

PROVINCE OF WESTERN CAPE

**WESTERN CAPE LESS FORMAL
TOWNSHIP ESTABLISHMENT
AMENDMENT BILL**

(As amended by the Standing Committee on Governance)

(MINISTER FOR LOCAL GOVERNMENT AND HOUSING)

[B 5B—2007]

PROVINSIE WES-KAAP

**WES-KAAPSE
WYSIGINGSWETSONTWERP OP
MINDER FORMELE
DORPSTIGTING**

(Soos gewysig deur die Staande Komitee oor Regeringsake)

(MINISTER VIR PLAASLIKE REGERING EN BEHUISING)

[W 5B—2007]

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 Less Formal Township Establishment Act, 1991, so as to make further provision relating to the amendment of notices which designated land as land for less formal settlement; and to provide for matters connected therewith.

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

Amendment of section 3 of Act 113 of 1991

1. Section 3 of the Less Formal Township Establishment Act, 1991, is amended by the insertion of the following subsection after subsection (3): 5

“(3A) *(a)* If it is a condition of a notice referred to in subsection (1) that any part of the designated land may be used for certain purposes only or may not be used for certain purposes, the Administrator may, if there is an urgent need to do so, at any time amend the notice to provide that part of the designated land may be used for any other purpose, or for a purpose previously not allowed in terms of the notice, as the case may be. 10

(b) In the case of land referred to in subsection (1)(b), the notice may not be amended as envisaged in paragraph (a) unless the owner of the land has consented thereto in writing.

(c) Before the Administrator amends a notice as envisaged in paragraph (a), the Administrator shall— 15

- (i) advertise the proposed amendment to all persons likely to be affected by it; and

(ii) afford those persons reasonable opportunity to make representations.

(d) A person who has suffered damage as a result of the amendment to a notice as envisaged in paragraph (a) may, within a period of three years after such amendment, claim compensation for the damage from the Administrator.

(e) The Administrator shall compensate the claimant for the damage with the amount agreed to between the Administrator and the claimant, or in the absence of an agreement, with the amount determined by arbitration, in which case the provisions of the Arbitration Act, 1965 (Act 42 of 1965), shall apply *mutatis mutandis*.

(f) In this subsection “advertise” means to serve a notice on all persons or entities who in the opinion of the Administrator or relevant local authority, as the case may be, has an interest in the matter and whose address he knows or can obtain and, if the Administrator or said local authority so decides, to publish in the *Provincial Gazette* and in the press a notice—

- (i) specifying the place where and the hours during which particulars of the matter will be available for inspection, and
- (ii) stating that objections may be lodged with a person specified in the notice before a date likewise specified, being not less than 30 days after the date on which the notice is so served or is so published.”

Short title and commencement

2. This Act is called the Western Cape Less Formal Township Establishment Amendment Act, 2007.

EXPLANATORY MEMORANDUM**WESTERN CAPE LESS FORMAL TOWNSHIP ESTABLISHMENT AMENDMENT BILL, 2007****1. INTRODUCTION**

The Less Formal Township Establishment Act (hereinafter called “the Act”) was promulgated in 1991 by Parliament of the Republic of South Africa. The administration of some of the sections of the Act, including section 3(3), were assigned to the Province in terms of proclamation R.159 of 31 October 1994.

The main purpose of the Act was to fast track development of residential land which was urgently required to alleviate the housing back-log.

Section 3(1) of the Act provides that when the Administrator is satisfied that in any area persons have an urgent need to obtain land on which to settle in a less formal manner, he may by notice in the *Provincial Gazette*, and on the conditions mentioned in the notice, designate land made available under section 2(1) and (2) as land for less formal settlement.

Section 3(3) of the Act provides that the Administrator may, at any time prior to the commencement of settlement in terms of section 8, amend or withdraw a notice referred to in subsection (1).

Notices as contemplated in section 3(1) of the Act were published to address the housing needs that prevailed at the time in the areas at the time of publishing the notices. The needs addressed by those notices have changed over the years and are different from the present needs of those areas.

