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DEPARTMENT OF HEALTH

PART 2 OF 4
the area where the norms and standards are intended to apply and give persons a minimum of 30 days after the publication thereof to submit comments thereon;
(c) publishing the consultation paper on the Internet and give persons a minimum of 30 days after the publication thereof to submit comments thereon; and
(d) making copies of the consultation paper available to affected municipalities and organs of state, giving them a minimum of 30 days after sending the copies to them, to submit comment thereon.

Review of draft provincial planning and development norms and standards
143. (1) The steering committee must consider the issues raised during the consultation phase and make the necessary changes to the draft provincial planning and development norms and standards.

(2) The steering committee must –
(a) make copies of the revised draft provincial planning and development norms and standards and an analysis of issues raised during the consultation phase, available to parties who submitted comment on the consultation paper; and
(b) give the parties referred to in paragraph (a), a minimum of 30 days to submit final comments.

(3) The steering committee-
(a) may make further amendments to the draft provincial planning and development norms and standards in response to the final comments as it considers necessary; and
(b) must submit the draft contemplated in paragraph (a), together with a summary of the issues raised during the consultation phase and the final comments to the responsible Member of the Executive Council.

Adoption of provincial planning and development norms and standards
144. (1) The responsible Member of the Executive Council must consider the draft provincial planning and development norms and standards and accompanying documentation and –
(a) approve the draft provincial planning and development norms and standards;
(b) reject the draft provincial planning and development norms and standards; or
(c) return the draft provincial planning and development norms and standards to the steering committee with instructions regarding the amendment or supplementation thereof with a view to the re-submission thereof for approval.

(2) The responsible Member of the Executive Council must promulgate approved provincial planning and development norms and standards by notice in the Gazette.

Notice of provincial planning and development norms and standards

145.(1) The responsible Member of the Executive Council must give notice of the provincial planning and development norms and standards by publishing –

(a) a summary of the provincial planning and development norms and standards in newspapers circulating in the area where the norms and standards are intended to apply; and

(b) the full text of the provincial planning and development norms and standards in the three official languages of the Province on the Internet.

(2) The responsible Member of the Executive Council must make copies of the provincial planning and development norms and standards available to affected municipalities and organs of state.

Part 3: Amendment of provincial planning and development norms and standards

Initiation of amendment to provincial planning and development norms and standards

146.(1) The responsible Member of the Executive Council may at his or her own instance or at the request of any person initiate an amendment to provincial planning and development norms and standards.

Appointment of steering committee to amend provincial planning and development norms and standards

147. (1) The responsible Member of the Executive Council must appoint a steering committee to prepare the amendment to the provincial planning and development norms and standards.

(2) The composition of the steering committee must reflect a fair balance between provincial
government, municipal government and the private sector.

(3) A member of the Appeal Tribunal who is not employed by an organ of state or a municipality on a full-time basis must –

(a) be remunerated and reimbursed from funds appropriated for that purpose by the responsible Member of the Executive Council;

(b) be remunerated at a daily rate, as determined by the responsible Member of the Executive Council in consultation with the member of the Executive Council responsible for the Provincial Treasury by notice in the Provincial Gazette; and

(c) be reimbursed for travelling and subsistence expenses reasonably incurred.

(4) The responsible Member of the Executive Council must designate a member of the steering committee as the chairperson thereof.

Notice of proposed amendment to provincial planning and development norms and standards

148. The responsible Member of the Executive Council must give notice of a proposed amendment to provincial planning and development norms and standards by –

(a) publishing the proposed amendment in the Gazette and giving persons a minimum of 30 days after the publication thereof to submit comment thereon;

(b) publishing a summary of the proposed amendment in at least two newspapers circulating in the area where the norms and standards apply and giving persons a minimum of 30 days after the publication thereof to submit comment thereon;

(c) publishing the proposed amendment on the Internet and giving persons a minimum of 30 days after the publication thereof to submit comment thereon; and

(d) making copies of the proposed amendment available to affected municipalities and organs of state and giving them a minimum of 30 days after sending the copies to them, to submit comment thereon.

Review of proposed amendment to provincial planning and development norms and standards

149.(1) The steering committee must consider the issues raised during the consultation phase
and make the necessary changes to the proposed amendment.

(2) The steering committee must –
(a) make copies of the revised proposed amendment to the provincial planning and development norms and standards and an analysis of issues raised during the consultation phase, available to parties who submitted comment on the proposed amendments; and
(b) give the parties referred to in paragraph (a), a minimum of 30 days to submit final comments.

(3) The steering committee –
(a) may make further amendments to the revised proposed amendment to the provincial planning and development norms and standards in response to the final comments as it considers necessary; and
(b) must submit the revised proposed amendment contemplated in paragraph (a), together with a summary of the issues raised during the consultation phase and the final comments to the responsible Member of the Executive Council.

Adoption of amendment to provincial planning and development norms and standards
150.(1) The responsible Member of the Executive Council must consider the revised proposed amendment to the provincial planning and development norms and standards and accompanying documentation and –
(a) approve the amendment;
(b) reject the amendment; or
(c) return the revised proposed amendment to the steering committee with instructions regarding the amendment or supplementation thereof with a view to the re-submission thereof for approval.

(2) The responsible Member of the Executive Council must promulgate the amended provincial planning and development norms and standards by notice in the Gazette.
Notice of amended provincial planning and development norms and standards

151.(1) The responsible Member of the Executive Council must give notice of the amended provincial planning and development norms and standards by publishing –

(a) a summary of the amendments to the provincial planning and development norms and standards in at least two newspapers circulating in the area where the norms and standards apply; and

(b) the consolidated provincial planning and development norms and standards in the three official languages of the Province on the Internet.

(2) The responsible Member of the Executive Council must make copies of the consolidated provincial planning and development norms and standards available to affected municipalities and organs of state.

Part 4: Withdrawal of provincial planning and development norms and standards

Initiation of withdrawal of provincial planning and development norms and standards

152.(1) The responsible Member of the Executive Council may withdraw any provincial planning and development norms and standards.

(2) The responsible Member of the Executive Council must give notice of the intention to withdraw provincial planning and development norms and standards by –

(a) publishing the intention to withdraw the provincial planning and development norms and standards in the Gazette and giving persons a minimum of 30 days after the publication thereof to submit comment thereon;

(b) publishing the intention to withdraw the provincial planning and development norms and standards in at least two newspapers circulating in the area where the norms and standards apply and giving persons a minimum of 30 days after the publication thereof to submit comment thereon;

(c) publishing the proposed amendment on the Internet and giving persons a minimum of 30 days after the publication thereof to submit comment thereon; and

(d) making copies of the proposed amendment available to affected municipalities and organs of state, giving them a minimum of 30 days after the sending thereof to them to submit comment thereon.
Withdrawal of provincial planning and development norms and standards

153.(1) The responsible Member of the Executive Council must consider the issues raised during the consultation phase and review the intention to withdraw the provincial planning and development norms and standards.

(2) The responsible Member of the Executive Council must either –
   (a) approve the withdrawal of the provincial planning and development norms and standards and repeal any corresponding regulations; or
   (b) reject the withdrawal of the provincial planning and development norms and standards.

(3) The responsible Member of the Executive Council must withdraw provincial planning and development norms and standards by notice in the Gazette.

