
PROVINCE OF WESTERN CAPE

**WESTERN CAPE
LAND USE PLANNING
ORDINANCE, 1985
AMENDMENT ACT, 2009**

PROVINSIE WES-KAAP

**WES-KAAPSE
WYSIGINGSWET DIE
ORDONNANSIE OP
GRONDGEBRUIKBEPLANNING,
1985, 2009**

IPHONDO LENTSHONA KOLONI

**UMTHETHO WOLUNGISO
WOMMISELO LWESICWANGCISO
SOSETYENZISO LOMHLABA
WENTSHONA KOLONI, 1985, 2009**

No 1, 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.

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 The Land Use Planning Ordinance, 1985, Amendment Act, 2007, is hereby repealed.

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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.

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(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.”.

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

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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.

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Short title

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

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ALGEMENE VERDUIDELIKENDE NOTA:

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

AANGESEN 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;

AANGESEN 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;

AANGESEN 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;

AANGESEN daar administratiewe verpligte en regsonsekerheid is in verband met die uitwerking van die Wysigingswet; en

AANGESEN 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.

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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 gebrugsreg ten opsigte van

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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.

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(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.”.

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

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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.

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(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.

Kort titel

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

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INQAKU JIKELELE ELICACISAYO:

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

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

NANGONA uMmiselo wesiCwangciso sokuSetyenziswa koMhlaba ka 1985, UMthetho woLungiso ka 2007, (UMthetho woLungiso), ngaphandle kokuba kwixesha elandisiweyo abanini-mihlababazakusebenzisa 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, aphi la malungelo akhankanyiweyo kwakufuneka esetyenzisiwe.

NANGONA abanini-mihlababathile, oomasipala nabanye abathathi-nxaxheba bebengaondi ngokuphelelwa lixesha bakhokele iinkqubo ezinxulumene nokusetyenziswa kwamalungelo emihlababokungathi ixesha elixeliweyo aliphelelwanga.

NANGONA kukho iingxaki zolawulo nokungaqniseki ngokunxulumene nomthetho malunga nokuqualiswa koMthetho woLungiso, kunye

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

OLU YILO LOMTHETHO MALWENZIWE LUSEBENZE yiPalamente yePhondo leNtshona Koloni ngolu hlolo:—

Ubhangiso loMthetho wesi 4 ka-2007

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

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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 wokuqualiswa kwaloMmiselo] nawaphi amalungelo asetyenziswayo

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ngokunxulumene nomhlaba apha 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.

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(b) Ngokwamalungiselelo omhlathi (c) weli candelwana ikomiti yesibheno iyakufuneka phambi [**kokuphelelwa kwexesha lama 21 eminyaka]** umhla okhankanyiweyo kumhlathi (a) weli candelwana nalo naliphi na ixesha elongezelelwego umhla oyakumiswa yikomiti echaziwego yesibheno ngokomgaqo weli candelwana, ngokwesicelo somniniso ngamnye kwaye ukuba kungolwazi lekomiti exeliwego yesibheno, umnini womhlaba lowo uchaziwego wabandezeleka okanye ezakulahlekelwa kabuhlungu malandiswe elo xesha lichaziwego okanye kubhekediswe umhla ochaziwego ngokunxulumene nokhathalelo lomhlaba lowo kangangexesa apha ikomiti yesibheno ingachaza, 15 ukuba ixesha elandisiwego iyakuba yiminyaka emi-5

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(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.

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(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.

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Isihlokwana esifutshane

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

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