As it is not possible to amend or withdraw such notices as contemplated in section 3(3) of the Act where settlement of the land has already taken place, it is deemed necessary to amend section 3 by the insertion of a subclause after subsection (3) to allow for such notices, or provisions in such notices, to be amended or withdrawn after settlement so as to meet the current housing needs of those areas.

2. INDIVIDUAL CLAUSES**Clause 1:**

The Act is amended so as to empower the Administrator to withdraw or amend notices issued in terms of section 3(1) subsequent to settlement in terms of section 8 and to provide for compensation for those people whose rights or interests are affected by such amendment.

Clause 2:

Short title.

**UMBHALO KARHULUMENTE OCHAZA NGOMTHETHO
OSAYILWAYO KA-2007 WOSEKO LWEELOKISHI
EZINGEKAPHUHLISWA ZENTSHONA KOLONI**

1. INTSHAYELELO

UMthetho wokusekwa kweeLokishi ezingekaPhuhliswa (obizwa apha “njengo-Mthetho”) wabhengezwa ngo-1991 yiPalamente yeRiphabhlikhi yoMzantsi-Afrika. Ulawulo lwamanye amacandelo alo Mthetho, kuqukwa necandelo 3(3) lwanikelwa kwiPhondo ngokubhekiselele ekupapashweni kuka-R.159 womhla wama-31 ku-Oktobha ka-1994.

Eyona njongo yalo Mthetho yayikukukhawulezisa uPhuhliso lomhlaba wokuhlaliswa kwabantu nowawufuneka kwamsinyane ukuze kusuke uxanduva lomsebenzi owawungekenziwa wokwakhela abantu izindlu.

ICandelo 3(1) lalo Mthetho libonelela ngokuba xa anelisekileyo uMlawuli ngokuba nakweyiphi na indawo abantu bawunxanelwe ngamandla umhlaba abanokwakhelwa kuwo ngendlela engenaluphuhliso lungako, ngokuqaphela *kwiGazethi yePhondo*, nakwiimeko ezikhankanyiweyo esazisweni, uMlawuli angakhupha umhlaba onokufumaneka phantsi kwecandelo 2(1) nelesi(2) njengomhlaba wezindlu ezingekho mgangathweni.

ICandelo 3(3) lalo Mthetho libonelela ngokuba uMlawuli, nangaliphi na ixesha phambi kokuqaliswa kokuhlaliswa kwabantu ngokubhekiselele kwicandelo 8, uMlawuli makalungise okanye arhoxise isaziso ekujoliswe kuso kwicandelwana (1).

Izaziso ekucingwe ngazo kwicandelo 3(1) loMthetho zipapashiwe ukuze kuboniswa ngeemfuneko zezindlu ebezingumbandela ophambili ngexesha ezindaweni bekupapasha ezo zaziso. Iimfuno ebekujoliswe kuzo zezo zaziso zaguquka apha ekuhambeni kweminyaka, zahlukile kwiimfuno zeli xesha sikulo zezo ndawo.

Njengoko kungekho ndlela yolungiso okanye yokurhoxisa ezo zaziso ngendlela ebekucamngcwa ngayo kwicandelo 3(3) loMthetho, apho sowulungisiwe umbandela womhlaba, kubonakala kuyimfuneko ukulungisa icandelo 3(3) ngokufakela amagatyana amabini emva kwecandelo ngenjongo yokuvumela izaziso ezinjalo, ukuze zilungiswe okanye zirhoxiswe emva kolungiso oluxhomekeke kwiimeko ezamkelweyo ukuze kukhawulelwane neemfuno ezikhoyo zezindlu zezo ndawo.

2. AMASOLOTYA AZIMELEYO

Isoloty 1:

Lo Mthetho ulungisiwe ukuze kuxhotyiswe uMlawuli omakarhoxise okanye alungise izaziso ezikhutshiweyo ngokubhekiselele kwicandelo 3(1) ngokweziphumo zohlaliso malunga necandelo 8 nokulungiselela ukubuyekeza kwabantu abanamalungelo okanye abaneminqweno echaphazelekileyo ngenxa yolo lungiso.

Isoloty 2:

Itayitile emfutshane.