

PHYSICAL PLANNING ACT 88 OF 1967

(Originally “Physical Planning and Utilization of Resources Act”, substituted by the short title “Environment Planning Act” in terms of Act 73/75 and by the present short title in terms of Act 51/81)

(Afrikaans text signed by the Acting State President)

*[Assented to: 19 June 1967]
[Commencement date: 7 July 1967]*

as amended by:

Physical Planning and Utilization of Resources Amendment Act 73 of 1975
Environment Planning Amendment Act 104 of 1977
Environment Planning Amendment Act 51 of 1981
Physical Planning Amendment Act 87 of 1983
Physical Planning Amendment Act 104 of 1984
Physical Planning Amendment Act 92 of 1985
Regional Services Councils Act 109 of 1985
Transfer of Powers and Duties of the State President Act 97 of 1986
Environment Conservation Act 73 of 1989
Physical Planning Act 125 of 1991

NOTE:

Some of the remaining provisions of this Act have been partially repealed or will be repealed or partially repealed by s. 36 of the Physical Planning Act 125 of 1991 at the full commencement of that section. See [s. 36](#) and the [Schedules](#) to Act 125/91.

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; 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.

[Long title substituted by s. 13 of Act 73/75 and s. 12 of Act 92/85]

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

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1. Definitions

In this Act, unless the context otherwise indicates -

“**Administrator**” means an Administrator and the other members of the executive committee concerned;

“**building**” includes any structure;

“**business**” means any trade or occupation as defined in any ordinance relating to the licensing of trades and occupations and of the province concerned;

“**committee**” means a committee appointed in terms of [section 6A\(1\)](#);

“**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;

“**Department**”, in relation to any provision of this Act, means the Department or Office of State or provincial administration administered by the Minister or Administrator to whom the administration of that provision has been assigned by a proclamation issued under [section 13B](#);

[Definition of “Department” inserted by s. 1 of Act 51/81]

“**Director-General**”, in relation to any provision of this Act, means the head of the Department or Office of State administered by the Minister or Administrator to whom the administration of that provision has been assigned by a proclamation issued under [section 13B](#);

[Definition of “Director-General” inserted by s. 1 of Act 51/81]

“**draft guide plan**” means a draft guide plan contemplated in [section 6A\(1\)](#);

“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;

“guide plan” means a draft guide plan approved in terms of [section 6A\(10\)](#);
[Definition of “guide plan” substituted by s. 1 of Act 51/81]

“guide plan area” means the area in respect of which a guide plan is applicable;

“industrial activities” means the establishment or carrying on of a factory;
[Definition of “industrial activities” inserted by s. 1 of Act 92/85]

“land” includes any portion of land and any building;

“local authority” means any institution or body contemplated in section 84(1)(f) of the Provincial Government Act, 1961 (Act No. 32 of 1961) or in section 2 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);
[Definition of “local authority” substituted by s. 1 of Act 92/85]

“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;

“Minister”, in relation to any provision of this Act, means the Minister or Administrator to whom the administration of that provision has been assigned by proclamation issued under [section 13B](#);
[Definition of “Minister” substituted by s. 1 of Act 51/81]

“natural area”
[Definition of “natural area” deleted by s. 1 of Act 51/81]

“natural resource” means any raw material obtained from nature and includes soil, air, water and minerals;
[Definition of “natural resource” inserted by s. 1 of Act 51/81]

“nature area”
[Definition of “nature area” inserted by s. 1 of Act 51/81 and deleted by s. 43 of Act 73/89]

“processing”, in relation to a mineral, means all processes through which a mineral is put, after having been removed from the earth, in order to refine it or to render it suitable for a specific purpose or to make the extraction of an element possible; and includes the recovery, concentration, refinement or conversion thereof;
[Definition of “processing” inserted by s. 1 of Act 51/81]

“quarry” means any open excavation made with the intention of searching for or removing any soil, sand, gravel, stone or clay;

[Definition of “quarry” inserted by s. 1 of Act 51/81]

“processing”

[Definition of “processing” substituted for the definition of “process” by s. 1 of Act 104/77 and deleted by s. 1 of Act 87/83. See definition of “processing” above.]

