

Town and Country Planning Act 1980

Arrangement of Sections

- 1 Short title and commencement
- 2 Application
- 3 Interpretation
- 4 Establishment of the Board
- 5 Preparation of development plans
- 6 Approval of outline plans, part plans, etc. prior to development plans
- 7 Publication, objection to, and approval of development plans
- 8 Revised development plan
- 9 Permission for development
- 10 Development orders
- 11 Application for planning permission
- 12 Department from approved development plan
- 13 Compensation in cases of refusal of planning permission
- 14 Permission to retain buildings or works or to continue use of land
- 15 Revocation and modification of permission to develop land
- 16 Power of inspection
- 17 Enforcement of land planning control
- 18 Penalty for failure to comply with notice
- 19 Procedure at inquiry by the Board
- 20 Service of notice
- 21 Regulations

SCHEDULE

Town and Country Planning Act 1980

[Date of Assent: 15-7-80]

[Commencement: See sec. 1]

ACT NO. 11 OF 1980

ACT

To provide for orderly development of land and to preserve and improve the amenities thereof; to promote efficiency and economy in the process of such development; and for connected purposes.

Enacted by the Assembly

Short title
and
commence-
ment

1. This Act may be cited as the Town and Country Planning Act 1980 and shall come into operation on a date to be fixed by the Minister by notice in the Gazette.

Application

2. This Act shall apply to any area designated by the Minister by notice in the Gazette.

Interpreta-
tion

3. In this Act unless the context otherwise requires "agriculture" means the use of land exclusively or mainly for agriculture whether as arable, pasture, ranching, grazing, orchard or seed growing, or for fish farming, forestry (including afforestation) or for the breeding and keeping of livestock including any creature kept for the production of food, wool, silk, skins or fur and includes buildings necessary therefor and uses ancillary thereto;

"Board" means Town and Country Planning Board established under section 4;

"building" includes any structure or erection and any part thereof, whether temporary or permanent including any fixture thereto but does not include plant or machinery comprised in a building;

"building operations" means erection, site works incidental to the erection of buildings, rebuilding operations, structural alterations of, or additions to, or demolition of buildings, and any other operation normally undertaken by a person carrying on the business of a builder;

"building or works" includes waste materials, refuse and other matters deposited on land;

"council" means any authority established under any law to operate local government;

"Court" means the High Court;

"development" has the meaning assigned to it by section 9;

"development order" means an order made by the Minister under section 10;

"development plan" means any map, plan or diagram together with any written statement relating to the development or use of land;

"enforcement notice" means a notice under section 17;

"engineering operations" include the formation or laying out of means of access to roads and the erection, construction and laying of pipes and electrical and telephone lines above, on or under ground;

"land" includes land covered by water and any buildings on land;

"owner" means the person having the legal interest entitling him to possession of the land, whether such interest be a lease, sub-lease, licence or otherwise;

"Planning Authority" means the Commissioner of Lands;

"subdivision" means the division of land for the purpose of sale, transfer, exchange, gift, will, lease, sublease or licence.

4. (1) There is hereby established a board to be known as the Town and Country Planning Board which shall consist of seven members appointed by the Minister.

Establishment of the Board

(2) A member of the Board shall, unless he earlier dies or resigns or unless his appointment is revoked by the Minister, hold office for such period as shall be specified at the time of his appointment.

(3) A member of the Board shall not receive any remuneration but the Minister may pay allowances at the rates to be approved by the Minister responsible for finance, to members of the Board who are not public officers to cover expenses reasonably incurred by them while engaged in the business of the Board.

(4) If a member of the Board or his spouse directly or indirectly has any personal interest in any matter considered or to be considered by the Board, he shall immediately disclose that interest and shall not take part in any discussion or vote on any question arising therefrom.

(5) The Board shall regulate its own procedure at meetings.

5. (1) As soon as practicable after the commencement of this Act the Planning Authority shall prepare a development plan in respect of any area to which this Act applies.

Preparation of development plans

(2) A development plan prepared under sub-section (1) shall indicate the manner in which it is proposed that the area in question shall be used and developed, and the stages by which the development shall be carried out.

6. Notwithstanding section 5, at any time before a development plan has been prepared, the planning Authority may prepare and submit to the Minister for approval, outline plans, part plans, schemes, reports and policy statements relating to any area to which this Act applies.

Approval of outline plans, part plans, etc. prior to development plans

**Publication,
objection to,
and
approval of
development
plans**

7 (1) Upon the preparation of a development plan the Planning Authority shall cause to be published in the Gazette and in a national newspaper a notice —

- (a) describing the situation and area of the land affected by the plan;
- (b) specifying the place where the plan may be inspected; and
- (c) inviting the public to lodge objections, if any, in writing within two months from the date of its publication.

