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WESTERN CAPE**

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It is hereby notified that the Premier of the Province of Western Cape has assented to the following Act which is hereby published for general information:—

No. 1 of 2009: Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2009.

*As 'n Nuusblad by die Poskantoor Geregistreer***KANTOOR VAN DIE PREMIER
VAN DIE PROVINSIE
WES-KAAP**

P.K. 71/2009 3 Maart 2009

Hierby word bekend gemaak dat die Premier van die Provinsie Wes-Kaap die onderstaande Wet wat hierby ter algemene inligting gepubliseer word, bekragtig het:—

Nr. 1 van 2009: Wes-Kaapse Wysigings Wet op die Ordonnansie op Grondgebruikbeplanning, 1985.

*Ibhatiswe ePosini ngePhephandaba***I-OFISI YENKULUMBUSO
YEPHONDO LENTSHONA
KOLONI**

P.N. 71/2009 3 Matshi 2009

Kwenziwa isaziso apha sokuba iNkulumbuso yePalamente yePhondo leNtshona Koloni iwamkele ngokusemthethweni lo Mthetho ulandelayo opapashelwe ulwazi gabalala apha:—

Nomb 1 ka-2009: UMmiselo wesiCwangciso sokuSetyenziswa koMhlaba weNtshona Koloni, 1985, uMthetho woLungiso, 2009.

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.

(Afrikaans text signed by the Premier)
(Assented to 27 February 2009)

ACT

To amend the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), so as to provide for the continued existence of certain land use rights that have not been exercised within the prescribed time period; to provide for a further period during which owners of land may exercise such land use rights; and to provide for matters incidental thereto.

WHEREAS the Land Use Planning Ordinance, 1985, Amendment Act, 2007, (the Amendment Act), provided for the extension of the time period during which owners of land may exercise certain land use rights, which period was due to expire;

WHEREAS the Amendment Act was published in the Provincial Gazette on 5 July 2007, and, in terms of section 33(1) of the Constitution of the Western Cape, 1997, took effect on that date, which date was after the expiry of the time period within which the said rights had to be exercised;

WHEREAS certain land owners, municipalities and other roleplayers were apparently not aware of the expiry of the time period and conducted processes in respect of land use rights as if the said time period had not expired;

WHEREAS there are administrative burdens and legal uncertainty with regard to the effect of the Amendment Act; and

WHEREAS it is necessary to have legal certainty in respect of the period within which the said rights may be exercised and to extend that period,

BE IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

Repeal of Act 4 of 2007

1. The Land Use Planning Ordinance, 1985, Amendment Act, 2007, is hereby repealed. 5

Amendment of section 14 of Ordinance 15 of 1985

2. (1) Section 14 of the Land Use Planning Ordinance, 1985, is amended by the substitution for paragraphs (a) and (b) of subsection (2) of the following paragraphs:

“(2)(a) If [after the expiry of a period of 21 years after the date of commencement of this Ordinance] any use right in respect of land to which the 10

applicable provisions of section 7 apply [**has**] is not [**been**] exercised before 30 June 2011, the land concerned shall, subject to the provisions of paragraph (b) of this subsection, be deemed to be zoned in accordance with the utilisation thereof, as determined by the council concerned, and any applicable zoning map existing [**at**] on the said [**expiry**] date shall lapse. 5

(b) Subject to the provisions of paragraph (c) of this subsection an appeal committee shall, before [**expiry of the period of 21 years**] the date mentioned in paragraph (a) of this subsection or any extended [**period**] date determined by the said appeal committee in terms of this subsection, on the application of the owner concerned and if, in the opinion of the said appeal committee, the said owner has suffered or will suffer loss, extend the said [**period**] date or extended [**period**] date in relation to the said land concerned [**by**] to such [**period**] date as the appeal committee may determine; provided that such extension shall be for a period of at least 5 years.”. 10

(2) Subsection (1) is regarded as having taken effect on 30 June 2007. 15

Validation of certain acts

3. (1) Anything done by any person, including any organ of state, after 30 June 2007 and which is invalid, but which would have been valid had section 2(1) of this Act been in operation at that stage, is regarded as valid.

(2) A zoning map referred to in section 14(2) of the Land Use Planning Ordinance, 1985, as amended by this Act, which would have lapsed had section 2(1) of this Act not been in operation on 30 June 2007, is regarded as not having lapsed. 20

Short title

4. This Act is called the Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2009. 25

ALGEMENE VERDUIDELIKENDE NOTA:

- [] Woorde in vet druk tussen vierkantige hake dui skrappings uit bestaande verordenings aan.
- _____ Woorde met 'n volstreep daaronder dui invoegings in bestaande verordenings aan.

(Afrikaanse teks deur die Premier geteken)
(Bekragtig op 27 Februarie 2009)

WET

Tot wysiging van die Ordonnansie op Grondgebruikbeplanning, 1985 (Ordonnansie 15 van 1985), om sodoende voorsiening te maak vir die voortgesette bestaan van sekere grondgebruiksregte wat nie binne die voorgeskrewe tydperk uitgeoefen is nie; om voorsiening te maak vir 'n verdere tydperk waarin eienaars van grond grondgebruiksregte kan uitoefen; en om voorsiening te maak vir verwante sake.