“regional services council” means a regional services council established in terms of the [Regional Services Councils Act, 1985](#);

[Definition of “regional services council” inserted by s. 17 of Act 109/85]

“resources” includes land, minerals, water, means of generating power, labour and means of transport.

“Secretary”

[Definition of “Secretary” deleted by s. 1 of Act 87/83]

“use of land”

[Definition of “use of land” deleted by s. 1 of Act 87/83]

[S. 1 substituted by s. 1 of Act 73/75]

2.

[S. 2 amended by s. 2 of Act 73/75, substituted by s. 2 of Act 51/81, amended by s. 2 of Act 92/85 and repealed by s. 36 of Act 125/91]

3.

[S. 3 amended by s. 3 of Act 73/75 and s. 2 of Act 104/77, repealed by s. 3 of Act 92/85 and amended by ss. 46 and 47(sic) of Act 97/86]

4.

[S. 4 substituted by s. 4 of Act 73/75 and s. 3 of Act 51/81, amended by s. 44 of Act 73/89 and repealed by s. 36 of Act 125/91]

5. Establishment and disestablishment of controlled areas

(1) If the Minister is satisfied -

(a) that an area should be declared a controlled area or part of an existing controlled area, he may by notice in the *Gazette* declare that area, as defined in the notice, a controlled area, or part of a controlled area as from a date specified therein;

[Para. (a) amended by s. 47 of Act 97/86]

(b) that any controlled area or any part thereof should be disestablished, he may by notice in the *Gazette* declare that such area or the part thereof defined in the notice, shall, as from a date specified therein, cease to be a controlled area or part of a controlled area, as the case may be.

[Para. (b) amended by s. 47 of Act 97/86]

[Subs. (1) amended by s. 46 of Act 97/86]

- (2) No notice shall be issued under subsection (1) unless in each case the Minister has previously consulted the Administrator or Administrators of the province or provinces concerned in regard thereto.

[Subs. (2) amended by s. 47 of Act 97/86]

6. Restriction upon use of land in controlled area

- (1) Subject to the provisions of subsection (2), no person shall -

- (a) use land in a controlled area otherwise than for a purpose for which it was being used immediately prior to the date as from which the area concerned was or is declared a controlled area or part of a controlled area; or
- (b) use land, in a controlled area, which at any time after the date referred to in paragraph (a), whether before or after the commencement of the Physical Planning Amendment Act, 1984, was not used for a purpose contemplated in the said paragraph (a), or for any other purpose authorized by or under this Act, for a continuous period of two years,

except under the authority of a permit and for the purpose and in accordance with the conditions specified therein.

[Subs. (1) substituted by s. 1 of Act 104/84]

- (2) Subsection (1) shall not apply in respect of -

- (a) any area, immovable property, building, land or premises which is the subject of a proclamation issued or deemed to have been issued in terms of section 19, 23, 24 or 25 of the Group Areas Act, 1966 (Act No. 36 of 1966);

- (b) the use of land -

- (i) situated in the area of jurisdiction of a municipal council, city council, town council, village council, village management council, local board, or health committee, and land forming part of, in the Province of the Cape of Good Hope, a local area established under section 8(1)(g) of the Divisional Councils Ordinance, 1976 (Ordinance No. 18(1)(g) of 1976 of the Province of the Cape of Good Hope), and, in the Province of Natal, a development area as defined in section 1 of the Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941 of the Province of Natal), and, in the Province of Transvaal, an area in respect of which a local area committee has been established under section 21(1) of the Transvaal Board for the Development

of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943 of the Province of Transvaal; or

- (ii) for agricultural or forestry purposes or for purposes incidental thereto, or for purposes of a road or railway;
 - (c) 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 condition contained in the title deed of the land;
 - (d) the use of land for a business within a Black residential area, as defined in section 1 of the Blacks (Urban Areas) Consolidation Act, 1945 (Act No. 25 of 1945);
 - (e) land -
 - (i) which has been reserved for the utilization of a particular natural resource;
[Subpara. (i) substituted by s. 45 of Act 73/89]
 - (ii) which is situated within a guide plan area.
- (3) The provisions of subsection (2)(c) shall not apply in respect of the use of land -
- (a) for the erection of a dwelling or the conduct of a business in connection with mining or prospecting activities;
 - (b) the purposes of any other business.
[S. 6 amended by s. 5 of Act 73/75 and substituted by s. 4 of Act 51/81]

6A.

