

PROVINCE OF WESTERN CAPE

**WESTERN CAPE
LAND USE PLANNING
ORDINANCE, 1985,
AMENDMENT BILL**

(As introduced)

(MINISTER OF ENVIRONMENTAL AFFAIRS AND DEVELOPMENT PLANNING)

[B 2—2004]

PROVINSIE WES-KAAP

**WES-KAAPSE
ORDONNANSIE OP
GRONDGEBRUIKBEPLANNING,
1985, WYSIGINGSWETSONTWERP**

(Soos ingedien)

(MINISTER VAN OMGEWINGSAKE EN ONTWIKKELINGSBEPLANNING)

[W 2—2004]

GENERAL EXPLANATORY NOTE:

[] Words in bold type in square brackets indicate omissions from existing enactments.

_____ Words underlined with a solid line indicate insertions in existing enactments.

BILL

To amend the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), so as to extend to 19 years the period during which owners of land may exercise land use rights; and to provide for matters incidental thereto.

BE IT ENACTED by the Provincial Parliament of the Province of the Western Cape, as follows:—

Amendment of section 14 of Ordinance 15 of 1985

1. Section 14 of the Land Use Planning Ordinance, 1985 is amended by the substitution for paragraphs (a) and (b) in subsection (2) of the following paragraphs— 5
- “(2)(a) If after the expiry of a period of **[18]** 19 years after the date of commencement of this Ordinance any use right in respect of land to which the applicable provisions of section 7 apply has not been exercised, the land concerned shall, subject to the provisions of paragraph (b) of this subsection, be deemed to be zoned in accordance with the utilisation 10 thereof, as determined by the council concerned, and any applicable zoning map existing at the said expiry shall lapse.
- (b) Subject to the provisions of paragraph (c) of this subsection an appeal committee shall, before expiry of the period of **[18]** 19 years mentioned in paragraph (a) of this subsection or any extended period determined by the 15 said appeal committee in terms of this subsection, on the application of the owner concerned and if, in the opinion of the said appeal committee, the said owner has suffered or will suffer loss, extend the said period or extended period in relation to the said land concerned by such period as the appeal committee may determine; provided that such extension shall be 20 for a period of at least 5 years.”.

Short title

2. This Act is called the Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2004.

EXPLANATORY MEMORANDUM

Section 14 of the Land Use Planning Ordinance, 1985 (Ordinance 15 of 1985), originally provided for the lapsing of land use rights, which were not exercised for a period of 15 years after the commencement of the Ordinance on 1 July 1986. This would then have entailed that the relevant land would have been deemed to be zoned in accordance with the legal utilisation thereof, as determined by the local authority. This provision was included in the Ordinance so that long term planning decisions, which were taken before the commencement of the Ordinance, shall not exist *ad infinitum*.

Local Government requested the Provincial Government to investigate this matter and to promulgate arrangements before 1 July 2001 when the above land use rights would have lapsed. Local Government was concerned that landowners, whose land use rights would lapse, might claim compensation from specific local authorities.

An extension of 1 year was granted by the relevant Standing Committee of the Provincial Parliament and subsequently the Western Cape Act on the Amendment of the Land Use Planning Ordinance, 2001 was promulgated. This extension, however, expired on 30 June 2002 and a subsequent extension was determined by the Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2002, which expired on 30 June 2003. A further extension of 1 year was promulgated in the Western Cape Land Use Planning Ordinance, 1985, Amendment Act, 2003, which will expire on 30 June 2004.

It is now necessary that this period of 18 years (15+1+1+1), be extended by a further 1 year. This matter is being addressed in the Western Cape Planning and Development Act, 1999 (Act 7 of 1999), which will be implemented, pending the finalisation of the Western Cape Planning and Development Amendment Bill, 2003, and the subsequent promulgation of said Amendment Act.

The said Amendment Bill is currently being considered by the Standing Committee: Local Government, Environmental Affairs and Development Planning of the Provincial Parliament. The extension of the period by a further year, will allow for the promulgation of appropriate legislation.