(2) Where an objection is lodged pursuant to sub-section (1) (c) the Planning Authority may —

- (a) amend the plan to meet the objection; or
- (b) refer the plan together with the objection to the Board.

(3) The Board shall —

- (a) examine all plans prepared, amended or referred to it pursuant to sections 5, 7 (2) (a) or 7 (2) (b);
- (b) conduct an inquiry into any objection referred to it if it considers such an inquiry to be necessary; and
- (c) make its recommendations as to the plans, and in the case of an inquiry, report thereon to the Minister.

(4) Upon receipt of the Board's recommendations and inquiry report, if any, the Minister shall decide whether to approve to a decision, shall give due consideration to the Board's recommendations and report but shall not be bound to act accordingly.

(5) Upon approval of a development plan by the Minister, notice of the approval shall be published in the Gazette and in a national newspaper and reference shall be made therein specifying the place where a copy of the plan shall be made available for public inspection.

**Revised
development
plan**

8 (1) At least once in every five years after the date of approval of a development plan by the Minister, the Planning Authority shall examine it further and if alterations, additions or excisions are necessary shall prepare a revised plan.

(2) Section 5 (2) and 7 shall apply to a revised plan as they apply to an original development plan.

**Permission
for
development**

9 (1) Subject to this section, permission shall be required for any development of land commenced and carried out after the commencement of this Act.

(2) In this Act "development" means the carrying out of any buildings, engineering or other works or operations in, on, over or under land, or the making of any material changes in the use of the land or buildings or the subdivision of land but does not include —

- (a) the changes of use of land or buildings where the existing and the proposed uses both fall within the same

(b) the carrying out of works or the maintenance, improvement or other alteration of any building, being works which affect only the interior of the building or which do not materially affect the external appearance of the building;

(c) the carrying out of any works required for the maintenance or improvement of a road, being works carried out on land within the boundaries of the road.

(d) the carrying by any council or statutory undertaker of any works for the purpose of inspecting, repairing or renewing any sewers, drains, pipes, cables, power lines or other apparatus;

(e) the use of any building or other land within the curtilage of a dwelling-house as such;

(f) the use of any land for the purpose of agriculture unless otherwise specified by order under section 10.

(3) for the purpose of this section —

(a) the use as two or more separate dwelling houses of any building previously used as a single dwelling house involves a material change in the use of the building and of each part thereof which is so used;

(b) the use for the display of advertisements of any external part of a building which is not normally used for that purpose, involves a material change in the use of that part of the building;

(c) the deposit of refuse or waste materials on land involves a material change in the use thereof, notwithstanding that the land is comprised in a site already used for that purpose, if the superficial area of the deposit is thereby extended and if the height of the deposit is extended and exceeds the level of the land adjoining the site.

10 (1) The Minister shall by order provide for the grant of planning permission for the development of land and such planning permission shall be granted —

(a) in the case of any development or class of development specified in the order by the order itself;

(b) in any other case, by the Planning Authority on any application made to that Authority in accordance with the order.

(2) The planning permission granted by a development order may be granted either unconditionally or subject to any conditions and limitations specified in the order.

11 (1) Subject to sub-section (5), where an application is made to the Planning Authority for permission to develop land, the Planning Authority may grant permission either unconditionally or subject to such conditions as he thinks fit, or may refuse permission.

Development orders

Application for planning permission

(2) Permission to develop land, if granted, shall lapse if the approved development has not commenced to the satisfaction of the Planning Authority before the expiry of twelve months from the granting of the permission.

(3) A person aggrieved by the decision of the Planning Authority under this section, may appeal to the Minister whose decision shall be final on the matter appealed thereon.

(4) The Planning Authority may, by notice published in the Gazette and subject to such conditions and limitations as he thinks fit, delegate to any council his functions under this section.

(5) The Minister may by a development order regulate the manner in which applications for permission to develop land are to be made to, and dealt with by, the Planning Authority.

Departure
from
approved
development
plan

12 (1) The Planning Authority may grant permission for development which does not accord with the provisions of an approved development plan in respect of any land which does not exceed two hectares if, in his opinion, the proposed development thereon —

(a) is not of a sale which is significant in relation to the approved plan from the provisions of which it is a departure;

(b) is not of more than local significance; or

(c) does not raise a new issue of general policy.

(2) Any departure from an approved land development plan pursuant to this section shall be published in the Gazette and a national newspaper.