[S. 6A inserted by s. 6 of Act 73/75, substituted by s. 5 of Act 51/81, amended by s. 2 of Act 87/83, s. 2 of Act 104/84, s. 4 of Act 92/85 and s. 17 of Act 109/85 and repealed by s. 36 of Act 125/91]

6B.

[S. 6B inserted by s. 6 of Act 73/75, substituted by s. 3 of Act 104/77, amended by s. 6 of Act 51/81, s. 3 of Act 87/83 and s. 5 of Act 92/85 and repealed by s. 36 of Act 125/91]

7. Exemptions

The Minister may by notice in the *Gazette*, on such conditions as he may determine and in so far as he may deem expedient, exempt -

- (a) any land, any class of land or any particular use of land from any or all of the provisions of [section 2](#)(1)(b) or (e), [4](#)(2), [6](#)(1) or [6B](#)(1) or (2);
[Para. (a) substituted by s. 6 of Act 92/85]

- (b) any town planning scheme from the provisions of [section 2\(1\)\(a\)](#);
- (c) any person from any or all the provisions of [section 2\(1\)\(c\)](#) or (d),

and may in like manner at any time withdraw such exemption.

[S. 7 substituted by s. 7 of Act 73/75, s. 4 of Act 104/77 and s. 4 of Act 87/83]

8. Issue of permits

(1) The Minister may in his discretion -

- (a) direct that a permit (to be signed by an officer designated thereto by him) be issued subject to such conditions as he may determine, authorizing -
 - (i) the use of land specified in a notice issued in terms of [section 4\(1\)](#) for a purpose other than the purpose for which the land was being lawfully used at the date of such notice; or
 - (ii) the use of any particular land for any brick making or sand washing or stone crushing or a quarry, or for the processing of any mineral in any other manner; or
[Subpara. (ii) substituted by s. 7 of Act 92/85]
 - (iii) the use of land in a controlled area for a purpose for which it was not being used at the date as from which the area concerned was or is declared a controlled area or part of a controlled area;
 - (iv) the use of land in a controlled area for a purpose for which it was being used immediately prior to the date referred to in subparagraph (iii), in a case where the land concerned at any time after that date was not so used for a continuous period of two years.
[Subpara. (iv) added by s. 3 of Act 104/84]
- (b) direct that a permit shall be available only for a portion of the land in respect of which it has been issued.

(2) The Minister may -

- (a) at the request of the owner of land on whose application a permit has been issued under this section or of his successor in title, revoke or amend such permit; or

- (b) if any land in respect of which a permit has been issued, is used contrary to a condition subject to which the permit has been issued, after not less than one month's notice, revoke the permit.
- (3) A permit issued under subsection (1)(a)(iii) or (iv) shall lapse if at any time after the issue thereof the land concerned is not used for a continuous period of two years for any purpose authorized in the permit.
 [Subs. (3) added by s. 3 of Act 104/84]
 [S. 8 amended by s. 8 of Act 73/75 and substituted by s. 7 of Act 51/81]

9. Delegation of powers by Minister

- (1)
 [Subs. (1) substituted by s. 9 of Act 73/75 and s. 5 of Act 87/83, amended by s. 8 of Act 92/85 and repealed by s. 36 of Act 125/91]
- (2) The Minister or Administrator 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 any of his powers under [section 6A](#)(3), (9), (12) (a), (b), (c) or (d), (13) or (15)(b) or [8](#).
 [Subs. (2) substituted by s. 9 of Act 73/75 and s. 8 of Act 51/81]
- (3) A permit issued or power exercised by virtue of a delegation under subsection (1) or (2) shall for all purposes be deemed to have been issued or exercised by the Minister.
- (4) Any person from whom approval is required under [section 2](#) or any applicant for a permit who is aggrieved by a decision by virtue of a delegation under this section may at any time within 60 days after the date of such decision appeal to the Minister.
 [Subs. (4) substituted by s. 8 of Act 51/81 and s. 5 of Act 87/83 and amended by s. 8 of Act 92/85]

