

REPUBLIC OF SOUTH AFRICA

**PORTFOLIO COMMITTEE AMENDMENTS
TO

SPATIAL PLANNING AND
LAND USE MANAGEMENT
BILL**

[B 14—2012]

(Portfolio Committee on Rural Development and Land Reform)

[B 14A—2012]

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PROPOSED AMENDMENTS TO

SPATIAL PLANNING AND LAND USE MANAGEMENT BILL
[B 14—2012]

ARRANGEMENT OF SECTIONS

1. On page 5, in line 11, to omit “for” and to substitute “to”.
2. On page 5, in line 24, to omit “of members” and to substitute “from membership”.

CLAUSE 1

1. On page 6, after line 27, to insert after the definition of “**Deeds Registries Act**”, the following definition:

“ **‘development rights’** means any approval granted to a land development application;”.
2. On page 6, in line 36, to omit the definition of “**erf**”.
3. On page 6, from line 50, to omit the definition of “**inclusionary housing**”.
4. On page 7, in line 5, to omit “Chapter 2” and to substitute “Chapter 5”.
5. On page 8, from line 1, to omit the definition of “**rezone**”.

CLAUSE 2

1. On page 8, after line 24, to add the following subclause:

(2) Except as provided for in this Act, no legislation not repealed by this Act may prescribe an alternative or parallel mechanism, measure, institution or system on spatial planning, land use, land use management and land development in a manner inconsistent with the provisions of this Act.

CLAUSE 7

1. On page 10, after line 12, to omit subparagraph (vi) and to substitute the following subparagraph:

(vi) a Municipal Planning Tribunal considering an application before it, may not be impeded or restricted in the exercise of its discretion solely on the ground that the value of land or property is affected by the outcome of the application;

CLAUSE 8

1. On page 10, after line 58, to omit subclause (1) and to substitute the following subclause:

(1) The Minister must, after consultation with organs of state in the provincial and local spheres of government, prescribe norms and standards for land use management and land development that are

consistent with this Act, the Promotion of Administrative Justice Act, 2000 (Act No. 3 of 2000), and the Intergovernmental Relations Framework Act.

CLAUSE 10

1. On page 12, after line 27, to add the following subclause:

(6) Provincial legislation having the effect of regulating land use, land use management and land development within a province must promote the development of local government capacity to enable municipalities to perform their municipal planning functions.

CLAUSE 12

1. On page 13, in line 26, after “on” to insert “mineral resources and”.
2. On page 13, from line 32, to omit paragraph (a) and to substitute the following paragraph:

(a) The national government, a provincial government and a municipality must participate in the spatial planning and land use management processes that impact on each other to ensure that the plans and programmes are coordinated, consistent and in harmony with each other.

3. On page 13, from line 46, to omit paragraph (a).

CLAUSE 14

1. On page 14, in line 27, after “principles” to insert “and norms and standards”.

CLAUSE 18

1. On page 15, from line 51, to omit paragraphs (a) and (b).

CLAUSE 19

1. On page 16, in line 16, after “principles” to insert “and applicable norms and standards”.
2. On page 16, in line 25, to omit “be consistent” and to substitute “comply”.

CLAUSE 21

1. On page 16, in line 46, after “principles” to insert “and applicable norms and standards”.
2. On page 16, in line 48, to omit the second “for” and to substitute “of”.
3. On page 17, in line 31, to omit “(i)” and to substitute “(ii)”.

CLAUSE 22

1. On page 17, in line 44, after (2) to insert “subject to section 42”.
2. On page 17, from line 49, to omit paragraph “(b)”.

3. On page 17, in line 52, after “must” to insert:

, in accordance with the Intergovernmental Relations Framework Act,”.

CLAUSE 23

1. On page 18, from line 12, to omit subclause (2) and to substitute the following subclause:

(2) Subject to section 81 of the Local Government: Municipal Structures Act, 1998 (Act No. 117 of 1998), and the Traditional Leadership and Governance Framework Act, 2003 (Act No. 41 of 2003), a municipality, in the performance of its duties in terms of this Chapter must allow the participation of a traditional council.

CLAUSE 24

1. On page 18, in line 21, to omit “suitable” and to substitute “appropriate”.

CLAUSE 28

1. On page 19, after line 57, to add the following subclause:

(4) Despite sections 35 and 41, any change to the land use scheme of a municipality affecting the scheme regulations setting out the procedures and conditions relating to the use and development of land in any zone in terms of section 25(2)(a) may only be authorised by the Municipal Council.

CLAUSE 30

1. On page 20, in line 29, to omit “A municipal Planning Tribunal” and to substitute “The relevant Municipality”.

CLAUSE 31

1. On page 20, in line 32, to omit “**for**” and to substitute “**to**”.
2. On page 20, in line 37, to omit “central” and to substitute “publicly accessible”.

CLAUSE 32

1. On page 20, in line 44, to omit “or town planning”.
2. On page 21, in line 3, after “may” to insert “, subject to subsection 8”.
3. On page 21, in line 35, after “thereof” to insert “and return it as soon as practical after achieving the purpose for which it was removed or seized”.
4. On page 21, after line 35, to add the following subclauses:

(8) An inspection of a private dwelling may only be carried out by an inspector when authorised in terms of a warrant issued by a competent court.

(9) An inspector may, where necessary, be accompanied by a police official or any other person reasonably required assisting him or her in conducting the inspection.

