

PHYSICAL PLANNING ACT NO. 88 OF 1967

[ASSENTED TO 19 JUNE, 1967]

[DATE OF COMMENCEMENT: 7 JULY, 1967]

(Afrikaans text signed by the State President)

as amended by

Physical Planning and Utilization of Resources Amendment Act, No. 73 of 1975
Environment Planning Amendment Act, No. 104 of 1977
Environment Planning Amendment Act, No. 51 of 1981
Physical Planning Amendment Act, No. 87 of 1983
Physical Planning Amendment Act, No. 104 of 1984
Physical Planning Amendment Act, No. 92 of 1985
Regional Services Councils Act, No. 109 of 1985
Transfer of Powers and Duties of the State President Act, No. 97 of 1986
Environment Conservation Act, No 73 of 1989
KwaZulu and Natal Joint Services Act, No. 84 of 1990
Physical Planning Act, No 125 of 1991

GENERAL NOTE

This Act was amended by section 25 of Act No. 84 of 1990 in so far as it applies to the Province of Natal and that part of KwaZulu which falls outside that province.

This Act has been wholly repealed, except for the sections reproduced hereunder. Subscribers are advised to refer to section 36 of Act No. 125 of 1991 to establish the extend to which Act 88 of 1967 is still applicable.

ACT

To promote co-ordinated environment planning and the utilization of the Republic's resources, and for those purposes to provide for control of the zoning and subdivision of land for industrial purposes; for the reservation of land for industrial purposes; for the establishment of controlled areas; for restrictions upon the subdivision and use of land in controlled areas; for the compilation and approval of guide plans; and for restrictions upon the use of land for certain purposes unless reserved for use for such purposes; and for other matters incidental thereto.

[Long title substituted by s. 13 of Act No. 73 of 1975 and by s. 12 of Act No. 92 of 1985.]

1. Definitions. - In this Act, unless the context otherwise indicates-

"Administrator" means an Administrator and the other members of the executive committee concerned;

"building" includes any structure;

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

"committee" means a committee appointed in terms of section 6A (1);

"controlled area" means an area declared or deemed to have been declared a controlled area under section 5 and includes an area declared or deemed to have been declared under the said section part of a controlled area;

"Department", in relation to any provision of this Act, means the Department or Office of State or provincial administration administered by the Minister or Administrator to whom the administration of that provision has been assigned by a proclamation issued under section 13B;

[Definition of "Department" inserted by s.1 (a) of Act No. 51 of 1981.]

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

[Definition of "Director-General" inserted by s. 1 (a) of Act No. 51 of 1981.]

"draft guide plan" means a draft guide plan contemplated in section 6A (1);

"factory" means a factory as defined in section 3 of the Factories, Machinery and Building Work Act, 1941 (Act No. 22 of 1941), and includes any premises on which an activity is carried on and which the State President, by proclamation in the *Gazette*, declares a factory for the purposes of this Act;

"guide plan" means a draft guide plan approved in terms of section 6A(10);

[Definition of "guide plan" substituted by s.1 (b) of Act No. 51 of 1981.]

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

"industrial activities" means the establishment or carrying on of a factory;

[Definition of "industrial activities" inserted by s. 1 (a) of Act no. 92 of 1985.]

"land" includes any portion of land and any building;

"local authority" means any institution or body contemplated in section 81 (1)(f) of the Provincial government Act, 1961 (Act No. 32 of 1961) or in section 2 of the Black Local Authorities Act, 1982 (Act No. 102 of 1982);

[Definition of "local authority" substituted by s.1 (b) of Act No 92 of 1985.]

"mineral" means any substance, whether in solid, liquid or gaseous form, occurring naturally in or on the earth and having been formed by or subjected to a geological process, but does not include water and soil, unless they are taken from the earth for the production or extraction therefrom of a product of commercial value;

"Minister", in relation to any provision of this Act, means the Minister or Administrator to whom the administration of that provision has been assigned by proclamation issued under section 13B;

[Definition of "Minister" substituted by s.1 (c) of Act No. 51 of 1981.]

"natural area"

[Definition of "natural area" deleted by s.1 (d) of Act No. 51 of 1981.]