Notice of withdrawn provincial planning and development norms and standards

154.(1) The responsible Member of the Executive Council must give notice of the withdrawal of the provincial planning and development norms and standards –
   (a) by publishing a notice to that effect in at least two newspapers circulating in the area where the provincial norms and standards apply; and
   (b) by publishing a notice to that effect on the Internet.

(2) The responsible Member of the Executive Council must advise affected municipalities and organs of state of the repeal of any regulations.

CHAPTER 12
GENERAL PROVISIONS
Part 1: Delegations and agency agreements

Delegations by responsible Member of the Executive Council

155.(1) The responsible Member of the Executive Council may delegate the –
   (a) power to extend the period for the adoption of a scheme or schemes by notice in the Gazette contemplated in section 4(2);
(b) duty to designate one of the remaining members of the Appeal Tribunal who is a member who is legally qualified, to act in the place of the chairperson, if the office of deputy chairperson is vacant or the deputy chairperson is unable to act in the place of the chairperson contemplated in section 109(3);

(c) duty to ensure that the Appeal tribunal is provided with administrative support to enable it to perform its functions contemplated in section 112(1)(c);

(d) duty to ensure that the Appeal Tribunal is provided accommodation, office furniture and the equipment necessary to perform its functions contemplated in section 112(1)(d);

(e) power to appoint a deputy registrar to act in the place of the registrar if the office of registrar is vacant or the registrar is unable to act as contemplated in section 112(4);

(f) duty to ensure that copies of the provincial planning and development norms and standards are made available to affected municipalities and organs of state contemplated in section 145(2);

(g) duty to ensure that copies of the consolidated provincial planning and development norms and standards are made available to affected municipalities and organs of state after the amendment thereof contemplated in section 151(2); and

(h) duty to advise affected municipalities and organs of state of the notice repealing regulations relating to provincial planning and development norms and standards that have been withdrawn contemplated in section 154(2),

to any official in the Department.

(2) A delegation in terms of this section may be subject to any conditions that the responsible Member of the Executive Council considers necessary.

(3) A power or duty may –

(a) be delegated to more than one functionary;

(b) be delegated to a named person or the holder of a specific office or position; and

(c) at any time be withdrawn or amended in writing by the responsible Member of the Executive Council.

(4) A delegation does not –
(a) prevent the responsible Member of the Executive Council from exercising that power or performing the duty; or
(b) relieve the responsible Member of the Executive Council from being accountable for the exercise of the power or the performance of the duty.

(5) An act performed by a delegated authority has the same force as if it had been done by the responsible Member of the Executive Council.

(6) An act performed by a delegated authority, which was done within the scope of the delegation, remains in force and is not invalidated by reason of –

(a) the responsible Member of the Executive Council electing afterwards to exercise that power or performing the function or duty; or
(b) a later amendment or withdrawal of the delegation.

(7) A delegation in terms of this section –

(a) must be in writing;
(b) must be published by notice in the Gazette which notice must include the following details –
   (i) the matter being delegated;
   (ii) the conditions subject to which the delegation is made; and
(c) comes into effect upon the publication thereof in the Gazette, or if a later date is stated in the notice, from that date.

(8) The responsible Member of the Executive Council may at any time amend the terms of a delegation, or revoke a delegation made in terms of this section.

(9) The responsible Member of the Executive Council must give notice in the Gazette of the amendment or revocation of a delegation.

(10) The purport of the amendment of a delegation by the responsible Member of the Executive Council must be briefly stated in the notice in the Gazette.
Delegations by municipality

156. (1) A municipality may delegate any power conferred on it in terms this Act to any official employed by it or another municipality, including a district municipality, except the power to adopt or replace a scheme contemplated in section 13.

(2) A delegation in terms of this section may be subject to any conditions that the municipality considers necessary.

(3) A power or duty may –
   (a) be delegated to more than one functionary;
   (b) be delegated to a named person or the holder of a specific office or position;
   (c) be delegated subject to any conditions or limitations that the municipality considers necessary; and
   (d) at any time be withdrawn or amended in writing by the municipality.

(4) A delegation does not –
   (a) prevent a municipality from exercising that power or performing the duty; or
   (b) relieve the municipality from being accountable for the exercise of the power or the performance of the duty.

(5) An act performed by a delegated authority has the same force as if it had been done by the responsible Member of the Executive Council.

(6) An act performed by a delegated authority, which was done within the scope of the delegation, remains in force and is not invalidated by reason of –
   (a) the municipality electing afterwards to exercise that power or performing the function or duty; or
   (b) a later amendment or withdrawal of the delegation.

(7) A delegation in terms of this section –
   (a) must be in writing;
   (b) must be published by notice in the Gazette which notice must include the following details –
      (i) the matter being delegated;
      (ii) the conditions subject to which the delegation is made; and
(c) comes into effect upon the publication thereof in the Gazette, or if a later date is stated in the notice, from that date.

(8) The municipality may at any time amend the terms of a delegation, or revoke a delegation made in terms of this section.

(9) The municipality must give notice in the Gazette of the amendment or revocation of a delegation.

(10) The purport of the amendment of a delegation by a municipality must be briefly stated in the notice in the Gazette.

Agency agreements between municipalities for performance of functions in terms of Act 157. (1) A municipality may after it has applied the criteria contemplated in section 78 of the Municipal Systems Act enter into an agreement with one or more other municipalities in terms of which the latter is to exercise or perform, as the agent of the municipality, any of its powers conferred on it by this Act.

(2) An agency agreement in terms of this section must, among other things, clearly specify the powers that are to be exercised by the one municipality as the agent of the other, as well as the terms and conditions on which it was agreed to exercise or perform them.

(3) Any power conferred on a municipality by this Act, which has been exercised or performed by another municipality, acting as its agent in terms of an agency agreement, must be treated as having been exercised by the first-mentioned municipality.

Part 2: General matters

Service of documents

158. (1) Where any notice, order or other document issued under this Act is to be served on any person, then, subject to subsection (3), the notice, order or document must be served, if the addressee is a —
(a) natural person –
   (i) by delivering the notice, order or other document by hand to the person concerned;
   (ii) who in writing has nominated, for the purposes of receiving such a notice, order or
document –
      (aa) any particular physical address, by delivering it by hand at that physical
address to a person who apparently is over the age of sixteen years and
apparently resides or works there; or
      (bb) any particular postal address, by sending it by registered post or signature
on delivery mail to that postal address;
   (iii) who cannot be reached and has not made such a nomination –
      (aa) by delivering it by hand at the addressee’s usual or last-known place of
residence, to a person who apparently is over the age of sixteen years and
apparently resides at that place; or
      (bb) by sending it by registered post or signature on delivery mail to the
addressee’s usual or last-known residential or postal address; or
   (iv) who, in writing, has nominated a telefax number or e-mail address for the
purposes of receiving a notice, order or document, by successful electronic
transmission of the relevant notice, order or document to that telefax number or e-mail
address; or
(b) company, close corporation or any other juristic person, or a partnership –
   (i) by delivering the notice, order or document by hand at the registered office or place
of business of the company, close corporation, other juristic person or partnership, to a
person who apparently holds a responsible position in the company, close corporation,
other juristic person or partnership;
   (ii) by sending it by registered post or signature on delivery mail to the registered office
or place of business of the company, close corporation, other juristic person or
partnership; or
   (iii) which in writing has nominated a telefax number or e-mail address for the
purposes of receiving such a notice, order or document, by successful electronic
transmission of the relevant notice, order or document to that telefax number or e-mail
address.