(10) An inspector may issue a compliance notice to the person who controls or manages the land or the owner or person in control of a private dwelling if a provision of this Act has not been complied with.

(11) A compliance notice remains in force until the relevant provision of the Act has been complied with and the inspector has issued a compliance certificate in respect of that notice.

(12) An inspector who enters and searches any land or private dwelling under this section, must conduct such search or seizure with strict regard for decency and order, and with regard for each person's right to dignity, freedom, security and privacy.

CLAUSE 35

1. On page 22, after line 10, to insert the following subclause:

(3) A municipality must, in order to determine land use and land development applications within its municipal area, categorise development applications to be considered by an official and those to be referred to the Municipal Planning Tribunal.

2. On page 22, in line 11, after (3) to insert "Subject to Subsection (3),".

CLAUSE 37

1. On page 22, in line 34, to omit "employment" and to substitute "service".
2. On page 22, in line 35, to omit "36" and to substitute "36(1)(b)".
3. On page 22, in line 37, to omit "36" and to substitute "36(1)(b)".
4. On page 22, in line 39, after the first "Municipal Council" to insert "and subject to section 139 of the Constitution".

CLAUSE 38

1. On page 22, in line 49, to omit "**of members**" and to substitute "**from membership**".
2. On page 23, in line 32, to omit ", in the opinion of the Municipal Council, there are good reasons," and to substitute "there are reasonable grounds".

CLAUSE 39

1. On page 23, in line 40, after "Tribunal" to insert ", an executive authority of the municipality as the appeal authority,".

CLAUSE 41

1. On page 24, in line 34, after "scheme" to insert ", except any change affecting the scheme regulations in terms of section 25(2)(a)".

CLAUSE 45

1. On page 25, from line 31, move and renumber subclause (2) to be subclause (4) and subclause (4) to be subclause (2).

CLAUSE 50

1. On page 27, from line 1, to omit subclause (3).

CLAUSE 51

1. On page 27, in line 7, to omit “Notwithstanding the provisions of section 62 of the Municipal Systems Act,”.
2. On page 27, from line 14, to omit “, but no variation or revocation of a decision may detract from any rights that may have accrued as a result of the decision”.
3. On page 27, after line 25, to add the following subclauses:

(6) A municipality may, in the place of its executive authority, authorise that a body or institution outside of the municipality or in a manner regulated in terms of a provincial legislation, assume the obligations of an appeal authority in terms of this section.

(7) No appeal in respect of a decision taken in terms of or pursuant to this Act may be lodged in terms of section 62 of the Municipal Systems Act.

CLAUSE 52

1. On page 28, after line 5, to add the following subclause:

(7) Nothing in this section authorises the lodgement or referral of an application for land use or land development to the Minister without such application having first been lodged and considered by the relevant municipality in terms of section 33(1).

CLAUSE 54

1. On page 28, after line 41, to insert the following subclause:
 - (2) Before promulgating regulations as contemplated in subsection (1) and any proposed amendments to regulations, the Minister must—
 - (a) give notice of the proposed regulations in the media;
 - (b) invite the public to submit written representations in respect of the proposed regulations to the Minister within 60 days after the publication of the notice referred to in paragraph (a);
 - (c) consider all representations received in respect of the proposed regulations; and
 - (d) table the regulations in Parliament.

CLAUSE 56

1. On page 29, in line 11, to omit Clause 56 and to substitute the following clause:

56. Any power, except the power to make regulations and the power to determine land use and land development applications as contemplated in section 35, conferred in this Act upon a Minister, a Premier or a municipality, may, in general or in cases of a particular nature, be delegated by the person or body entrusted with that power to a political office holder or an official in the employ or service of the relevant sphere of government: Provided that any such delegation must be in writing and must specify full particulars and the limitations of such a delegation.

CLAUSE 58

1. On page 29, in line 23, to omit “25(1) or (2)” and to substitute “38(3)”.
2. On page 29, in line 24, after “use” to insert “as contemplated in section 26(2)”.
3. On page 29, in line 27, to omit paragraph (d) and to substitute the following:
 - (d) hinders or obstructs any inspector in the performance of any function in terms of this Act,

CLAUSE 60

1. On page 29, from line 50, to omit subclause (2) and to substitute the following subclause:

(2) (a) All applications, appeals or other matters pending before a tribunal established in terms of section 15 of the Development Facilitation Act, 1995 (Act No. 67 of 1995) at the commencement of this Act that have not been decided or otherwise disposed of, must be continued and disposed of in terms of this Act.

(b) A reference to a tribunal in terms of section 15 of the Development Facilitation Act must for the purposes of deciding or otherwise disposing of any application, appeal or other matters pending before a tribunal at the commencement of this Act must be construed as a reference to a local or metropolitan municipality.

(c) References to a designated officer and the registrar in terms of the Development Facilitation Act must for the purposes of deciding or otherwise disposing of any application, appeal or other matters pending before a tribunal at the commencement of this Act must be construed as references to an official of a local or metropolitan municipality designated by such municipality to perform such function.

(d) The Minister may prescribe a date by which such applications, appeals or other matters must be disposed of, and may prescribe arrangements in respect of such matters not disposed of by that date.

SCHEDULE 1

1. On page 31, in line 14, to omit “, re-enact”.

SCHEDULE 3

1. On page 35, after line 6, to insert the following:

Act No. 113 of 1991	Less Formal Township Establishment Act	The whole
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