fit, in writing delegate any power conferred on him by or under this Act, other than a power referred to in section 2 (2) or (4), 9 (2), 17, 19, 20, **[or]** 27 or 29, to the director-general of the bureau, but the delegation of any such power shall not prevent the exercise thereof by the Minister himself.” 40

**Amendment of section 29 of Act 103 of 1977**

13. Section 29 of the principal Act is hereby amended by the addition of the following subsections, the existing section becoming subsection (1): 45

“(2) A local authority shall within six months after the coming into operation of the National Building Regulations and Building Standards Amendment Act, 1989, submit any building regulation or by-law referred to in paragraph (a) of subsection (1), and any standard building regulation referred to in the proviso to section 31, which is applied by the local authority by reason thereof that it is 50

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considered that the regulation or by-law, or standard building regulation, has not lapsed by virtue of subsection (1) or section 31, as the case may be, in consolidated form in both official texts to the Minister.

(3) The Minister shall consider a regulation or by-law, or standard building regulation, referred to in subsection (2), in consultation with the council and taking into consideration any submissions submitted thereon by the local authority in question, in order to determine whether in his opinion and in the opinion of the council it has been replaced by or is repugnant to any national building regulation, and shall forthwith make known in writing the decision to which he and the council came to the local authority.

(4) With effect from the date of a written notification contemplated in subsection (3) of a decision that a relevant regulation or by-law, or standard building regulation, has been replaced by or is repugnant to any national building regulation, it shall—

- (a) for the purposes of subsection (1) (a) be deemed that the law under which the relevant building regulation or by-law was made, has been repealed in respect of a regulation or by-law to which the said decision relates; and
- (b) for the purposes of section 31 be deemed that section 14*bis* of the Standards Act, 1962 (Act No. 33 of 1962), under which the standard building regulation was framed and published, has been repealed in respect of a standard building regulation to which the said decision relates.

(5) A local authority shall, in the case of a notification to it in terms of subsection (3) of a decision that a relevant regulation or by-law, or standard building regulation, has not been replaced by or is not repugnant to any national building regulation, make known the decision within a period of three months from the date of the decision by notice in the *Official Gazette* concerned, mentioning the full text of the regulation or by-law, or standard building regulation, concerned, in consolidated form and the law under which it was made or framed.

(6) If a local authority fails to comply with a provision—

- (a) of subsection (2) within the period of six months contemplated therein; or
  - (b) of subsection (5) within the period of three months contemplated therein,
- the provisions of paragraph (a) or (b), as the case may be, of subsection (4) shall with effect from the day immediately following on the last day of the period of six or three months mentioned in paragraphs (a) and (b), respectively, *mutatis mutandis* apply in respect of the relevant regulation or by-law, or standard building regulation.

(7) (a) The Minister may at any time, after written notice to the local authority concerned, and *mutatis mutandis* in accordance with the provisions of subsection (3), review any decision contemplated in subsection (5).

- (b) The provisions of subsection (4) shall *mutatis mutandis* apply in respect of a decision on review contemplated in paragraph (a), that a regulation or by-law, or standard building regulation, concerned has been replaced by or is repugnant to a national building regulation.

(8) (a) A local authority which intends to make any regulation or by-law which relates to the erection of a building, shall prior to the promulgation thereof submit a draft of the regulation or by-law in writing and by registered post to the Minister for approval.

- (b) A regulation or by-law referred to in paragraph (a) which is promulgated without the Minister previously having approved of it shall, notwithstanding the fact that the promulgation is effected in accordance with all other legal provisions relating to the making and promulgation of the regulation or by-law, be void.”.

**Short title and commencement**

- 14. (a) This Act shall be called the National Building Regulations and Building Standards Amendment Act, 1989.
- (b) Section 2 (c) of this Act, in so far as it relates to the insertion of subsection (5) of section 2 of the principal Act, shall be deemed to have come into operation on 1 September 1985.