Compensa-
tion in cases
of refusal of
planning
permission

13 (1) Where permission to develop land is refused or granted subject to conditions, then if, on a claim made within six months of the refusal or granting of the permission, the value of any interest in the land is less than it would have been if permission had been granted or had been granted unconditionally, the Planning Authority shall, subject to subsection (2), pay compensation to the interested person out of the monies provided by the Assembly for that purpose.

(2) No compensation shall be payable under this section in respect of a refusal of permission for any development of land referred to in the Schedule to this Act.

Permission
to retain
buildings
or works or
continue
use of land

14. The power to grant permission to develop land under this Act shall include power to grant permission for —

(a) the retention on land of buildings or works constructed or carried out thereon before the date of the application for such permission;

(b) the continuance of any use of land instituted before that date (whether without permission granted under this

Act or in accordance with permission so granted for a limited period only), and

references in this Act to planning permission to develop land or to carry out any development of land, and to applications for such permission, shall be construed accordingly.

15. (1) Subject to sub-section (2), permission to develop land may, wherever it appears to be expedient, be revoked or modified —

- (a) by the Minister, in the case of permission granted by development order; or
- (b) by the Planning Authority after obtaining the consent of the Minister, in the case of permission granted on application to that Authority, by giving written notice to that effect to the person concerned.

(2) The power to revoke or modify permission to develop land may be exercised —

- (a) where the permission relates to the carrying out of building or other operations, at any time before these have been completed; or
- (b) where the permission relates to a change of the use of land, at any time before the change has taken place, except that the revocations or modification shall not affect such building or other operations as have been carried out prior to the date of the written notice of revocation or modification.

(3) Where permission to develop land is revoked or modified under this section, then if, on a claim made within six months of the issue of a written notice, it is shown that any person interested in the land has incurred expenditure in carrying out works rendered abortive, or has otherwise sustained loss or damage directly attributable to the revocation or modification, the Planning Authority shall pay out of the monies provided by the Assembly for that purpose to that person compensation in respect of that expenditure, loss or damage.

(4) No compensation shall be payable under sub-section (3) in respect of loss or damage consisting of the depreciation in value of any interest in land by virtue of the revocation or modification.

16 (1) The Planning Authority may, by notice in the Gazette, appoint inspectors for the purpose of ascertaining whether the provisions of this Act or the conditions of any permission granted thereunder are being observed.

(2) An inspector shall, if so required by the occupier or person in charge of the land or buildings which he inspects, produce a copy of the notice of his appointment.

(3) For the purpose of carrying out his duties under this section, an inspector may enter (with such assistants and workmen as he may consider necessary) any land or building at all reasonable times and may carry out thereon such examination and inquiry as may be necessary for the performance of his duties except that an inspector shall —

- (a) unless it is not practicable so to do, give notice at the time of inspection to the occupier or person in charge of the land or building of his intention to inspect;
- (b) not enter any dwelling house or upon any land or into any building or upon any enclosed yard, court or garden,

Revocation and modification of permission to develop land

Enforcement of land use planning

Procedure at inquiry by the Board from 19/1988

Service of notice and documents

Power of inspection

attached to a dwelling house, unless the occupier thereof consents thereto or shall have been given at least twenty-four hours' notice of the intention to do so.

(4) A person who obstructs, hinders or in any way interferes with an inspector in the exercise of his functions or the discharge of his duties under this section is guilty of an offence and liable to a fine not exceeding 600 rand or to a term of imprisonment not exceeding six months.

17 (1) If it appears to the Planning Authority that —

(a) any development of land has been carried out without the grant of permission required under this Act, or

(b) the conditions subject to which the permission was granted have not been complied with, the Planning Authority may within four years of such development being carried out, or, in the case of non-compliance with a condition, within four years after the date of alleged failure to comply with it, serve on the owner and occupier of the land an enforcement notice.

(2) An enforcement notice served under this section shall specify —

(a) the development which is alleged to have been carried out; or

(b) the condition which has not been complied with, and may require such steps to be taken within such period as may be specified in the notice for restoring the land to its condition before the development took place or for securing compliance with the condition, as the case may be, and, in particular, may require the demolition or alteration of any building or works, the discontinuance of any use of land or the carrying out of any building or other operations.

