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DEPARTEMENT VAN DIE EERSTE MINISTER

DEPARTMENT OF THE PRIME MINISTER

No. 1346.

16 Julie 1975.

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16 July 1975.

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

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

No. 73 van 1975: Wysigingswet op Fisiese Beplanning en Benutting van Hulpbronne, 1975.

No. 73 of 1975: Physical Planning and Utilization of Resources Amendment Act, 1975.

Act No. 73, 1975

PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.**ACT**

To amend the Physical Planning and Utilization of Resources Act, 1967, so as to provide for the reservation of land for use for specific purposes; for the compilation and approval of guide plans; for restrictions upon the use of land for certain purposes unless reserved for use for such purposes; and for the investigation of suspected offences; and to provide for matters connected therewith.

(Afrikaans text signed by the State President.)

(Assented to 30 June 1975.)

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

Substitution of
section 1 of
Act 88 of 1967.

1. The following section is hereby substituted for section 1 of the Physical Planning and Utilization of Resources Act, 1967 (hereinafter referred to as the principal Act):

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

- (i) ‘Administrator’ means an Administrator and the other members of the executive committee concerned; (i)
- (ii) ‘building’ includes any structure; (v)
- (iii) ‘business’ means any trade or occupation as defined in any ordinance relating to the licensing of trades and occupations and of the province concerned; (iii)
- (iv) ‘committee’ means a committee appointed in terms of section 6A (1); (xi)
- (v) ‘controlled area’ means an area declared or deemed to have been declared a controlled area under section 5 and includes an area declared or deemed to have been declared under the said section part of a controlled area; (ii)
- (vi) ‘draft guide plan’ means a draft guide plan contemplated in section 6A (1); (xv)
- (vii) ‘factory’ means a factory as defined in section 3 of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), and includes any premises on which an activity is carried on and which the State President, by proclamation in the *Gazette*, declares a factory for the purposes of this Act; (iv)
- (viii) ‘guide plan’ means a draft guide plan approved in terms of section 6A (8); (vi)
- (ix) ‘guide plan area’ means the area in respect of which a guide plan is applicable; (vii)

Act No. 73, 1975

PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.

- (x) 'land' includes any portion of land and any building; (viii)
- (xi) 'local authority' means any institution or body contemplated in section 84 (1) (f) of the Republic of South Africa Constitution Act, 1961 (Act No. 32 of 1961); (xvi)
- (xii) 'mineral' means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth and having been formed by or subjected to a geological process, but does not include water and soil, unless they are taken from the earth for the production or extraction therefrom of a product of commercial value; (xii)
- (xiii) 'Minister' means the Minister of Planning and the Environment; (xiii)
- (xiv) 'natural area' means an area that could be utilized in the interests of and for the benefit and enjoyment of the public in general and for the reproduction, protection or preservation of wild animal life, wild vegetation or objects of geological, ethnological, historical or other scientific interest; (xiv)
- (xv) 'process' means recover, extract, concentrate, refine or convert; (xviii)
- (xvi) 'resources' includes land, minerals, water, means of generating power, labour and means of transport; (x)
- (xvii) 'Secretary' means the Secretary for Planning and the Environment; (xvii)
- (xviii) 'use of land' means the use of land for—
 - (a) township development, excluding township development for industrial purposes;
 - (b) industrial purposes;
 - (c) agricultural purposes;
 - (d) open spaces;
 - (e) any purpose contemplated in section 4 (1); or
 - (f) any purpose declared by the State President by proclamation in the *Gazette* to be a purpose for the purposes of this definition." (ix)

Amendment of section 2 of Act 88 of 1967.

2. Section 2 of the principal Act is hereby amended by the addition of the following subsection:

"(4) The provisions of subsection (1) (b) and (c) shall not apply in respect of a guide plan area."

Amendment of section 3 of Act 88 of 1967.

3. Section 3 of the principal Act is hereby amended by the addition of the following subsection:

"(5) If any condition imposed in terms of subsection (3) is not complied with the Minister may after not less than one month's notice revoke the approval in connection with which such condition was imposed."

Substitution of section 4 of Act 88 of 1967.

4. The following section is hereby substituted for section 4 of the principal Act:

"Reservation of land for particular purposes.

4. (1) The Minister may, after consultation with the Minister of Agriculture and the Administrator of the province concerned, by notice in the *Gazette* reserve any land specified in such notice for one or more of the following purposes, namely—

- (a) water works as defined in section 1 of the Water Act, 1956 (Act No. 54 of 1956);
- (b) railway stations and junctions;
- (c) railway shunting yards;
- (d) air- and sea-ports;
- (e) thermic-power stations and hydro-electric power stations;

Act No. 73, 1975 PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.