(2) where a notice, order or document has been served –
   (a) by registered post or signature on delivery mail, service must be regarded as having
been effected within 21 days of posting if the mail has not been collected; or
(b) on a person who apparently is over the age of sixteen years, service must be regarded
as having been effected within 21 days of delivery.

(3) Subsection (1) does not apply to the service of any process, subpoena, memorandum, notice
or other document in terms of Chapter 9, or in any other case where this Act prescribes another
method of service.

Calculation of number of days
159. Where this Act prescribes a particular number of days for performing an action, the number
of days must be calculated by excluding the first day as well as every public holiday, and by
including the last day, unless the last day happens to fall on a Saturday, Sunday or public holiday,
in which case the days must be calculated by including the first work day immediately following
that Saturday or Sunday or public holiday.

Access to information
160. The following records must be treated as records that are automatically available as
contemplated in section 15 of the Promotion of Access to Information Act, 2000 (Act No. 2 of
2000) –

(a) records relating to the adoption, replacement or amendment of a scheme, including –
(i) a proposal to adopt a scheme, replace a scheme or amendment a scheme
contemplated in section 9(1) and (2);
(ii) comments received by a municipality in response to an invitation for comment on
the adoption, replacement or amendment of a scheme contemplated in item 5 or 14 of
Schedule 1;
(iii) a registered planner’s written evaluation and recommendation on the adoption,
replacement or amendment of a scheme contemplated in section 11(a);
(iv) a certificate by a registered planner on compliance of a proposal to adopt, replace
or amend a scheme with the Act contemplated in section 11(b);
(v) a municipality’s decision on a proposal to adopt, replace or amend a scheme
contemplated in section 13(1);
(b) records relating to a proposal to subdivide or consolidate land, including –
(i) a proposal to subdivide or consolidate land contemplated in section 22(1) and (2);
(ii) comments received by a municipality in response to an invitation for comment on a proposal to subdivide or consolidate land contemplated in item 5 or 14 of Schedule 1;
(iii) a registered planner's written evaluation and recommendation on the proposed subdivision or consolidation of land contemplated in section 24(a);
(iv) a certificate by a registered planner on compliance of a proposal to subdivide or consolidate land with the Act contemplated in section 24(b);
(v) a municipality's decision on a proposal to subdivide or consolidate land contemplated in section 26(1); and
(vi) a notice warning a land owner that the municipality may initiate the division of the layout plan and cancellation of the part of the layout plan for which the rights have not been fully exercised contemplated in section 37(3)(a);

(c) records relating to a proposal to develop land contemplated in Chapter 4, including –
(i) a proposal to develop land contemplated in section 39(1) and (2);
(ii) comments received by a municipality in response to an invitation for comment on a proposal to develop land contemplated in item 5 or 14 of Schedule 1;
(iii) a registered planner's written evaluation and recommendation on the proposal to develop land contemplated in section 41(a);
(iv) a certificate by a registered planner on compliance of a proposal to develop land with the Act contemplated in section 41(b);
(v) a municipality's decision on a proposal to develop land contemplated in section 43(1); and
(vi) a notice warning a land owner that the municipality may initiate the division of the layout plan and cancellation of the part of the layout plan for which the rights have not been fully exercised contemplated in section 49(1);

(d) records relating to a proposal to divide or cancel a layout plan, including –
(i) a proposal to divide or cancel a layout plan contemplated in section 51(1) and (2);
(ii) comments received by a municipality in response to an invitation for comment on a proposal to divide or cancel a layout plan contemplated section 52(2);
(iii) a registered planner's written evaluation and recommendation on the proposal to divide or cancel a layout contemplated in section 53(a);
(iv) a certificate by a registered planner on compliance of a proposal to divide or cancel a layout plan with the Act contemplated in section 53(b); and
(v) a municipality’s decision on a proposal to divide or cancel a layout plan contemplated in section 55(1);

(e) records relating to a proposal to alter, suspend or delete a restriction relating to land, including –

(i) a proposal to alter, suspend or delete a restriction relating to land contemplated in section 61(1) and (2);

(ii) comments received by a municipality in response to an invitation for comment on a proposal to alter, suspend or delete a restriction relating to land contemplated in item 5 or 14 of Schedule 1;

(iii) a registered planner’s written evaluation and recommendation on the proposal to alter, suspend or delete a restriction relating to land contemplated in section 63(a);

(iv) a certificate by a registered planner on compliance of a proposal to alter, suspend or delete a restriction relating to land with the Act contemplated in section 63(b); and

(v) a municipality’s decision on a proposal to alter, suspend or delete a restriction relating to land contemplated in section 65(1);

(f) records relating to a proposal to permanently close a municipal road or public place, including –

(i) a proposal to permanently close a municipal road or public place contemplated in section 71(1);

(ii) comments received by a municipality in response to an invitation for comment on a proposal to permanently close a municipal road or public place contemplated section 71(2)(b);

(iii) a registered planner’s written evaluation and recommendation on the proposal to permanently close a municipal road or public place contemplated in section 72; and

(iv) a municipality’s decision on a proposal to permanently close a municipal road or public place contemplated in section 74;

(g) records relating to enforcement, including –

(i) a contravention notice contemplated in section 79(1);

(ii) a prohibition order contemplated in section 81(2)(a);

(iii) an application to the High Court contemplated in section 81(2)(b);

(iv) an urgent prevention order contemplated in section 84(2)(a);

(v) an application to the High Court contemplated in section 84(2)(b); and

(vi) an application to the High Court to compel a person to demolish, remove or alter any building, structure or work illegally erected or constructed, or to rehabilitate the
land contemplated in section 94;

(h) records relating to appeals, including –

(i) a memorandum of appeal contemplated in section 113(1);
(ii) a responding memorandum contemplated in section 114(1);
(iii) a notice withdrawing an appeal contemplated in section 116(1);
(iv) a notice withdrawing and opposition to an appeal contemplated in section 116(2);
(v) the Appeal Tribunal’s decision on an appeal contemplated in section 121(5);
(vi) the reasons for a decision of the Appeal Tribunal contemplated in section 122(1);
(vii) an application for the late lodging of an appeal contemplated in section 125;
(viii) opposition to an application for the late lodging of an appeal contemplated in section 126;
(ix) the chairperson’s decision on an application for the late lodging of an appeal contemplated in section 128;

(i) records relating to provincial planning and development norms and standards, including –

(i) an approved consultation paper contemplated in section 141(2)(a);
(ii) comments received by the responsible Member of the Executive Council in response to an invitation for comment on a consultation paper contemplated in section 142;
(iii) approved provincial planning and development norms and standards contemplated in section 144(1)(a);
(iv) a proposal to amend provincial planning and development norms and standards contemplated in section 146(1);
(v) comments received by the responsible Member of the Executive Council in response to an invitation for comment on a proposal to amend provincial planning and development norms and standards contemplated in section 148;
(vi) an approved amendment to provincial planning and development norms and standards contemplated in section 150(1)(a);
(vii) a proposal to withdraw provincial planning and development norms and standards contemplated in section 152(1);
(viii) comments received by the responsible Member of the Executive Council in response to an invitation for comment on the withdrawal of provincial planning and development norms and standards contemplated in section 152(2); and
(ix) a notice withdrawing provincial planning and development norms and standards
contemplated in section 153(3);

(j) records relating to delegations, including –

(i) delegations that have been published in the Gazette contemplated in section 155 in the case of the responsible Member of the Executive Council or 164 in the case of a municipality;

(ii) a further delegation contemplated in section 155(3)(a) and (b) in the case of the responsible Member of the Executive Council or 156(3)(a) and (b) in the case of a municipality; and

(iii) a decision to amend or revoke a delegation that has been published in the Gazette contemplated in section 155(8) in the case of the responsible Member of the Executive Council or 156(8) in the case of a municipality; and

(k) agency agreements contemplated in section 157(1).