(3) If a person on whom an enforcement notice is served under this section is aggrieved by the notice, he may at any time within the period specified in the notice under sub-section (2), appeal to Court on any of the following grounds —

(a) that the allegations contained in the notice are unfounded;

(b) that the planning permission ought to be granted for the development to which the notice relates, or as the case may be, that the condition alleged not to have been complied with ought to be discharged;

(c) that the steps required by the notice to be taken exceed what is necessary to remedy the breach of planning control;

(d) that the specified period for compliance with the notice falls short of what should reasonably be allowed;

(e) that the period of four years from the date of the breach of planning control had elapsed at the date of service of the notice.

(4) The decision of the Court shall be final and the Court may quash or vary the enforcement notice or may dismiss the appeal.

Enforcement of land planning control

18. Where, by virtue of an enforcement notice, a use of land is required to be discontinued, or any conditions are required to be complied with in respect of a use of land or in respect of the carrying out of operations thereon, then if a person without the grant of planning permission under this Act, uses the land or permits it to be used, or carries out or causes or permits to be carried out those operations in contravention of the notice, he shall be guilty of an offence and liable to a fine not exceeding 600 rand; and if the use is continued after the conviction he shall be guilty of a further offence in respect of every day on which the use is so continued and shall be liable to a fine not exceeding 100 rand in respect of each further offence.

19. Section 4 to 9 of the Commissions Powers Proclamation 1955 shall apply to an inquiry into an objection held by the Board pursuant to section 7 or 8 as if the Board were a commission appointed under section 3 of the Proclamation, save that a subpoena issued under section 4 of the Proclamation may be in the form of a letter signed by the Secretary of the Board and may be served in such manner as he may direct.

20. (1) Any notices or other documents required to be served on a person under this Act may be served in any of the following ways —

- (a) on the person personally, or
- (b) by delivering the notice or document to his place of business or his place of residence; or
- (c) by posting a prepaid letter, containing the notice or document and addressed to the person on whom the notice or document is to be served to his last known place of residence or his last known place of business, or to his Post Office Box Number; or
- (d) if he has no address in Lesotho or if his address in Lesotho is unknown, by fixing the notice or document in a conspicuous place on the land to which it relates, and by publication in such newspaper and such manner as may be prescribed by the Minister.

(2) Services in terms of subsection (1)(c) shall be deemed —

- (a) to be effected by properly addressing, prepaying and posting a letter containing the notice or document unless it is proved that the letter was not delivered at the place to which it was addressed, and
- (b) unless the contrary is proved to have been effected at the time when the letter would be delivered in the ordinary course of post.

(3) Notice of entry pursuant to section 16(3) shall be given by delivering the notice in person to the owner or occupier or, in his absence, by leaving the notice conspicuously displayed on the premises of the owner or occupier.

Regulations

21. The Minister may make regulations which appear to him to be necessary to give effect to the provisions of this Act and in particular but without prejudice to the generality of the foregoing, such regulations may provide for or prescribe —

- (a) the form of any notice, order or other document which is to be served, made or issued under this Act;
- (b) such fees as he may consider necessary for the carrying out of the provisions of this Act;
- (c) registration of applications made under this Act and public inspection of information, maps and plans relating thereto; and
- (d) the manner in which a claim for compensation under sections 13 and 15(3) may be made.

SCHEDULE

(Section 13(2))

No Compensation Payable in certain Cases

Compensation for refusal or conditional grant of development permission shall not be payable —

- (a) in respect of any refusal of permission to develop land where an alternative form of development other than that applied for is permitted;
- (b) in respect of the refusal of permission for any development that consists of or includes the making of any material change in the use of any building or other land;
- (c) in respect of the refusal of permission to develop land if the reason or one of the reasons stated for refusal is that development of the kind proposed would be premature by reference to either or both of the following matters —
 - (i) the order of priority, if any, indicated by the development plan for the development in the area in which the land in question is situate;
 - (ii) any existing deficiency in the provision of water supplies or sewerage services and the period within which any such deficiency may reasonably be expected to be made good;
- (d) in respect of the refusal to develop land if the reason or one of the reasons given for refusal is that the land is unsuitable for the proposed development on account of its liability to flooding or subsidence;
- (e) in respect of the imposition, on the granting of permission to develop land, of any condition relating to —
 - (i) the number and disposition of buildings on any land;

- (ii) the dimension, design, structure of external appearance of any buildings, or the materials to be used in its construction;
- (iii) the manner in which the land is to be laid out for the purposes of the development, including the provision of facilities for the parking, loading, unloading or fuelling of vehicles on the land;
- (iv) the use of any building or other land;
- (v) the location or design of any means of access to a road or the materials to be used in its constructions;
- (f) in respect of any condition subject to which permission is granted for the mining or working of materials;
- (g) in respect of any decision on an application for consent to the display of advertisements.