

MPUMALANGA PROVINCE



MPUMALANGA TOWN PLANNING AND LAND RELATED LAWS REPEAL BILL, 2016

As introduced in the Mpumalanga Provincial Legislature

(MEC FOR CO-OPERATIVE GOVERNANCE AND TRADITIONAL AFFAIRS)

[B2-2016]

MPUMALANGA TOWN PLANNING AND LAND RELATED LAWS REPEAL BILL, 2016

To provide for the repeal of Town Planning and Land Related Laws assigned to the Province; and to provide for matters connected therewith.

WHEREAS certain Town Planning and Land Related Laws, were duly assigned by the President to the Province by means of several Proclamations, and thereby becoming Provincial legislation of the Province;

AND WHEREAS the President has, on 5 August 2013, assented to the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013), which Act came into operation on 1 July 2015;

AND WHEREAS the Province is in the process of drafting the Mpumalanga Spatial Planning and Land Use Management Bill, 2016, which Bill will introduce a new planning regime within the Province and will also serve as the framework within which the various Municipalities in the Province should develop their own Planning By-Laws in terms of section 156(2) of the Constitution, 1996;

AND WHEREAS section 156(3) of the Constitution, 1996, provides that a By-Law that conflicts with National or Provincial legislation is invalid, thereby necessitating the repeal of the Town Planning and Land Related Laws, in a coordinated and phased manner in terms of section 4(2) of this Act, in order to ensure a smooth transition from the current planning dispensation applicable in the Province to the new planning dispensation;

NOW THEREFORE BE IT ENACTED by the Mpumalanga Provincial Legislature as follows:

1. Definitions. In this Act, unless the context otherwise indicates “**Province**” means the Province of Mpumalanga established in terms of section 103 of the Constitution of the Republic of South Africa, 1996;

2. Repeal of laws. The laws mentioned in the second column of the Schedule to this Act are hereby repealed to the extent indicated in the third column thereof.

3. Savings. The repeal of the laws mentioned in section 2 shall not –

- (a) revive anything not in force or existing in the Province at the time at which the repeal takes effect;
- (b) affect the previous operation of the law so repealed or anything duly done or suffered under the law so repealed;
- (c) affect any right, privilege, obligation or liability acquired, accrued or incurred under the law so repealed; and
- (d) affect any penalty, forfeiture or punishment incurred in respect of any offence committed against the law so repealed.

4. Short title and commencement. (1) This Act shall be called the Mpumalanga Town Planning and Land Related Laws Repeal Act, 2016 and shall come into operation on a date fixed by the Premier by Notice in the *Provincial Gazette*.

(2) Different dates may be so determined in respect of different Laws and different provisions thereof, as referred to in the Schedule to this Act.

SCHEDULE

Year and number of Act	Short title of Act	Extent of repeal
Proclamation No. R. 293 of 1962	Regulations for the Administration and Control of Townships in Black Areas	To the extent assigned
Act No. 84 of 1967	Removal of Restrictions	To the extent assigned
Act No. 88 of 1967	Physical Planning	To the extent assigned
Act No. 4 of 1984	Black Communities Development	To the extent assigned
Ordinance No. 15 of 1986	Town Planning and Townships Ordinance	To the extent assigned
Ordinance No. 20 of 1986	Division of Land Ordinance	To the extent assigned
Government Notice No. R. 1897 of 1986	Regulations Relating to Township Establishment and Land Use	To the extent assigned
Act No. 108 of 1991	Abolition of Racially Based Land Measures	To the extent assigned
Act No. 113 of 1991	Less Formal Township Establishment	To the extent assigned

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1. FINANCIAL IMPLICATIONS

The estimated costs associated with publication of the Act in the *Provincial Gazette* will be R3000.00- R3500.00.

2. POLICY CONTENT OF THE BILL AND HOW THE BILL RELATES TO ITS POLICY OBJECTIVES

The Bill seeks to manage the transition from the current planning dispensation to the new planning dispensation and therefore, to be aligned with National legislation which has already been enacted, namely the Spatial Planning and Land Use Management Act, 2013 (Act No. 16 of 2013).

3. THE RELEVANCE AND RATIONALE OF THE BILL

3.1 Legislation dealing with planning in South Africa were enacted prior to 1994 and therefore, these legislation are generally unconstitutional in some or other aspect. This Bill seeks to repeal the following legislation, to the extent assigned to the Province:

- Transvaal Town Planning and Townships Ordinance, 1986 (Ordinance No. 15 of 1986);
- Regulations for the Administration and Control of Townships in Black Areas (Proclamation No. R. 293 of 1962)
- Division of Land Ordinance, 1986 (Ordinance No. 20 of 1986);
- Removal of Restrictions Act, 1967 (Act No. 84 of 1967);
- Physical Planning Act, 1967 (Act No. 88 of 1967);
- Black Communities Development, 1984 (Act No. 4 of 1984);
- Regulations Relating to Township Establishment and Land Use Government, 1986 (Notice No. R. 1897 of 1986);
- Abolition of Racially Based Land Measures Act, 1991 (Act No. 108 of 1991); and
- Less Formal Township Establishment Act, 1991 (Act No. 113 of 1991).

The repeal of the above-mentioned legislation is necessary, as these legislation are outdated.

