
PROVINCE OF WESTERN CAPE

**WESTERN CAPE
HOUSING DEVELOPMENT
AMENDMENT ACT, 2005**

PROVINSIE WES-KAAP

**WES-KAAPSE
BEHUISINGSONTWIKKELINGS-
WYSIGINGSWET, 2005**

No 2, 2005

“**Public Finance Management Act**’ means the Public Finance Management Act, 1999 (Act 1 of 1999); and;”.

Substitution for “Board” of “Advisory Panel” in Act 6 of 1999

2. The principal Act is amended by the substitution for the word “Board”, wherever it occurs, of the words “Advisory Panel”, except if indicated otherwise. 5

Amendment of section 4 of Act 6 of 1999

3. Subsection (1) of section 4 of the principal Act is amended—
- (a) in paragraph (d), by the deletion of the word “and” at the end of that paragraph;
 - (b) by the substitution for paragraph (e) of the following paragraph: 10
 “(e) must appoint[s] the members of the [**Board**] Advisory Panel in accordance with section 8; and;”;
 - (c) by the addition of the following paragraphs:
 - “(f) must administer every national housing programme and every provincial housing programme which is consistent with national housing policy and for this purpose may, in accordance with that programme and the prescripts contained in the Code, approve-
 - (i) any projects in respect thereof; and
 - (ii) any financing thereof;
 - (g) must determine provincial housing development priorities in accordance with national housing policy; 20
 - (h) must, in respect of housing development, apply procurement policy determined by the National Minister; and
 - (i) must administer the assets contemplated in section 6.”. 25

Substitution of section 5 of Act 6 of 1999 25

4. The following section is substituted for section 5 of the principal Act:

“Establishment of Western Cape Housing Advisory Panel

5. There is established an advisory panel to be known as the Western Cape Housing Advisory Panel.”. 30

Substitution of section 6 of Act 6 of 1999

5. The following section is substituted for section 6 of the principal Act:

“Abolition of Western Cape Housing Development Board

6. (1) The Western Cape Housing Development Board is abolished. 35
- (2) All movable and immovable property, including any right or claim in the latter property, and all the rights and liabilities of the Board abolished in terms of subsection (1), pass to the Provincial Government on the date on which the Western Cape Housing Development Amendment Act, 2005 comes into operation. 40
- (3) The Registrar of Deeds must, at the request of the Head of Department and on submission by him or her of the relevant title deeds and the certificate referred to in subsection (5), make the necessary endorsements in the deeds registry and on the title deeds to give effect to the passage of immovable property referred to in subsection (2). 45
- (4) No transfer duty, stamp duty or registration fee is payable in respect of the passage of immovable property referred to in subsection (2).
- (5) The Head of Department must, for the purposes of subsection (3), issue a certificate to the effect that the immovable property, claim or right mentioned in the certificate has passed to the Provincial Government.”. 50

Substitution of section 7 of Act 6 of 1999

6. The following section is substituted for section 7 of the principal Act:

Duties and functions of Advisory Panel

7. (1) The Advisory Panel must— 5
- (a) advise the Provincial Minister on provincial housing policy and strategy; and
 - (b) serve as a forum for informed decision-making regarding provincial housing policy and strategy;
 - (c) advise the Provincial Minister on housing development matters such as multiyear housing development plans and housing development proposals; and 10
 - (d) on instruction of the Provincial Minister, conduct and manage investigations for the benefit of informed decision-making.
- (2) The administrative functions of the Advisory Panel are performed by officers in the service of the Department.”. 15

Amendment of section 8 of Act 6 of 1999

7. Section 8 of the principal Act is amended—
- (a) by the substitution for the heading of the following heading: 20
“Composition of [Board] Advisory Panel”;
 - (b) by the substitution for subsection (1) of the following subsection:
 “(1) The **[Board] Advisory Panel** consists of not more than **[nine] five** members appointed by the Provincial Minister in accordance with subsection (2) and with due regard to the demography of the Province, but only persons with knowledge of, or qualifications or experience in the field of, housing development **[housing matters]** and who are resident in the Province may be appointed as members.”; and 25
 - (c) by the deletion of subsection (5).