Application of Act

161.(1) This Act prevails over the Development Facilitation Act, except in so far as the Development Facilitation Act deals with a matter contemplated in section 146(2)(a),(b) or (c) of the Constitution.

(2) This Act applies to the Province.

Amendment and repeal of laws

162. The laws mentioned in the first two columns of Schedule 2 to this Act, are hereby amended or repealed to the extent indicated in the third column of that Schedule.

Transitional arrangements and savings

163.(1) Any act purported to have been done in terms of a law repealed by this Act by the Premier, a member of the Executive Council of the Province, or any employee of the provincial administration before the commencement of this Act, and which could have been done in terms of the repealed law, must be treated as having been done in accordance with the repealed law.

(2) Schedules 3 to 6 apply to the transition from the old legislative order to the new legislative
order.

**Short title and commencement**

164. This Act is called the KwaZulu-Natal Planning and Development Act, 2008, and comes into operation on a date to be determined by the responsible Member of the Executive Council by notice in the *Gazette*. 
SCHEDULE 1
APPLICATION PROCEDURE

Part 1: Application procedure for applicants
(Sections 9(2), 23(1), 40(1), and 62(1))

Lodging of applications for amendment of municipality's scheme, subdivision or consolidation of land, development of land situated outside the area of a scheme, and alteration, suspension or deletion of restrictions relating to land

1.(1) An application must be lodged with a municipality in whose area that land is situated for –
   (a) the amendment of municipality's scheme;
   (b) the subdivision or consolidation of land;
   (c) the development of land situated outside the area of a scheme;
   (d) the phasing or cancellation of approved layout plan; or
   (e) the alteration, suspension or deletion of restrictions in relation to land.

   (2) The application must be accompanied by –
   (a) the application form;
   (b) written motivation by the applicant in support thereof;
   (c) proof of registered ownership and a copy of the diagram, unless the application relates to a general amendment of the municipality's scheme;
   (d) the written consent of the registered owner of that land, if the applicant is not the owner thereof, unless the application relates to a general amendment of a scheme;
   (e) in the case of an application for the subdivision or consolidation of land, or the development of land situated outside the area of a scheme, copies of the layout plan or general plan which may be required by the municipality; and
   (f) any other plans, diagrams, documents, information or fees that the municipality may require.

Records of receipt of application and request for further documents

2.(1) A municipality must –
   (a) record the receipt of an application in writing on the day of receipt; and
   (b) notify the applicant in writing of any additional plans, documents other information or fees
that it may require within 28 days after receipt of an application, or such further period as agreed upon.

(2) The application is regarded as complete if the municipality did not request additional information within 28 days, or such further period as agreed upon.

Provision of additional information

3. (1) The applicant must provide the municipality with the additional information required for the completion of the application contemplated in item 2(1)(b) within 90 days, or such further period as agreed upon.

(2) The applicant may decline in writing to provide the additional information required, in which case the municipality must proceed with the processing of the application.

(3) A municipality may decide to refuse an application on the ground that the information which was not provided after the municipality requested it was necessary in order to make an informed decision as contemplated in section 6(2)(iii) of the Promotion of Administrative Justice Act.

Confirmation of lodging of complete application if additional information was required

4. (1) A municipality must notify the applicant in writing that the application is complete within 14 days after receipt of the additional plans, documents or information required by it that comply with the requirements contemplated in item 2(1)(b).

(2) The procedure in item 2(1)(b) must be repeated if the additional plans, documents or information do not meet the requirements of the municipality.

(3) The application is regarded as a complete if a municipality did not repeat the procedure for additional plans, documents or information in item 2(1)(b).

Giving public notice

5. (1) A municipality must give public notice of the application within 14 days of having notified the applicant that the application is complete.
(2) The notice must –
   (a) identify the land to which the application relates, and if that land is an erf –
      (i) state the physical address of the erf, or, if the erf has no physical address, provide a
          locality map of the erf; and
      (ii) give the property description of the erf;
   (b) state the purpose of the application;
   (c) state that a copy of the application and its accompanying documents will be open for
       inspection by interested members of the public during the hours and at the place mentioned
       in the notice;
   (d) invite members of the public to cause written comments to be lodged with the contact
       person stated in the notice;
   (e) state how the comments may be lodged;
   (f) state the date by when the comments must be lodged; and
   (g) state that a person’s failure so to lodge or forward comments in response to the notice,
       disqualifies the person from further participating in the process.

(3) The date stated in the notice for the lodging of comments may not be earlier than 30 days after
the date on which the notice was served.

Manner of public notice

6.(1) A municipality must –
   (a) display a notice as contemplated in item 5(1) of a size at least 60cm by 42cm on the
       frontage of the erf, or at any other conspicuous and easily accessible place on the land
       concerned;
   (b) serve a notice as contemplated in item 5(1) on all parties who in the opinion of the
       municipality may have an interest in the matter, including –
      (i) the owners of land within 100m from the boundary of the erf, or the chairperson of a
          body corporate representing the owners of land within 100m from the boundary of the
          erf, or the chairperson of a home owners association representing the owners of land
          within 100m from the boundary of the erf;
      (ii) the municipal councillor of the ward in which erf is situated;
      (iii) organs of state with jurisdiction in the matter; and
(c) give public notice of the proposed action in a local newspaper which it has determined as its newspaper of record contemplated in section 21(1)(b) of the Municipal Systems Act, on a day of the week that the municipality has determined as its day of the week for the publication of notices in terms of this Act, and in a language which it has determined in terms of section 21(2) of the Municipal Systems Act as its official language.

(2) Any person who has an interest in any specific matter, may, by agreement with the municipality, give public notice on behalf of a municipality.

(3) Where a person has given public notice on behalf a municipality, the municipality may require proof from that person that public notice has been given as required.

(4) If the application is for a general amendment of the municipality’s scheme or if it is otherwise impractical to serve notice on all parties who in the opinion of a municipality may have an interest in the matter or to display a notice on the land concerned, the municipality may convene a meeting for the purpose of informing the public of the matter.

Petitions and delivery to groups
7.(1) Notice to anyone who is a signatory to a joint petition or group representation, may be given to the –

(a) authorised representative of the signatories if the petition or representation is lodged by a person claiming to be the authorised representative; or

(b) person whose name appears first on the document, if no person claims to be the authorised representative of the signatories.

(2) Notice to the person contemplated in this item constitutes notice to each person named in the joint petition or group representation.

Amendments to application prior to approval
8.(1) Prior to the approval of the application, the applicant may amend the application at any time after notice has been given –

(a) at the applicant’s own initiative; or
(b) at the request of the municipality.