AANGESIEN die Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswet, 2007, (die Wysigingswet), voorsiening gemaak het vir die verlenging van die tydperk waarin eienaars van grond grondgebruiksregte kon uitoefen, welke tydperk sou verstryk;

AANGESIEN die Wysigingswet op 5 Julie 2007 in die *Provinsiale Koerant* gepubliseer is en ingevolge artikel 33(1) van die Grondwet van die Wes-Kaap, 2007, op daardie datum in werking getree het, welke datum na die tydperk was waarin die genoemde regte uitgeoefen moes word;

AANGESIEN sekere eienaars van grond, munisipaliteite en ander rolspelers oënskynlik nie bewus was van die verstryking van die tydperk nie en prosesse aangevoer het ten opsigte van grondgebruiksregte asof die tydperk nie verstryk het nie;

AANGESIEN daar administratiewe verpligtinge en regsonsekerheid is in verband met die uitwerking van die Wysigingswet; en

AANGESIEN regsekerheid nodig is ten opsigte van die tydperk waarin die genoemde regte uitgeoefen mag word en dit nodig is om die tydperk te verleng,

DAAR WORD BEPAAL deur die Provinsiale Parlement van die Provinsie Wes-Kaap, soos volg:—

Herroeping van Wet 4 van 2007

1. Die Ordonnansie op Grondgebruikbeplanning, 1985, Wysigingswet, 2007 word hiermee herroep. 5

Wysiging van artikel 14 van Ordonnansie 15 van 1985

2. Artikel 14 van die Ordonnansie op Grondgebruikbeplanning, 1985, word gewysig deur die vervanging van paragrawe (a) en (b) van subartikel (2) deur die volgende paragrawe:

“(2)(a) Indien [na die verstryking van ‘n tydperk van 21 jaar na die datum van inwerkingtreding van hierdie Ordonnansie] enige gebruiksreg ten opsigte van 10

grond waarop die toepaslike bepalings van artikel 7 van toepassing is, nie voor 30 Junie 2011 uitgeoefen is nie, word die betrokke grond behoudens die bepalings van paragraaf (b) van hierdie subartikel geag gesoneer te wees in ooreenstemming met die aanwending daarvan, soos deur die betrokke raad bepaal, en verval enige toepaslike soneringskaart wat [by] op genoemde [verstryking] datum bestaan. 5

(b) Behoudens die bepalings van paragraaf (c) van hierdie subartikel moet 'n appèlkomitee voor [verstryking van die tydperk van 21 jaar] die datum in paragraaf (a) van hierdie subartikel vermeld of enige verlengde [tydperk] datum ingevolge hierdie subartikel deur genoemde appèlkomitee bepaal, op aansoek van die betrokke eienaar en indien genoemde eienaar na die mening van genoemde appèlkomitee verlies gely het of nog sal ly, genoemde [tydperk] datum of verlengde [tydperk] datum [met] na die [tydperk] datum deur genoemde appèlkomitee bepaal, met betrekking tot die betrokke grond verleng; met dien verstande dat sodanige verlenging vir 'n tydperk van minstens 5 jaar sal wees." 10

(2) Subartikel (1) word geag om in werking te tree vanaf 30 Junie 2007. 15

Bekragtiging van sekere handelinge

3. (1) Enige handeling verrig na 30 Junie 2007 deur enige persoon, insluitende 'n staatsorgaan, en wat ongeldig is, maar wat geldig sou wees indien artikel 2(1) van hierdie Wet reeds in werking was op daardie stadium, word geag geldig te wees.

(2) Enige soneringskaart waarna verwys word in artikel 14(2) van die Ordonnansie op Grondgebruikbeplanning, 1985, soos gewysig deur hierdie Wet, wat sou verval het indien artikel 2(1) van hierdie Wet nie in werking was op 30 Junie 2007 nie, word geag asof dit nie verval het nie. 20

Kort titel

4. Hierdie Wet heet die Wes-Kaapse Wysigingswet op die Ordonnansie op Grondgebruikbeplanning, 1985, 2009. 25

INQAKU JIKELELE ELICACISAYO:

- [] Amagama abhalwe ngqindilili kwizibiyeli ezisisikwere achaza okushiyeiweyo kwimithetho ekhoyo.
- _____ Amagama akrwelwe umgca ongahlula-hlulwanga ngaphantsi achaza okufakiweyo kwimithetho ekhoyo.

*(Ubhalo lwesiNgesi lutykitywe yiNkulumbuso)
(Lwamkelwe ngowama-27 Februwari 2009)*

UMTHETHO

Ukulungisa uMmiselo weSicwangciso sokuSetyenziswa koMhlaba ka1985 (uMmiselo we15 ka 1985), ukuze kuqhubekeke ukubonelelwa kobukho kwamalungelo athile angasetyenziswa ngexesha amiselwe lona, ukubonelela elinye ixesha apho abanini-mihlaba bazakusebenzisa la malungelo, nokubonelela imicimbi enxulumene noko.