Amendment of section 10 of Act 6 of 1999

8. Section 10 of the principal Act is amended by the deletion of subsections (1), (2), (4), paragraph (c) of subsection (5) and subsection (7). 30

Substitution of section 11 of Act 6 of 1999

9. The following section is substituted for section 11 of the principal Act:

Allowances of Advisory Panel members

11. A member of the Advisory Panel, other than a person who is in the full-time employment of the State, must be appointed on such terms and conditions and may be paid such allowances and be reimbursed for such expenses as are determined by the Provincial Minister in concurrence with the Provincial Minister responsible for finance.”. 35 40

Repeal of section 12 of Act 6 of 1999

10. Section 12 of the principal Act is repealed.

Amendment of section 15 of Act 6 of 1999

11. Paragraph (b) of subsection (2) of section 15 of the principal Act is amended by the substitution for the word “Board” of the words “Provincial Minister”. 45

Amendment of section 16 of Act 6 of 1999

12. Section 16 of the principal Act is amended—

- (a) in subsection (5), by the substitution for the word “Board” of the words “Provincial Minister”; and
- (b) by the substitution for subsection (7) of the following subsection: 5
 “(7) The Provincial Minister may, after consultation [**with the Board and**] with the accounting officer of the Fund, out of money paid into the Fund as contemplated in section 13(2), allocate to a local government accredited under subsection (2) such amounts as that Provincial Minister considers necessary.”. 10

Amendment of section 19 of Act 6 of 1999

13. Section 19 of the principal Act is amended—

- (a) by the substitution for subsection (1) of the following subsection: 15
 “(1) Any movable property that has passed to the [**Board**] Provincial Government in terms of section 6(2) and any rights, liabilities and obligations in respect of such movable property must, subject to this subsection and subsection (3), be transferred not later than a date determined by the National Minister, after consultation with the Provincial Minister, [**by the Board**] to the local government within whose area of jurisdiction such property is mainly utilised.”; 20
- (b) in subsections (2) and (4), by the substitution for the word “Board”, wherever it occurs in those subsections, of the words “Provincial Government”; and
- (c) by the substitution for subsection (6) of the following subsection: 25
 “(6) Subsections (3) and (4), with the necessary changes, apply to immovable property or a registrable claim or right transferred in terms of this section.”.

Amendment of section 20 of Act 6 of 1999

14. Section 20 of the principal Act is amended by the substitution for the word “Board”, wherever it occurs, of the words “Provincial Government”.

Amendment of section 21 of Act 6 of 1999 30

15. Section 21 of the principal Act is amended by the substitution for the word “Board”, wherever it occurs, of the words “Provincial Government”.

Amendment of section 22 of Act 6 of 1999

16. (1) Section 22 of the principal Act, with the exception of subsection (11), is amended by the substitution for the word “Board”, wherever it occurs, of the words “Provincial Government”. 35

(2) Subsection (11) of section 22 of the principal Act is amended by the substitution for “Western Cape Housing Development Board” of “Provincial Government”.

Amendment of section 23 of Act 6 of 1999

17. Section 23 of the principal Act is amended by the substitution for the word “Board”, wherever it occurs, of the words “Provincial Government.”. 40

Amendment of section 24 of Act 6 of 1999

18. Section 24 of the principal Act is amended by the deletion of subsection (2).

Amendment of section 25 of Act 6 of 1999

19. Section 25 of the principal Act is amended by the deletion of paragraph (a) of subsection (1). 45

Savings

20. Anything done under or in terms of the principal Act by the Western Cape Provincial Housing Development Board abolished by section 6(1) of the principal Act (as amended) is deemed to have been done by the Provincial Minister.

Amendment of Arrangement of Act 6 of 1999 5

21. The arrangement of the principal Act is amended—

(a) by the substitution for the references to sections 5 and 6 of the following references:

“5. Establishment of Western Cape Housing Advisory Panel

6. Abolition of Western Cape Housing Development Board”;

(b) by the substitution for the reference to section 11 of the following reference:

“11. Allowances of Advisory Panel members”; and

(c) by the deletion of the reference to section 12.

Amendment of the long title of Act 6 of 1999

22. The following long title is substituted for the long title of the principal Act: 15

“To provide for the [**repeal**] abolition of the [**Western Cape Provincial Housing Law, 1994;**] Western Cape Housing Development Board; to determine general principles applicable to housing in the Province of the Western Cape; to define the role of the provincial and local spheres of government in housing development; to establish a [**Provincial Housing Development Board**] Western Cape Housing Advisory Panel and a Provincial Housing Development Fund; to ensure that housing development is integrated with all other facets of development in a holistic way, and to provide for matters incidental thereto.”. 20

Short title and commencement 25

23. This Act is called the Western Cape Housing Development Amendment Act, 2005 and comes into operation on a date determined by the Premier by proclamation in the *Provincial Gazette*.