- (f) nuclear installations;
- (g) roads, railways and power lines;
- (h) recreation and tourist attractions;
- (i) natural areas;
- (j) processing of minerals otherwise than contemplated in paragraph (k);
- (k) brickworks, potteries, stone crushing, stone quarries, sand-pits, clay-pits, gravel quarries or soil quarries;
- (l) defence;
- (m) any other purpose determined by the State President by proclamation in the *Gazette*.

(2) The Minister may in a notice under subsection (1) prescribe conditions subject to which any land shall be used for the purpose for which it has been reserved.

(3) As from the date of the relevant notice issued in terms of subsection (1), no person shall, except under the authority of a permit, use any land specified in the notice for any purpose other than the particular purpose specified in the notice or the purpose for which it was being used at that date.

(4) Any servitude registered against or condition contained in the title deed of land, shall be suspended in so far as it prohibits or restricts the use of such land for the particular purpose for which it has been reserved in terms of subsection (1) or authorized by permit in terms of section 8 (1) (a) (i) or (iA).

(5) Subsections (1), (2) and (3) shall not apply in respect of a guide plan area."

Amendment of section 6 of Act 88 of 1967.

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

"(d) the subdivision of or the granting of a right to an undivided share in or the use of land for prospecting or mining for base minerals or for any other purpose for which authority, permission or consent is required in terms of any other law or a condition contained in the title deed of the land, except the use of land for the purposes of a business or the erection of a dwelling in connection with mining or prospecting activities."

Insertion of sections 6A and 6B in Act 88 of 1967.

6. The following sections are hereby inserted in the principal Act after section 6:

"Guide plans.

6A. (1) The Minister may, after consultation with the Minister of Agriculture and the Administrator of the province concerned, by notice in the *Gazette* establish a committee, to be known as a guide plan committee, to compile, for the future development of an area defined in such notice, a draft guide plan in which the requirements for such development and the use of land are determined.

(2) A guide plan committee shall consist of so many members as the Minister may deem fit to appoint, and they shall be appointed so as to represent—

- (a) the Department of Planning and the Environment and any such other Department of State as, in the opinion of the Minister, should be represented on the committee;
- (b) any provincial administration concerned;

Act No. 73, 1975

PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.

(c) any local authority whose area of jurisdiction falls wholly or partly within the area concerned; and may include any other person who, in the opinion of the Minister, is capable of rendering assistance in the compilation of the guide plan in question.

(3) (a) Any person, including a local authority, who has any interest in a draft guide plan may submit, for inclusion in such plan, proposals in writing to the committee concerned within 60 days of the date of a relevant notice in terms of subsection (1) or such longer period as may from time to time be allowed by the chairman of such committee on written application lodged with him before the expiration of the said period of 60 days or any such longer period allowed, as the case may be.

(b) Any such proposals by a local authority shall be so submitted through the provincial administration concerned.

(4) With effect from the date of a notice in terms of subsection (1) and until the date of a relevant notice in the *Gazette* in terms of subsection (9) or until the date of a notice withdrawing such first-mentioned notice, as the case may be, all the powers of the Minister of Agriculture under the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), in respect of any land in the area to which the draft guide plan in question relates, shall vest in the Minister.

(5) After consideration of any proposals submitted in terms of subsection (3) the committee concerned shall institute such investigations as it may deem necessary and thereafter submit to the Secretary a draft guide plan in respect of the area in question or from time to time draft guide plans in respect of specified portions of such area.

(6) After a draft guide plan has in terms of subsection (5) been submitted to the Secretary, he shall make copies thereof available for inspection in his office, the officer in charge of the local government section of the provincial administration concerned and the office of any local authority concerned, and shall publish twice in an English and in an Afrikaans newspaper circulating in the area to which such plan relates, a notice to the effect that such plan is so available for inspection and inviting interested persons to submit to him in writing, within a period of 60 days from a date specified in the notice, any representations that they may wish to make in connection with the said plan.

(7) After the Secretary has considered any representations submitted to him in terms of subsection (6) and has instituted such further investigations as he may have deemed fit, he shall submit the draft guide plan together with such representations and his comments thereon, to the Administrator concerned for his comments thereon within a period determined by the Minister.

(8) After receipt of the comments of the Administrator in terms of subsection (7) or the expiry of the period mentioned therein, whichever occurs first, the Secretary shall submit the draft guide plan, any

Act No. 73, 1975 **PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.**

such representations received in connection therewith, any such comments received and his own comments on such plan to the Minister, who may, if he thinks fit, approve the draft guide plan.