(2) A municipality must give notice of the amendment to all persons who commented on the application and give those persons no less than 14 days to provide additional comment.

(3) A municipality must again give public notice of the application, if the amendment affects the application materially.

Applicants' right to reply
9.(1) Copies of all comments lodged with a municipality must be served on the applicant within 7 days after the closing date for public comment, together with a notice informing the applicant of its rights in terms of this item.

(2) The applicant may, within a period of 21 days from the date of service of the comments upon it, lodge a written reply thereto with the municipality and serve a copy thereof on the person who made comments.

(3) The applicant may lodge a written waiver of the right to reply with the municipality.

Power of municipality to conduct site inspection
10.(1) A municipality must decide whether to conduct a site inspection, within 14 days of—
   (a) receipt of the reply or waiver referred to in items 9(2) and (3); or
   (b) expiry of the period for lodging comments.

(2) The municipality must notify the applicant of its intention to carry out an inspection and agree on the date and time of the inspection.

(3) The municipality must leave the land or building as effectively secured against trespassers as it found it, if the owner or occupier is not present.

(4) A person who has entered upon land or entered a building for the purposes of this item, who has gained knowledge of any information or matter relating to another person's private or
business affairs in the process, must treat that information or matter as confidential and may not disclose it to any other person.

(5) A person is guilty of an offence and liable on conviction to a fine or to a period of imprisonment not exceeding one year, or both, if that person subsequently discloses to any other person trade secrets or any privileged information obtained whilst entering upon land or entering a building, except if the disclosure –

(a) was made for the purposes of deciding the appeal; or
(b) was ordered by a competent court or is required under any law.

(6) A person who wilfully obstructs a person from entering upon land or entering a building contemplated in this item is guilty of an offence and is liable on conviction to a fine or to a period of imprisonment not exceeding six months, or both.

Public hearing

11.1.1 A municipality must decide whether to conduct a hearing, within 14 days of –

(a) receipt of the reply or waiver referred to in items 9(2) and (3); or
(b) expiry of the period for lodging comments.

(2) The date of the hearing must be set down within 60 days from the commencement of the 14 day period referred to in this item, unless the applicant consents in writing to a longer period and all parties must be notified of the hearing by the municipality.

(3) The notice of the hearing must –

(a) specify the place, date and time thereof;
(b) state the purpose thereof; and
(c) inform parties of their rights contemplated in this item –

(i) to be present or represented; and
(ii) to state their case or lead evidence in support thereof.

(4) Any person has a right to attend the hearing or to be represented at the hearing, and to personally, or through their representative –

(a) state their case;
(b) call witnesses to testify and to present other evidence to support their case;
(c) cross-examine any person called as a witness by any opposite party;
(d) have access to documents produced in evidence; and
(e) address on the merits of the application.

Period for municipality to make decision
12. A municipality must decide on the application within –
   (a) 60 days of the closing date for representations, if the municipality did not hold a hearing;
   (b) 30 days of the conclusion of the hearing, if the municipality did hold a hearing; or
   (c) such further period as may be agreed to by the applicant, which period may not be more than –
      (i) 90 days after the closing date for representations, if the municipality did not hold a hearing and accompanying inspection; or
      (ii) 90 days after the conclusion of the hearing and accompanying inspection.

Failure of municipality to observe periods
13. (1) A person who has made an application that is subject to the provisions of this part of this Schedule who is aggrieved by a municipality’s failure to observe a period provided for in this part of this Schedule may appeal to the Appeal Tribunal for an order to compel the municipality to act within the period specified by it as contemplated in section 121(5)(d) and impose a penalty against the municipality in accordance with section 121(5)(e).

(2) An appellant contemplated in subitem (1) must lodge a memorandum of appeal, contemplated in section 113(1).

Part 2: Procedure for municipality

Giving public notice
14. (1) The municipality must give public notice of the proposal -
   (a) to amend a scheme;
   (b) to subdivide or consolidate land;
   (c) to develop land as contemplated in Chapter 4;
(d) for the phasing or cancellation of an approved layout plan contemplated in Chapter 5; or
(e) for the alteration, suspension or deletion of restrictions in relation to land.

(2) The notice must –
(a) identify the land to which the proposal relates, and if that land is an erf –
   (i) state the physical address of the erf, or, if the erf has no physical address, provide a
       locality map of the erf; and
   (ii) give the property description of the erf;
(b) state the purpose of the application;
(c) state that a copy of the application and its accompanying documents will be open for
    inspection by interested members of the public during the hours and at the place mentioned
    in the notice;
(d) invite members of the public to cause written comments to be lodged with the contact
    person stated in the notice;
(e) state how the comments may be lodged;
(f) state the date by when the comments must be lodged; and
(g) state that a person’s failure so to lodge or forward comments in response to the notice,
    disqualifies the person from further participating in the process.

(3) The date stated in the notice for the lodging of comments may not be earlier than 30 days after
the date on which the notice was served.

**Manner of public notice**

15.(1) A municipality must –
(a) display a notice as contemplated in item 14(1) of a size at least 60cm by 42cm on the
    frontage of the erf, or at any other conspicuous and easily accessible place on the land
    concerned;
(b) serve a notice as contemplated in item 14(1) on all parties who in the opinion of the
    municipality may have an interest in the matter, including –
   (i) the owners of land within 100m from the boundary of the erf, or the chairperson of a
       body corporate representing the owners of land within 100m from the boundary of the
       erf, or the chairperson of a home owners association representing the owners of land
       within 100m from the boundary of the erf;
(ii) the municipal councillor of the ward in which erf is situated;
(iii) organs of state with jurisdiction in the matter; and
(c) give public notice of the proposed action in a newspaper which is distributed in the area concerned.

(2) If the application is for a general amendment of the municipality's scheme or if it is otherwise impractical to serve notice on all parties who in the opinion of a municipality may have an interest in the matter or to display a notice on the land concerned, the municipality may convene a meeting for the purpose of informing the public of the matter.

(3) A notice contemplated in subitem (1) must –
(a) identify the land to which the application relates, and if that land is an erf –
   (i) state the physical address of the erf, or, if the erf has no physical address, provide a locality map of the erf; and
   (ii) give the property description of the erf;
(b) state the purpose of the application;
(c) state that a copy of the application and its accompanying documents will be open for inspection by interested members of the public during the hours and at the place mentioned in the notice;
(d) invite members of the public to cause written comments to be lodged with the contact person, whose name and official title, work, postal and street address and if available, an electronic mail address, work telephone number and fax number must be stipulated;
(e) state how the comments may be lodged;
(f) state the date by when the comments must be lodged which may not be earlier than 30 days after the date on which the notice was served and not less than 30 days after the notice was displayed; and
(g) state that a person's failure to lodge or forward comments in response to the notice, shall have the effect of precluding the person from further participating in the process, and taking any further steps, with regard to the application.

Petitions and delivery to groups
16.(1) Notice to anyone who is a signatory to a joint petition or group representation, may be given
(a) to the authorised representative of the signatories if the petition or representation is lodged by a person claiming to be the authorised representative; or
(b) to the person whose name appears first on the document, if no person claims to be the authorised representative of the signatories.

(2) Notice to the person contemplated in this item constitutes notice to each person named in the joint petition or group representation.