9A. Investigation of suspected offences

- (1) The Director-General may, whenever he suspects that any provision of this Act or a condition imposed in terms of [section 2](#) 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.
 [Subs. (1) amended by s. 9 of Act 92/85]
- (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.

[S. 9A inserted by s. 10 of Act 73/75]

10. Withdrawal and amendment of proclamations and notices

Whenever the State President or the Minister is by this Act authorized to issue a proclamation or notice, he may in like manner, whenever it is deemed expedient, withdraw or amend the proclamation or notice (including a proclamation or notice deemed to have been issued in terms of a provision of this Act).

11. Offences and penalties

(1) Any person who -

- (a) contravenes [section 2](#)(1)(e), [4](#)(2), [6](#)(1), [6A](#)(12)(b), [6B](#)(1) or (2), or fails to comply with a direction under [section 6B](#)(4); or

[Para. (a) substituted by s. 5 of Act 104/77, s. 9 of Act 51/81 and s. 10 of Act 92/85]

- (b) fails to comply with a condition referred to in [section 2](#)(2), [4](#)(2), [6B](#)(2) or [8](#)(1); or

[Para. (b) substituted by s. 5 of Act 104/77 and amended by s. 10 of Act 92/85]

- (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

- (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 an offence referred to in subsection (1) (a) or (b), 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.

[Subs. (2) substituted by s. 5 of Act 104/77]

- (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).

[S. 11 substituted by s. 11 of Act 73/75]

12. Evidence

- (1) A document which purports to have been certified by the Director-General, or by an officer in the Department authorized thereto by the Director-General, 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, upon the mere production thereof at any prosecution in terms of this Act, be *prima facie* evidence of the granting of such approval or permission or the imposition of such conditions, as the case may be.

[Subs. (1) amended by s. 6 of Act 87/83]

- (2)

[Subs. (2) amended by s. 6 of Act 87/83 and deleted by s. 11 of Act 92/85]

- (3)

[Subs. (3) deleted by s. 11 of Act 92/85]

- (4) When in any prosecution for a contravention of [section 6\(1\)](#) it is alleged that land was not used for a continuous period of two years for any purpose

contemplated in that provision, it shall be presumed, until the contrary is proved, that such land was not so used.

[Subs. (4) added by s. 4 of Act 104/84]

[S. 12 substituted by s. 12 of Act 73/75 and s. 6 of Act 104/77]

13. Exclusion of Black Areas

No provision of sections 2 to 12, inclusive, shall be applicable or be made applicable in any area consisting of land referred to in section 21(1) of the Development Trust and Land Act, 1936 (Act No. 18 of 1936), or in a scheduled Black area as defined in that Act.

13A.

[S. 13A inserted by s. 10 of Act 51/81 and repealed by s. 36 of Act 125/91]

13B. Administration of Act

The State President may by proclamation in the *Gazette* assign the administration of any provision of this Act to any Minister or the Administrator of a province.

[S. 13B inserted by s. 10 of Act 51/81]

14. Repeal of laws and savings

- (1) The Natural Resources Development Act, 1947 (Act No. 51 of 1947), and the Natural Resources Development Amendment Act, 1955 (Act No. 30 of 1955), are hereby repealed.
- (2) A proclamation or permit issued or exemption granted or anything done under any provision of the laws repealed by subsection (1) shall be deemed to have been issued, granted or done under the corresponding provision of this Act.

15. Short title

This Act shall be called the Physical Planning Act, 1967.

[S. 15 substituted by s. 14 of Act 73/75 and s. 12 of Act 51/81]