(9) If the Minister has approved a draft guide plan as contemplated in subsection (8), he shall cause copies of the guide plan to be made available for inspection in the offices mentioned in subsection (6) and shall by notice in the *Gazette* and in an English and in an Afrikaans newspaper circulating in the area concerned make known that a guide plan has been approved by him in respect of the area defined in such notice and that copies thereof are so available for inspection.

(10) With effect from the date of a notice in the *Gazette* in terms of subsection (9)—

- (a) all land in the guide plan area concerned, other than land reserved in terms of the guide plan concerned for agricultural purposes, shall be deemed to have been excluded in terms of paragraph (f) of the definition of 'agricultural land' in section 1 of the Subdivision of Agricultural Land Act, 1970 (Act No. 70 of 1970), from the provisions of that Act;
- (b) no town planning scheme which is binding on that date may be amended in such a way that, and no new such scheme may be introduced in which, provision is made for the zoning of land for a purpose which is inconsistent with the guide plan concerned;
- (c) no person shall use any land in the guide plan area concerned for a purpose other than the purpose for which it is zoned in terms of a town planning scheme binding or becoming binding in that area or for a purpose other than a purpose for which it was being used on that date;
- (d) no permission shall in terms of any other law (including a town planning scheme) be given for the use of land in the guide plan area concerned for a purpose inconsistent with the guide plan concerned.

(11) If the Minister deems it expedient to do so, he may amend or withdraw a guide plan if in regard to such amendment or withdrawal the requirements prescribed by this Act in regard to the approval of a draft guide plan have been complied with.

(12) If land on either side of a road, railway line, water work or power line is in terms of a guide plan zoned for different uses thereof, the route of such road, railway line, water work or power line as finally determined in terms of the guide plan, shall be the boundary between the land on either side thereof.

(13) The Minister may make regulations—

- (a) as to the holding of meetings by a committee, including the quorum and procedure at such meetings;
- (b) prescribing the powers and duties of a committee in connection with the performance of its functions;

Act No. 73, 1975

PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.

- (c) prescribing the remuneration and allowances payable to members of a committee who are not in the full-time employment of the State or a local authority;
- (d) as to the compilation and contents of a draft guide plan;
- (e) as to the manner in which proposals and representations shall be submitted in terms of subsection (3) or (6).

(14) Regulations may only be made under subsection (13) (c) after consultation with the Minister of Finance.

“Restriction on use of land for certain purposes.

6B. (1) Notwithstanding the provisions of section 6 (2) (d) or any other law, no person shall, except under the authority of a permit, use any land for the purpose of a brickworks or pottery or stone crushing or, unless exclusively for the construction of a public road or railway line, of a stone quarry, sand-pit, clay-pit, gravel quarry or soil quarry or for processing any mineral in any other manner, unless such land is reserved under section 4 (1) or zoned in terms of a guide plan for that purpose or is at the commencement of the Physical Planning and Utilization of Resources Amendment Act, 1975, used for that purpose.

(2) No application for a permit for the purposes of subsection (1) for the use of any land involving the processing of any minerals in a manner other than a manner expressly mentioned in the said subsection shall be granted by the Minister unless he has consulted the Minister of Mines.”

Substitution of section 7 of Act 88 of 1967.

7. The following section is hereby substituted for section 7 of the principal Act:

“Exemptions.

7. The Minister may by notice in the *Gazette*, on such conditions as he may determine and in so far as he may deem it expedient, exempt any land, any class of land or any particular use of land from any or all of the provisions of section 6 (1), and may in like manner at any time withdraw such exemption.”

Amendment of section 8 of Act 88 of 1967.

8. Section 8 of the principal Act is hereby amended by the insertion after subparagraph (i) of paragraph (a) of subsection (1) of the following subparagraph:

“(iA) the use of any particular land for a brickworks or pottery or stone crushing or a stone quarry, sand-pit, clay-pit, gravel quarry or soil quarry or for the processing of any mineral in any other manner; or”.

Amendment of section 9 of Act 88 of 1967.

9. Section 9 of the principal Act is hereby amended by the substitution for subsections (1) and (2) of the following subsections:

“(1) The Minister may, subject to such conditions as he may determine, delegate to an officer (with a rank not lower than that of under-secretary) in the Department of Planning and the Environment any of his powers under section 2 (2) or 3 (3) to be exercised by that officer in consultation with officers (with a similar rank) of whom one each shall be nominated by the Ministers of Labour, of Bantu Administration and Development, of Economic Affairs, of Indian Affairs, of Coloured, Rehoboth and Nama Relations, of Health and of Water Affairs, respectively.

Act No. 73, 1975

**PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.**

(2) The Minister may, subject to such conditions as he may determine, delegate to any officer (with a rank not lower than that of under-secretary) in the Department of Planning and the Environment any of his powers under section 3 (5) or 8."