Amendments to proposal prior to approval
17.(1) The municipality may amend its proposal at any time after notice has been given thereof, but prior to the approval thereof.
(2) The municipality must give notice of the amendment to all persons who commented on the proposal and give those persons no less than 14 days to provide additional comment.
(3) The municipality must again give public notice of the proposal if the amendment contemplated in this item is material.

Municipality’s right to reply
18. The municipality may, within a period of 28 days from the closing date for public comment, lodge a written reply thereto with the person who made comments.

Power of municipality to conduct site inspection
19.(1) A municipality may, during normal business hours or at any other reasonable hour, enter upon land or enter a building relevant to a proposal before it with a view of deciding the proposal.

(2) The municipality must leave the land or building as effectively secured against trespassers as it found it, if the owner or occupier is not present.

(3) A person who has entered upon land or entered a building for the purposes of this item, who has gained knowledge of any information or matter relating to another person’s private or business affairs in the process, must treat that information or matter as confidential and may not
disclose it to any other person.

(4) A person is guilty of an offence and liable on conviction to a fine or to a period of imprisonment not exceeding one year, or both, if that person subsequently discloses to any other person trade secrets or any privileged information obtained whilst entering upon the land or entering the building, except if the disclosure—
   (a) was made for the purposes of deciding the appeal; or
   (b) was ordered by a competent court or is required under any law.

(5) A person who wilfully obstructs a person from entering upon land or entering a building contemplated in this item is guilty of an offence and is liable on conviction to a fine or to a period of imprisonment not exceeding six months, or both.

Public hearing and accompanying inspection

20.(1) The municipality must decide whether to conduct a hearing, within 21 days of expiry of the period for lodging comments.

(2) The date of the hearing must be set down within 60 days from the commencement of the 21 day period referred to in this item.

(3) Any person has a right to attend the hearing or to be represented at the hearing, and to personally, or through their representative—
   (a) state their case;
   (b) call witnesses to testify and to present other evidence to support their case;
   (c) cross-examine any person called as a witness by any opposite party; and
   (d) have access to documents produced in evidence.

(4) The municipality must notify all parties if it decides to conduct a hearing.

(5) The notice of the hearing must—
   (a) specify the place, date and time of the hearing;
   (b) state the purpose of the hearing; and
   (c) inform parties of their rights contemplated in this section.
Period for municipality to make decision

21. The municipality must come to a decision on the proposal within 90 days of the –
   (a) closing date for representations, if the municipality did not hold a hearing and accompanying inspection; or
   (b) conclusion of the hearing and accompanying inspection, if the municipality did hold a hearing.
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<td>Removal of Restrictions Act, 1967</td>
<td>Sections 3 and 4</td>
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<td>The Statutory Bodies (Period of Office) Ordinance, 1985</td>
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<td>Proclamation, 1988</td>
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SCHEDULE 3
TRANSITIONAL MEASURES FOR THE PIETERMARITZBURG EXTENDED POWERS
ORDINANCE, 1936
(Section 171(2))

Part 1: Final decisions in terms of the Pietermaritzburg Extended Powers Ordinance, 1936

Subdivision or layout plan of land approved in terms of section 18(1)(a) of Pietermaritzburg
Extended Powers Ordinance, 1936
1. A subdivision or layout plan of land approved in terms of section 18(1)(a) of the
Pietermaritzburg Extended Powers Ordinance, 1936 (Ordinance No. 14 of 1936), must be treated
as an approved subdivision of land in terms of section 26(1)(a) of this Act.

Part 2: Decisions not finalised in terms of Pietermaritzburg Extended Powers Ordinance, 1936,
before commencement of this Act

Applications for subdivision or layout plan of land in terms of section 18(1)(a) of
Pietermaritzburg Extended Powers Ordinance, 1936, not finalised before commencement of
this Act
2.(1) An application for the subdivision or layout plan of land in terms of section 18(1)(a) of the
Pietermaritzburg Extended Powers Ordinance, 1936 (Ordinance No. 14 of 1936) –
   (a) that was lodged before 1 January 2003;
   (b) that has not been finalised before the commencement of this Act; and
   (c) that has not been finalised due to the applicant having failed to –
      (i) submit information required for the completion of the application, after having been
          requested in writing to do so; or
      (ii) comply with the conditions of approval,
       must be treated as having been refused.

(2) An application for the subdivision or layout plan of land in terms of section 18(1)(a) of the
Pietermaritzburg Extended Powers Ordinance, 1936 –
   (a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised for reasons other than the applicant having failed to –
   (i) submit information required for the completion of the application, after having been
       requested in writing to do so; or
   (ii) comply with the conditions of approval,
must be proceeded with as if this Act has not commenced.

(3) An application for the subdivision or layout plan of land in terms of section 18(1)(a) of the
Pietermaritzburg Extended Powers Ordinance, 1936 –
   (a) that was lodged after 1 January 2003; and
   (b) that has not been finalised before the commencement of this Act,
must be proceeded with as if this Act has not commenced.

Appeal in terms of section 18(1)(d) of Pietermaritzburg Extended Powers Ordinance, 1936, not
finalised before commencement of this Act

3. An appeal in terms of section 18(1)(d) of the Pietermaritzburg Extended Powers Ordinance,
1936 (Ordinance No. 14 of 1936), that has not been finalised before the commencement of this
Act must be finalised as if this Act has not commenced.
SCHEDULE 4
TRANSITIONAL MEASURES FOR ORDINANCE
(Section 171(2))

Part 1: Final decisions in terms of Ordinance

Development approved in terms of section 11(4) of Ordinance
1. A development approved in terms of section 11(4) of the Ordinance must be treated as a
development approved in terms of section 43(1)(a) of this Act.

Decision by responsible Member of the Executive Council that township or development is
necessary for development purposes and desirable in the public interest
2. A decision by the responsible Member of the Executive Council that a township or a
development is necessary for development purposes and desirable in the public interest
contemplated in section 11bis(3)(a) of the Ordinance, must be a relevant consideration under this
Act for the purposes of considering the –
   (a) adoption or replacement of a scheme;
   (b) amendment of a scheme;
   (c) subdivision or consolidation of land; or
   (d) development of land situated outside the area of a scheme.

Township approved in terms of section 23 of Ordinance
3. (1) A township approved in terms of section 23 of the Ordinance must be treated as an
approved subdivision of land in terms of section 26(1)(a) of this Act.
   (2) The responsible Member of the Executive Council must transfer any money paid as an
   endowment referred to in section 27 of the Ordinance including interest, to the municipality in
   whose area the private township is located.
   (3) The municipality must use the money referred to in this item for the development of the
   residents of the township for which the endowment was paid.
   (4) The responsible Member of the Executive Council may in writing waive an obligation imposed
   on a person to pay an endowment contemplated in section 27 of the Ordinance.
Provisions of town planning scheme adopted, rescinded, altered or amended in terms of section 47bis (4)(a) and 47bis A (4) of Ordinance

4. The provisions of a town planning scheme adopted, rescinded, altered or amended in terms of section 47bis(4)(a) or section 47bisA(4) of the Ordinance must be treated as a scheme adopted in terms of section 13(1)(a) of this Act.

Approval in terms of section 67 of Ordinance to develop or use land in an area in which a resolution to prepare a scheme has taken effect

5. A development approved in terms of section 67(1)(a), (b) or (c) of the Ordinance must be treated as a development approved in terms of section 43(1)(a) of this Act.