NANGONA uMmiselo wesiCwangciso sokuSetyenziswa koMhlaba ka 1985, UMthetho woLungiso ka 2007, (UMthetho woLungiso), ngaphandle kokuba kwixesha elandisiweyo abanini-mihlaba bazakusebenzisa amalungelo athile okusetyenziswa komhlaba, asele ezakuphelelwa lixesha.

NANGONA uMthetho woLungiso upapashwe kwiGazethi yePhondo ngomhla wesi 5 Julayi 2007, ngokwemigaqo yecandelo 33 (1) yoMgaqo-siseko weNtshona Koloni, ka 1997 oqalise ngalo mhla, umhla lowo osemva kokuphelelwa kwexesha, apho la malungelo akhankanyiweyo kwakufuneka esetyenzisiwe.

NANGONA abanini-mihlaba abathile, oomasipala nabanye abathathi-nxaxheba bebengaqondi ngokuphelelwa lixesha bakhokele iinkqubo ezinxulumene nokusetyenziswa kwamalungelo emihlaba ngokungathi ixesha elixeliweyo aliphelelwanga.

NANGONA kukho iingxaki zolawulo nokungaqiniseki ngokunxulumene nomthetho malunga nokuqaliswa koMthetho woLungiso, kunye

NANGONA kufuneka kuqinisekiwe ngokunxulumene nomthetho malunga nexesha apho la malungelo axeliweyo anokusetyenziswa ze kwandiswe nexesha.

O LU YILO LOMTHETHO MALWENZIWE LUSEBENZE yiPalamente yePhondo leNtshona Koloni ngolu hlobo:—

Ubangiso loMthetho wesi 4 ka-2007

1. UMmiselo wesiCwangciso sokuSetyenziswa koMhlaba, ka-1985, UMthetho woLungiso, ka-2007, ubhangisiwe. 5

ULungiso lwecandelo le-14 loMmiselo we-15 ka 1985

2. (1) Icandelo le-14 loMmiselo wesiCwangciso sokuSetyenziswa koMhlaba, ka-1985, ulungiswe ngokufakelwa imihlathi (a) no (b) yamacandelwana (2) yalemihlathi ilandelayo:

“(2) (a) ukuba [emva kokuphelelwa kwexesha kwiminyaka engama-21 emva komhla wokuqaliswa kwaloMmiselo] nawaphi amalungelo asetyenzisiwayo 10

ngokunxulumene nomhlaba apho izibonelelo zecandelo 7 ezikhoyo zithe zacelelwa azashiywa lixesha phambi komhla wama 30 Juni 2011, umhlaba ochaphazelekayo ngokwezibonelelo zomhlathi (b) wecandelwana, mawohlulwe kuvunyelwane ukuwusebenzisa ngokokutsho kwekhansile echaphazelekayo, nayo nayiphi na imephu eyahlula ngokwemida ekhoyo ngalo mhla ukhankanyiweyo iyakuphelelwa. 5

(b) Ngokwamalungiselelo omhlathi (c) weli candelwana ikomiti yesibheni iyakufuneka phambi [kokuphelelwa kwexesha lama 21 eminyaka] umhla okhankanyiweyo kumhlathi (a) weli candelwana nalo naliphi na ixesha elongezelweyo umhla oyakumiswa yikomiti echaziweyo yesibheni ngokomgaqo weli candelwana, ngokwesicelo somnino ngamnye kwaye ukuba kungolwazi lekomiti exeliweyo yesibheni, umnini womhlaba lowo uchaziweyo wabandezeleka okanye ezakulahlekelwa kabuhlungu malandiswe elo xesha lichaziweyo okanye kubhekiswe umhla ochaziweyo ngokunxulumene nokhathalelo lomhlaba lowo kangangexesha apho ikomiti yesibheni ingachaza. 15 ukuba ixesha elandisiweyo iyakuba yiminyaka emi-5

(2) Icandelwana (1) lithathwa njengeliqalise ukusebenza ngomhla wama 30 Juni 2007.

Ukuqinisekiswa kwemithetho ethile

3. (1) Nantoni na eyenziwe nguye nawuphi na umntu kuquka naliphi na icandelo likarhulumente, emva kowama 30 Juni 2007 kwaye ingenagunya, kodwa ebinokuba negunya ukuba ngaba icandelo 2(1) lalo Mthetho belisetyenziswa ngelo xesha esi senzo sithathwa ngokuba sinegunya. 20

(2) Imaphu yokuzowuna ekubekiswe kuyo kwicandelo 14(2) yoMiselo loCwangciso loSetyenziso loMhlaba, 1985, njengoko kulungisiwe ngulo Mthetho, obuza kuba ubhangile ukuba icandelo 2(1) lalo Mthetho belingasebenzi ngowama-30 Juni 2007, uthatyathwa njengongakhange ube ubhangile. 25

Isihlokwana esifutshane

4. Lo Mthetho ubizwa ngokuba nguMmiselo wesiCwangciso soSetyenziso loMhlaba weNtshona koloni, 1985, UMthetho woLungiso, 2009 30