Insertion of
section 9A in
Act 88 of 1967.

10. The following section is hereby inserted in the principal Act after section 9:

"Investiga-
tion of sus-
pected
offences.

9A. (1) The Secretary may, whenever he suspects that any provision of this Act or a condition imposed in terms of section 2, 3 or 8 is being contravened or not being complied with on any premises, give written instructions to an officer in his Department with a rank not lower than that of administrative officer to conduct any investigation necessary to ascertain whether such contravention or failure is taking place.

(2) When such an officer conducts any investigation under subsection (1) he may without warrant—

- (a) at any time during the day, without previous notice, enter any premises and thereon make such examination and enquiry as may be necessary for the conduct of such investigation;
- (b) at any time and at any place require of any person who has in his possession or custody or under his control any book, document or other thing, the production to him of that book, document or other thing then and there or at a time and place fixed by him;
- (c) examine and make extracts from or copies of any such book, document or other thing, and require of any person an explanation of any entries therein, and seize any such book, document or other thing as, in his opinion, may afford evidence of a contravention of or failure to comply with any provision or condition mentioned in subsection (1);
- (d) question, either alone or in the presence of any other person, as he thinks fit, with respect to any matter relevant to any such investigation, any person whom he finds on any premises entered under this section;
- (e) require any person who he has reasonable grounds for believing is in possession of information relevant to any such investigation, to appear before him at a time and place fixed by him and then and there question that person concerning any matter relevant to such investigation."

Substitution of
section 11 of
Act 88 of 1967.

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

"Offences
and
penalties.

- 11.** (1) Any person who—
- (a) contravenes section 3 (1), 4 (3), 6 (1), 6A (10) (c) or 6B (1); or
 - (b) fails to comply with a condition imposed in terms of section 2 (2), 3 (3), 4 (2) or 8 (1); or
 - (c) refuses or fails, without sufficient cause, to answer fully and satisfactorily to the best of his knowledge and belief any relevant question lawfully put to him by an officer mentioned in subsection (2) of section 9A in the exercise of his powers in terms of that section, or to comply with any lawful requirement of such officer in the exercise by him of such powers; or

Act No. 73, 1975

PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.

- (d) gives an answer to any such question or makes any relevant statement to such an officer which is false in any material particular, knowing such answer or statement to be false; or
- (e) hinders or obstructs any such officer in the exercise of his powers in terms of the said section 9A,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding one year, or to both such fine and imprisonment, and, in the case of a continuing contravention, to a fine not exceeding twenty rand for every day during which the contravention is continued.

(2) Whenever any person is convicted of a contravention of section 3 (1), 4 (3), 6 (1), 6A (10) (c) or 6B (1), or of a failure to comply with a condition imposed in terms of section 2 (2), 3 (3), 4 (2) or 8 (1), the court convicting him may, in addition to any other punishment imposed for that offence, summarily enquire into and assess the monetary equivalent of any advantage which that person may have gained in consequence of that offence, and impose on him a fine equal to the amount so assessed or, in default of payment, imprisonment for a period not exceeding one year.

(3) Notwithstanding anything in any other law contained, a magistrate's court shall have jurisdiction to impose any punishment prescribed in subsections (1) and (2)."

Substitution of section 12 of Act 88 of 1967.

12. The following section is hereby substituted for section 12 of the principal Act:

"Proof of certain facts.

12. A document which purports to have been certified by the Secretary, or by an officer in the Department of Planning and the Environment authorized thereto by the Secretary, to be a true and correct copy of any approval or permission granted in writing, or a permit issued or conditions imposed, in terms of this Act, shall be *prima facie* evidence of the granting of such approval or permission or the imposition of such conditions, as the case may be."

Substitution of long title of Act 88 of 1967.

13. The following long title is hereby substituted for the long title of the principal Act:

"ACT

To promote co-ordinated environment planning and the utilization of the Republic's resources, and for those purposes to provide for control of the zoning and subdivision of land for industrial purposes and of the establishment or extension of factories; for the reservation of land for use for specific purposes; for the establishment of controlled areas; for restrictions upon the subdivision and use of land in controlled areas; for the compilation and approval of guide plans; and for restrictions upon the use of land for certain purposes unless reserved for use for such purposes; and for other matters incidental thereto."

Act No. 73, 1975**PHYSICAL PLANNING AND UTILIZATION OF RESOURCES
AMENDMENT ACT, 1975.**Substitution of
section 15 of
Act 88 of 1967.**14.** The following section is hereby substituted for section 15 of the principal Act:"Short title. **15.** This Act shall be called the Environment Planning Act, 1967."

Short title.

15. This Act shall be called the Physical Planning and Utilization of Resources Amendment Act, 1975.