"natural resource" means any raw material obtained from nature and includes soil, air, water and minerals;

[Definition of "natural resource" inserted by s.1 (e) of Act No. 51 of 1981.]

"nature area"

[Definition of "nature area" inserted by s.1 (e) of Act No. 51 of 1981
and deleted by s. 43 of Act No. 73 of 1989.]

"processing", in relation to a mineral, means all processes through which a mineral is put, after having been removed from the earth, in order to refine it or to render it suitable for a specific purpose or to make the extraction of an element possible; and includes the recovery, concentration, refinement or conversion thereof;

[Definition of "processing" inserted by s. 1 (e) of Act No. 51 of 1981.]

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

[Definition of "quarry" inserted by s.1 (e) of Act No. 51 of 1981.]

"processing"

[Definition of "processing" substituted for the definition of "process" by s.1 of Act No. 104 of 1977 and deleted by s. 1 of Act No 87 of 1983. But see definition of "processing" above]

"regional services council" means a regional services council established in terms of the Regional Services Councils Act, 1985;

[Definition of "regional services council" inserted by s. 17 of Act No. 109 of 1985.]

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

"Secretary"

[Definition of "Secretary" deleted by s.1 of Act No. 87 of 1983.]

"use of land"

[S. 1 substituted by s. 1 of Act No. 73 of 1975. Definition of "use of land" deleted by s.1 of Act No 87 of 1983.]

2.

[S.2 amended by s. 2 of Act No 73 of 1975, substituted by s. 2 of Act No. 51 of 1981, amended by s. 2 (b) and (c) of Act No. 92 of 1985 and repealed by s. 36 (1) (a) of Act No. 125 of 1991.]

3.

[S.3 amended by s. 3 of Act No. 73 of 1975 and by s.2 of Act No 104 of 1977, repealed by s. 3 of Act No. 92 of 1985 and amended by ss.46 and 47(sic) of Act No. 97 of 1986.]

4.

[S.4 substituted by s.4 of Act No. 73 of 1975 and by s.3 of Act No 51 of 1981, amended by s.44 (1) of Act No. 73 of 1989 and repealed by s. 36 (1) (b) of Act No. 125 of 1991.]

5. Establishment and disestablishment of controlled areas. - (1) If the Minister is satisfied-

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

[Para. (a) amended by s.47 of Act No. 97 of 1986.]

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

[Sub-s. (1) amended by s. 46 of Act No. 97 of 1986. Para. (b) amended by s.47 of Act No. 97 of 1986.]

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

[Sub-s. (2) amended by s. 47 of Act No. 97 of 1986.]

6. Restriction upon use of land in controlled area. - (1) Subject to the provisions of subsection (2), no person shall-

- (a) use land in a controlled area otherwise than for a purpose for which it was being used immediately prior to the date as from which the area concerned was or is declared a controlled area or part of a controlled area; or

- (b) use land, in a controlled area, which at any time after the date referred to in paragraph (a), whether before or after the commencement of the Physical Planning Amendment Act, 1984, was not used for a purpose contemplated in the said paragraph (a), or for any other purpose authorised by or under this Act, for a continuous period of two years,

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

[Sub-s. (1) substituted by s. 1 of Act No. 104 of 1984.]

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

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

- (b) the use of land-

- (i) situated in the area of jurisdiction of a municipal council, city council, town council, village council, village management council, local board, or health committee, and land forming part of, in the Province of the Cape of Good Hope, a local area established under section 8 (1) (g) of the Divisional Councils Ordinance, 1976 (Ordinance No. 18 of 1976 of the Province of the Cape of

Good Hope), and, in the Province of Natal, a development area as defined in section 1 of the Development and Services Board Ordinance, 1941 (Ordinance No. 20 of 1941 of the Province of Natal), and, in the Province of Transvaal, an area in respect of which a local area committee has been established under section 21 (1) of the Transvaal Board for the Development of Peri-Urban Areas Ordinance, 1943 (Ordinance No. 20 of 1943 of the Province of Transvaal); or

- (ii) for agricultural or forestry purposes or for purposes incidental thereto, or for purposes of a road railway;
- (c) the use of land for prospecting or mining for base minerals or for any other purpose for which