Approval in terms of section 67 of Ordinance to subdivide land in an area in which a resolution to prepare a scheme has taken effect

6. A subdivision of land approved in terms of section 67(1)(d) of the Ordinance must be treated as a subdivision of land approved in terms of section 26(1)(a) of this Act.

Approval of special consent in terms of section 67bis of Ordinance

7. An approval for special consent in terms of section 67bis of the Ordinance must be treated as a permission by a municipality to develop land in terms of the provisions of a scheme.

Land reserved for public use before commencement of this Act

8. Land reserved for public purposes referred to in section 67sept of the Ordinance must be treated as land referred to in section 95(4) of this Act.
Part 2: Decisions not finalised in terms of Ordinance before commencement of this Act

Applications for development of land in terms of section 11(2) of Ordinance not finalised before commencement of this Act

9.(1) An application for the development of land in terms of section 11(2) of the Ordinance –
(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised due to the applicant having failed to –
   (i) submit information required for the completion of the application after having been 
       requested in writing to do so; or
   (ii) comply with the conditions of approval,
must be treated as having been refused.

(2) An application for the development of land in terms of section 11(2) of the Ordinance –
(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised for reasons other than the applicant having failed to –
   (i) submit information required for the completion of the application after having been 
       requested in writing to do so; or
   (ii) comply with the conditions of approval,
must be proceeded with as if this Act has not commenced.

(3) An application for the development of land in terms of section 11(2) of the Ordinance –
(a) that was lodged after 1 January 2003; and
(b) that has not been finalised before the commencement of this Act,
must be proceeded with as if this Act has not commenced.

Applications for township establishment in terms of section 12 of Ordinance not finalised before commencement of this Act

10.(1) An application for the township establishment in terms of section 12 of the Ordinance –
(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised due to the applicant having failed to –
(i) submit information required for the completion of the application after having been requested in writing to do so; or
(ii) comply with the conditions of approval,
must be treated as having been refused.

(2) An application for the township establishment in terms of section 12 of the Ordinance –

(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised for reasons other than the applicant having failed to –
   (i) submit information required for the completion of the application after having been requested in writing to do so; or
   (ii) comply with the conditions of approval,
must be proceeded with as if this Act has not commenced.

(3) An application for township establishment in terms of section 12 of the Ordinance –

(a) that was lodged after 1 January 2003; and
(b) that has not been finalised before the commencement of this Act,
must be proceeded with as if this Act has not commenced.

Resolution to prepare town planning scheme in terms of section 44(1) of Ordinance, adding additional area to resolution to prepare town planning scheme in terms of section 44(2A)(a) of Ordinance, or extend area of town planning scheme in terms of section 44(2A)(b) of Ordinance, not approved by responsible Member of the Executive Council before commencement of this Act

11. A resolution to prepare a town planning scheme in terms of section 44(1) of the Ordinance –

(a) adding additional area to a resolution to prepare a town planning scheme in terms of section 44(2A)(a) of the Ordinance; or
(b) extend area of town planning scheme in terms of section 44(2A)(b) of the Ordinance, must be treated as having lapsed upon the commencement of this Act, unless the municipality concerned has resolved to adopt provisions for the area concerned contemplated in section 47bis(1)(a) or 47bisA2(a) of the Ordinance.
Resolution to adopt provisions for town planning scheme or rescind, alter or amend provisions of town planning scheme in terms of section 47bis(1)(a) or 47bisA(2) of Ordinance

12. A resolution to adopt provisions for a town planning scheme or rescind, alter or amend the provisions of a town planning scheme in terms of section 47bis(1)(a) or 47bisA(2) of the Ordinance that was taken before this Act commenced –

(a) that has not become effective; and

(b) has not been abandoned,

must be proceeded with as if this Act has not commenced.

Application to perform certain works, uses or development of land in area in respect of which resolution to prepare scheme has taken effect in terms of section 67(1) of Ordinance

13.(1) An application in terms of section 67(1)(a), (b) or (c) of the Ordinance, to erect a building or structure or alter or extend a building or structure, to develop or use land for any purpose different from the purpose for which it was being used or developed at the date when the resolution to prepare a scheme took effect, or to use a building or structure erected after the date when the resolution to prepare a scheme took effect for a purpose different from the purpose for which it was erected –

(a) that was lodged before 1 January 2003;

(b) that has not been finalised before the commencement of this Act; and

(c) that has not been finalised due to the applicant having failed to –

   (i) submit information required for the completion of the application after having been requested in writing to do so; or

   (ii) comply with the conditions of approval,

must be treated as having been refused.

(2) An application in terms of section 67(1)(a), (b) or (c) of the Ordinance to erect a building or structure or alter or extend a building or structure, to develop or use land for any purpose different from the purpose for which it was being used or developed at the date when the resolution to prepare a scheme took effect, or to use a building or structure erected after the date when the resolution to prepare a scheme took effect for a purpose different from the purpose for which it was erected –

(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and

(c) that has not been finalised for reasons other than the applicant having failed to –

(i) submit information required for the completion of the application after having been requested in writing to do so; or

(ii) comply with the conditions of approval,

must be proceeded with as if this Act has not commenced.

(3) An application in terms of section 67(1)(a), (b) or (c) of the Ordinance to erect a building or structure or alter or extend a building or structure, to develop or use land for a purpose different from the purpose for which it was being used or developed at the date when the resolution to prepare a scheme took effect, or to use a building or structure erected after the date when the resolution to prepare a scheme took effect for a purpose different from the purpose for which it was erected –

(a) that was lodged after 1 January 2003; and

(b) that has not been finalised before the commencement of this Act,

must be proceeded with as if this Act has not commenced.

Application for special consent in terms of section 67bis(1)(a) of Ordinance

14. (1) An application in terms of section 67bis(1)(a) of the Ordinance to erect or use a building or develop or use land which requires special consent in terms of a town planning scheme –

(a) that was lodged before 1 January 2003;

(b) that has not been finalised before the commencement of this Act; and

(c) that has not been finalised due to the applicant having failed to –

(i) submit information required for the completion of the application after having been requested in writing to do so; or

(ii) comply with the conditions of approval,

must be treated as having been refused.

(2) An application in terms of section 67bis(1)(a) of the Ordinance to erect or use a building or develop or use land which requires special consent in terms of a town planning scheme –

(a) that was lodged before 1 January 2003;

(b) that has not been finalised before the commencement of this Act; and

(c) that has not been finalised for reasons other than the applicant having failed to –
(i) submit information required for the completion of the application after having been requested in writing to do so; or
(ii) comply with the conditions of approval,
must be proceeded with as if this Act has not commenced.

(3) An application in terms of section 67bis(1)(a) of the Ordinance to erect or use a building or develop or use land which requires special consent in terms of a town planning scheme –
(a) that was lodged after 1 January 2003; and
(b) that has not been finalised before the commencement of this Act,
must be proceeded with as if this Act has not commenced.