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3.2 The Mpumalanga Town Planning and Land Related Laws Repeal Bill, 2015, is therefore prepared and as provided for in clause 4(2) thereof, it seeks to manage the transition from the current planning dispensation to the new planning dispensation.

3.3 There are no constitutional implications associated with this Bill.

4. THE PROCESS USED TO SOLICIT COMMENTS FROM STAKEHOLDERS AND THE PUBLIC

The soliciting of public comments were done as the Repeal Bill was published in the *Provincial Gazette* on 22 January 2016 and also on 26 January 2016 in 2 (two) newspapers circulating in the Mpumalanga Province, namely: Mpumalanga Mirror and Lowvelder, with the closing date for public comments of 26 February 2016.

5. THE NAMES, ADDRESSES AND TELEPHONE NUMBERS OF ALL PERSONS AND INSTITUTIONS WHICH WERE CONSULTED OR MADE REPRESENTATIONS ON THE BILL

5.1 The following bodies, institutions and organs of state were consulted or made representation on the Bill:

- **General Public**
Mr M Strydom
NUPLAN Development Planners
PO Box 2555
MBOMBELA
1200
Cell: 083 267 5060

Ms J Haupt
Korsman & Associates
1 Lana Street, Office 11
WITBANK
1035
Tel: 013 650 0408

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- **Office of the Premier (State Law Advisers)**

Adv. L Saayman and Adv M Venter
Office of the Premier
Private Bag X11291
MBOMBELA
1200
Tel: 013 766 2002

- **Department of Rural Development and Land Reform**

Mr D Moffat
Director: Rural Development
Private Bag X 11
MBOMBELA
1200
Cell: 084 602 8891

Mr M Sibanda
Deputy Surveyor-General
Private Bag X 11
MBOMBELA
1200
Cell: 013 754 5400

- **All Municipalities in the Province**

NO.	POSITION	Municipality	Postal	Tel nr:
1	The Municipal Manager	Gert Sibande District Municipality	P.O. Box 550 SECUNDA 2302	017 801 7002
2	The Municipal Manager	Albert Luthuli Municipality	P.O. Box 24 CAROLINA 1185	017 843 4043
3	The Municipal Manager	Msukaligwa Municipality	P.O. Box 48 ERMELO 2350	017 801 3503.
4	The Municipal Manager	Mkhondo Municipality	P.O. Box 23 PIET RETIEF 2390	017 826 2211
5	The Municipal Manager	Pixley Ka Seme Municipality	Private Bag X9011 VOLKSRUST 2170	017 734 6100
6	The Municipal Manager	Lekwa Municipality	P.O. Box 66 STANDERTON 2430	017 712 9600
7	The Municipal Manager	Dipaleseng Municipality	Private Bag X1055 BALFOUR	017 773 0055

			2410	
8	The Municipal Manager	Govan Mbeki Municipality	Private Bag X1017 SECUNDA 2303	017 620 6000
9	The Municipal Manager	Nkangala District Municipality	P.O. Box 437 MIDDELBURG 1050	013 249 2024
10	The Municipal Manager	Victor Khanye Municipality	P.O. Box 6 DELMAS 2210	013 665 6000
11	The Adminsitrator	Emalaheni Municipality	P.O. Box 3 WITBANK 1035	0136906208
12	The Municipal Manager	Steve Tshwete Municipality	P.O. Box 14 MIDDELBURG 1050	013 249 7000
13	The Municipal Manager	Emakhazeni Municipality	P.O. Box 17 BELFAST 1100	013 253 1121
14	The Municipal Manager	Thembisile Hani Municipality	Private Bag X4041 EMPUMALANGA 0458	013 986 0980
15	The Municipal Manager	Dr. JS Moroka Municipality	Private Bag X4012 SIYABUSWA 0472	013 973 1101
16	The Municipal Manager	Ehlanzeni District	P.O. Box 3333 NELSPRUIT 1200	013 759 8500
17	The Municipal Manager	Thaba Chweu Municipality	P.O. Box 61 LYDENBURG 1120	013 235 7004
18	The Municipal Manager	Mbombela Municipality	P.O. Box 45 NELSPRUIT 1200	013 759 9111
19	The Municipal Manager	Umjindi Municipality	P.O. Box 33 BARBERTON 1300	013 712 2121
20	The Municipal Manager	Nkomazi Municipality	P.O. Box 101 MALELANE 1320	013 790 0245
21	The Administrator	Bushbuckridge Municipality	Private Bag X9308 BUSHBUCKRIDGE 1280	013 799 1851

6. AN EVALUATION OF THE COMMENTS SOLICITED, RECEIVED AND DISCOUNTED IN THE DRAFTING PROCESS

No comments were received herein.

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7. A CLAUSE-BY- CLAUSE EXPLANATION ON THE CONTENT OF THE BILL

- 7.1 Clause 1 defines the terminology use in the Bill.
- 7.2 Clause 2 repeals the legislation listed in the Schedule to this Act to the extent the listed legislation are assigned to the Province.
- 7.3 Clause 3 provides for the general savings of the effect of the repeal of the mentioned outdated provincial planning legislation as provided for in clause 2 of the Bill.
- 7.4 Clause 4 provides for the short title and commencement of the Act as well as for a phased in approach of the Act.

8. ANY SUCH OTHER INFORMATION DEEMED NECESSARY REGARDING THE BILL

There are no organisational and human resource implications pertaining to the Bill.