Appeal in terms of Ordinance not finalised before commencement of this Act
15. An appeal in terms of the Ordinance that has not been finalised before the commencement of this Act must be finalised as if this Act has not commenced.
SCHEDULE 5

TRANSITIONAL MEASURES FOR REMOVAL OF RESTRICTIONS ACT AND DELETION OF CERTAIN RESTRICTIONS IN RESPECT OF LAND BY OPERATION OF LAW (Section 171(2))

Part 1: Final decisions in terms of Removal of Restrictions Act

Alteration, suspension or removal of restriction approved in terms of section 4(2) of Removal of Restrictions Act

1. An application for the alteration, suspension or removal of a restriction in respect of land approved in terms of section 4(2) of the Removal of Restrictions Act must be treated as the alteration, suspension or deletion of a restriction relating to land, approved in terms of section 72(1)(a) of this Act.

Part 2: Decisions not finalised in terms of Removal of Restrictions Act before commencement of this Act

Application for alteration, suspension or removal of restriction in respect of land in terms of section 4(2) of Removal of Restrictions Act

2.(1) An application in terms of 4(2) of the Removal of Restrictions Act to alter, suspend or remove a restriction in respect of land –

(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised due to the applicant having failed to –

(i) submit information required for the completion of the application after having been requested in writing to do so; or
(ii) comply with the conditions of approval,

must be treated as having been refused.

(2) An application in terms of 4(2) of the Removal of Restrictions Act to alter, suspend or remove a restriction in respect of land –

(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised for reasons other than the applicant having failed to –
(i) submit information required for the completion of the application after having been requested in writing to do so; or
(ii) comply with the conditions of approval,
must be proceeded with as if this Act has not commenced.

(3) An application in terms of 4(2) of the Removal of Restrictions Act to alter, suspend or remove a restriction in respect of land –
   (a) that was lodged after 1 January 2003; and
   (b) that has not been finalised before the commencement of this Act,
must be proceeded with as if this Act has not commenced.

Part 3: Deletion of certain restrictions in respect of land by operation of law

Deletion of certain restrictions in respect of land by operation of law

3.(1) A condition registered against a deed registered in the deeds registry, which is in favour of the Administrator, in favour of the Premier, in favour of the responsible member of the KwaZulu-Natal Executive Council contemplated in section 1 of the Ordinance, in favour of the general public or not in favour of a specified person or entity and that –
   (a) prohibits the subdivision of the property;
   (b) restricts the use of the property to a dwelling house or residential purposes;
   (c) prohibits the erection of a row of tenement houses, a boarding house, a hotel or a block of residential flats on the property;
   (d) requires the walls of buildings to be constructed of burned brick, stone, concrete or other permanent and fireproof material;
   (e) prohibits the construction of buildings of iron or asbestos sheeting or similar material fixed to a framework of wood or metal;
   (f) prohibits the construction of a roof of corrugated iron or other type of iron; or
   (g) requires the submission of building plans,
is deleted with effect from the commencement of this Act.

(2) A condition of approval for an application for development in terms of section 11(4) of the Ordinance for an application for the Administrator’s decision that a proposed private township is necessary for development purposes and desirable in the public interests in terms of section
11bis(3)(a) of the Ordinance or application for private township establishment in terms of section 16 of the Ordinance that requires the applicant to register a condition against the land that –

(a) prohibits the subdivision of the property;

(b) restricts the use of the property to a dwelling house or residential purposes;

(c) prohibits the erection of a row of tenement houses, a boarding house, a hotel or a block of residential flats on the property;

(d) requires the walls of buildings to be constructed of burned brick, stone, concrete or other permanent and fireproof material;

(e) prohibits the construction of buildings of iron or asbestos sheeting or similar material fixed to a framework of wood or metal;

(f) prohibits the construction of a roof of corrugated iron or other type of iron; or

(g) requires the submission of building plans,

is deleted with effect from the commencement of this Act.
SCHEDULE 6
TRANSITIONAL MEASURES FOR DURBAN EXTENDED POWERS CONSOLIDATED
ORDINANCE, 1976
(Section 171(2))

Part 1: Final decisions in terms of Durban Extended Powers Consolidated Ordinance, 1976

Consolidation of land approved in terms of section 143(1) of Durban Extended Powers
Consolidated Ordinance, 1976
1. A consolidation of land approved in terms of section 143(1) of the Durban Extended Powers
Consolidated Ordinance, 1976, (Ordinance No. 18 of 1976), must be treated as an approved
consolidation of land in terms of section 26(1)(a) of this Act.

Subdivision of land approved in terms of section 144(1) of Durban Extended Powers
Consolidated Ordinance, 1976
2. A subdivision of land approved in terms of section 144(1) of the Durban Extended Powers
Consolidated Ordinance, 1976, (Ordinance No. 18 of 1976), must be treated as an approved
subdivision of land in terms of section 26(1)(a) of this Act.

Part 2: Decisions not finalised in terms of Durban Extended Powers Consolidated Ordinance,
1976, before the commencement of this Act

Applications for consolidation of land in terms of section 143(1) of Durban Extended
Powers Consolidated Ordinance, 1976, not finalised before commencement of this Act
3.(1) An application for the consolidation of land in terms of section 143(1) of the Durban
Extended Powers Consolidated Ordinance, 1976 (Ordinance No. 18 of 1976) –
   (a) that was lodged before 1 January 2003;
   (b) that has not been finalised before the commencement of this Act; and
   (c) that has not been finalised –
      (i) due to the applicant having failed to submit information required for the completion
      of the application after having been requested in writing to do so; or
(ii) due to the applicant having failed to comply with the conditions of approval, must be treated as having been refused.

(2) An application for the consolidation of land in terms of section 143(1) of the Durban Extended Powers Consolidated Ordinance, 1976 –

(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised for reasons other than the applicant having failed to –
   (i) submit information required for the completion of the application after having been requested in writing to do so; or
   (ii) comply with the conditions of approval,
must be proceeded with as if this Act has not commenced.

(3) An application for the consolidation of land in terms of section 143(1) of the Durban Extended Powers Consolidated Ordinance, 1976 –

(a) that was lodged after 1 January 2003; and
(b) that has not been finalised before the commencement of this Act,
must be proceeded with as if this Act has not commenced.

Applications for subdivision of land in terms of section 144(1) of Durban Extended Powers Consolidated Ordinance, 1976, not finalised before commencement of this Act

4.(1) An application for the subdivision of land in terms of section 144(1) of the Durban Extended Powers Consolidated Ordinance, 1976 (Ordinance No. 18 of 1976) –

(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised due to the applicant having failed to –
   (i) submit information required for the completion of the application after having been requested in writing to do so; or
   (ii) comply with the conditions of approval,
must be treated as having been refused.

(2) An application for the subdivision of land in terms of section 144(1) of the Durban Extended Powers Consolidated Ordinance, 1976 –

(a) that was lodged before 1 January 2003;
(b) that has not been finalised before the commencement of this Act; and
(c) that has not been finalised for reasons other than the applicant having failed to –
   (i) submit information required for the completion of the application after having been
       requested in writing to do so; or
   (ii) comply with the conditions of approval,
       must be proceeded with as if this Act has not commenced.

(3) An application for the subdivision of land in terms of section 144(1) of the Durban Extended
    Powers Consolidated Ordinance, 1976 –
    (a) that was lodged after 1 January 2003; and
    (b) that has not been finalised before the commencement of this Act,
        must be proceeded with as if this Act has not commenced.
KWAZULU-NATAL PLANNING AND DEVELOPMENT ACT, 2008

Act No. 6 of 2008
CONTINES ON PAGE 513—PART 3